

# Cabinet

## Agenda

**MONDAY**  
**3 SEPTEMBER 2012**  
**7.00 pm**

**ASSEMBLY HALL**  
**HAMMERSMITH**  
**TOWN HALL**  
**KING STREET**  
**LONDON W6 9JU**

### Membership

Councillor Nicholas Botterill, Leader (+ Regeneration, Asset Management and IT)  
Councillor Greg Smith, Deputy Leader (+ Residents Services)  
Councillor Helen Binmore, Cabinet Member for Children's Services  
Councillor Mark Loveday, Cabinet Member for Communications (+ Chief Whip)  
Councillor Marcus Ginn, Cabinet Member for Community Care  
Councillor Andrew Johnson, Cabinet Member for Housing  
Councillor Victoria Brocklebank-Fowler, Cabinet Member for Transport and Technical Services

**Date Issued**  
**22 August 2012**

If you require further information relating to this agenda please contact:  
David Viles, Committee Co-ordinator, Governance and Scrutiny, tel:  
020 8753 2063 or email: [David.Viles@lbhf.gov.uk](mailto:David.Viles@lbhf.gov.uk)

Reports on the open Cabinet agenda are available on the Council's website: [http://www.lbhf.gov.uk/Directory/Council\\_and\\_Democracy](http://www.lbhf.gov.uk/Directory/Council_and_Democracy)

### DEPUTATIONS

Members of the public may submit a request for a deputation to the Cabinet on non-exempt item numbers **4-8** on this agenda using the Council's Deputation Request Form. The completed Form, to be sent to David Viles at the above address, must be signed by at least ten registered electors of the Borough and will be subject to the Council's procedures on the receipt of deputations. **Deadline for receipt of deputation requests: Wednesday 29 August 2012.**

### COUNCILLORS' CALL-IN TO SCRUTINY COMMITTEES

A decision list regarding items on this agenda will be published by **Wednesday 5 September 2012**. Items on the agenda may be called in to the relevant Scrutiny Committee.

The deadline for receipt of call-in requests is: **Monday 10 September 2012 at 3.00pm**. Decisions not called in by this date will then be deemed approved and may be implemented.

A confirmed decision list will be published after 3:00pm on **Monday 10 September 2012**.

**Members of the Public are welcome to attend.**  
**A loop system for hearing impairment is provided, together with disabled access to the building**

# Cabinet Agenda

3 September 2012

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3. DECLARATION OF INTERESTS	
<p>If a Councillor has a disclosable pecuniary interest in a particular item, whether or not it is entered in the Authority's register of interests, or any other significant interest which they consider should be declared in the public interest, they should declare the existence and, unless it is a sensitive interest as defined in the Member Code of Conduct, the nature of the interest at the commencement of the consideration of that item or as soon as it becomes apparent.</p> <p>At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a disclosable pecuniary interest or other significant interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken.</p> <p>Where Members of the public are not allowed to be in attendance and speak, then the Councillor with a disclosable pecuniary interest should withdraw from the meeting whilst the matter is under consideration. Councillors who have declared other significant interests should also withdraw from the meeting if they consider their continued participation in the matter would not be reasonable in the circumstances and may give rise to a perception of a conflict of interest.</p> <p>Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Audit, Pensions and Standards Committee.</p>	
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| <b>12. EXCLUSION OF PRESS AND PUBLIC</b>   |           |

The Cabinet is invited to resolve, under Section 100A (4) of the Local Government Act 1972, that the public and press be excluded from the meeting during the consideration of the following items of business, on the grounds that they contain the likely disclosure of exempt information, as defined in paragraph 3 of Schedule 12A of the said Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

- |  |  |
|--|--|
| <b>13. EARLS COURT DEVELOPMENT : EXEMPT ASPECTS (E)</b>  |  |
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| <b>15. STRATEGY REPORT FOR THE PROVISION OF CARER SERVICES ACROSS THE CITY OF WESTMINSTER, THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM AND THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA : EXEMPT ASPECTS (E)</b> |  |
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# Agenda Item 1

London Borough of Hammersmith & Fulham



# Cabinet

## Minutes

Monday 23 July 2012

### **PRESENT**

Councillor Greg Smith, Deputy Leader (+ Residents Services)  
Councillor Helen Binmore, Cabinet Member for Children's Services  
Councillor Mark Loveday, Cabinet Member for Communications (+ Chief Whip)  
Councillor Marcus Ginn, Cabinet Member for Community Care  
Councillor Andrew Johnson, Cabinet Member for Housing  
Councillor Victoria Brocklebank-Fowler, Cabinet Member for Transport and Technical Services

### 14. **MINUTES OF THE CABINET MEETING HELD ON 18 JUNE 2012**

#### **RESOLVED:**

That the minutes of the meeting of the Cabinet held on 18 June 2012 be confirmed and signed as an accurate record of the proceedings, and that the outstanding actions be noted.

### 15. **APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor Nicholas Botterill.

### 16. **DECLARATION OF INTERESTS**

There were no declarations of interest.

### 17. **EXECUTIVE RESPONSE TO THE "H & F MEANS BUSINESS" SCRUTINY REPORT**

#### **RESOLVED:**

1. That the Executive Response to the H&F Means Business Scrutiny Report recommendations, as set out at Appendix 1 of the report, be approved.



2. That Councillor Robert Iggulden be appointed as Borough Business Champion.
3. That the Business Champion considers how best to take forward the agreed Scrutiny recommendations and reports back thereon to the Cabinet.

**18. ASSET DISPOSALS 2012/2013**

Cabinet noted the content of a letter submitted by Prof Haydon-Baillie and the officers' legal advice before making the decision.

**RESOLVED:**

That officers be authorised to dispose of the properties listed below for the best price reasonably obtainable and otherwise on such terms and conditions as the Director for Legal and Democratic Services and the Director of Building and Property Management consider appropriate:-

- William Thompson Memorial Hall 1-5 Burnthwaite Road
- Metro Building, Butterwick
- Bumpsa Daisies Nursery Site, Broomhouse Lane

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**19. TROUBLED FAMILIES - DEVELOPING AND IMPLEMENTING A TRI-BOROUGH APPROACH**

**RESOLVED:**

1. That that the proposed delivery option be approved.
2. That authority be delegated to the Executive Director of Children's Services to establish the Tri-Borough intelligence and monitoring desk.
3. That a further report be presented for decision in September 2012 on procuring or developing the 'wrap around' service package.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**20. COMMISSIONING OF YOUTH PROVISION 2013-15**

**RESOLVED:**

1. That the commissioning budget as set out in section 6 of the report be approved.
2. That approval be given for a two year funding and commissioning cycle from April 2013 to March 2015.
3. That authority be delegated to the Cabinet Member for Children's Services, in conjunction with the Tri-borough Executive Director of Children's Services, to award the contracts within the agreed budget, as set out in section 6 of the report.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**21. OUTSOURCING OF THE PROVISION OF A MEALS SERVICE FOR VULNERABLE ADULTS**

**RESOLVED:**

1. That authority be given to outsource the provision of a Meals Service for vulnerable adults by setting up a Framework Agreement using the Restricted Procedure.
2. That, following evaluation of the Pre Qualification Questionnaires and in accordance with Council Contract Standing Orders, the shortlist of

tenderers who will be invited to tender be approved by the Cabinet Member for Community Care.

3. That authority be delegated to the Cabinet Member for Community Care, in conjunction with the Tri Borough Executive Director of Adult Social Care, to award the contract for the Meals Service for vulnerable adults.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**22. PROCUREMENT OF THE PROVISION OF AN OUT OF HOSPITAL STROKE SUPPORT SERVICE FOR LONDON BOROUGH OF HAMMERSMITH & FULHAM AND ROYAL BOROUGH OF KENSINGTON & CHELSEA AND A STROKE SUPPORT AND INFORMATION SERVICE FOR LONDON BOROUGH OF HAMMERSMITH & FULHAM ONLY**

**RESOLVED:**

1. That approval be given to procurement using Restricted Procedure of a framework for an Out of Hospital Stroke Support Service for London Borough of Hammersmith & Fulham and Royal Borough of Kensington & Chelsea, and a Stroke Support and Information Service for London Borough of Hammersmith & Fulham only.
2. That following evaluation of the Pre Qualification Questionnaires and in accordance with Council Contract Standing Orders, the short list of tenderers who will be invited to tender be approved by the Leader and the Cabinet Member for Community Care.
3. That authority be delegated to the Cabinet Member for Community Care, in conjunction with the Tri-Borough Executive Director of Adult Social Care, to award the contract for an Out of Hospital Stroke Support Service for London Borough of Hammersmith & Fulham and Royal Borough of Kensington & Chelsea and a Stroke Support and Information Service for London Borough of Hammersmith & Fulham only.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**23. PROPOSAL FOR GRADUATED PARKING SUSPENSION CHARGES 2012**

**RESOLVED:**

1. That all applicants for parking suspensions be charged on a graduated basis, with £40 per space per day (for those lasting between 1 and 5 days), £60 per space per day (for those lasting between 6 and 42 days), and £80 per space per day (for those lasting for 43 days or more).
2. That utilities companies be charged the full cost for suspensions that they request for traffic management/flow reasons, that is, where works on one side of the street means that there is not enough space for traffic to pass safely so that bays on both sides of the street are suspended.
3. That suspensions requested by utility companies for road works be charged only for the first day, in order to reserve the space.
4. That the Council charges utility companies for the full cost of traffic flow suspensions (for those bays suspended not directly for road works) from 5 November 2012.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

**24. FORWARD PLAN OF KEY DECISIONS**

**RESOLVED:**

The Forward Plan was noted.

25. **SUMMARY OF OPEN DECISIONS TAKEN BY THE LEADER AND CABINET MEMBERS, AND REPORTED TO CABINET FOR INFORMATION**

**RESOLVED:**

The summary was noted.

26. **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED:**

That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the remaining items of business on the grounds that they contain information relating to the financial or business affairs of a person (including the authority) as defined in paragraph 3 of Schedule 12A of the Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

27. **EXEMPT MINUTES OF THE CABINET MEETING HELD ON 18 JUNE 2012 (E)**

**RESOLVED:**

That the exempt minutes of the meeting of the Cabinet held on 18 June 2012 be confirmed and signed as an accurate record of the proceedings, and that the outstanding actions be noted.

28. **ASSET DISPOSALS 2012/13 : EXEMPT ASPECTS (E)**

**RESOLVED:**

That the report be noted.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

29. **OUTSOURCING OF THE PROVISION OF A MEALS SERVICE TO VULNERABLE ADULTS : EXEMPT ASPECTS (E)**

**RESOLVED:**

That the report be noted.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

30. **PROCUREMENT OF THE PROVISION OF AN OUT OF HOSPITAL STROKE SUPPORT SERVICE FOR LONDON BOROUGH OF HAMMERSMITH AND FULHAM AND ROYAL BOROUGH OF KENSINGTON AND CHELSEA AND A STROKE SUPPORT AND INFORMATION SERVICE FOR LONDON BOROUGH OF HAMMERSMITH AND FULHAM ONLY : EXEMPT ASPECTS (E)**

**RESOLVED:**

That the report be noted.

**Reason for decision:**

As set out in the report.

**Alternative options considered and rejected:**

As outlined in the report.

**Record of any conflict of interest:**

None.

**Note of dispensation in respect of any declared conflict of interest:**

None.

31. **SUMMARY OF EXEMPT DECISIONS TAKEN BY THE LEADER AND CABINET MEMBERS, AND REPORTED TO CABINET FOR INFORMATION (E)**

The summary was noted.

Meeting started: 7.01 pm  
Meeting ended: 7.04 pm

Chairman .....

# Cabinet

3 SEPTEMBER 2012

**LEADER**

*Councillor Nicholas  
botterill*

**THE GENERAL FUND REVENUE BUDGET  
2012/2013 – MONTH 2 AMENDMENTS.**

**Wards:  
All**

The purpose of this report is to seek approval for changes to the 2012/13 Revenue Budget.

**CONTRIBUTORS**

All Departments

**Recommendation:**

**That the changes to the General Fund revenue budgets as set out in Appendix 1 be approved.**

**HAS A EIA BEEN  
COMPLETED?  
N/A**



## 1. SUMMARY

- 1.1 This report sets out proposed amendments to the 2012-13 Revenue Budgets as at month 2.

## 2. REVENUE BUDGET ADJUSTMENTS

- 2.1 The total adjustments to revenue budgets is £8.307m (Appendix 1).
- 2.2 There are virements totalling £8.307m to general fund budgets. The largest virement £6.545m is required to realign budgets to reflect the centralisation of the pension costs for the past service deficit.
- 2.3 There are no virements required to the HRA budgets.

## 3. EQUALITY IMPLICATIONS

- 3.1 The Revenue Budget was set on 29 February 2012 at a meeting of Full Council and was informed by an Equality Impact Assessment ('EIA'), which assessed the reduction in Council Tax on the relevant protected groups.
- 3.2 The report of 29 February and the accompanying EIA noted that where particular policy proposals would have an impact on protected groups, further work would be undertaken.
- 3.3 It is not considered that the adjustments to the revenue budget would have any impact on one or more protected group(s) and so there are no equality implications arising as a result of this report and an EIA is not required.

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Brief Description of Background Papers</b>	<b>Name/Ext. of holder of file/copy</b>	<b>Department</b>
1.	Revenue Monitoring Documents	Gary Ironmonger Ext. 2109	Corporate Finance Room 38 , Town Hall

**APPENDIX 1 - VIREMENT REQUEST FORM**

**BUDGET REVENUE MONITORING – PERIOD 2**

<b>Details of Virement</b>	<b>Amount (£000)</b>	<b>Department</b>
Centralisation of Past Service costs to fund past service deficit contribution into Pension Fund	6,545/(6,545)	CMB/All departments
Centralisation of Maternity budgets 2012/13	359/(359)	CMB/All departments
Removal of Fulham Palace Insurance and Motor Insurance budgetary provision from the Service Level Agreement model	185/(185)	CMB/ ELRS
In accordance with the Cabinet Decision on 9 <sup>th</sup> January, the parking staffing expenditure budget has been increased by £783k, and the income budget for receipts from moving traffic offence fines has been increased by the same amount.	783/(783)	CPA
Income and Borrowing Costs adjustment due to sale of Novotel Hotel and Car Park	235.6/(235.6)	TTS/CMB
Removal of Staff Car Parking Charges MTFs saving proposal.	200/ (200)	CMB/TTS
<b>Total of Requested Virements (Debits)</b>	<b>8,307.6</b>	



London Borough of Hammersmith & Fulham

# Cabinet

3 SEPTEMBER 2012

**LEADER**

*Councillor Nicholas Botterill*

**TREASURY MANAGEMENT OUTTURN REPORT**

**Wards:  
All**

This report provides information on the Council's debt, borrowing and investment activity for the financial year ending 31 March 2012

**CONTRIBUTORS**

EDFCG  
DLDS

**RECOMMENDATIONS:**

1. To note that the Council has not undertaken any borrowing for the period 1 April 2011 to 31 March 2012.
2. To note the investment activity for the period 1 April 2011 to 31 March 2012.

**HAS THE REPORT  
CONTENT BEEN RISK  
ASSESSED?  
N/A**

**HAS AN EIA BEEN  
COMPLETED?  
N/A**

## 1. INTRODUCTION AND BACKGROUND

- 1.1 This report presents the Council's Annual Treasury Report for 2011/12 in accordance with the Council's treasury management practices. It is a regulatory requirement for this outturn report to be presented to the Cabinet by 30 September each year.
- 1.2 There are two aspects of Treasury performance – debt management and cash investments. Debt management relates to the Council's borrowing and cash investments to the investment of surplus cash balances. This report covers:
- The treasury position as at 31 March 2012
  - The UK economy and interest rates
  - Investment strategy and outturn for 2011/12
  - The borrowing strategy and outturn for 2011/12
  - Compliance with treasury limits and prudential indicators
- 1.3 The borrowing amounts outstanding and cash investment for the relevant periods are as follows:

Table 1 – Balances

	31/03/12	31/03/11	31/03/10
	£'000	£'000	£'000
Total borrowing	262,166	475,520	475,520
Total cash balances	109,300	70,000	137,000

## 2. TREASURY POSITION AS AT 31 MARCH 2012

### 2.1 Investments

The table below provides a breakdown of the cash deposits, together with comparisons from the previous year.

Table 2 – Investments

Investment Type	31 March 2012	31 March 2011
	£000's	£000's
Call Account	18,800	30,000
Term Deposits	69,500	10,400
Money Market Funds	21,000	30,000
<b>Total</b>	<b>109,300</b>	<b>70,400</b>

- 2.2 The Council had invested in four money markets funds during 2011-12 Prime Rate, Goldman Sachs, Insight and Blackrock producing returns ranging from 0.55 to 0.96%, all are AAA rated.
- 2.3 The term deposits ranged from overnight to 1 year. The weighted average interest rate of return on the investments over the year was 1.18%.

### 3. BORROWING

#### 3.1 Treasury Borrowing

No new borrowing was undertaken during the year. PWLB debt maturing during the year, which was not refinanced, totalled £16 million, with an average nominal interest rate of 9.84%. This resulted in a reduction in the average PWLB borrowing rate from 5.70% to 5.61%.

#### 3.2 An analysis of movements on loans during the period is shown below:

Table 3 – Movement on loans

	Balance 31.03.11 £000s	Loans/Invs Raised £000s	Loans/Invs Repaid £000s	Balance 31.03.12 £000s
PWLB	475,520	0	(16,000)	
PWLB HRA settlement			(197,354)	
Total debt	<u>475,520</u>	<u>0</u>	<u>(213,354)</u>	<u>262,166</u>

Table 4 – Outstanding Debt

	31 March 2011		31 March 2012	
	Principal	Average Rate	Principal	Average Rate
	£000's		£000's	
PWLB General Fund	60,993		44,785	
PWLB HRA	414,527		217,381	
Total	475,520	5.70%	262,166	5.61%

#### 3.3 The implementation of housing finance reform at the end of the year abolished the housing subsidy system financed by central government and consequently all housing debt has been reallocated nationally between housing authorities. The result of this reallocation is that this Council received, at the end of the year, a repayment of debt by the Department of Communities and Local Government of £197.35 million (which resulted in a corresponding decrease in its HRA CFR). The CLG has also paid the premium (breakage costs) of £53.99 million.

Table 5 – Capital Financing Requirement (CFR)

	31 March 2011 Actual £'000	31 March 2012 Budget £'000	31 March 2012 Actual £'000
CFR General Fund	121,768	111,679	99,684
CFR HRA	414,527	217,427	217,381
Total CFR	536,295	329,106	317,065

- 3.4 The CFR represents the underlying borrowing need of the HRA and General Fund. The reason why actual borrowing is lower than the CFR is because the Council has effectively borrowed from its internal resources.

#### 4. THE ECONOMY AND INTEREST RATES

- 4.1 **Sovereign debt crisis.** 2011-12 was the year when financial markets were apprehensive, fearful of the potential of another Lehman's type financial crisis, prompted by a precipitous Greek Government debt default. At almost the last hour, the European Central Bank (ECB) calmed market concerns of a liquidity crisis among European Union (EU) banks by making available two huge three year credit lines, totalling close to €1 trillion at 1%. This also provided a major incentive for those same banks to then use this new liquidity to buy EU sovereign debt yielding considerably more than 1%.
- 4.2 A secondary benefit of this initiative was the bringing down of sovereign debt yields, for the likes of Italy and Spain, below unsustainable levels. The final aspects in the calming of the EU sovereign debt crisis were two eleventh hour agreements: one by the Greek Government of another major austerity package and the second, by private creditors, of a "haircut" (discount) on the value of Greek debt that they held, resulting in a major reduction in the total outstanding level of Greek debt. These agreements were a prerequisite for a second EU / IMF bailout package for Greece which was signed off in March.
- 4.3 Despite this second bailout, major concerns remain that these measures were merely a postponement of the debt crisis, rather than a solution, as they did not address the problem of low growth and loss of competitiveness in not only Greece but also in other EU countries with major debt imbalances. These problems will, in turn, also affect the financial strength of many already weakened EU banks during the expected economic downturn in the EU. There are also major questions as to whether the new Greek Government will be able to deliver on its promises of cuts in expenditure and increasing tax collection rates, given the hostility of much of the population.
- 4.4 The UK coalition Government maintained its tight fiscal policy stance against a background of warnings from two credit rating agencies that the UK could lose its AAA credit rating. Key to retaining this rating will be a return to strong economic growth in order to reduce the national debt burden to a sustainable level, within the austerity plan timeframe. The USA and France lost their AAA ratings from one rating agency during the year.

- 4.5 **UK growth** proved mixed over the year. In quarter 2, GDP growth was zero, from the major western central banks: the US economy was flat but then quarter 3 surprised with a return to robust growth of 0.6% q/q before moving back into negative territory (-0.3%) in quarter 4. The year finished with prospects for the UK economy being decidedly downbeat due to a return to negative growth in the EU in quarter 4, our largest trading partner, and a sharp increase in world oil prices caused by Middle East concerns. However, there was also a return of some economic optimism for growth outside the EU and a third dose of quantitative easing to boost growth.
- 4.6 **UK CPI inflation** started the year at 4.5% and peaked at 5.2% in September. The fall out of the January 2011 VAT increase from the annual CPI figure in January 2012 helped to bring inflation down to 3.6%, finishing at 3.5% in March. Inflation is forecast to be on a downward trend to below 2% over the next year.
- 4.7 The Monetary Policy Committee agreed an increase in quantitative easing (QE) of £75bn in October on concerns of a downturn in growth and a forecast for inflation to fall below the 2% target. QE was targeted at further gilt purchases. The MPC then agreed another round of £50bn of QE in February 2012 to counter the negative impact of the EU debt and growth crisis on the UK.
- 4.8 **Gilt yields** fell with the **Bank Rate** unchanged at 0.5% throughout the year. Expectations of when the first increase would occur were steadily pushed back until the second half of 2013 at the earliest. Deposit rates picked up in the second half of the year as competition for cash increased among banks.
- 4.9 **Risk premiums** were also a constant factor in raising money market deposit rates for periods longer than 1 month. Widespread and multiple downgrades of the credit ratings of many banks and sovereigns, continued Euro zone concerns, and the significant funding issues still faced by many financial institutions, meant that investors remained cautious of longer-term commitment.

## 5. INVESTMENT STRATEGY AND OUTTURN FOR 2011/12

- 5.1 The investment strategy for 2011/12 was to place cash investments with certain institutions as set out in the Treasury Management Strategy, to focus on the security and liquidity of the investments rather than to seek yield. Where security and liquidity criteria could be satisfied, investments would then be placed taking yield into account.
- 5.2 The investments outstanding at 31<sup>st</sup> March 2012 amounted to £109.3 million: £18.8 million was invested in NatWest Call Account, £21 million invested in 3 money Market Funds, £10 million with a Local Authority and £59.5 million invested in short term deposits.

Table 3 – Investment Portfolio as at 31<sup>st</sup> March 2012

Deposit	Counterparty	£'000
Call Account	NatWest	18,800
Money Market Funds	Goldman Sachs	1,000
	Insight	10,000
	Primerate	10,000
Term Deposits	DMADF	4,500
	LloydsTSB	35,000
	NatWest	15,000
	Birmingham City Council	10,000
	Barclays Bank	5,000

5.3 Interest earnings for 2011/12 were £1.20 million compared to £1.19 million for 2010/11.

5.4 An analysis of movements on investments during 2011/12 is shown below.

Table 6 – Movement on Investments

	Balance 31.03.11 £000s	Loans/Invs Raised £000s	Loans/Invs Repaid £000s	Balance 31.03.12 £000s
Investments	70,400	1,021,600	(982,700)	109,300

## 6. BORROWING STRATEGY AND OUTTURN 2011/12

6.1 The treasury strategy for 2011-12, approved by the Council on 28 February 2011, was based on the expectation that base rate, whilst remaining low, would rise gradually from the fourth quarter of 2011 with similar gradual rises in medium and longer term fixed interest rates over 2011-12. Continued uncertainty in the aftermath of the 2008 financial crisis led to a continuation of a cautious approach for investments with low counterparty risk the main consideration, resulting in relatively low returns compared to borrowing rates.

6.2 Due to the level of cash balances held by the Council of £70.4 million at 31<sup>st</sup> March 2011, it was anticipated that there would not be any need to borrow during 2011/12.

6.3 An analysis of the Council's long term (PWLB) borrowings by maturity (i.e. date of repayment) is as follows:



Table 7 – PWLB Debt by maturity

PWLB	31 March 2011 £000s	31 March 2012 £000s
Up to One year	16,000	100
One to two years	175	11,556
Between two and five years	52,881	18,614
Between five and ten years	70,400	40,164
More than ten years	<u>336,064</u>	<u>191,732</u>
Total	<u>475,520</u>	<u>262,166</u>

## 7. COMPLIANCE WITH TREASURY LIMITS AND PRUDENTIAL INDICATORS

During the financial year the Council operated within its treasury limits and Prudential Indicators as set out in the Council's Treasury Strategy Report.

Table 8 – Authorised Limit and Operational Boundary 11/12

External debt indicator	Approved limit (£m)	Actual borrowing	Days exceeded
Authorised limit <sup>1</sup>	364		
Operational boundary <sup>2</sup>	303	262	None

Table 9 – Maturity Structure of Borrowing

Maturity structure of borrowing	Lower Limits (%)	Upper Limits (%)	Actual at 31 <sup>st</sup> March 2012 (%)
Under 12 months	0	15	0.04
1-2 years	0	15	4.41
2-5 years	0	60	9.80
5-10 years	0	75	12.62
10 years and over	0	100	73.13

Table 10 – Limits on interest rate exposure

Upper limits on interest rate exposure	Approved maximum limit	Actuals as at 31 <sup>st</sup> March 2012
<b>Debt</b>		
Fixed interest rate exposures	330,000	262,166
Variable interest rate exposures	66,000	0

<sup>1</sup> Authorised limit for external debt is the limit above which external debt must not go without changing Council Policy

<sup>2</sup> Operational boundary for external debt is the limit against which external debt will be constantly monitored.

**8. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

8.1 These are contained within this report.

**9. COMMENTS OF THE DIRECTOR FOR LEGAL AND DEMOCRATIC SERVICES**

9.1 There are no direct legal implications for the purpose of this report.

**10. RECOMMENDATIONS**

To note the borrowing and investment activity for the period 1 April 2011 to 31 March 2012.

**LOCAL GOVERNMENT ACT 2000**  
**BACKGROUND PAPERS**

<b>No.</b>	<b>Brief Description of Background Papers</b>	<b>Name/Ext. of holder of file/copy</b>	<b>Department/Location</b>
1.	Loans and Investments Ledger	Rosie Watson Ext: 2563	Westminster City Hall, Treasury and Pensions Team 16 <sup>th</sup> Floor,
2.	CIPFA Treasury Management Code of Practice	Rosie Watson Ext: 2563	Westminster City Hall, Treasury and Pensions Team 16 <sup>th</sup> Floor,



London Borough of Hammersmith & Fulham

# Cabinet

3 SEPTEMBER 2012

**LEADER**

*Councillor Nicholas Botterill*

**EARLS COURT REDEVELOPMENT AND STATUTORY AND WIDER CONSULTATION**

**Wards:  
North End  
Fulham  
Broadway**

This report sets out the structure of the Conditional Land Sale Agreement (CLSA), an agreement which would grant an option to the Capital and Counties Properties plc group of Companies (Capco) to include Council owned land including the West Kensington and Gibbs Green Estates (the Estates) in a comprehensive redevelopment scheme.

The report also includes an analysis of the statutory and wider consultation on the Council's proposal to enter into the CLSA with Capco.

**CONTRIBUTORS**

Executive Director of  
Housing and  
Regeneration  
DLDS  
EDFCG

**Recommendations:**

- 1. That the Cabinet note and consider the Analysis of Consultation Responses (Appendix 5) regarding the recent statutory and wider consultation.**
- 2. That the Cabinet note and consider the Equalities Impact Assessment (Appendix 12) prepared in respect of the proposed decisions which are the subject of this report.**
- 3. In light of the Analysis of Consultation Responses and the Equalities Impact Assessment and having regard to the regeneration benefits summarised in this report, that the Cabinet should agree that it is willing to enter into a Conditional Land Sale Agreement (CLSA) and relevant associated documents as set out in paragraph 6.12 of this report, with EC Properties LP, part of the Capital and Counties Properties plc group of companies (referred to as Capco within**

**HAS AN EIA BEEN COMPLETED?  
YES**

**HAS THE REPORT CONTENT BEEN RISK ASSESSED?  
YES**

**the report) to include the West Kensington and Gibbs Green Estates (the Estates) in the proposed comprehensive redevelopment scheme.**

- 4. That approval is given to include the Tenant and Leaseholder/Freeholder Assurances within the agreed CLSA.**
- 5. That the Council approve the disposal to EC Properties LP (Capco) of land formerly occupied by Gibbs Green School within the overall CLSA on terms set out in this report, with the disposal proceeds to be applied to a replacement educational facility.**
- 6. To approve the disposal to EC Properties LP (Capco) of land at 11 Farm Lane within the overall CLSA, as set out in the report.**
- 7. To authorise the Executive Director of Housing and Regeneration to prepare an application for the Secretary of State's consent for the necessary disposal of Housing Revenue Account (HRA) land, for submission to Full Council and appoint supporting advisors necessary to help secure such consent.**
- 8. To give delegated authority to the Executive Director of Housing and Regeneration in consultation with the Executive Director of Finance and Corporate Governance to purchase leasehold and freehold interests situated on the land (Estates), included within the CLSA, by agreement up to a cumulative value of £15m funded from the Decent Neighbourhoods Fund and appoint advisors to support these acquisitions.**
- 9. To approve the 4 year budget as set out in section 9 funded from the Decent Neighbourhoods Fund and provide the Executive Director of Housing and Regeneration with delegated approval to finalise the allocation of resources within this budget envelope.**

**10. That capital receipts arising from the CLSA are used to cover costs of disposal and those incurred in delivering the project and that the portion received in respect of land and properties currently held within the Housing Revenue Account is reinvested (so far as lawfully possible) in housing and regeneration, including:**

- **To fund capital expenditure on area-based improvements that help the Council achieve its corporate objectives;**
- **To develop or acquire new affordable housing to meet identified housing needs, including where appropriate by the extension of properties;**
- **To fund tenant incentive initiatives (qualifying as capital expenditure) that free up council housing which is in demand for those in housing need (e.g. for larger family accommodation);**
- **Subject to the Council ensuring that its statutory housing responsibilities to meet housing needs are performed, to use receipts to reduce HRA or General Fund debt where this is identified as a priority, and where repayment of the debt is of net financial benefit to the Council's HRA or General Fund;**
- **To invest in capital expenditure on planned maintenance of the Council's current housing stock until this is fully funded by the HRA revenue account.**

**11. To authorise the Executive Director of Housing and Regeneration to consult on the draft Earl's Court Local Lettings Plan and Re-housing policy.**

## **1. INTRODUCTION**

- 1.1 The proposed development of the Earls Court Exhibition Centre and Lillie Bridge Depot presents an opportunity for the Council to include the West Kensington and Gibbs Green Estates within the comprehensive redevelopment scheme, as identified in Appendix 1.
- 1.2 The Estates could be included through a CLSA between the Council and EC properties LP (referred throughout the report as Capco). Broadly speaking, land would be transferred to Capco in phases, but only when new replacement homes are built in advance, (meeting residents' needs), to replace the current 760 properties on the Estates. The Council would receive a 995 year leasehold, (a virtual freehold), in respect of the replacement homes.
- 1.3 The Cabinet considered and endorsed a report on 23<sup>rd</sup> April 2012, which outlined the provisional terms negotiated for the CLSA. Officers confirmed that those provisional terms could be recommended for acceptance, providing no new material issues arose in the final phase of the detailed negotiations. Officers have now concluded detailed negotiations and confirm that the terms of the CLSA remain ones which can be recommended.
- 1.4 This report:
- Explains the vision, policy context and background to the possible comprehensive redevelopment of the Earls Court area.
  - Reviews the timetabling of the scheme and the planning process.
  - Summarises the history of discussions and engagement with estate residents.
  - Analyses the consultation responses received during the recent Section 105, Housing Act 1985 and wider consultation (building on the interim findings included within the 23<sup>rd</sup> April 2012 report).
  - Outlines the terms of the CLSA
  - Explains officers' reasons for recommending that the Council should enter into the CLSA with Capco.

## **2.0 VISION AND POLICY CONTEXT**

### **2.1 Vision**

- 2.1.1 Officers recognise that any major regeneration scheme of this sort involves uncertainty, anxiety and disruption for current occupiers. Residents in North Fulham and West Kensington have a strong sense

of community and pride in their neighbourhood. Current social housing on the Estates adequately meets the needs of most residents.

- 2.1.2 Officers believe that the redevelopment of the Earls Court area provides a chance to build on these solid foundations by attracting a substantial amount of new investment to the neighbourhood and the Borough more generally.
- 2.1.3 That investment has the potential to increase and improve housing provision (including affordable housing) and to give rise to new shopping, leisure, educational and healthcare facilities. If planned properly, the redevelopment would create a better neighbourhood environment, and would provide local residents with new open spaces and parkland. It could bring many new job and training opportunities to help ensure that everybody living in the area has the chance to get on in life. It could ensure that the neighbourhoods around Earls Court are better connected so that people feel part of a shared community. Overall, the redevelopment provides a once-in-a-generation opportunity for residents to benefit from new housing and facilities, and for housing and employment growth.
- 2.1.4 The Council is committed to delivering a Borough of Opportunity and wants all residents in the Borough to have the same opportunities: the same opportunity to send their child to a good school, to live in a safe and pleasant neighbourhood with access to good quality healthcare and leisure facilities; the same opportunity to get on in life by taking up new or better job and training opportunities. The redevelopment offers a vital chance to advance these aims.

## **2.2 Policy Context**

- 2.2.1 The Mayor of London's London Plan sets out the planning requirements for an integrated economic, environmental, transport and social framework. The London Plan has 33 'Opportunity Areas' of which three are in the London Borough of Hammersmith and Fulham. Along with White City and Old Oak, the Earls Court West Kensington Opportunity Area is one of these Opportunity Areas. As such, it represents a key opportunity for London to accommodate new housing, commercial and other development.
- 2.2.2 The Council's vision for the Earls Court West Kensington Opportunity Area to regenerate the local economy and provide new housing is identified in the Council's Local Development Framework Core Strategy. The Earls Court West Kensington Opportunity Area is one of the Council's five key regeneration opportunity areas for growth in the Borough. The Council have also identified the Earls Court West Kensington Opportunity Area as a key theme within its Corporate Plan (October 2009) to regenerate the Borough.

2.2.3 In addition, the scheme is identified in the Council's Borough Investment Plan (December 2011) and Draft Housing Strategy (May 2012). The Council's comprehensive approach to regeneration is aimed at tackling the physical fabric of neighbourhoods, making them better places to live and work; and addressing high levels of deprivation.

### **3.0 BACKGROUND AND HISTORY**

3.1 The proposed comprehensive redevelopment scheme covers an area of approximately 73 acres<sup>1</sup> within only three principal land-holdings (shown at Appendix 1). The principal landowners are:

- Capco, leaseholders of Earls Court 1 and 2 and freehold owners of the Seagrave Road car park site.
- Transport for London (TfL), freeholder of the Lillie Bridge Depot and Earls Court 1 and 2.
- The Council, freehold owners of the West Kensington and Gibbs Green Housing Estates, including the site of the former Gibbs Green School.

3.2 The proposed comprehensive redevelopment scheme sits across the boundary of the Borough's of Hammersmith and Fulham (LBHF) and Kensington and Chelsea (RBKC).

3.3 Capco and TfL have been discussing the possibility of a redevelopment of their land holdings for some considerable time and the Council has the opportunity to sell its land to Capco creating a larger and more comprehensive development opportunity.

#### **3.4 The West Kensington and Gibbs Green Estates**

3.4.1 The Estates occupy an area of approximately 21 acres along the western length of the Earls Court buildings and the Lillie Bridge Depot. The Estates comprise 760 homes, the two tenant halls, an empty nursery building, the former Gibbs Green School and highway at Mund Street.

3.4.2 531 of the homes on the Estates are owned and rented by the Council and there are 171 properties owned by leaseholders/freeholders which were originally purchased from the Council under Right to Buy. There are also 58 social rented Housing Association (HA), properties on the estate, which have been developed piecemeal over the past 30 years, with the sites sold by the Council to the three HAs on long leases. These three HAs are Family Mosaic HA, London and Quadrant HA and Shepherds Bush HA.

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<sup>1</sup> Includes Seagrave Road Car Park Site and excluding Farm Lane



3.4.3 A breakdown of the tenure and property type of the residential properties on the Estates can be found in table 1 below:

**Table 1 – Tenure and property type table as at 23<sup>rd</sup> April 2012**

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/ Freehold	21	0	85	0	24	29	2	10	171
Housing Association	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

3.4.4 The Estates are now between 40 and 50 years old and lie within the North Fulham area. In 2010, the area fell within the 20% most deprived areas in England, as defined by the Index of Multiple Deprivation.

**Table 2 – Table of Deprivation**

Deprivation indicator	The Estates	Borough Average
% of working age population on Jobs Seekers Allowance, Income Support, Incapacity Benefit OR Employment and Support Allowance	24.9	13.3
% of all tenants (Council and private) on Housing Benefit	63.2	27.5
Average household income of a household with a dependent child	£16,905	£22,105
Rate of ASB per 100 residents	6.6	3.5
% of tenants classified as overcrowded (based on Housing Benefit/Council Tax Benefit claimants only)	14.9	12.8

### 3.5 Transport for London and Network Rail land ownerships

3.5.1 Officers understand that, in order to deliver the comprehensive redevelopment scheme, Capco have to reach agreement with TfL for the treatment of their land ownerships and or TFL agree to bring forward their sites for redevelopment in line with the masterplan. In respect of Capco reaching agreement with TfL the Council believe that the following points will need to be addressed:

- Capco needs to agree a renegotiation of the term of their existing leases from TfL on Earls Court 1 and 2, identified in Appendix 1 in order to make the land capable of redevelopment.
- The Lillie Bridge depot currently contains an engineering depot and a train stabling facility. The engineering depot

will need to be re-located to enable the development to proceed. The train stabling facility could remain but would require a design solution.

- Officers understand that negotiations are ongoing between Capco and TfL.

3.5.2 It would also be desirable for Capco to reach agreement with Network Rail for developing over the West London Railway Line. Officers understand that negotiations are also ongoing in this regard.

### **3.6 The Planning and Masterplanning processes**

#### **3.6.1 London Plan and Core Strategy**

3.6.1.1 The potential comprehensive development area including the Earls Court buildings, Lillie Bridge Depot, the Estates and Seagrave Road car park, was identified as an Opportunity Area in the London Mayor's Replacement London Plan in 2009. The London Plan, including the Opportunity Area, was adopted by the Mayor early 2012.

3.6.1.2 As has been noted, the Council's Core Strategy also recognises the development site and includes policies encouraging its comprehensive development. The Core Strategy was adopted in October 2011.

#### **3.6.2 Supplementary Planning Document**

3.6.2.1 The Council, RBKC and the Greater London Authority commenced work on a Supplementary Planning Document (SPD) in September 2010 for the Opportunity Area. The purpose of the SPD is to explore development options for the site and produce a framework for acceptable development interpreting existing planning policy. Consultation on the SPD has been undertaken and the SPD was adopted by the Council on 19<sup>th</sup> March 2012, by RBKC on 22<sup>nd</sup> March 2012 and is with the GLA currently for consideration.

3.6.2.2 Capco have provided the Council with an indemnity against any claims for statutory blight, which might arise from the adoption of the SPD.

3.6.2.3 On or about 19<sup>th</sup> June 2012, the Council received an application for permission to apply for judicial review of the decision to adopt the SPD, brought by the tenants and residents' associations of the two Estates (the TRAs). This is being opposed and is the subject of privileged confidential legal advice; the judicial review is therefore not discussed further here.

### 3.6.3 Masterplan and Planning Applications

3.6.3.1 Capco employed Terry Farrell & Partners to prepare a masterplan for the comprehensive development site, including the Estates, in June 2010. The masterplan proposal is for a residential mixed-use scheme of 10.1m square feet above ground (excluding the Seagrave Road site). The masterplan is centred on the concept of building four new 'villages' and a new high street linking North End Road and Earls Court tube station.

3.6.3.2 The masterplan proposes approximately 7,583<sup>2</sup> new homes including 760 replacement homes and an estimated further 740 additional affordable homes, new offices and commercial activities, new education and health facilities including a new primary school, new play and recreational facilities, (including a new linear park) and a new high street with shops, cultural and community activities.

3.6.3.3 Capco submitted three planning applications in June 2011, based on the Farrell masterplan.

- Two outline applications were submitted: one to RBKC (Application 1) and one to the Council (Application 2) for the main development site, excluding the Seagrave Road site.
- A detailed planning application was also submitted to the Council for the Seagrave Road car park site. That application was recommended for approval by PAC on 16th February 2012, subject to finalising Section 106 provision and there being no contrary direction from the Mayor of London. The Section 106 agreement was completed on 30<sup>th</sup> March 2012 and planning permission issued on the same day. The judicial review period for this decision has now expired.
- It is proposed that Application 2 will be taken to LBHF's Planning Committee on 12<sup>th</sup> September and Application 1 will be taken to RBKC's Planning Committee in the near future.

## 4. **CONSIDERATION OF OPTIONS**

4.1 Since early 2009 the Council, Capco and local residents have been considering the possible inclusion of the Estates within the wider comprehensive development. This has included assessing the benefits that could be created from such inclusion, the safeguards that would

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<sup>2</sup> The current planning application is for 5,845 homes in LBHF and 930 homes in RBKC, (i.e. 6,775 homes in total), plus separate planning application for 808 homes in Seagrave road car park (i.e. 7583)

need to be secured for residents and the terms under which the Council's land and properties could be included.

#### 4.2 Collaboration Agreement

4.2.1 In October 2009, the Council signed a Collaboration Agreement with Capco and TfL to provide a framework, within which the three parties could explore the full potential of the scheme and negotiate terms, under which land agreements might be entered into. TfL is of the view that the Collaboration Agreement expired in December 2011. Although the Council accepts that the Agreement has expired, it has not needed to determine the precise date of expiry, as discussions are on-going between the parties through the Landowners Board.

#### 4.3 Exclusivity Agreement

4.3.1 In July 2011, the Council signed an Exclusivity Agreement with Capco. Capco paid £15m to the Council in return for the right to negotiate exclusively with the Council, to ascertain whether final terms of a CLSA could be concluded. £5m of this is non-refundable and £10m is refundable if the Council does not enter into the CLSA<sup>3</sup>. The original term of the agreement was for one year from 29<sup>th</sup> July 2011 and in view of the progress made with negotiations, the parties have entered into an agreement to extend this until the end of January 2013.

#### 4.4 Estate Regeneration Options Analysis

4.4.1 In order to explore fully the rationale for the redevelopment of the Estates and understand whether inclusion of the Estates offers the optimum way forward, the Council instructed Jones Lang LaSalle (JLL) and Amion Consulting to prepare an options appraisal (the Economic Appraisal).

4.4.3 The Economic Appraisal (attached at Appendix 2) considered 4 options for the Estates. These are set out in the table below

**Table 3 – Options explored in the Economic Appraisal**

<b>Option</b>	<b>Detail</b>
Option 1	Maintain the Estates as they are. This could include a transfer to a housing association, or a resident-

<sup>3</sup> If the Council does enter into the CLSA, this money will also be refundable if the Council does not comply with it's obligations under this agreement.

	controlled private registered provider.
Option 2	Continue to maintain the Estates and develop plots of land within the Estates.
Option 3	Redevelopment of the Estates only (not as part of the comprehensive redevelopment plans). The existing properties on the estate would be demolished and replaced with new housing and other supporting uses.
Option 4	Inclusion of the Estates within the Earls Court redevelopment scheme.

4.4.4 The Economic Appraisal concludes that the inclusion of the Estates within the wider redevelopment scheme is the best option in terms of benefits for residents of the Estates and for the wider area, and that it offers the prospect of bringing, among other things, the following benefits to the area:

- 7,583 new homes
- 36,033 construction jobs<sup>4</sup>
- 9,528 permanent jobs<sup>5</sup>
- £99.5m per annum of additional local expenditure

4.4.5 On 7<sup>th</sup> November 2011 the Leader of the Council and the Cabinet Member for Housing made the decision to accept provisionally and endorse the conclusions contained within the Economic Appraisal subject to the outcome of further consultation.

**4.4.6 Members should read the Economic Appraisal in full.**

4.4.7 In its analysis, the Economic Appraisal makes the assumption that the comprehensive redevelopment scheme would be realised in full. This assumption is considered in more detail in section 6.7.2. below.

#### 4.5. Housing Stock Transfer

4.5.1 On 8<sup>th</sup> December 2009, the TRAs served notice on the Council proposing that the Estates be sold to a resident-controlled private registered provider. On the same date, the TRAs wrote to the Secretary of State for Communities and Local Government inviting him to make regulations for this purpose under section 34A of the Housing Act 1985. The Council met with the TRAs in January 2010 to discuss their proposal. (As yet, no regulations have been made under section 34A.)

4.5.2 The Council decided that it could not support the TRAs' proposal at that time. The Council wrote to the TRAs to explain this on 11<sup>th</sup> January 2010. The Council wrote in similar terms to the Secretary of State. In the letters the proposed stock transfer was described as 'premature'.

<sup>4</sup> Defined as person years of construction employment in Appendix 2

<sup>5</sup> Defined as new gross direct jobs in Appendix 2

This was because the 'potential opportunity' to which the redevelopment scheme gave rise had not been fully explored and evaluated by the Council. The Council took the view that it could not decide to support the disposal of the Estates to a resident-controlled private registered provider without first obtaining a proper understanding of the potential benefits and advantages of the comprehensive redevelopment scheme.

- 4.5.3 The TRAs have since established West Kensington & Gibbs Green Community Homes (WKGGCH) and are lobbying for the ownership of the Estates to be transferred to this community organisation.

#### 4.6 Past Consultation with Residents

- 4.6.1 Over the past three years the Council has been engaging and consulting with residents of the Estates through numerous newsletters, drop-in sessions, surgeries and exhibitions about the potential inclusion of the Estates within the redevelopment scheme.
- 4.6.2 Consultation and discussion have centred around the concerns raised by residents about the impact of the proposed redevelopment scheme on them. These concerns have been addressed through the development of Tenant and Leaseholder / Freeholder guarantees. These guarantees are included within the proposed CLSA and are intended to provide clarification and assurances for local residents.
- 4.6.3 The West Kensington and Gibbs Green Steering Group was set up in order to negotiate with the Council and Capco and to secure effective safeguards and benefits for residents. The Council has funded independent legal advice for this group over the past two years to ensure that residents had proper representation and advice during the consultation process and were able to discuss issues effectively.
- 4.6.4 A chronology of the consultation process (up until the recent consultation addressed immediately below) is attached at Appendix 3.
- 4.6.5 During this time there have also been separate consultations by the Local Planning Authority with residents about the proposed development.

### 5.0 SECTION 105 AND WIDER CONSULTATION

- 5.1 From 6<sup>th</sup> January 2012 to 12<sup>th</sup> March 2012, the Council undertook a formal consultation with residents on whether the Estates should be included in the proposed comprehensive redevelopment scheme. This formal consultation also satisfied the requirements of section 105 of the Housing Act 1985 in relation to the secure tenants on the Estates.

- 5.2 A total of approximately 30,000 consultation packs were distributed to the Estates and across the wider area (defined by Hammersmith Road to the North, Fulham Palace Road, New Kings Road to the South and Warwick Road and Finborough Road to the East). The consultation pack is included at Appendix 4.
- 5.3 A progress report on the consultation and on the responses received was considered by Cabinet on 23<sup>rd</sup> April 2012. Officers have now completed a full analysis of the consultation responses, together with comments received after the 23<sup>rd</sup> April Cabinet. Officers have also commented on and responded to concerns raised where appropriate. The analysis is not summarised here. Rather, **Members are directed to Appendix 5, which Members should read in full.**

#### **5.4 The housing stock transfer option**

- 5.4.1 During the consultation on the future of the Estates, the TRAs and WKGGCH submitted their 'vision' for a housing stock transfer (first published on 8<sup>th</sup> December 2009), together with representations on the alleged advantages of this option as compared with the Council's proposal (see Section 5 of TRAs' response of 12 March 2012, attached as Annex 5 to Appendix 5, the Analysis of Consultation Responses).
- 5.4.2 In addition, 86% of those who objected to the Council's proposal in the recent consultation (575 individual consultees) supported a transfer of the housing stock to WKGGH.
- 5.4.3 Officers support some of the elements of the 'vision' and are in general supportive of the localism principles that underpin stock transfers. However, despite the support for a housing stock transfer, officers believe that the inclusion of the Estates in the redevelopment scheme is the better option overall. There are two principal reasons for this. First, officers consider that a number of the claims made in the WKGGCH 'vision' are unrealistic. Secondly, and more importantly, the Stock Transfer Option would prevent the Estates from being included in the redevelopment scheme, and officers consider that this would in turn significantly reduce the benefits that the redevelopment scheme would be likely to deliver. These two reasons are addressed in more detail below.
- 5.4.4 Overall, officers believes that the issue of a stock transfer to a body such as WKGGCH should be a consideration for the future, once the comprehensive redevelopment has been undertaken and the regeneration benefits realised. In particular, if the Estates are included in the redevelopment scheme, the Council would receive 995-year head leases for the replacement homes. The Council could transfer this interest to a body such as a WKGGCH once all of the new homes had been provided, thus allowing residents and the local area to gain the benefits of the comprehensive redevelopment scheme whilst also enabling local resident-led ownership of homes in the long term.

## 5.5 The WKGGCH 'vision'

- 5.5.1 WKGGCH make strong statements within their 'vision' about what the stock transfer option 'would' achieve. There would be 'an estate-based management and maintenance service tailored to meet individual needs' and staff 'would be out on the streets and patrolling the corridors' and 'things would be dealt with straightaway'. In addition, it is claimed that over time 'we would transform the corridors stairwells and outside spaces into safe and welcoming entrances; ... We would keep the concierge staff and give the big blocks on West Ken a facelift' and that the TRAs / WKGGCH 'would offer secure lift access for the blocks on Gibbs Green, using transparent lifts and shafts'.
- 5.5.2 As against this, the only reference to funding is the statement that '[t]here are ways of funding these and other estate-wide improvements that would avoid costs falling on leaseholders'. Officers do not agree. Officers consider that it would be very difficult to undertake such improvements without an increase to rents to service the necessary borrowing and/ or increases to service charges to tenants and leaseholders.
- 5.5.3 The Council has determined that the cost to simply to maintain these properties to the Decent Homes Standard over the next 30 years is likely to be approximately £60m. Any additional physical improvements would incur significant additional costs. For example, the cost of the type of lift, promised for the Gibbs Green estate could be in the region of £450, 000- £460, 000<sup>6</sup>, and cladding the larger blocks on the West Kensington estate would have significant cost implications.
- 5.6.4 In the past, housing stock transfers have typically been progressed by the local authority making an offer to the tenants and by the provision of a 'dowry'. However, Officers understand that in the currently constrained public sector funding climate there is unlikely to be a 'dowry' or other grant regime to support stock transfers where additional resources are required to support stock repair and improvement. Indeed it is worth noting that under the 2012 Housing Revenue Account Self Financing Determination the average debt per property across the Council was £19,988. In broad terms applying this average debt per property figure to the 531 council secure tenancies on the estates produces an indicative debt figure of circa £10 million. In the current economic climate, and with the current budgetary pressures that it is facing, it would not be feasible for the Council to provide the necessary funds and /or write off debt of this

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<sup>6</sup> This approximate costs range is taken from a feasibility study that was undertaken to understand the cost of installing a glass lift in a 5 story housing block on another estate in the Borough. Whilst the cost would of course be subject to all sorts of variables based upon the specific circumstances of the block this gives an indication of the cost range.



size, which would be needed to allow for the WKGGCH vision to be realised.

- 5.6.5 Further, Officers believe that to fund the costs of managing the Estates, WKGGCH would in all likelihood need to bring in an existing larger Registered Provider so as to allow economies of scale. This would in itself hinder the local element that WKGGCH is promoting in their 'vision'.
- 5.6.6 It is also stated in the 'vision' that WKGGCH 'would sort out overcrowding by moving existing tenants to bigger homes and by housing their grown up children – before taking in new tenants. And we would provide better choice and help for moving off the estates.'
- 5.6.7 Again, officers believe that this would be very difficult to deliver. It is not clear whether residents in larger homes that are under-occupied would be forced to move to smaller properties to allow overcrowded families to move into their homes. If this is not the case, and if WKGGCH are assuming that overcrowding can be tackled as and when void properties become available, tackling the overcrowding on the Estates (currently, 16%) may take a long time.
- 5.6.8 It is also premature for WKGGCH to state that they will be able to house the grown-up children of existing estate residents before taking in new tenants. This will depend on the 'offer' negotiated with the Council. The Council might well retain nomination rights and use void properties on the Estates to re-house priority residents on the Council's Housing Register. Officers also consider that WKGGCH cannot realistically claim that it will be able to provide better 'choice and help' for residents who are wanting to move away from the Estates when they own no other housing stock. (WKGGCH might in principle partner with a larger existing Registered Provider which might facilitate this, but as already noted this would undermine the claimed local element in the 'vision').

## 5.7 The benefits of comprehensive redevelopment

- 5.7.1 If the Council pursued the Stock Transfer Option then the Estates would not be able to be included in the redevelopment scheme.
- 5.7.2 This would mean that there would not be the provision of 760 privately-funded replacement new homes, nor would the Borough obtain all the other benefits that would flow from the comprehensive redevelopment scheme. As regards the former, the lifecycle costs of maintaining new homes would be lower than that of the (current) aging homes on the Estates.
- 5.7.3 On the assumption that the stock transfer did not give rise to any subsequent infill development on the Estates (which possibility is addressed below), and using the results of the Economic Appraisal, the

differences between the stock transfer option and the Council's proposal in terms of residential units, jobs, and employment floor space can be estimated as follows.

**Table 4 – Loss of Gross Benefits**

	<b>Option 1 Do minimum – either with or without Estate Stock Transfer</b>	<b>Option 4 Comprehensive redevelopment of Earl's Court Area</b>	<b>Difference – lost opportunity</b>
Gross direct residential units	2,868	7,583	-4,715
Gross direct construction jobs*	20,642	36,033	-15,391
Employment floor space (sq m)	30,063	201,397	-171,334
Gross direct permanent employment	1,287	9,528	-8,241

\*Persons years of employment

- 5.7.4 The Economic Appraisal estimates that, as compared with the option 1 (do minimum –either with or without Estate Stock Transfer), Option 4 (the comprehensive redevelopment scheme), would give rise to £99.5m additional local expenditure per annum (of which £40.9m would be retained in the local area). The overall net present value of a redevelopment without the Estates (Option 1) is estimated in the Economic Appraisal to be £20m, whilst the overall net present value of the comprehensive redevelopment scheme (Option 4) is estimated to be £3.8bn.
- 5.7.5 The TRAs / WKGCH argue in table 1 in Section 5 of their response that the Stock Transfer Option would lead to an increase in the supply of housing because there would be infill development. Even if there were infill development, this would not address the poor layout of the Estates. More significantly, officers consider that there would be few opportunities for infill development should the estates be transferred,
- 5.7.6 Option 2 of the Estates Regeneration Economic Appraisal assessed the opportunities for in-fill development to create additional housing and it was believed that 341 new homes could be built. This however, included larger land parcels, such as Gibbs Green School, Farm Lane and Lillie Road, which would not be transferred if a housing stock transfer were to occur.
- 5.7.7 Within Option 2, 9 smaller sites were identified, within the Estates boundary, as being capable of infill development. On the basis of 750 habitable rooms per hectare, it was determined that 57 additional units could be provided across these 9 sites. These infill sites were identified on the basis of their suitability for development by 'walking' the estate, liaison with Housing Authority and reference to the existing quality of the stock and likely planning constraints on change of use and intensification of land use.

5.7.8 The appraisal work conducted by Jones Lang LaSalle has determined that income from land disposal (capital receipt) of these infill sites could achieve circa £4m of income. The small scale of these opportunities and their in-fill nature within the existing estate does, however, mean that maybe a limited opportunity market for these sites. Outside of the financial viability issues, the small scale of this intervention means that there will be limited added value to the environment within the estates for existing residents and considerably less than the comprehensive redevelopment - it could be argued that an infill approach will reduce the living environment in the estates via increased density and reduced access to open space.

## **6. CONDITIONAL LAND SALE AGREEMENT (CLSA)**

6.1 If the Council's land is to be included within the wider comprehensive redevelopment scheme then the proposal is that the terms regulating the arrangements between Capco and the Council would be set out in the CLSA. The CLSA will set out in detail the steps that need to be undertaken in order for the land to be transferred to Capco. The Council would receive a 995 year head lease, a virtual freehold, in the properties provided as replacement homes.

6.2 The terms of the CLSA have been agreed between officers, supported by expert professional advice. Legal advice has been obtained from SNR Denton (Dentons) and Counsel, commercial advice has been obtained from Jones Lang LaSalle (JLL) and financial advice, best consideration and due diligence advice has been obtained from PriceWaterHouseCoopers. A summary of the CLSA can be found at Appendix 6. The core terms of the CLSA are detailed below.

### **6.3 The Offer to Tenants and Leaseholders/Freeholders – Estate Residents**

#### **6.3.1 Re-provision of existing homes**

6.3.1.1 The impact and implications of the process on local residents will be regulated by the Tenant and Leaseholder / Freeholder Guarantees, which are within the terms of the CLSA. It is proposed in the CLSA that all homes currently within the Estates will be re-provided to the Council, as part of any redevelopment scheme. This enables the Council to promise that existing residents of the Estates will be offered new accommodation within the new development.

6.3.1.2 Furthermore, the Council, from the outset, has required that existing residents should not be moved away temporarily while new replacement homes are built and that they will only incur one move. Although the process will be disruptive for local residents, this condition will help to safeguard existing communities and minimise community break-up. Consequently, land phases can only be

vacated and passed over to Capco, once new homes for residents in the affected phase have been re-provided elsewhere in the development area.

- 6.3.1.3 The Seagrave Road Car Park site is important and the only realistic option in achieving the one move promise. It provides a site for the re-provision of approximately 200 existing estate properties, without the need for any demolition of existing homes. This will allow the remainder of the re-provision to take place – in phases - without residents having to move away to temporary accommodation.
- 6.3.1.4 Re-provision in this manner is time-consuming and, given the scale of the project, the full re-provision of council properties is likely to take 10-15 years.
- 6.3.1.5 All of the new homes will be allocated through the Earl's Court/West Kensington Local Lettings Policy, which will be overseen by Director of Housing Options, Economic Development & Skills. The first draft of this policy is attached at Appendix 7 – Earl's Court/West Kensington Local Lettings Plan interim statement. It is anticipated the Council will be consulting with residents later in the year on this first draft and the final re-housing policy will be brought back to Cabinet for approval following consultation.

### 6.3.2 Benefits for Tenants

- 6.3.2.1 The Guarantees within the CLSA for Tenants are as follows:
- All secure tenants will remain secure council tenants and have the offer of a new home within the development, matched to their housing need.<sup>7</sup>
  - Under-occupying tenants will be offered a new home with one additional bedroom above their need.
  - Rents will continue to be set in line with other existing council rents.
  - A home loss payment of £4,700 per household will be made by the Council to all secure tenants who have been in their home for more than one year. This amount is set by the government.
  - There will be no need for temporary accommodation – tenants will have one move only to their new home.
  - New white goods, carpets and curtains will be provided in their new homes.
  - The Council will fund all reasonable costs of moving.
  - Tenants will have a dedicated re-housing Officer to help them through the process.

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<sup>7</sup> Please note if a resident's need exceeds 5 bedrooms then other re-housing options will be considered.

- An occupational therapist will be provided if requested and necessary identified adaptations will be undertaken to the new home.
- Compensation will be offered for loss of a garden or private parking space, if the new home does not have these.
- The Guarantees will be extended to existing Housing Association Assured Tenants, should they wish to become Council tenants.

### 6.3.2.2 Benefits for Leaseholders and Freeholders

#### 6.3.2.2.1 The Guarantees within the CLSA for Leaseholders / Freeholders are as follows:

- Qualifying resident homeowners will be offered a new property in the development at a discount of 10%. Resident homeowners will be offered market value, plus 10%, (subject to a maximum of £47,000 set by statute) for their existing home.
- If after receiving a discount resident homeowners still cannot afford to purchase a home in the new development then the Council will meet the difference and hold this outstanding equity, but charge no rent or interest.. Resident homeowners will not be expected to increase borrowing on their mortgage to afford a home in the new development.
- Service charges for the new leasehold properties will be capped at their existing level for 5 years. Existing freeholders will have their service charge capped at £1,000 pa for the first five years.
- Resident homeowners who wish to be bought out and leave the area will be offered the market value plus 10%, subject to a maximum of £47,000 (unless they move under the Early Purchase arrangement).
- Homeowners will be able to choose the time when they wish to be bought out and move away up until the time when their property is required for development.
- Reasonable costs of moving, valuation and legal advice will be funded by the Council.
- Compensation will be provided for Decent Homes work which had been paid for and for which the full benefit had not been enjoyed by the time the property is required for development.
- Owners who have a demonstrable need to move away before the purchase contracts are released (as per 6.5.2) can be bought out for the market value under the Early Purchase arrangement.

## 6.4 The Structure of the Agreement

### 6.4.1 The Land

6.4.1.1 The land to be transferred under the CLSA is as follows (please see Appendix 1):

- The West Kensington and Gibbs Green Estates
- The former Gibbs Green School
- 11 Farm Lane

6.4.1.2 Capco have also indicated that they may wish to include Council-owned properties on Seagrave Road and Rickett Street within the comprehensive redevelopment scheme. At present, the Council has not received any plans to include these properties. However, should Capco come forward with detailed proposals for their inclusion, the Council will undertake a statutory consultation process with the affected properties. Following consultation the Council will make a decision on whether to include these properties<sup>8</sup>.

6.4.1.3 Should these additional properties be included, the Council will receive additional replacement properties within the development area and the tenants of these properties will be entitled to the tenant contract, i.e. the Guarantees described above in 6.3.2.1.

### 6.4.2 Trigger Date

6.4.2.1 The agreement is a conditional agreement for the sale of the Council's land. From the date of the agreement Capco will have a five year option window in which to decide whether they are able to and want to go ahead. This is to give Capco the opportunity to put in place required permissions and funding to proceed with the development. Once Capco decide to proceed, they serve a Trigger Notice on the Council. The land will transfer to Capco (or its subsidiary) in phases to be agreed with the Council, over time.

6.4.2.2 It is intended that the current momentum in the project and the financial outlays that Capco will have made on signing will mean they would be in a position to proceed well before the final Trigger date. However, the five year option window described above means there could be a delay in the commencement of the project up to 5 years from signing, up to 31.12.2017, as per illustration 1 in 6.4.4.3.

6.4.2.3 On signing of the agreement, and irrespective as to whether the Trigger Notice is eventually served, Capco will be required to purchase the Gibbs Green School site (subject to the council securing appropriate consents) and 11 Farm Lane, for a combined figure of £15m.

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<sup>8</sup> The occupiers of these properties have been informed about this possibility.

6.4.2.4 The Gibbs Green School Site is currently being used as a temporary site for Queensmill School secondary provision. Queensmill School moved to this site on a temporary basis whilst proposals for a purpose built school in White City are being pursued. Capco's early purchase of the Gibbs Green School will provide much-needed funds to provide secondary provision in White City. 11 Farm Lane is the site of a closed supported hostel. The decision to close the hostel was taken in February 2011.

#### 6.4.3 Early Termination provisions

6.4.3.1 Provisions have been negotiated in the Agreement to secure project momentum.

- Capco must serve the Trigger Notice within 5 years of signing the CLSA or no later than 9 months after 150 new affordable units (out of the total of 200 required under the terms of the Seagrave Road section 106 Agreement) are completed on the Seagrave Road site. If this is not done, the Council can terminate the agreement.
- If within 10 years of signing the agreement Capco have not provided the Council with 50% of the required replacement of social rent housing, then the Council can terminate the agreement. This is conditional upon any delay not being caused by a lack of performance by the Council. There is provision allowing Capco some additional time to make this hurdle if they have nearly done so by this date.

#### 6.4.4 Payment for Council Land

6.4.4.1 There are two elements to the Council's consideration for the land. These are new replacement housing<sup>9</sup> for the housing currently occupying the Estates and a monetary consideration of £105m<sup>10</sup>. Taken together, the cash receipt and the replacement homes are considered to have a value of between £220m and £289m depending on the valuation approach used and officers, relying upon the specialist external advice of JLL and PWC, are of the view that the deal under the terms of the proposed CLSA currently represents best consideration

#### 6.4.4.2 Replacement Housing

6.4.4.2.1 It is a condition precedent to the Council delivering vacant possession of the whole of the Estates that the Council will receive 760 homes in phases in replacement for the homes currently on the Estates. The Council would receive a 995 year Head lease, a virtual freehold, in the properties provided as replacement homes. These new homes will be tailored to existing residents' housing needs.

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<sup>9</sup> This is anticipated to form part of the planning obligations to be contained within the S106 agreement

<sup>10</sup> Including £0.5m for the Seagrave Road and Ricketts Street properties

Currently there are 589 social rent properties and 171 private homes. This will ensure that there will be no loss of social rented homes from the number, which currently exists. As land may be transferred in phases, it is not a requirement that all Replacement Homes are provided before any land is transferred.

6.4.4.2.2 Qualifying resident Freeholders and Leaseholders will be offered an affordable replacement home on an equity share basis.

6.4.4.2.3 The replacement housing should be provided on land within the redevelopment area that is within the Council's boundary. Any other sites can only be used with the agreement of both parties and with the agreement of any residents being offered property.

6.4.4.2.4 The new housing will be built to the following standards:

- Space standards within the London Mayor's Design Guidelines
- Code for Sustainable Homes 4
- 100% Lifetime Homes
- Secured by Design certification
- HQI score of upper mid-quartile
- At least Silver Standard Building for Life.

6.4.4.2.5 During consultation and at the Cabinet Meeting of the 23<sup>rd</sup> April 2012, residents raised concerns about the size of the replacement properties being provided. Residents wanted an understanding of how the replacement homes would compare with the Parker Morris Standards, to which most Local Authority Housing adhered to between 1961-80, as the benchmark. To demonstrate these comparable standards, a comparison table has been produced and can be found at Appendix 8.

6.4.4.2.6 The re-provision must include 75 houses, 66 house equivalent homes (ground floor duplexes). The Council has also negotiated the same ratio of parking spaces for the replacement homes that may be granted to the developer, should they receive outline planning consent. Officers believe that this will mean that the number of car parking spaces provided for the 760 replacement homes should be approximately 456 spaces.

6.4.4.3 Cash Receipt

6.4.4.3.1 The cash payment will be received as follows:

6.4.4.3.2 Exclusivity - £15m has been received in advance of signing the CLSA under the exclusivity agreement, of which £5m is non-refundable. Once Trigger is served this represents part of the cash consideration.

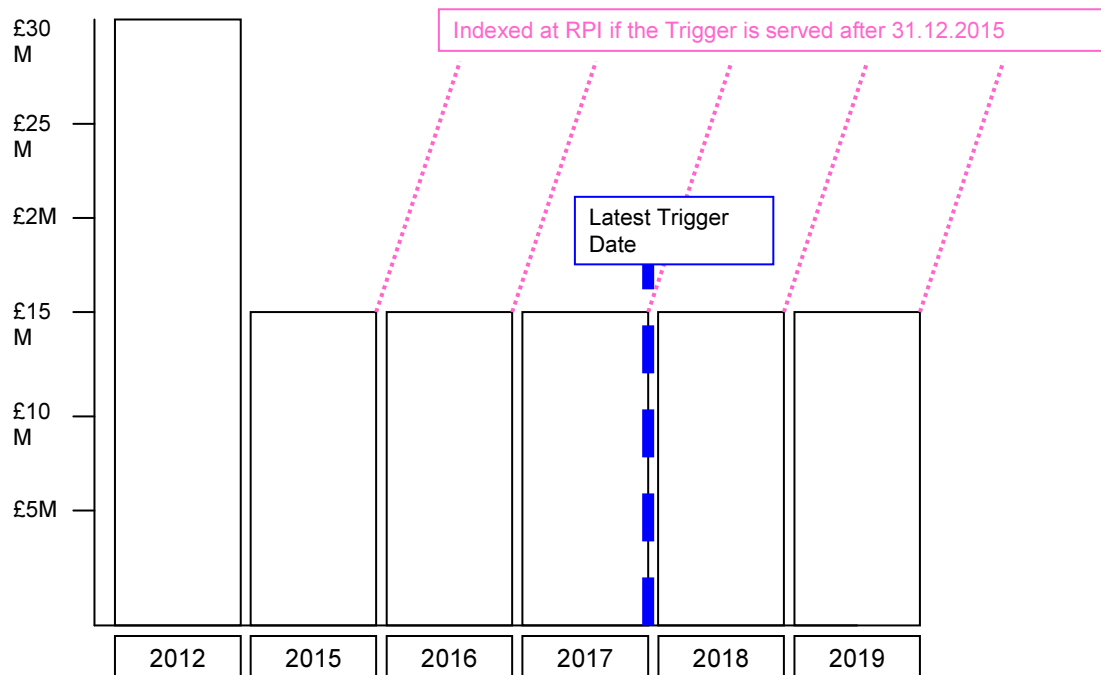


6.4.4.3.3 Other Sites - £15m for Gibbs Green School and 11 Farm Lane on the signing of the CLSA on the basis that the Council has complied with its disposal obligations. £12m of this will be used to construct a new educational facility at White City to which the current temporary use of the former school site will relocate.

6.4.4.3.4 Payment Schedule – Provided the Trigger Notice is exercised by Capco, the balance of the remaining £75m<sup>11</sup> is payable in 5 annual installments of £15m. If the Trigger is exercised after 31<sup>st</sup> December 2015 payments will be made and indexed by RPI from that date to ensure values are in line with that date. See illustration 1 below.

6.4.4.3.5 Overage - Overage will be payable to the Council for any consented floor space that is over 10.1m square feet.

**Illustration1- Payment Schedule**



**6.5 Capco funding assistance**

6.5.1 The Council will be required to buy back or otherwise determine existing leases and freehold interests across its own land in order to secure vacant possession.

6.5.2 The Council has agreed to buy back owners who wish to leave in the following ways:

<sup>11</sup> £74.5 million excluding the "Seagrave Houses"

- From the date of the submission of Capco's main application (June 2011) to buy back owners who have a demonstrable need to leave, for open market value.
- From the later of (i) an unchallengeable implementable planning permission on the main scheme, and (ii) satisfactory consent from the Secretary of State, to buy back all resident-owners, who wish to leave for open market value (in a 'no scheme world') plus 10% and all non-resident owners for open market value plus 7.5%.

6.5.3 Capco have agreed to make available funding for these buy backs on the following terms:

- A £7.5m facility will be made available by Capco from signing of the CLSA (to fund Early Purchase Agreements); this sum increases to £15m following the issue of secure Secretary of State consent for the sale and a secure satisfactory main scheme planning permission.
- From serving of the Trigger Notice Capco will be responsible for funding all buybacks required, if so required by the Council.

6.5.4 If these facilities are used the Council will have to refund Capco at a later date from the annual payment instalments for these purchases, as they are part of the cost of achieving vacant possession. The detailed risk analysis of these cash flows is being considered by the Executive Director of Finance and Corporate Governance and further commentary is included in the Executive Director of Finance and Corporate Governance's comments.

## 6.6 Long Stop Date

6.6.1 The final end date for the agreement is 2035. The Council will have received the cash consideration by 2020 (or 5 years after the trigger date) at the latest. If the agreement is to be terminated, then the parties will retain the properties that have been purchased.

6.6.2 There is a detailed termination procedure included within the CLSA. Where there is termination and not all the Option Land has been transferred to Capco, an overage regime will apply should the Council sell this land to a third party for more than it would have obtained from Capco (having regard to both the cash consideration and the value of the Replacement Homes). If this is the case, the Council will pay 25% of the additional consideration received. If at termination the Council owes damages to Capco for breach of its key commitments (largely relating to the process of securing vacant possession) this overage is increased to 75% until the damages are paid off.

6.7 Key Obligation on the Council – Securing Vacant Possession

6.7.1 Once the Trigger Notice is served Capco is entitled to serve notices on the Council requiring phases of land on the Estates to be vacated. The Council will only be expected to vacate and handover any phase of land after the replacement housing has been built to meet the needs (subject to limits based on the needs, as predicted at the date the CLSA is signed) of secure social rented existing residents, and to meet the entitlement of the resident leaseholders and freeholders in that phase.

6.7.2 Phasing Process

6.7.2.1 The draft CLSA explains in detail the process to secure vacant possession and transfer title in phases. As explained previously, it is anticipated that Capco will use the Seagrave Road site to enable the first phased re-provision. An indicative phasing plan has been included within the CLSA and is attached at Appendix 9. This plan is only indicative and the Council will be engaging with residents as the phasing plan develops. Capco are not restricted as to which phases are brought forward in what order, although a reasoned explanation for changes is required. Any proposal must always provide replacement housing in advance for the residents of a phase, before any land is transferred.

6.7.2.2 Capco will propose the phases on the Estates that they wish to acquire. When Capco propose a phase for development, they will have to produce a Phase Impact Assessment. This assessment will include a number of strategies that outline how the estate will continue to function as a place to live while that phase is developed. This will include how services will be maintained and how vehicular and pedestrian access will be maintained. The Council will not agree to the proposed transfer phase, unless they have agreed to the Phase Impact Assessment.

6.7.2.3 The CLSA does not require Capco to proceed with each phase. As already noted, the Economic Appraisal proceeded on the basis that Capco would in fact proceed with all the phases of the comprehensive redevelopment scheme. Opponents of the scheme have correctly pointed out that this is an assumption in the Economic Appraisal.

6.7.2.4 In deciding whether to enter into the CLSA, Cabinet members will need to evaluate carefully the risk of Capco being unable or unwilling to proceed with the comprehensive redevelopment scheme to its conclusion, e.g. because of financial difficulties, or a collapse in property values. Officers recognise that in a changing economy there is no such thing as absolute certainty and that the

risk of the project being jeopardised by a major change in the economic landscape in the coming years cannot be ruled out.

- 6.7.2.5 However, whilst the Council cannot require Capco to proceed with each phase, Capco's financial model is based on the comprehensive redevelopment being completed in full. Further, once Capco serves the Trigger Notice, it will be required under the CLSA to pay all the cash consideration (totalling £105m) in line with the profile outlined above.
- 6.7.2.6 If Capco does not proceed with each phase it will in all likelihood forego significant future profit from the delivery of the full masterplan and it would only in limited circumstances be entitled to a proportional refund of the consideration for the land. The cost to Capco in delivering the new homes is also likely to remain relatively small in comparison to the anticipated long-term development returns that Capco should achieve from delivery of the full masterplan.
- 6.7.2.7 The Council is also protected in that a phase of land cannot be transferred to Capco unless Capco has first provided the replacement homes for residents in that phase.
- 6.7.2.8 In addition to these commercial incentives the Council has negotiated non-performance termination clauses to protect residents and encourage Capco to develop all phases. These are detailed above in paragraph 6.4.3. Additionally, the CLSA gives the Council redress in the event that Capco does not achieve the halfway point condition, as per 6.4.3.1 in the relation to the development and phase drawdowns.
- 6.7.2.9 The risk of Capco being unable to complete the development cannot be entirely discounted. However, overall, and given the above, it is thought highly likely that once the building works on the Estates are commenced, Capco will have a considerable financial incentive to complete the comprehensive development in full.

### 6.7.3 Floor space Ceiling

- 6.7.3.1 The overall development needs to return 760 homes to the Council. The Council has agreed with Capco a ceiling floor space that reasonably represents 760 properties built to the size standards in the London Mayor's new Design Guidelines. In terms of agreeing a proposed phase the Council may ask for up to ten per cent additional replacement floor space within that individual phase to meet the identified need, but must stay within the overall allocation across the whole development.

#### 6.7.4 Provision of Houses

6.7.4.1 The re-provided dwellings in each new proposed phase must contain at least 60% of the number of council for rent houses in the phase to be decanted. If Capco cannot achieve this and no other acceptable solution can be found then the council can veto the phase. Additionally each replacement phase should include 40% of the number of existing council for rent houses as house equivalent homes (ground floor duplexes) with front doors to the street and gardens. Both these provisions are subject to the ceiling amounts of 75 replacement houses and 66 ground floor duplexes.

#### 6.7.5 Buy-back of existing Leasehold and Freehold Interests

6.7.5.1 To achieve vacant possession, the Council would seek to enter into contracts with owners under which they can either require the Council to buy their homes or to provide them with Replacement Homes. As explained previously, Capco (subject to certain triggers and qualifications) can be required to provide the Council with funding (at a cost) to meet these acquisition costs. This funding if utilised is then deducted from the annual payment instalments (as a cost of securing vacant possession).

#### 6.7.6 Registered Provider (Housing Association) Ownerships

6.7.6.1 The Council will need to complete negotiations for relocation of the three Housing Associations (HAs) who have long leases and properties on the Estates. Assured tenants of the HAs will be offered the right to become council tenants and stay within the new development, under the terms of the Secure Tenant Contract. The Council may agree to provide alternative sites within the Borough or to compensate the HAs for their land interests. Potential sites being considered include Maclise Road and Fulham Cross.

#### 6.7.7 Compulsory Purchase

6.7.7.1 Ultimately if agreement cannot be reached with existing tenants and owners the Council will need to utilise (subject to it being an appropriate use of such powers at the time) its compulsory purchase powers (CPO) to secure vacant possession. Importantly, the agreement does not and cannot impose an obligation to make and promote a CPO; it regulates the process by which appropriate authority within the Council is sought and (once received) progressed.

6.7.7.2 Once a phase has been agreed, Capco can serve the Council with a CPO Start Notice. This notice will trigger the Council's obligation to prepare the necessary documentation to take a report to full Council seeking a decision as to whether to seek a CPO for that phase.

6.7.7.3 As well as regulating the process for delivering 'clean' land by use of CPOs, the CLSA also sets out mechanisms for seeking authority to use appropriation and stopping up and closure orders.

6.7.7.4 The use of CPO and related powers will inevitably involve costs, both in connection with the costs of the process itself (e.g. legal and administrative). Because of the liability for compensation, the Council will be entitled to recover these costs from Capco, but (except in relation to land not owned by the Council) any recovered costs will be deducted from the consideration payable.

#### 6.7.8 Damages and Liabilities

6.7.8.1 The Council will be subject to a performance regime for delivery of vacant possession to agreed dates. If the Council can be shown to have failed to meet identified key dates, due to matters within its control, then the Council will be liable for damages to Capco. The amount of damages that the Council will be required to pay is capped at £10m. If the damages exceed £10m they are only payable out of the overage referred to above. Officers are satisfied that the performance dates are reasonable and achievable.

#### 6.8 Best Consideration

6.8.1 Given the complexity of this regeneration scheme, JLL and PWC have been appointed to advise the Council in respect of negotiations and for the offer to the Council. A residual land value model has been used to arrive at a valuation for the land; this is based on the Council transferring each phase of the site with vacant possession; therefore the Council will have to incur the costs of achieving this. This model has been adapted to reflect the potential transaction and the scheme as they have evolved. The model has been the subject of extensive review by the Council's advisors. This has included:

- Advising on the commercial aspects of the potential transaction.
- Reviewing the financial model prepared by CBRE on behalf of Capco.
- Assessing the potential transaction for Best Consideration and value for money.
- A financial model audit conducted by Mazars.

6.8.2 Letters from JLL and PWC are attached at Appendices 10 and 11. Based on these the Executive Director for Finance and Corporate Governance is of the view that the CLSA currently offers best consideration.

## 6.9 Indemnity and Covenant

6.9.1 Capco have provided the Council with a separate indemnity against any blight claims up to £50m from the date of adoption of the SPD. The CLSA provides for the continuation of this indemnity and provides the Council with an initial £50m guarantee, based on a net asset value test, an initial £30m of which is secured as a first charge against specific assets. These provisions within the CLSA are released as payments are made to the Council following the trigger date.

6.9.2 The Council has undertaken financial due diligence on the assets in EC Properties LP and Earls Court Ltd to ensure they are adequate. This work has been undertaken by PWC on the Council's behalf. This work will be reconfirmed just prior to the CLSA being signed and will be reassessed every six months. The CLSA also allows the Council to do an interim assessment, should circumstances arise, which raise concerns regarding the value of the assets, as well as the ability for the Council to terminate, should the asset provisions not be complied with. Capco can also trigger an intermediate assessment if there has been a beneficial change in circumstances. Capco will provide a first fixed charge over £30m of assets to secure its liabilities under the CLSA. It should be noted however that it is only in certain circumstances that there is likely to be a material liability owed by Capco to the Council in the event of a Termination.

6.9.3 The delivery of Seagrave Road car park site assists in the early implementation of the scheme. Capco currently own 100% of the Seagrave Road car park site, they have entered into a conditional joint venture contract to sell a 50% share to private interests of family trusts related to the Kwok Family. Officers are aware that Thomas Kwok and Raymond Kwok were arrested by the Hong Kong authorities in March 2012 in relation to Sun Hung Kai properties, a Hong Kong public listed company in which the Kwok family are shareholders. The Council have sought assurances from CapCo as to their ability to redevelop the Seagrave Road car park site. CapCo have advised that their conditional joint venture agreement remains in place and that they have been assured by the Kwok Family trust that the above matters will have no bearing on the Family Trust's involvement in the Seagrave Road car park redevelopment. However, in the event that the arrangements between CapCo and the Kwok Family Trust do not complete, then CapCo will undertake the development directly.

## 6.10 Project Delivery Group

6.10.1 It is a requirement within the CLSA that the Council and Capco will establish a joint Project Delivery Group. The functions of the Project Delivery Group will be to act as a co-operative body between the

Council and Capco, to monitor and assist with the delivery of the Project in line with the CLSA and as the initial body for resolving any disagreements.

6. 11 Right to Buy applications

6.11.1 The Council's 'offer' to resident homeowners within the redevelopment area applies to those who were resident and submitted a Right to Buy application prior to June 2011, the date of Capco's three planning applications based on the Farrell masterplan. Those residents who submitted a RTB application after this date are currently not eligible for the full resident homeowner 'offer', which includes an offer of a new home in the development area.

6.11.2 The Government increased the Right to Buy discount for secure tenants to a maximum of £75,000 in April 2012, and the Council has seen an increase in RTB applications since this date. The Council has noted a significant increase in RTB applications from the West Kensington Estate since the change in the maximum discount level. The Council will be monitoring this situation and will be developing a policy for dealing with RTB applications. The Council may consider serving a Demolition Notice (under the Housing Act 1985), which suspends the RTB obligations during a regeneration scheme, should the Cabinet decide to proceed with the comprehensive redevelopment.

6.12 Associated documents

6.12.1 In order to facilitate the operation of the CLSA, the Council has agreed with Capco to enter into a number of supporting documents. These include the releasing by the Council at the appropriate time of rights currently held in relation to firstly the Seagrave Road site and later the Estates.

6.12.2 The Council has also agreed with Capco to enter into a Compulsory Purchase and Closure Order Costs and Compensation Agreement and part of the effect of this document will be to supersede the terms of the blight indemnity agreement dated the 16th March 2012.

**7. SECRETARY OF STATE CONSENT**

7.1 If and when a decision is made to sign the CLSA, the Council would need to apply for Secretary of State's Consent to dispose of the housing land it intends to sell within 5 months of signing the CLSA. The decision to apply for consent needs to be confirmed by a Full Council meeting. If consent cannot be obtained (either without conditions or to both parties' satisfaction) or if deadlines are not adhered to by the Council then the agreement will be terminated. In



this case the Council will need to re-pay £10m of the £15m received under the Exclusivity Agreement.

- 7.2 Assuming a satisfactory Secretary of State Consent is secured, then should the Trigger Notice not be served in the five year period, the agreement will be terminated. In that event the Council will retain £15m paid to it under the Exclusivity Agreement and the £15m payments made for Gibbs Green School and 11 Farm Lane, provided the Council has satisfied its disposal obligations under the terms of the CLSA.
- 7.3 Gibbs Green School and 11 Farm Lane are subject to an overage agreement, to ensure that the Council still receives best value for the sale if the development does not proceed.
- 7.4 In the event that the Trigger Notice has been served, Gibbs Green School will form part of the Overage Land (for the purposes of Scheme Overage) and no overage will be payable other than Scheme Overage. If Termination occurs before service of the Trigger Notice then the Council will be entitled to buy back Gibbs Green School and Farm Lane at the price for which they were acquired, plus indexation and some agreed costs. If the Council rejects this opportunity, the entitlement to overage falls away. If material development has taken place then overage will be payable (at the rate of 25% of profit over a 20% IRR).
- 7.5 It is not necessary for the Council to obtain formal consent from the Secretary of State for the disposal of land, because a “self award” has been made under the general consents to dispose of the site (which does constitute a school playing area) under paragraph 8 of the schedule to the school Playing Fields General Disposal and Change of use Consent (no 3) 2004. This self award was acknowledged by the Partnership for Schools (Department for Education) in September 2011. It is the officer’s opinion that the Council has the necessary consent to dispose, but should any additional consent be required, this will be obtained.
- 7.6 Furthermore, the Council has self awarded itself consent under the Academies Act 2010 since the land is wholly or mainly used as a school and its area is less than 8,000 square metres. This is following advice provided by the Department for Education and is in accordance with paragraph 4 of the schedule to the Academies General Disposal and Appropriation Consent (no.1) 2003 Order.

## **8.0 DECISION MAKING PROCESS**

- 8.1 If the Council enters into the CLSA, a number of key decisions will or may follow. These are detailed in the table below.

**Table 6 – Decision making timetable**

<b>Decision</b>	<b>Governance</b>	<b>Timing</b>
To apply to the Secretary of State for Consent to dispose of Housing Land	Full Council	March 2013 This needs to take place within 5 months from signing the CLSA.
To seek approval to commence a Compulsory Purchase Order if appropriate.	Cabinet	This will be on a phased basis over the duration of the project. It is not anticipated that this process will commence until 2013.

## **9. RESOURCES AND PROFESSIONAL ADVICE**

9.1 In addition to work on the project carried out by Officers who form part of the currently budgeted establishment Cabinet have to date approved the following additional resources for the project prior to the agreement of the CLSA:

**Table 7 – Cabinet approvals and professional fees to date**

<b>Cabinet Approvals for external advisors</b>	<b>JLL</b>	<b>Denton</b>	<b>Ashford<sup>12</sup></b>	<b>PWC</b>	<b>D Johnson<sup>13</sup></b>	<b>Total</b>
<b>Jul-09</b>	150,000	150,000				300,000
<b>Jun-10</b>			20,000			20,000
<b>Jul-11</b>	60,000	120,000	50,000	110,000		340,000
<b>Apr-12</b>	150,000	750,000	20,000	150,000		1,070,000
<b>Nov-11</b>					71,710 <sup>14</sup>	71,710
<b>Total</b>	<b>360,000</b>	<b>1,020,000</b>	<b>90,000</b>	<b>260,000</b>	<b>71,710</b>	<b>1,801,710</b>

9.2 This is a complex project and officers have undertaken a review of the resources that will be required after the agreement has been approved by Cabinet. The level of resources required will vary throughout the project, with the exact timing of detailed resource requirements depending on a large number of factors including the

<sup>12</sup> Ashfords have been providing the Residents Steering Group with legal advice to develop the tenant and leaseholder/freeholder assurances and subsequent contracts.

<sup>13</sup> Davies Johnson Ltd worked exclusively on negotiating the CLSA. Prior to this, Davies Johnson Ltd advised the Council on other matters and his time/costs spent negotiating the CLSA can not be differentiated.

<sup>14</sup> £71,710 was approved in November 2011, but actual payments made were £67,450

service of the trigger notice by Capco and the number of Leaseholders / Freeholders who opt to be bought out.

9.3 Following formal agreement of the CLSA officers will require additional resources to ensure a full project team can be put in place to enable successful delivery of the project. Officers have therefore set out below a proposed budget to 31<sup>st</sup> March 2013 (excluding the already approved costs of negotiating the CLSA prior to Cabinet approval) and for the subsequent three years. These projected resources have been factored into the indicative cash flows forecasts summarised in paragraph 12.11.3 of this report. The council will undertake a regular review of the resources in order to ensure they reflect the needs of the project throughout its lifetime and are fit for purpose. Expenditure will be reported on and budgets updated via the quarterly capital monitor, the corporate revenue monitor and via the Councils annual estimates process. The initial proposed costs are all expected to be of a capital nature and will be funded from the Decent Neighbourhoods Fund.

**Table 8 - Proposed capital budget for to 31<sup>st</sup> March 2013<sup>15</sup> and for the subsequent three years.**

Costs	2013	2014	2015	2016
	£	£	£	£
Project Team Costs (includes staff already approved in previous reports and transfer of relevant establishment posts – see analysis below)	627,648	643,339	659,423	675,908
Additional costs not covered by existing approvals of CLSA to signing post cabinet approval	99,000			
Ongoing project costs, including; - Local Office set-up and running costs - Communications, engagement, publicity, printing etc - Internal recharges - external advisors	300,000	205,000	210,125	215,378
Occupational Therapist Assessments	20,394	41,808	21,426	
Legal Fees post signing of the CLSA; includes allowance for defending challenges	120,000	1,160,813	1,189,833	1,219,579
CPO Costs	0	704,688	722,305	740,362
Stopping Up Inquiries		51,250	52,531	53,845
Financial Advice	25,000	25,625	26,266	26,922
<b>Total</b>	<b>2,993,042</b>	<b>2,832,522</b>	<b>2,881,909</b>	<b>2,931,994</b>

9.4 It should be noted that this budget excludes the direct costs of leaseholder buybacks. As noted these are hard to predict and a

<sup>15</sup> Excludes costs of CLSA to date as these are covered by existing approvals

separate recommendation has been included in this report to authorise an initial £15m tranche of funds from the Decent Neighbourhoods Fund for this purpose. This is commented on further in paragraph 12.10.7.

- 9.5 Cabinet has already approved £284,000 p.a for the current project team. As follows:

18<sup>th</sup> July 2011 - £168, 000  
23<sup>rd</sup> April 2012 - £116, 000

- 9.6 To ensure the successful delivery of the project and meet the Council's obligations under the CLSA, additional project team members will be required as identified in table 9 below, these costs are included in Table 8 above.

**Table 9 – Project Team costs**

Posts	Employment Status	Date of approval
Head of Area Regeneration/Project Director	Full Time	Part of Current Budget Establishment
Project Manager	Full Time	
Re- housing Officer	Full Time	18 <sup>th</sup> July 2011
Housing Officer	Full Time	18 <sup>th</sup> July 2011
Principal Finance Officer	Full Time	
Buy Backs Officer	Full Time	18 <sup>th</sup> July 2011
Re-housing Officer	Full Time	23 <sup>rd</sup> April 2012
Principal Legal Officer	Full Time	23 <sup>rd</sup> April 2012 <sup>16</sup>
Communications Officer	Full Time	23 <sup>rd</sup> April 2012
Regeneration Officer	Full Time	
Community Engagement Officer	Full Time	
Project Officer	Full Time	
<b>Total: 627,648</b>		

- 9.7 Due to the complexity of the project and obligations under the CLSA, external professional advice will be required to support delivery of the project, such as but not exclusively, specialist legal and property CPO advice, the initial costs of which are included in the above budget at Table 8. Such appointments will be commissioned in line with the

<sup>16</sup> The approval in April 2012 was for a Principal Legal Officer on a part time basis.

Council's procurement standing orders and will be specific appointments to meet key delivery requirements. These will be managed by the project team and reviewed to reflect the needs of the project throughout the project lifetime to ensure fit for purpose.

## **10. EQUALITY IMPLICATIONS**

- 10.1 As part of the recent consultation process the council invited residents to comment on the draft Equalities Impact Assessment (EqIA). The Council has updated the EqIA to reflect the comments received as part of this consultation process.
- 10.2 The EqIA is attached as Appendix 12 to this report. Section 149 of the Equalities Act 2010 requires the decision maker, i.e. the Council acting through its Cabinet, to have due regard to the goals in the Act as set out in section 149. Members will therefore need to consider carefully and evaluate the points made in the EqIA before deciding whether to proceed with the CLSA.
- 10.3 The EqIA describes the proposals; identifies the impacts on the "protected groups", i.e. those with protected characteristics under the legislation (age, sex, ethnic origin, sexual orientation, disability, etc); and explains how those impacts which are negative (for example, the need for disabled and old people to move home) can be mitigated, where this is possible.
- 10.4 To the extent that it is not possible for negative impacts on the protected groups to be mitigated, members must weigh the negative impacts against the positive ones, and must weigh in the overall balance those impacts which are negative against the benefits ('countervailing factors') sought to be obtained from proceeding with the CLSA. Subject to the decision being rational and lawful overall, it is for Cabinet members to decide what weight should be given to the countervailing factors.
- 10.5 In this case, the EqIA is quite a lengthy and complex document. Officers have devoted considerable time and attention to compiling it, and in doing so have addressed the points made by consultees during the consultation exercise on the impact of the Council's proposals on those with the protected characteristics under the 2010 Act.
- 10.6 The countervailing factors which members will need to weigh in the balance against the negative impacts identified in the EqIA are those identified in this report, namely the anticipated beneficial effects on the community as a whole of proceeding with the CLSA: the creation of new jobs, the benefit to the local economy, the construction of better quality housing with lower maintenance costs, and so forth. Those countervailing factors have already been discussed.

## 11. SUMMARY

- 11.1 As set out above in Section 5 above, the Council has consulted with local residents to seek their views on the Council's proposal to include the Estates within the redevelopment scheme. For secure council tenants on the Estates, this consultation also satisfied the requirements of section 105 of the Housing Act 1985. In reaching their conclusions on the recommendations within this report Members must carefully consider the Analysis of Consultation Responses (Appendix 5) that officers have prepared.
- 11.2 The consultation revealed that, on the Estates, a significant majority of consultees are opposed to the Council's proposal. When all Estates residents' views are considered there was a ratio of opposition to support of 4:1; when just secure tenants views are considered the ratio falls to 2:1.
- 11.3 As against this, a significant majority of consultees in the wider area supported the scheme (with a 7:1 ratio of support to opposition). Residents in the wider area were consulted as they will also be affected by the redevelopment, for example in terms of community facilities, public space, the potential for new jobs and disruption during construction. When the views of all consultees are considered, the proportion against the proposal (47%) is not much greater than the proportion in favour (45%).
- 11.4 Members must have careful regard to the views expressed by secure tenants when making the decision. Members should also consider the views of the other consultees on the Estates, and residents in the wider area. Despite the levels of opposition amongst secure tenants and on the Estates more generally, it remains open to Members to decide to enter into the CLSA if Members conclude that, overall, this is the best option. The Council conducted a consultation rather than a referendum. Whilst Members must carefully consider all the views expressed, Members are ultimately responsible for deciding what is the best overall for residents of the Estates, future secure tenants, other residents in the Borough and the Borough more generally. For the reasons summarised below officers have concluded that the comprehensive redevelopment scheme is the best option.
- 11.5 After the Council's proposal of including the Estates in the redevelopment scheme, the option that received the most support from consultees was the housing stock transfer option. As noted above Officers do not consider that this is an option that Members should consider pursuing at this time, primarily due to the fact that a housing stock transfer would significantly reduce the benefits that the redevelopment would be able to provide to the local area, the Borough and London as a whole.

- 11.6 One resident criticised the CLSA on the alleged basis that the Council is getting bad value, and indeed should not be treating with Capco at all. The bad value criticism needs to be considered in the light of the fact that the Council has used independent advisors of high repute to re-assure itself on the price that Capco will be paying. The criticism that the Council should not be dealing with Capco is perhaps more fundamental. Capco do not currently have the land interests that they need in order to realise the masterplan. In theory, an alternative masterplan for the area could have been realised by TfL and the Council acting in concert and seeking a development partner, with the necessary CPO powers available to be used to buy out Capco's interests. However, this option presupposes that TfL and the Council would have been willing to incur the tens of millions of pounds of development costs needed to commission their own masterplan and cover all other preliminary matters, entirely at their own risk. Officers consider that in practice this was unlikely to be a viable approach. Officers recommend treating with Capco because this is the most effective way of realising comprehensive redevelopment, without the Council risking significant public funds and becoming a lead developer.
- 11.7 Officers also believe that many (although not all) of the issues and concerns raised by residents on the Estates concerning the tenant and leaseholder / freeholder offers, the need to move home, and the new housing that will be provided can be addressed through further consultation and engagement. The recent consultation has shown a lack of understanding amongst individual residents about what will happen to them and what will be offered to them if the Estates are included in the redevelopment scheme. Officers would aim to tackle this through one-to-one meetings with estate residents to address individual concerns and ensure that residents fully understand how the comprehensive redevelopment will affect them.
- 11.8 In addition, Members need to bear in mind that the Council is offering Capco an *option* to purchase the Estates. Officers cannot guarantee that Capco will take up the option, and also cannot guarantee that Capco will build all of the permitted homes, and proceed with all the phases of the comprehensive redevelopment. However, as explained in section 6.7.2 of this report, officers believe that there is a considerable commercial incentive for Capco to proceed with and complete the comprehensive redevelopment scheme in full. The CLSA also gives the Council redress in the event that Capco does not proceed expeditiously with redevelopment phases.
- 11.9 Against this background, officers consider that Members can reasonably proceed on the basis that the comprehensive redevelopment scheme will in all likelihood be realised in full. The Economic Appraisal at Appendix 2 has assessed the benefits of this, and the amount of new housing (including affordable housing), jobs and economic development that would be likely to follow. Although the

TRAs criticised the Economic Appraisal during the consultation, officers consider that the Economic Appraisal can properly be used to assess the potential economic benefits of the comprehensive redevelopment scheme. Overall, the significant benefits identified in the Economic Appraisal provide powerful reasons to proceed with the CLSA. The current economic climate only serves to heighten the importance of measures that will stimulate the local economy and promote job growth.

- 11.10 In addition to the significant benefits identified in the Economic Appraisal, the consideration paid by Capco will provide much-needed funds to be reinvested into the Borough. Again, the current economic climate makes the receipt of such additional public funds particularly valuable. Whilst the exact net amount of cash available for reinvestment will depend on a number of factors, (including: the value and volume of leaseholder buybacks; the volume and value of sales of replacement "buyback" properties; and the final level of costs associated with the transaction), the current modelling gives an indicative range of net cash receipts after costs between £34million and £88million, assuming the trigger is served and no termination events occur. This provides a benefit of circa £5 to £13 million<sup>17</sup> to the general fund and circa £29million to £75million to the Housing Revenue Account<sup>18</sup>. The net funds received by the Housing Revenue Account will be reinvested for Housing and Regeneration purposes including the repayment of Housing Revenue Account debt. It will also be used to develop or acquire new affordable housing to meet housing need, as outlined in recommendation 10.
- 11.11 Not least given the above benefits, officers consider that the inclusion of the Estates in the redevelopment scheme would help to achieve a number of strategic aims for London, the Borough and RBKC.
- 11.12 Within the Mayor's London Plan (2011) the Earl's Court and West Kensington Opportunity Area has been identified as one of London's most important development opportunities. This is due to its potential ability to contribute significantly to achieving housing and job growth targets over the next 20-30 years. Both the Core Strategies for the Council and for RBKC contain planning policies specific to development in the Opportunity Area.
- 11.13 Officers consider that the comprehensive redevelopment of the Opportunity Area would contribute significantly towards meeting the over-arching vision of the Council's Community Strategy *Creating a borough of opportunity for all*, enabling local people to have a real stake in the area and share in its growing prosperity.

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<sup>17</sup> This is net of costs of £12m built into the model for funding a replacement school

<sup>18</sup> It should be noted that these are indicative figures produced as a result of a forecasting exercise and should not be taken as final confirmation of the value or timing of receipts



- 11.14 Officers also believe that the comprehensive redevelopment of the Opportunity Area significantly contributes towards meeting the vision and objectives detailed in the Draft Housing Strategy (2012). These include:
- Building a Housing Ladder of Opportunity
  - Deliver Major Economic and Housing Growth within our Opportunity Areas
  - Tackle Economic and Social Polarisation through the creation of more mixed and balanced communities where no one tenure predominates.
- 11.15 Members must also consider whether the terms of the CLSA are acceptable. The terms of the CLSA were reviewed at the 23<sup>rd</sup> April 2012 Cabinet Meeting. They are essentially unchanged. Members should nevertheless ensure that they fully understand the terms of the CLSA and the obligations on the Council as outlined in sections 6 and 7 of this report.
- 11.16 Finally, and as stated in section 10 of this report, Members will need to carefully consider and evaluate the points made in the EqIA before deciding whether to proceed with the CLSA. To the extent that the EqIA identifies negative impacts on protected groups that cannot be fully mitigated, members must weigh the negative impacts against the positive ones that the EqIA also identifies, and must weigh in the overall balance those impacts which are negative against the benefits ('countervailing factors') sought to be obtained from proceeding with the CLSA. Subject to the decision being rational and lawful overall, it is for Cabinet members to decide what weight should be given to the countervailing factors.
- 11.17 The ultimate responsibility for this weighing exercise lies with Members. For their part, officers consider that the benefits of proceeding with the CLSA outweigh the negative impacts, and that overall this represents the best option. On this basis, officers make the recommendations set out in this report.

## **12. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

### **12.1 Valuation of Earls Court Consideration and Valuation of site**

- 12.1.1 JLL and PWC have been involved, as the Council's advisors, in considering and negotiating the terms of this transaction. Signed letters from the Council's advisors are attached to this cabinet report in Appendixes 10 and 11.<sup>19</sup> Based on the figures, the Executive Director for Finance and Corporate Governance is currently of the view that the terms offer best consideration. The letters include a

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<sup>19</sup> The JLL letter is a "final draft", a further final letter will be issued when the CLSA is actually signed.

number of caveats / issues, the key ones are listed below in table 10, together with the actions that have been taken:

**Table 10 - caveats**

<b>Caveat / Issue</b>	<b>Action taken</b>
Duty of care letters over all input costs and revenues within the residual land value that have been provided by Capco's technical consultants including the valuation of the replacement properties for leaseholders (the intermediate units).	Letter received from CBRE and EC Harris  Lambert Smith Hampton have provided indicative open market sales values for the Councils replacement properties, a prudent approach has been taken and the lower, older Savills values as provided via Capco have been used where open market value is appropriate for valuing consideration <sup>20</sup> . JLL as part of their work on best consideration have also confirmed that the private housing sales rates used in the residual land value model are fair and reasonable.
Detailed model audit	Mazars have completed this work and concluded that the model meets its objectives and is capable of running the required sensitivities
Valuation of equity held in replacement leaseholder properties	The valuation of the equity held in the Leaseholder properties has been discounted in the indicative consideration figures below based on sales turnover on the Gibbs Green and West Kensington Estates over the last ten years.

<sup>20</sup> For the 171 replacement leaseholder / freeholder properties

<b>Caveat / Issue</b>	<b>Action taken</b>
<p>Clarify if any legal restrictions may be placed upon the re-sale of the intermediate homes, such as whether they can be sold as private homes on the open market.</p>	<p>There are no current restraints that would prevent this from happening. It should be noted that for properties held within the Housing Revenue Account the Council would require the receipt to be reinvested for Housing and Regeneration purposes or used for the repayment of HRA debt to prevent the monies having to be paid over to Central Government.</p>
<p>Capco should confirm that they will bear the risk on the completeness of the planning, site clearance costs and the costs associated with the continuity of occupation. The residual land value determined should not subsequently be revised to compensate.</p> <p>The parties accept that further design and cost plan development will continue until and beyond the submission of detailed planning applications for development phases and this will affect the programme, costs and values currently reflected in the financial model.</p> <p>Negotiations are still ongoing regarding the Section 106 obligations required by the scheme</p>	<p>There is no ability within the CLSA for Capco to transfer these risks or subsequently revise the consideration as a result of changes to these costs.</p> <p>It should be noted however that the CLSA does contain overage payable to the Council should the final consented gross internal area exceed that agreed as part of the master plan proposal.</p> <p>Likewise, there is an overage clause in place for Gibbs Green and Farm Lane, should the Trigger Notice not be served.</p>
<p>Notes 3,4 and 6 in PWC's letter refer to adjustments required to the residual land value as generated by the model</p>	<p>See paragraph 12.7.2 below, JLL have specified the cumulative impact of these amendments to the model in their letter. PWC have also considered the changes they have recommended when arriving at their opinion.</p>

12.1.3 It is important that the Council receives best consideration via the CLSA and there are a number of different approaches which can be taken to valuing the consideration we are receiving. Having given due consideration to the complexity of this regeneration scheme and following a workshop run by our advisors, JLL and PWC,

exploring the range of possible methods of valuing both the site and the consideration payable we have arrived - based on their advice - at the approach set out below.

- 12.1.4 It must be remembered throughout that the land valuation against which the consideration is being compared is based on the land being transferred to Capco with vacant possession. It should be noted that the figures detailed below are the result of a forecasting exercise and therefore should not be taken as confirmation of the final value or timing of the receipts.

## 12.2 Approach used to assess the Consideration

### 12.2.1 Cash consideration received under the Conditional Land Sale Agreement of £105m

- 12.2.1.1 £15m has already been received on the signing of the exclusivity agreement, on signing of the Conditional Land Sale Agreement this becomes part of the consideration for the land. A further £15m for Gibbs Green School and 11 Farm Lane will be received on signing of the Conditional Land Sale Agreement. The balance of the cash consideration is received in 5 equal annual instalments, the first being received on 31<sup>st</sup> December 2015 if the Trigger Notice is served on or before this date.

- 12.2.1.2 If the Trigger Notice is served after 31<sup>st</sup> December 2015 the first payment is due on service of the Trigger Notice with the four subsequent payments due on the anniversaries of the trigger date. If this happens the payments are indexed using RPI for the period between the month of December in the year in which the relevant advance payment would have been received as per paragraph 12.2.1.1 above and the index figure for the calendar month before the calendar month in which the payment is actually due as a result of the later service of the Trigger Notice.

- 12.2.1.3 The cash consideration received should therefore be discounted to allow for the time value of money between now and the projected date of receipts. A 6.6%<sup>21</sup> discount rate yields a discounted value for the cash consideration of £82m. A 9% discount rate would yield a value of £77m, this more prudent assumption has been used in the core scenario illustrated below.

## 12.3 Valuation of replacement social housing provided under the CLSA including replacements for homes belonging to registered providers

- 12.3.1 In order to obtain vacant possession of the land the Council has an obligation to re-provide the social housing.

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<sup>21</sup> Treasury nominal discount rate (with an allowance for inflation at 3%) based on a risk free return.

- 12.3.2 The Council would, in order to be able to provide vacant possession, have to meet the cost of building replacement homes.
- 12.3.3 Therefore the cost of the re-provision of the social housing has been used to value this element of the consideration as this is the bill the Council would have to pay.
- 12.3.4 It is important to note that this is different to the income assumed from the sale of social housing that has been added to the financial model when arriving at the residual land valuation of £226m as detailed in paragraph 12.7.2 The income added to the residual land value model is based on an “Existing Use-Social House Valuation” as this is what the scheme would make from the social housing if it was sold to another buyer due to the Council having re-provided the housing elsewhere, say by using the theoretical cash that would be paid to the Council instead of the replacement homes should they not be being provided on the scheme.
- 12.4 Valuation of the replacement leaseholder / ex freeholder properties in which the Council retains an equity share.
- 12.4.1 If the leaseholders / freeholders were not taking on a replacement property then the Council would have to buy back their current properties in order to gain vacant possession of the land. As the leaseholder / ex-freeholder has taken a share in a replacement property the Council has not had to pay the leaseholder / ex-freeholder cash for this cost of vacant possession.
- 12.4.2 This cost would be equivalent to the share of market value the leaseholder receives in a new property. Therefore the market value of the leaseholder / ex-freeholder share has been used to value this element.
- 12.4.3 The equity share retained by the Council is ultimately tradable at market value when the leaseholder chooses to sell the property as properties would be sold outright on the open market. This element has therefore been valued at market value. However this element is not fully liquid, hence the value has been discounted as, although properties change hands over time, some will be held by the same owner for a very long period of time. A discount of 35.9% has been applied to the Council’s equity share based on the turnover of properties on the Estates based on an average turnover excluding re-sales of 5 properties per annum over a period of 15 years<sup>22</sup>.

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<sup>22</sup> The Council’s equity share in the Leasehold properties has been discounted by 35.9%. The annual sales volumes have been based on the volume of sales of leaseholder properties in 1999-2011 on the West Kensington and Gibbs Green Estates. Average sales as per the Land registry were 5.92 per annum, after excluding properties that sold several times in the period the average turnover was 5 properties per annum. There are 117 resident leaseholders and freeholders currently on the estate. At the historic sales rate all these properties would be sold at some point in 23 years. Over 15 years, based on historic data it is likely that 75 of the 117 resident leaseholder and freeholder properties would be sold, realising 64.1% of the equity. Given that the development period is anticipated to be at

12.5 Valuation of replacement “leaseholder” properties which are owned by the Council as the leaseholder / freeholder has opted to be bought out.

12.5.1 These will be 100% owned by the Council. Therefore they have been valued at market value.

12.5.2 It should be noted that the Council will provide replacement properties for all tenants as per the Guarantees. There is a risk that should there be net overcrowding across the Estates, the gross internal floor area specified in the agreement would be insufficient to provide all the replacement homes. Therefore for the Council to keep its promises, there is a risk that some of the replacement “leaseholder” properties currently allocated for sale would potentially need to be used to house tenants. However the financial impact of this could be mitigated by selling other properties as they become void whilst maintaining the same volume of social housing. Given this mitigation a significant financial impact is unlikely to crystallise, the value of the consideration would be protected and the promises to tenants that they would receive new homes within the development would be kept.

12.6 Summary of consideration received when valued using the above methodology:

12.6.1 The approach used above yields a range of valuations for the consideration from £275m to £284m, the exact number depends on the number of leaseholders / freeholders who opt to be bought out as follows in table 11:

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least 10 years and that transactions will occur throughout this period this is considered by officers to be a reasonable assumption.

**Table 11 – Buy back sensitivities**

	<b>Illustrative Gross Consideration assuming all Leaseholders bought back (i.e. before costs)</b>	<b>Illustrative Gross Consideration assuming only non resident leaseholders are bought back (i.e. before costs)</b>
Cash Consideration: £105m discounted at 9% to allow for the phasing of payments <sup>23</sup>	£77m <sup>24</sup>	£77m
Non Cash Consideration:		
589 Replacement Social Homes <sup>25</sup> : property received	£103m <sup>26</sup>	£103m
Replacement leasehold / Freehold properties for 54 non residents <sup>27</sup> : property received	£32m	£32m
Replacement leasehold / freehold properties: all 117 resident: Leaseholders bought back. Note this also impacts on costs as shown in section 12.9 <sup>28</sup> : property received	£72m <sup>29</sup>	N/A
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties: resident: Leaseholder share <sup>30</sup> : see footnote	N/A	£48m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties for residents: Council Equity Share in property	N/A	£24m
Discount Councils Equity share of Leaseholder buy backs <sup>31</sup>	N/A	(£9m)
<b>Total (Excluding costs)</b>	<b>£284m</b>	<b>£275m</b>

<sup>23</sup> These figures assume the inclusion of the additional properties on "Seagrave Road", see PWC Letter in Appendix 11 for derivation of number

<sup>24</sup> A 6.6% discount rate would yield a value of £82m, this would increase the range of consideration to between £289m and £280m. Both calculations are based from May 2012 as per the April 2012 Cabinet report, changing the basis to September 2012 would increase both figures, so the more prudent approach has been adopted.

<sup>25</sup> Based on EC Harris costs used in residual land value model. The cost of replacing the social homes has been used as there is an obligation on the Council to provide replacement properties in order to be able to provide the site with vacant possession. Capco by providing the properties are effectively relieving the council of this obligation and are therefore paying the cost of these properties on behalf of the Council.

<sup>26</sup> Comprising £92.61m for the Council's 531 replacement social rented properties and £10.12m for the 58 replacement properties provided for the Housing Associations (Registered Providers) as per the Jones Lang LaSalle letter in Appendix 10.

<sup>27</sup> Currently valued at market value based on values provided by Savills via Capco, reviewed by JLL as part of their consideration advice and reviewed by Lambert Smith Hampton.

<sup>28</sup> Currently valued at market value based on values provided by Savills via Capco, reviewed by JLL as part of their consideration advice and reviewed by Lambert Smith Hampton.

<sup>29</sup> These leaseholders / freeholders would have to be bought out at a cost of circa £59m, this has been allowed for in the worst case cash flow scenario modelled later on in this note.

<sup>30</sup> Provision of these properties means that the Council does not have to fund the buyback of these leaseholders properties from the consideration. Therefore this forms part of the consideration as the land value is based on delivering the land with vacant possession and this would otherwise form a cost of achieving vacant possession.

<sup>31</sup> The Council's equity share in the Leasehold properties has been discounted by 35.9%. The annual sales volumes have been based on the volume of sales of leaseholder properties in 1999-2011 on the West Kensington and Gibbs Green Estate. Average sales as per the Land registry were 5.92 per annum, after excluding properties that sold several times in the period the average turnover was 5 properties per annum. There are 117 resident leaseholders and freeholders currently on the estate. At the historic sales rate all these properties would be sold at some point in the 23 years. Over 15 years, based on historic data it is likely that 75 of the 117 resident leaseholder and freeholder properties would be sold, realising 64.1% of the equity. Given that the development period is anticipated to be at least 10 years and that transactions will occur throughout this period this is considered by officers to be a reasonable assumption.

## 12.7 Valuing the land with vacant possession

12.7.1 A residual land value model has been used to arrive at a valuation for the land; this is based on the Council transferring each phase of the site with vacant possession therefore the Council will have to incur the costs of achieving this. This model has been adapted to reflect the deal and the scheme as they have evolved. The model has been subject of extensive review by the Council's advisors. This has included:

- Advising on the commercial aspects of the deal.
- Reviewing the financial model prepared by Capco.
- Assessing the deal for Best Consideration and value for money.
- A detailed model audit by Mazars and who have concluded that the model meets its objectives and is capable of running the required sensitivities.

12.7.2 The current residual land valuation model generates a valuation of £182m. However JLL have identified a number of items which they consider require adjustment.<sup>32</sup> These are detailed in JLL's letter in Appendix 10. After adjusting for these items JLL have proposed a base valuation of £226m. It is possible to make these adjustments in a number of different ways taking into account sensitivity analysis and variables, which again yield a range of values up to a maximum of circa £247m based on a 20% developers profit on the private for sale units in the model.

12.7.3 Farm Lane is not included within the residual land value model. Farm Lane enables the Council to meet its promises regarding replacement houses as well as enabling the main site to be decanted and built out over a shorter time frame. It can be argued that without this site the residual land value of the main site would decrease by more than the difference between the highest possible open market value of Farm Lane and the £5.7 million being received for Farm Lane as part of the overall consideration. Should the trigger not be served then the overage clause contained within both the Farm Lane and Gibbs Green former school site sale agreements is designed to ensure best consideration is in any event achieved, this includes an option for the Council to repurchase the sites from Capco at par<sup>33</sup>. Commentary on the consideration paid for Farm Lane is contained within Appendix 1 of the JLL letter contained in Appendix 10 of this report.

12.7.4 Additionally, Capco is also seeking to reach agreement on TfL's land holding in the development area. The Council understands that the commercial terms and risk transfer inherent in the proposed deal are different to the Council's proposed transaction. The

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<sup>32</sup> These are also referred to in notes 3, 4 and 6 in PWC's letter

<sup>33</sup> The Council would also be liable for Stamp Duty Land Tax if either Farm Land or Gibbs Green School was repurchased under the CLSA



Council's current understanding is that the terms of the TfL transaction are now not comparable to the Council's deal. It should be noted that it is likely that the CLSA will be signed before the TfL deal is concluded.

12.8 *Range of values generated by other methods of valuing consideration*

12.8.1 Taking into account sensitivity analysis and variables the consideration can be valued in a number of different ways giving a range of available values. We believe we have used the most appropriate method but other possible methods are expanded on here to illustrate sensitivities.

12.8.2 In addition to the approach used above it is possible to:

a. value all the properties at existing use<sup>34</sup>.

b. to value both the replacement social homes and the leaseholder equity in the resident leaseholder / freeholder replacement homes at cost.

12.8.3 These alternative approaches give a range of values as set out on the next page. All examples shown assume all current resident leaseholders choose to remain on the estate as this gives the lowest possible range for consideration.

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<sup>34</sup> Replacement homes for non resident leaseholders are valued at market value in both scenarios as the council would in either example be able to sell these properties on the open market as there is no commitment to provide replacement properties for non resident leaseholders and the intention is to buy back all such properties.

**Table 12 –range of values**

	Alternative methods of valuing consideration		Base Illustrative Gross Consideration assuming only non resident leaseholders are bought back (i.e. before costs) as per paragraph 12.6.1 above
	Using valuation throughout (a. in paragraph 12.8.2)	Valuing replacement leaseholder equity at cost of provision. (b. in paragraph 12.8.2)	
Cash Consideration: £105m discounted at 9% to allow for the phasing of payments	£77m	£77m	£77m
Non Cash Consideration:			
589 Replacement Social Homes: property received	£48m <sup>35</sup>	£103m	£103m
Replacement leasehold / Freehold properties for 54 non residents: property received	£32m	£32m	£32m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties: resident: Leaseholder share:	£48m	£22m	£48m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties for residents: Council Equity Share in property	£24m	£24m	£24m
Discount Councils Equity share of Leaseholder buy backs.	(£9m)	(£9m)	(£9m)
<b>Total (Excluding costs)</b>	<b>£220m</b>	<b>£249m</b>	<b>£275m</b>

12.8.4 This gives a maximum indicative range of values for consideration between £220 million and £289 million<sup>36</sup>, compared to land values ranging from £188.2million to £253.2 million<sup>37</sup>.

## 12.9 Costs

12.9.1 As noted above the consideration under the possible CLSA is paid on the basis that the Council transfer the land with vacant possession. The amount and the timing of costs will vary depending on the volume of resident leaseholders who opt to leave the Estates,

<sup>35</sup> Uses the lowest valuation provided by JLL to take a prudent approach, 427 of these properties are valued in the current residual land value model at £41.9m – equating to a value of £58m for the 589 properties.

<sup>36</sup> Assuming all leaseholders opt to be bought out and using the 6.6% treasury discount rate to value the cash element of the consideration

<sup>37</sup> £247m as per paragraph 12.7,2 above plus £5.7m for Farm Lane and £0.5m (and additional replacement properties) for the "Seagrave houses"

more details on this, the principal cost, are given in paragraph 12.10 below. They will also vary according to when the Trigger Notice is served and the speed of the development. Appendix 13 shows the likely indicative range of costs involved at current values (i.e. with no allowance for inflation). Section 9 of this report, comments on the initial budgetary requirements, which are anticipated to all be of a capital nature and which will be funded from the Decent Neighbourhoods Fund.

### 12.10 Buying Back Owners on the Estates

12.10.1 The Council will be required to buy back or otherwise determine existing leases and freehold interests across its own land in order to secure vacant possession.

12.10.2 The Council has agreed to buy back owners who wish to leave in the following ways:

- From the date on which Capco submitted the planning application for the main site, 23<sup>rd</sup> June 2011, buy back owners who have an identified need to leave, for open market value.
- From the later of an unchallengeable planning permission on the main scheme; a signed CLSA; and Consent from the Secretary of State, to buy back all owners who wish to leave for open market value (in a no scheme world) plus 10%<sup>38</sup>.

12.10.3 There are two ways in which each of the individual buybacks could be funded:

- 1) The Council can buy back the properties directly from the leaseholders and freeholders. It can fund this in three ways by either:
  - using capital receipts, the most likely source of which is those generated by the expensive voids sales programme
  - borrow funds within the Housing Revenue Account (HRA) using the £37m of headroom that remains following the implementation of self financing subject to the comments in the 2012 budget statement. This uses the existing HRA asset base to increase gearing within the HRA.
  - borrow if there was the appetite via the general fund.

Income would be received from letting the properties purchased which would as a minimum partially, if not wholly, offset the borrowing costs.

- 2) By Capco, subject to the payment of holding costs, as follows:
  - Capco have made available a facility of £15m.

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<sup>38</sup> 7.5% for non resident Leaseholders/ Freeholders

- From serving of the Trigger Notice (exercise of the option) Capco will be responsible for funding all buybacks if required to do so by the Council.
- 12.10.4 It is important to note that, should the Council opt for Capco to buy back the Leaseholders / Freeholders, the Council will have to pay Capco at a later date for these purchases as they are part of the cost of achieving vacant possession unless the agreement is terminated. On termination Capco simply retain the properties. This means that potentially on termination this could leave a developer with a high level of 'pepper-potted' ownership on the Estates.
- 12.10.5 The Council will also have to pay for the net holding costs incurred on any properties purchased by Capco until Capco take transfer of the land containing the property or until the agreement is terminated. These costs have to be paid to Capco as follows:
- Revenue costs to Capco of holding the properties need to be re-paid annually from the trigger date. Capco have a duty to maximize rent from properties, which will need to be deducted from costs.
  - Capital costs will be deducted from the payment installments received following the trigger. This can only be up to a maximum of 50% of the payment tranche. Capco will charge a holding cost on any money advanced to contribute to its costs of providing this finance. This has been agreed at flat rate of 6.5% over 6 month Libor.
  - Capco can fund the buybacks as above but the Council can pay off some or all of the capital debt at any point and gain a secure charge over the property. This option reduces or eliminates the capital holding cost. Revenue costs would still be payable to Capco as set out above.
- 12.10.6 The Capco funds are a useful facility, however they are available at rates substantially greater than the Public Works Loan Board. There is also a significant risk attached to them purchasing a large volume of properties on the Estates in that should for some reason the agreement terminate or the trigger never be served the Council would have Estates where potentially a large proportion of leaseholds / freeholds were held by the same developer. This could potentially render future regeneration on the estate more difficult following any termination event.
- 12.10.7 The Council can borrow at a lower rate than can be provided by Capco, has funds in the Decent Neighbourhoods Fund available and has a likely future stream of capital receipts within the HRA which could potentially be utilised to fund leaseholder buybacks. Prior to the Localism Act 2011 and HRA reform the Council could only easily let a buy back as an Assured Shorthold Tenancy at full market rent via the General Fund. It is now possible to utilise the

new Fixed Term tenancies created under the Localism Act and let at 80% of market rents within the HRA subject to obtaining Homes and Communities Agency permission and provided the Council can easily regain vacant possession at the end of the fixed term tenancy. The Director of Housing Options, Skills and Economic Development and his team are currently finalising proposals to this effect. This means it will be more financially advantageous for the Council to buyback properties directly from owners and the cash flow presented later in this note assumes this approach is used. This report proposes that the ability to buy back properties is delegated to the Executive Director of Housing and Regeneration in consultation with the Executive Director of Finance and Corporate Governance up to an initial cumulative value of £15m funded from the decent neighbourhoods pot. It should be appreciated that the Decent Neighbourhoods Fund does not currently contain this level of capital receipts but projections show that they will be generated by the current expensive void sales programme. The viability of each buyback and the availability of funds will be formally considered as part of each decision approving the buy back of properties from Leaseholders / Freeholders.

- 12.10.8 A regular six monthly assessment of the viability of each method will be carried out by officers and a further report will be bought back to Cabinet when 80% of the initial £15m funding tranche has been utilised or should the level of receipts from expensive void sales not be at anticipated levels.

12.11 Cash flows and sensitivities

- 12.11.1 Summarised below is an indicative cash flow assuming the Trigger is served. This assumes:

- the Council fund all the leaseholder buybacks as this results in the highest peak cash out flow. Sensitivities showing the impact of using different funding methods for buybacks on the peak cash outflow and the cash position at 2030 are shown below.
- all non resident leaseholders / freeholders are bought back and 25% of the resident leaseholders / freeholders are bought back. Sensitivities showing the impact of differing levels of buybacks on the peak cash outflow and the cash position at 2030 are shown below.
- buy backs occur in the first two years, in practice it is likely that buybacks will occur over the life of the scheme.
- the trigger is not served until the end of the 5 year period.
- it is based on indicative phasing received from Capco and an indicative fastest possible development time line has been used. Sensitivities showing the impact of a longer development period on the peak cash outflow and the cash position at 2030 are shown below.

- RPI of 2.5% and HRA loans pool borrowing at 5.6%. Sensitivities showing the impact of differing levels of RPI and the HRA loans pool rate on the peak cash outflow and the cash position at 2030 are shown below.
- that we are unable to protect the Council from Stamp Duty Land Tax on the replacement properties via the section 106. We will endeavour to use the Section 106 agreements to do this. This adds a significant cost of circa £23m<sup>39</sup> which is included within this cash flow.
- Property inflation is the same as RPI, the receipts from Capco are indexed as per the proposed agreement to allow for late payment. Sensitivities showing the impact of differing levels of property inflation on the peak cash outflow and the cash position at 2030 are shown below.
- A contingency on non buy back costs of 20%

12.11.2 The table shows the position if none of the replacement Leaseholder /Freeholder properties owned by the Council as a result of the buy backs are sold / generate a cash receipt, and the position if this mitigating action is taken. It also shows the net present value of the cash flows to the Council.

12.11.3 The indicative cash flow forecast can be summarised as:

**Table 13 – indicative cash flow**

<b>Base Case: Council Funds all buybacks, buybacks let at 80% market rent</b>	<b>Cash in / (out) £,000</b>
Peak Cash requirement excluding receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	(41,500)
Peak Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	(36,555)
Cash Requirement at 2030 including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	54,067
Net present value of cash flows to 2030 at a 6.6% discount rate including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	<b>22,597</b>
Net present value of cash flows to 2030 at a 9% discount rate including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	<b>16,020</b>
	<b>Year of peak cash out flow</b>
Year of peak cash outflow including buyback sales	2018

<sup>39</sup> Including indexation

12.11.4 Due to the nature of the CLSA ongoing forecasting will be required as the exact timing of events becomes clear.

12.11.5 It is important that during the course of the development that sufficient funds are held to enable the buying back of properties and to manage other risks. It is therefore recommended that until the volume of buy back requests on the Estates becomes apparent that sufficient funds are ring fenced within projected receipts to enable all leaseholders to be bought back if required.

**Table 14 – Buyback sensitivities and cashflow**

<b>Sensitivity modelled</b>	<b>Impact on Peak Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and income on letting them</b>	<b>Impact on 2030 Cumulative Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and income on letting them</b>
<b>Sensitivities which increase peak cash requirements</b>	£'000	£'000
100% buybacks, Council funds	(36,869)	34,044
Capco fund all buybacks, 100% Buybacks , use of Capco Facility Maximised	(23,766)	18,966
Plus 10% on all costs (includes 10% House Price Inflation in 2012)	(8,193)	(7,036)
House Price Inflation: 10% Increase in house prices in 2012, 20% decrease in house prices in 2020	(4,207)	(7,909)
Plus 10% on non buyback costs	(3,976)	(7,218)
1% Increase in Stamp Duty	(1,338)	(6,228)
Libor: 1% Increase and 1% increase in loans pool rate	(1,224)	(1,781)
RPI: 1% Increase	(1,211)	(470)
Extra £500 increase per property in maintenance costs	(58)	(404)
<b>Sensitivities which decrease peak cash requirements</b>	£'000	£'000
Slower development: all later phases delayed by 2 years	0	3,316
Council Terminates as only Seagrave Developed and does not manage corresponding costs down	1,460	(61,476)
House Price Inflation 10% decrease in house prices in 2012	4,172	(197)
Trigger not served	7,052	(55,936)
Maximum Capco funding used for buybacks, all non resident and 25% of resident leaseholders bought back	12,262	(11,811)

## 12.12 Impact on 30 year Housing Revenue Account (HRA) business plan

- 12.12.1 The CLSA will have a significant impact on the 30 year HRA business plan. It should be appreciated that as this is a conditional agreement there is a level of uncertainty at this point in time in terms of the timing of cash flows and officers will continue to work on this on an ongoing basis.
- 12.12.2 The initial business plan and forecasting will develop as certainty increases concerning the serving of the Trigger Notice, the detailed phasing and the volume of leaseholder buy backs. The principal impacts of the CLSA on the 30 year HRA business plan are:
- Significant stability on maintenance costs as a result of receiving high quality new build properties to replace properties which currently have a significant long term maintenance requirement.
  - A short-term contained increase in service costs.
  - Costs arising from holding the properties bought back from leaseholders if these are not fully covered by rental income.
  - Potential repayment of a significant amount of HRA debt in the longer term and / or additional funds available for investment in Housing and Regeneration.
  - A possible short term funding requirement if there is a significant demand for leaseholder buybacks if as anticipated the Council opts to buy back properties direct from Leaseholders / Freeholders ( this depends on the net holding cost, see section 12.10 above).
  - A short-term call on HRA reserves to fund costs which are not capitalisable under CIPFA guidance e.g. security costs.
  - A possible call on HRA reserves if damages arise if vacant possession is not achieved in line with the timescales proscribed within the HRA. This is capped at £10m. It should be noted that this is more than the amount currently held within reserves and this potential exposure should be taken into account when setting target reserves balances for planning purposes.
  - Costs arising from legal challenges.

## 12.13 Financial Risks

- 12.13.1 The principal financial risks and their mitigating factors can be summarised as:
- Interest rates:
    - If the Council buys back the properties directly this can be mitigated by using the receipts from the Decent Neighbourhoods Fund (i.e. by not using funds to repay existing debt or to invest in new initiatives) and by the Council's ability to borrow fixed rate funds at a competitive



rate via the PWLB. There is however an opportunity cost that arises as these funds could have potentially been used for other purposes.

- If the Council use the Capco funding facility the Council is exposed to a level of interest rate risk as this facility is totally variable. This risk could be partially mitigated by paying off the capital debt with Capco early using funds as above. As noted in paragraph 12.10.7 above it is likely that the Council would instead buy back the properties directly from leaseholders / freeholders.
- The sensitivity of cash flows to interest rates is illustrated in paragraph 12.11.5 above.
- Inflation. This would increase costs which would be offset to some extent by additional income. The sensitivity to inflation is illustrated in paragraph 12.11.5 above.
- House Price Inflation (HPI): high levels of HPI would increase the cost of Leaseholder / Freeholder buy backs. However unless there was a later dip in the Housing Market this would result in the replacement properties received by the Council having a higher value. Should property prices decrease after the leaseholders / freeholders have been bought out but prior to the Council receiving the replacement properties the Council would have the ability to hold the properties in the longer term until the Housing Market cycle reversed subject to careful monitoring of the HRA 30 year business plan.
- Holding costs of properties in the event of a termination occurring.
  - Should the Council have opted to use Capco to fund the buybacks this could result in a significant cost to the Council with no return. Capco
  - Should the Council opt to buy back properties directly from the leaseholders / freeholders it is anticipated that following the Localism Act 2011 the rental income stream from the properties would cover the bulk of the holding costs of the properties as well as providing additional affordable accommodation. Should the CLSA then terminate the Council would be able to sell the properties purchased from leaseholders / freeholders if desired, recover the capital costs and benefit from any capital gain.
- Running costs for replacement properties, a sensitivity has been modelled for this in paragraph 12.11.5.
- Stamp Duty Land Tax (SDLT): if the agreement is incorrectly structured or there is a change in legislation there is a risk that the transfer of the social rented properties would attract SDLT based on their full market value. The cash flows modelled above assume this SDLT is payable. However as SDLT would be payable on the open market value of the replacement homes these figures should be viewed as indicative as the amount will depend on the property market at the time the homes are given

to the Council and on SDLT rates then in force. A sensitivity has been modelled for this in paragraph 12.11.5, a regime which places caps on service charges and some maintenance costs has been agreed via the Head lease and will be included in s106 agreements.

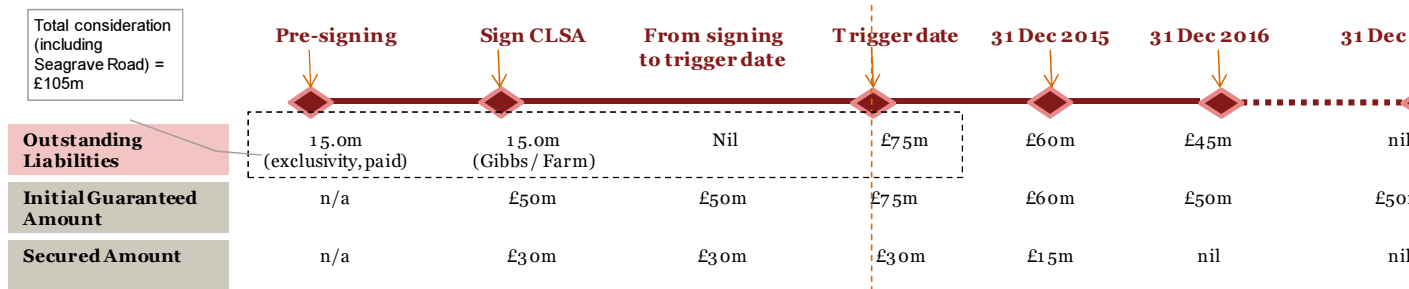
- Replacement properties; The Council will as promised provide replacement properties for all tenants. There is a risk that should there be net overcrowding across the estate that the gross internal floor area specified in the agreement would be insufficient to provide all the replacement homes required. This would mean that some of the replacement properties currently allocated for sale would need to be used to house tenants. However other properties could be sold as they became void thereby mitigating the financial impact. Given this mitigation this risk is unlikely to crystallise.
- Risk of challenge costs: Allowance has been made for these costs within the cash flow forecasts based on estimates provided by officers in our legal department however there is a risk that additional funds may be required.
- Damages, especially for failure to give vacant possession. The agreement caps these at £10m however it should be noted that it also contains an overage clause applicable to the Council that allows for additional damages to be paid via this overage clause should the agreement be terminated and should the Council sell the land to another developer within 5 years of termination

#### 12.14 Indemnity and Capco covenant package

12.14.1 The Council has undertaken financial due diligence on the assets in EC Properties LP and Earls Court Ltd to ensure they are adequate. This work has been undertaken by PWC on the Council's behalf. Capco have provided the Council with a separate indemnity against any blight claims up to £50m from the date of adoption of the SPD. The CLSA provides for the continuation of this indemnity and provides the council until the trigger date with an initial guaranteed amount of £50m.

12.14.2 Following the trigger date the guaranteed amount increases to £75m, being the total value of advance payments that are outstanding under the agreement, falling to £60m following the payment of the first advance payment and £50m after the second. These amounts are then further adjusted in accordance with the CPO liabilities as specified in the CLSA. Subsequent to the payment of the second advance payment the amount guaranteed is then reduced as payments are made and CPO liabilities reduce. It should be noted however, that it is only in certain circumstances that there is likely to be a material liability owed by Capco to the Council in the event of a termination.

12.14.3 £30m of the guaranteed amount is secured as a first charge against specific assets with the remainder being covered by a net asset value (NAV) test which requires coverage of 120% in EC Properties LP and Earls Court Ltd. The NAV test is re-performed at 6 monthly intervals following the signing of the CLSA. The security on the assets is released following the receipt of the first two advance payments with subsequent guaranteed amounts being provided using the NAV test. This can be summarised by the following diagram<sup>40, 41</sup>.



The above assumes the trigger date is before 31 December 2015. If it is later than this the first instalment becomes due on the trigger date, and subsequent instalments are due on the four subsequent anniversaries. Each instalment in this case will be adjusted by the retail price index between 31 December 2015 and the trigger date

12.14.4 If the financial test is failed then Capco is required to undertake actions such as acquiring or transferring from elsewhere within the Capco group additional assets, reducing liabilities, substituting the guarantor, providing additional guarantees or suitable security. If these remedial actions are not taken the Council is entitled to terminate the CLSA

12.14.5 Initial assessment of the guarantee and compliance with the NAV test has been undertaken by PWC. The CLSA also contains the ability for the Council to do an interim assessment should circumstances arise which give cause for concern around the availability of the assets as well as the ability for the Council to terminate should the asset provisions not be complied with.

12.15 Accounting Treatment

12.15.1 The land proposed to be sold by the Council is held partly in the General Fund and partly in the HRA. The total consideration will need to be apportioned between the two funds based on the acreage of land. Any receipts apportioned to the HRA will potentially be caught by capital pooling regulations. In order to avoid pooling the Council will have to ensure that all the monies pertaining to the HRA, both those received directly from Capco and those from the sale of properties are reinvested in Affordable Housing and Regeneration. This includes the repayment of HRA

<sup>40</sup> In addition to the amounts shown below there is a blight indemnity agreement in place until the signing of the CLSA for £50m.

<sup>41</sup> Note the initial exclusivity payment forms part of the first £15m of consideration on signing of the CLSA.

debt and funding the cost of any buybacks. It is anticipated that with planning it should be possible to retain the full receipt.

- 12.15.2 As the cash receipts do not follow the land transfers, the accounting treatment is fairly complex.
- 12.15.3 The accounting treatment for each phase will need to be agreed with the external auditors and it should be recognised that the precise treatment may deviate from that set out below as the rules governing it are likely to change over the life of this project. One key issue will be how we hold the replacement properties for leaseholders, both those in which we retain an equity share and those which we own outright where the leaseholder has opted to be bought out. The table of costs set out in Appendix 13 gives an indication of the accounting treatment for costs based on current rules.
- 12.15.4 An initial £15m has already been paid to the Council on signing the Exclusivity Agreement. £10m of this is refundable if the CLSA is not entered into or Secretary of State's consent is not obtained for the overall disposal, £5m is not refundable. The £5m is currently treated as a capital receipt in advance and will become a capital receipt on the signing of the CLSA. The £10m is retained as a long term liability pending the granting of consent by the Secretary of State. Following the granting of a satisfactory Secretary of State consent the £10m can be retained by the Council in the event of termination because Capco have not served the Trigger Notice. Therefore following granting of Secretary of State consent this amount will become a capital receipt.
- 12.15.5 The £15m to be received for the sale of 11 Farm Lane and Gibbs Green School will form part of the total consideration. Title will transfer on receipt of consideration for Farm Lane and this will be treated as a general fund capital receipt. Gibbs Green School will exchange on transfer with completion occurring when the school site is vacated. The proportion of the receipt pertaining to Gibbs Green School will therefore be held as a capital receipt in advance and the funds will not be able to be used for capital purposes until completion occurs. Officers' initial cash flow forecasting indicates that this can be accommodated within the general fund capital programme, however it should be noted that if for some reason other receipts failed to crystallise there is a risk that a temporary general fund borrowing requirement would arise in order to fund works on the proposed new off site school.
- 12.15.6 The £75m cash consideration would, unless attributable to a land transfer, be refundable if at the point of termination the Council had failed to comply with certain conditions or if the Council served a termination notice as a result of the non completion of 50% of the social rented properties by the deadline given in the CLSA.

Therefore the remaining £75m cash consideration is also retained on the balance sheet as a long term liability and is released over time as land is transferred. As each land transfer occurs a reconciliation will need to be carried out

12.16 Service Charges

12.16.2 As far as possible the Council wants to minimise service charge costs for its own tenants. A detailed service charge agreement regime has been agreed which places caps on the level of service charges the Council will pay for the tenanted properties as part of the Head Lease and will be included in the s106 agreements.

12.17 Taxation

12.17.2 PWC have been appointed to advise on the taxation aspects of this scheme and have worked with us to ensure our structure is tax efficient. Their report is included in Appendix 14 and the tax implications are summarised below.

12.18 Stamp Duty Land Tax (SDLT)

12.18.1 SDLT is the principal area of concern and it will be important to ensure that the replacement properties being transferred to the Council are seen as affordable housing for SDLT purposes to ensure no SDLT charge arises on the transfer. It is understood that the easiest way to achieve this is to ensure they are specified as such in the S106. Should the S106 not specify this, or the land transactions not take place in the 5 years, following the planning obligation, then a very large SDLT liability could arise.

12.18.2 There is however a risk that even with the properties recognised as affordable within the Section 106 that HMRC will consider that the obligation to provide the properties is in the CLSA rather than within the Section 106 agreement and will consider that SDLT should be payable. The structure of the CLSA offers some protection against this but can not offer full protection unless all reference to the replacement properties is removed from it, this is not commercially practical as it would create other significant risks. Therefore all the cash flows presented in this report assume the Council incurs full SDLT based on open market value on the replacement properties as well as on the acquisition of the leaseholder buy backs, i.e. the cash flows include the large potential liability referred to in PWC's report, including those which might arise if Capco acquired properties from leaseholders / freeholders on the Council's behalf.

12.18.3 It should also be noted that if land is acquired under a CPO then, as detailed in the report, additional SDLT relief is possible and where possible the conditions for this should be satisfied. Again the cash

flows included above adopt a prudent position and assume no SDLT relief arises for the properties on the estates.

12.19 VAT

12.19.1 The grant of any interest in land by the Council will be, prima facie, exempt from VAT as no option to tax is being made. As a result, there is no VAT to charge on the consideration received from Capco.

12.19.2 Generally speaking, a local authority can recover VAT in full on its costs, provided it remains within its partial exemption 5% de minimis limit. This is calculated as 5% of the total VAT it incurs annually. A council is required to assess all of the VAT it incurs in respect of its exempt activity across the authority and where this is less than 5% of all of the VAT it incurs in total, the Council can reclaim VAT in full. However, where the Council exceeds the 5% limit, then all of the VAT the Council has incurred which relates to exempt activity is irrecoverable.

12.19.3 Therefore the Council has estimated the level of VAT to be incurred in respect of this transaction. Current cash flows indicate that amount of exempt input tax can be accommodated in the partial exemption de minimis limit with careful management, especially if the seven year rolling average is used. This will need to be reviewed on an ongoing basis as the CLSA contains a warranty which states that the Council will not opt to tax the land transfers..

12.20 Corporation tax

12.20.1 The Council will not incur any corporation tax as a local authority in the UK is not liable to corporation tax or income tax.

**13. COMMENTS OF THE DIRECTOR FOR LEGAL AND DEMOCRATIC SERVICES**

13.1 The Council is exercising a range of powers to participate in the scheme and secure the redevelopment and regeneration of the area. The principal powers to be exercised by Cabinet are set out below.

13.2 Section 123 of the Local Government Act 1972 allows the Council to dispose of non-housing land on such terms as it considers appropriate. Freehold disposals require the Council to obtain the best consideration reasonably obtainable (or the Secretary of State's consent to disposal at less than best consideration). The Council is entitled to rely on professional valuation advice as to whether best consideration (which is money or money's worth) has been achieved.

- 13.3 The Council holds the Estates under Part II of the Housing Act 1985 and has the power to dispose under section 32 of the Act with the consent of the Secretary of State at DCLG. An application for consent to dispose of more than 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or the Housing Act must be approved by Full Council under Article 4 of the Constitution.
- 13.4 As stated in paragraph 5 above the Council, as landlord, has carried out a formal consultation with tenants of the Estates which has satisfied the requirements of section 105 of the Housing Act 1985.
- 13.5 Council tenants whose accommodation is required for the redevelopment will be offered secure tenancies in the replacement accommodation. It is anticipated that this will be acceptable to many. Any occupiers who are secure tenants cannot be decanted against their will without either a court order under the Housing Act 1985 or the Council exercising its powers to acquire the secure tenancies under section 226 of the Town and Country Planning Act 1990. If agreement cannot be reached with tenants then the Council will consider the use CPO powers under section 226 and that the process will be triggered by the service of a CPO Start Notice. A rehousing strategy which took into account the needs of the social housing tenants would be developed before the Council was asked to consider further which power would be more appropriate to enable the Council to achieve the objective of a comprehensive redevelopment of the area. At that stage, the Council would need to consider fully any Human Rights Act issues and might need to undertake a further Equalities Impact Assessment or revisit and update aspects of the existing one, at Appendix 12.
- 13.6 Tenants who do not have an interest to sell to the Council may be entitled to a fixed home loss payment of (currently) £4,700 per unit. Tenants may be entitled to exercise their Right to Buy although there is a procedure under schedule 5A to the Housing Act 1985 where this can be avoided by the service of a demolition notice.
- 13.8 Existing leaseholders and any freeholders will need to have their interest acquired. As well as receiving market value, resident owners occupying as their main residence and who have lived in the premises for at least one year may be entitled to a home loss payment of 10% of market value up to a current maximum of £47,000 plus compensation for disturbance and reimbursement of legal and other expenses (on both the sale and also on acquiring a replacement property).
- 13.9 Section 120 of the Local Government Act 1972 Act allows the Council, for the purposes of any enactment or for the benefit,

improvement or development of their area, to acquire by agreement any land inside or outside its area. The redeveloped properties will be acquired by the Council for the purposes of its housing functions under the Housing Act 1985. Should the Council be required to exercise its compulsory purchase powers then this will be addressed in a further report to Cabinet.

13.10 Section 2 of the Local Government Act 2000 has been repealed and replaced in England by the general power of competence enacted in the Localism Act 2011. Section 1 of the 2011 Act gives the Council “power to do anything that individuals generally may do”. This is subject to restrictions but it is not considered that there is any *vires* problem with the proposed project which is the subject of this report.

13.11 Finally, section 111 of the Local Government Act 1972 allows the Council to do anything (whether or not involving the expenditure, borrowing or lending money or the acquisition or disposal of any property rights) which is calculated to facilitate or which is conducive or incidental to the discharge of any of its functions. The Council has various housing law functions to the discharge of which the proposed CLSA is considered conducive and incidental.

13.12 The Council therefore has the necessary powers to adopt the recommendations set out in the report. It is noted that the Council may seek to acquire land compulsorily at a future stage. The Council has the ability to do this provided the tests set out within section 226 of the Town and Country Planning Act 1990 are satisfied.

### 13.13 The Public Sector Equality Duty

13.13.1 The public sector equality duty provisions of the Equality Act 2010 came into force on 5<sup>th</sup> April 2011 and widened the general equalities duties with which a local authority has to comply. Given its importance to the decision, this legal aspect has already given separate consideration in section 10 of this report, above.

### 13.14 Procurement

13.14.1 The risk of challenge has been mitigated as far as possible in two ways. Advice from leading counsel has been received in this regard, the contents of which are protected by legal professional privilege. On the basis of leading counsel’s advice it is considered that the CLSA is not a public works contract to which the Public Contract Regulations 2006 apply.



### 13.15 Blight

13.15.1 The adoption of the Supplementary Planning document might give rise to attempted blight claims. An indemnity is in place from CapCo concerning this. Blight can also arise in the circumstances outlined in schedule 13 to the Town and Country Planning Act 1990 and one of these is the making of a compulsory purchase order. Accordingly, it will be necessary to ensure that there is a valid indemnity in force from a company which has a sufficient net asset value to cover the potential liabilities. This indemnity has already been addressed in this report.

## 14.0 COMMENTS OF CORPORATE RISK

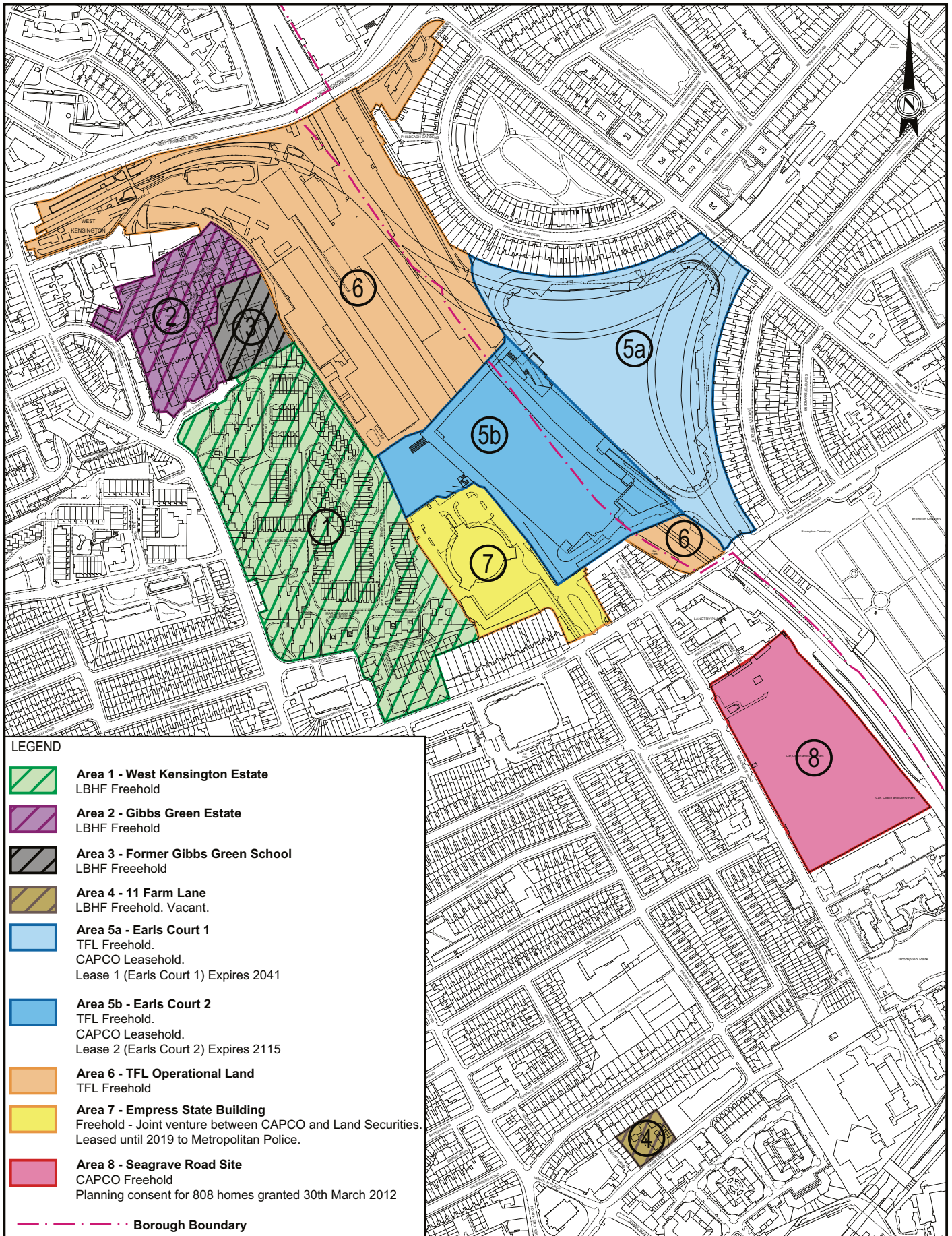
14.1 The context of risk is attached in the risk log at Appendix 15 which highlight the risks associated with the project. As new risks emerge they will be added to the register as necessary and the corporate risk register will be amended to reflect any changes in the nature of risk.

## 15.0 Schedule of Appendices

Appendix 1	Land Ownership Plan
Appendix 2	Estate Regeneration economic appraisal
Appendix 3	Consultation History
Appendix 4	Consultation Information Pack
Appendix 5	Analysis of Responses to Consultation
Appendix 6	Summary of CLSA terms prepared by SNR Denton
Appendix 7	Earl's Court/West Kensington Local Lettings Plan Interim Statement
Appendix 8	London Design Guide Standards Comparison
Appendix 9	Initial Phasing Plan
Appendix 10	JLL Best Consideration Letter
Appendix 11	PWC Best Consideration Letter
Appendix 12	Equalities Impact Assessment
Appendix 13	Financial Cost Range
Appendix 14	PWC Tax Report
Appendix 15	Risk Assessment

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Cabinet Report - 18 <sup>th</sup> July 2011 (Open Report)	Sarah Lovell X5571	Housing and Regeneration
2.	Cabinet Members Decision – Estate Regeneration economic appraisal- 7 <sup>th</sup> November 2011	Sarah Lovell X5571	Housing and Regeneration
3.	Cabinet Report – 23 <sup>rd</sup> April 2012 (Open Report)	Sarah Lovell X5571	Housing and Regeneration
<b>CONTACT OFFICER: Sarah Lovell &amp; Tomasz Kozlowski</b>		<b>EXT: 5571 / 4532</b>	



**LEGEND**

- Area 1 - West Kensington Estate**  
LBHF Freehold
  - Area 2 - Gibbs Green Estate**  
LBHF Freehold
  - Area 3 - Former Gibbs Green School**  
LBHF Freehold
  - Area 4 - 11 Farm Lane**  
LBHF Freehold. Vacant.
  - Area 5a - Earls Court 1**  
TFL Freehold.  
CAPCO Leasehold.  
Lease 1 (Earls Court 1) Expires 2041
  - Area 5b - Earls Court 2**  
TFL Freehold.  
CAPCO Leasehold.  
Lease 2 (Earls Court 2) Expires 2115
  - Area 6 - TFL Operational Land**  
TFL Freehold
  - Area 7 - Empress State Building**  
Freehold - Joint venture between CAPCO and Land Securities.  
Leased until 2019 to Metropolitan Police.
  - Area 8 - Seagrave Road Site**  
CAPCO Freehold  
Planning consent for 808 homes granted 30th March 2012
- Borough Boundary**

**HAMMERSMITH & FULHAM COUNCIL**  
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PROJECT

## LAND OWNERSHIP IN THE EARL'S COURT AREA

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NOTES	Date	Rev	Init
11 Farm Lane area added.	June '11	A	CEP
Areas and descriptions revised.	July '12	B	CEP
Numbers added.	July '12	C	CEP

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 FS 32265



**London Borough of Hammersmith and Fulham**

# **Proposed Estates Regeneration - Economic Appraisal**

Report

November 2011

## London Borough of Hammersmith and Fulham

# Proposed Estates Regeneration - Economic Appraisal

## Report

**November 2011**

Reviewed and approved by:	
Signature(s):	
Name(s):	Graham Russell
Job Title(s):	Partner Director
Date:	November 2011

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## Contents

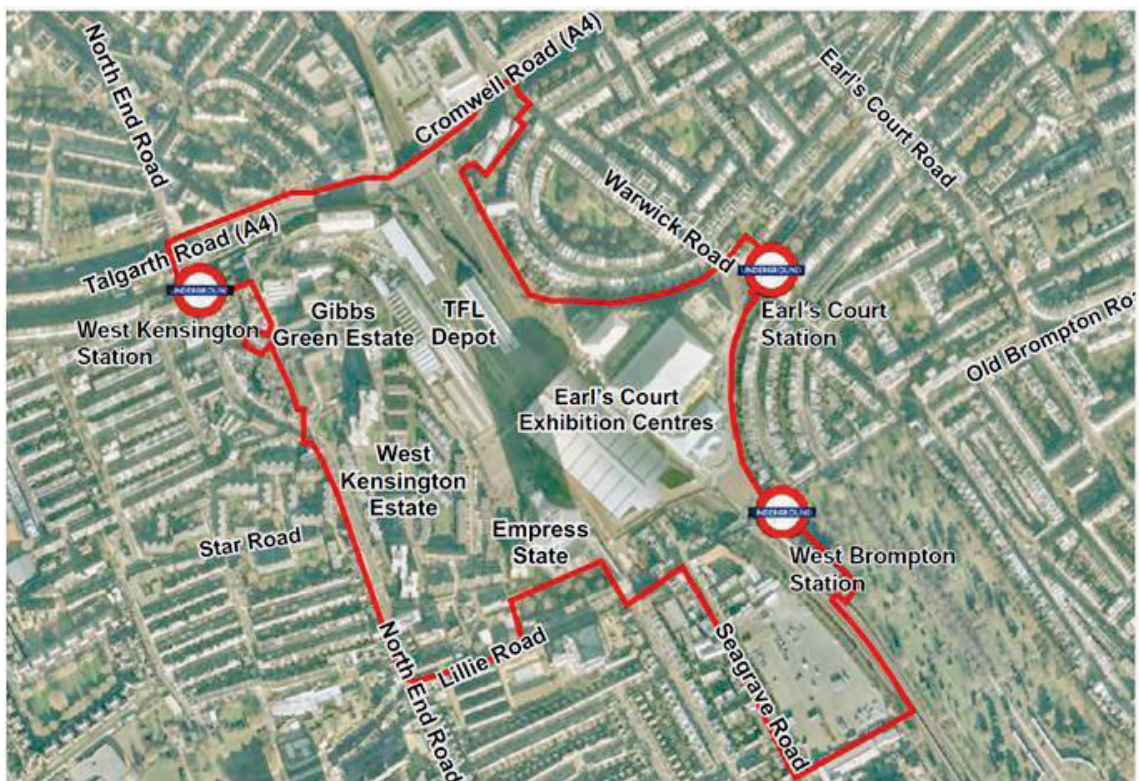
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2	Background to regeneration	2
3	Alternative options	3
4	Economic benefits	4
5	Conclusions	16



# 1 Overview

AMION Consulting, in conjunction with Jones Lang LaSalle (JLL), has been appointed to prepare an Economic Appraisal Report to assist the London Borough of Hammersmith and Fulham (LBHF or the Council) in considering the possible inclusion of the West Kensington and Gibbs Green estates within a comprehensive phased scheme of regeneration for the Earl's Court and West Kensington Opportunity Area (see Figure 1.1). The Opportunity Area comprises circa 36 hectares (89 acres) of land split between LBHF and the Royal Borough of Kensington and Chelsea (RBKC).

**Figure 1.1: Earl's Court and West Kensington Opportunity Area**



The two estates cover 8.9 ha (22 acres) of land primarily owned by LBHF. There are currently a total of 760 properties on the estates, of which 531 are council owned social rented properties, 132 leasehold properties, 39 freehold properties and 58 Housing Association properties. The two estates suffer from discontinuous internal roads and poor quality open space.

The Council has set out in the submission Core Strategy of the Local Development Framework (LDF) a vision for a borough of decent and aspirational neighbourhoods and has identified the principles which should underpin regeneration. The Housing Strategy also identifies specific objectives. Based on these documents the following objectives have been identified for the proposed regeneration of the area:

- to increase the supply of housing, providing quality homes on sustainable new developments;

- 
- to create clean and safe neighbourhoods in an area rich in opportunity;
  - to provide a mix of housing type, size and tenure to attract people on a range of incomes, creating mixed and balanced communities;
  - to allow people to acquire a stake in their home;
  - to ensure development is of a high quality design and provides a mix of local facilities;
  - to improve access to employment and training opportunities;
  - to help to improve educational attainment and health outcomes and secure low levels of crime;
  - to improve transport, accessibility and encourage walking through areas; and
  - to increase satisfaction with the townscape, public realm, environment and management.

The Economic Appraisal Report assesses the potential options that could be pursued by the Council in relation to the West Kensington and Gibbs Green estates within this context. This analysis takes into account market, socio-economic and policy context. The report has been produced in line with HM Treasury's Green Book, which indicates that all spending proposals should be accompanied by a proportionate and well structured appraisal.

## 2 Background to regeneration

The Earl's Court and West Kensington Opportunity Area has been identified as one of London's most important development opportunities. It has been allocated in the Mayor's London Plan (2011) due to its potential ability to contribute significantly to achieving housing and job growth targets over the next 20-30 years. The Opportunity Area has also been promoted through the Core Strategies of LBHF and RBKC as a key development area. The phased comprehensive regeneration of the area is seen as offering a strong opportunity to bring about the regeneration of the estates.

The West Kensington and Gibbs Green estates are now between 30 and 40 years old and, whilst it is understood that they remain relatively popular with a number of residents and are well managed and maintained by the LBHF, they will be subject to increasing levels of obsolescence. The management and maintenance costs incurred by the Council are expected to increase above that for modern Council owned properties in order to sustain both the buildings' fabric and address design obsolescence resulting from increasing housing standards. Already the average cost per dwelling of the estates is above the average figure for LBHF housing estates.

Overcrowding is also an issue with 16% of the properties on the two estates being currently overcrowded, compared to a Hammersmith and Fulham average of 13.9%. However, an assessment by the Council has also shown that there is significant under occupancy on the two estates, with 29.8% of the properties on the estates being under occupied, compared to a borough average of 7.9%.

The estates lie within the North Fulham area, which remains one of the most polarised in the borough in social, economic and physical terms. In 2010, the area fell within the 20 percent



most deprived areas in England on the Index of Multiple Deprivation. The estates are both in the 10 per cent most deprived neighbourhoods in LBHF, experiencing the highest levels of income and employment deprivation and very significant housing and services deprivation. The estates also suffer from high levels of unemployment, as well as below average educational attainment and health outcomes.

There is considered to be a strong rationale for regeneration and for including the estates within the comprehensive regeneration of the Opportunity Area. In this context, the Council has been discussing a proposal to enter a Land Sale Agreement to grant an option to a developer, Capital and Countries (CapCo), to include the West Kensington and Gibbs Green estates, alongside the CapCo owned Earl's Court Buildings and Seagrave Road car park and the Transport for London (TfL) owned Lillie Bridge Depot, in a comprehensive regeneration scheme. CapCo has submitted a suite of planning applications to the Council and to RBKC for a comprehensive regeneration scheme for the area, including the estates.

### 3 Alternative options

A range of estate regeneration options have been considered in order to understand whether the regeneration of the estates as part of the comprehensive regeneration of the Opportunity Area should be pursued from an economic perspective. Five options have been assessed, which differ in terms of the nature and scale of intervention and whether the estates are retained or redeveloped. The five options are as follows:

- **Option 1: Do minimum intervention (reference case)** – under this option, LBHF would continue to own, manage and maintain the estates, as well as retain the West Kensington and Gibbs Green halls.

An alternative scenario under Option 1 would be for the Council to make a stock transfer of the estates to a Registered Provider by a competitive process and subject to the tenants' approval. However, it is considered that the estate would be unlikely to change physically if this were to happen. Moreover, it is unlikely that a package of investment and improvement would be forthcoming at a level which would be sufficiently attractive to tenants whilst delivering a satisfactory level of capital receipt to the Council;

- **Option 2: Minimal intervention and infill development** – under this option, LBHF would again continue to own, manage and maintain the estates, as well as retain the West Kensington and Gibbs Green halls. However, opportunities for additional infill development and additional disposal of Council land within and adjacent to the estates would also be brought forward for development. Consideration was given to larger scale partial redevelopment of the estates. However, it was concluded that this was likely to be a less attractive proposition, since it would be less efficient, disruptive, only address a limited range of issues and fail to realise the full scope of benefits;

- *Option 3(a): Comprehensive redevelopment: standalone estate redevelopment<sup>1</sup>* – the estates would be comprehensively redeveloped and, in accordance with planning requirements, the differentials in levels between the three land ownerships would be addressed. This would involve substantial engineering costs;
- *Option 3(b): Comprehensive redevelopment as a standalone estate redevelopment<sup>1</sup>* – in order to test the costs and benefits of the alternative options, a variation of Option 3(a) has also been developed, which assumes the existing levels are maintained. This option is based on a modest infrastructure budget; and
- *Option 4: Comprehensive redevelopment as part of a wider Earl's Court redevelopment masterplan<sup>1</sup>* – under this option, redevelopment would be undertaken of the combined LBHF, CapCo and TfL land, as part of the comprehensive redevelopment of the Opportunity Area.

Under Options 1, 2, 3(a) and 3(b), the CapCo planning proposals for the separate development of the Earl's Court and Seagrave Road sites are assumed to be implemented, although it is uncertain whether these schemes would go ahead as planned if the estates were either not to be redeveloped or not brought forward as part of a comprehensive redevelopment of the Opportunity Area.

## 4 Economic benefits

### 4.1 Overview

Each of the options will result, to a varying extent, in a range of benefits for the local community and within the wider economy. This sub-section highlights the economic benefits of each option, focusing on the scale of impact at the local level (within the two boroughs of Hammersmith and Fulham and Kensington and Chelsea). The benefits have been assessed in relation to the quantum of development that would come forward under each option as part of the overall redevelopment of the Opportunity Area.

The key economic benefits are expected to include:

- new residential units;
- temporary construction employment created during the construction phase;
- permanent employment created through the provision of new employment floorspace; and
- additional local expenditure.

In addition to the above economic benefits, the intervention options will lead to a number of wider, qualitative impacts, such as the regeneration of deprived communities, improvements to the image of the local area and environmental improvements. These wider benefits have been assessed for each option. Furthermore, the contribution of each option to the scheme objectives identified at the start of this report has also been assessed.

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<sup>1</sup> Note: this amended version of the report includes minor changes to the titles of Options 3 and 4.

## 4.2 Residential units

### 4.2.1 Gross direct residential units

Table 4.1 sets out a summary of the total quantum of residential units that will be provided in the Opportunity Area under each of the options. In terms of the comprehensive regeneration / wider Earl's Court redevelopment option (Option 4), it is estimated that a total of 7,583 residential units would be provided, some 4,282 more than under Option 3(a)/(b) and around 4,715 more than under Option 1 (the reference case).

Table 4.1: Residential units by type – Opportunity Area <sup>2</sup>					
	Option 1	Option 2	Option 3(a)	Option 3(b)	Option 4
Existing/replacement Local Authority	531	531	531	531	531
Existing/new Affordable	371	428	87	87	798
Private sector	1,795	1,795	2,512	2,512	6,083
Existing/replacement leasehold/freehold <sup>3</sup>	171	171	171	171	171
<b>Total homes</b>	<b>2,868</b>	<b>2,925</b>	<b>3,301</b>	<b>3,301</b>	<b>7,583</b>

Overall, Option 4 would provide 6,083 market units, 1,329 affordable units and 171 leasehold/freehold units. This compares to 2,512 market units, 618 affordable units and 171 leasehold/freehold units under Option 3. Option 1 and Option 2 would both provide 1,795 market units and 902 and 959 affordable units respectively, together with 171 leasehold/freehold units.

### 4.2.2 Net additional residential units

In determining the number of net additional residential units created under each option, the key issue to be addressed is the additionality of the redevelopment proposals – the extent to which activity takes place at all, on a larger scale, earlier or within a specific designated area or target group as a result of the intervention. In order to assess the additionality of the alternative intervention options, the following factors will need to be considered:

- *leakage* – the proportion of outputs that benefit those outside of the project's target area or group (the two boroughs of Hammersmith and Fulham and Kensington and Chelsea). There is not a specific target group in terms of who occupies the new housing provided and all of

<sup>2</sup> Note: this amended version of the report includes a new category 'existing/replacement leasehold/freehold homes' to further clarify the type of units provided under each option.

<sup>3</sup> Leasehold/ Freehold replacement homes reflect those units which have previously been subject to the exercise of the 'Right to Buy' by Council tenants. These homes have been identified separately to indicate that in the future they could either form part of future affordable or private tenure homes depending on whether the owners elect to take a share in the equity of a new replacement home or, alternatively, to receive a payment from the Council for the acquisition of their home.

the housing would be situated within the Opportunity Area. Therefore the level of leakage will be zero across all options;

- *displacement* – the proportion of project outputs accounted for by reduced outputs elsewhere in the target area. Displacement may occur in both the factor and product markets. Based on JLL’s market review and the continued imbalance between supply and demand within Hammersmith and Fulham and Kensington and Chelsea, it is expected that displacement will be zero;
- *multiplier effects* – further economic activity associated with additional local income and local supplier purchases. This is not relevant to the assessment of net additional housing units and, as such, no multiplier effects have been applied; and
- *deadweight* – outputs which would have occurred without the project. This is assessed through the reference case (i.e. Option 1, the do minimum option).

After taking account of the above additionality factors, it is estimated that Option 4 will create 4,715 net additional residential units. This compares to 433 net additional residential units under Option 3(a)/(b) and 57 net additional residential units under Option 2.

## 4.3 Temporary construction jobs

### 4.3.1 Gross direct temporary construction jobs

In order to estimate the number of temporary construction jobs generated by each of the alternative options, the total construction spend associated with each option has been calculated. Option 4 is expected to involve around £4.5 billion of construction expenditure, whereas Option 3(a) and 3(b) would generate an estimated £3.2 billion and £2.9 billion of construction expenditure respectively. A lower level of construction spend would be generated under Option 1 (£2.6 billion) and Option 2 (£2.6 billion).

On the basis that £125,000 of expenditure equates to one person year of employment<sup>4</sup>, Option 4 is expected to generate 36,033 person years of construction employment (see Table 4.6). Over a development period of 18 years, this would equate to supporting an average of 2,002 construction workers per year. Option 3(a) would support 25,251 person years of construction employment and Option 3(b) 23,089 person years, while Option 1 and Option 2 would generate 20,642 and 20,693 persons of construction employment respectively.

### 4.3.2 Net additional temporary construction jobs

The analysis of the net additional construction employment impact of each option is at the two borough level (Hammersmith and Fulham and Kensington and Chelsea). As noted above, the calculation of net additionality involves adjusting for leakage, displacement, multiplier effects and deadweight. In order to assess the net additional impact of each intervention option, the following adjustments have therefore been made:

<sup>4</sup> Source: Annual Business Survey 2009

- **leakage** – in terms of leakage, reference has been made to Census UK travel to work flows. According to the Census, around 36% of people working in the construction sector in Hammersmith and Fulham and Kensington and Chelsea also reside in these two boroughs. Based on this, a leakage rate of 64% has been assumed;
- **displacement** – in order to derive an estimate of the potential level of displacement, consideration has been given to the required level of construction employment under each of the options and potential available workforce within the two boroughs. On this basis, the following displacement rates have been applied:
  - Option 1 – 5% displacement;
  - Option 2 – 5% displacement;
  - Option 3(a)/(b) – 5% displacement; and
  - Option 4 – 10% displacement.
- **multiplier effects** – the expected multiplier effects have been estimated by reference to benchmarks set out within the Department for Business Innovation and Skills' (BIS) guidance on assessing additionality<sup>5</sup>. A composite multiplier of 1.38 has been applied, in line with BIS guidance for physical regeneration projects; and
- **deadweight** – this is the level of additional temporary construction jobs created under Option 1, the do minimum intervention option / reference case.

Overall, it is estimated that Option 4 would create 6,369 net additional person years of construction employment for local residents. The impact under Option 3(a) and Option 3(b) is more limited, with an expected 2,175 and 1,155 net additional person years of construction employment generated respectively. In comparison, Option 2 would only create 24 net additional person years of construction employment.

## 4.4 Permanent employment impact

### 4.4.1 Gross direct permanent employment

The number of gross direct permanent jobs generated under each option has been based on the expected quantum of employment floorspace created within the Opportunity Area. The amount of employment floorspace provided under each option is summarised in Table 4.2. Option 4 would deliver 201,397 sq m of employment floorspace, while Option 3(a)/(b) would provide 59,543 sq m. Option 1 and Option 2 would both only bring forward 30,063 sq m of new employment floorspace, none of which would be on the two estates.

<sup>5</sup> BIS (2009), *Research to improve the assessment of additionality*.

**Table 4.2: Employment floorspace – Opportunity Area**

Use	Option 1	Option 2	Option 3(a)	Option 3(b)	Option 4
Office (GEA, sq m)	15,850	15,850	39,840	39,840	120,615
Retail (GEA, sq m)	3,700	3,700	9,190	9,190	29,429
Hospitality / hotel / leisure / cultural / community (GEA, sq m)	10,513	10,513	10,513	10,513	51,353
<b>Total employment floorspace</b>	<b>30,063</b>	<b>30,063</b>	<b>59,543</b>	<b>59,543</b>	<b>201,397</b>

Employment density ratios consistent with those used within guidance produced for the Homes and Communities Agency (HCA)<sup>6</sup> and assumptions in relation to the expected occupancy rate have been used to calculate the gross direct employment impact for each option. The assumptions adopted are as follows:

- office – employment density of 14 sq m (GEA) per full-time equivalent (fte) employee and a 90% occupancy rate;
- retail – employment density of 22 sq m (GEA) per fte employee and a 90% occupancy rate; and
- hospitality/hotel/leisure – employment density of 90 sq m (GEA) per fte employee and a 100% occupancy rate.

Based on the above assumptions, Option 4 would create around 9,528 new gross direct jobs, whereas Option 3(a)/(b) would create some 3,054 gross direct jobs. The number of new employment opportunities generated under Option 1 and Option 2 within the Opportunity Area would be an estimated 1,287.

#### 4.4.2 *Net additional permanent employment*

In order to calculate the number of net additional permanent jobs created under each option adjustments have been made in relation to leakage, displacement, multiplier effects and deadweight. The analysis of the net additional employment impact is again at the two borough level (Hammersmith and Fulham and Kensington and Chelsea). The following assumptions have been applied in relation to each additionality factor:

- *leakage* – according to Census UK travel to work flows, around 30% of people working across all sectors in Hammersmith and Fulham and Kensington and Chelsea also reside in these two boroughs. Based on this, a leakage rate of 70% has been assumed;
- *displacement* – to determine the appropriate displacement rate, reference has been made to, amongst other things, JLL's property market review and the property market analyses

<sup>6</sup> HCA (2010), *Employment Densities Guide, 2<sup>nd</sup> Edition*.

undertaken as part of the Earl's Court Planning Application<sup>7</sup>. On this basis, the following displacement rates have been applied:

- Option 1 – 5% displacement;
  - Option 2 – 5% displacement;
  - Option 3(a)/(b) – 10% displacement; and
  - Option 4 – 20% displacement.
- *multiplier effects* – a composite multiplier of 1.38 has been applied, in line with the benchmarks set out in the BIS guidance for physical regeneration projects; and
  - *deadweight* – this is the level of additional permanent jobs created under Option 1, the do minimum intervention option / reference case.

It is estimated that Option 4 would create 2,650 net additional jobs for local residents, whereas Option 3(a)/(b) would only generate 632 net additional jobs. Option 2 would not result in any net additional jobs, as the same level of employment floorspace would be provided under this option as under Option 1 (the do minimum option).

## 4.5 Additional local expenditure

In order to estimate the additional household expenditure that might be generated under each option, reference has been made to the ONS Living Costs and Food Survey (LCF) 2009. A weekly average spend figure has been used to generate an assumed total spend per annum that can be attributed to the net additional residential units provided by each intervention option.<sup>8</sup> In addition, there will be indirect and induced (income) multiplier effects associated with this new residential expenditure, due to increase local spending by businesses and employees.

Table 4.3 sets out the estimated total additional expenditure per annum under each option.

<sup>7</sup> The analysis of displacement has been based on, in particular, the following documents: Roger Tym & Partners (2010), *Earl's Court West Kensington OA: Office Market*; CB Richard Ellis (2011), *Earl's Court Project: London Borough of Hammersmith & Fulham Application 2 – Office Market Assessment*; DP9 (2011), *Earl's Court Project: London Borough of Hammersmith & Fulham Application 2 – Retail & Leisure Assessment*; and Roger Tym & Partners (2010), *London Boroughs of Ealing, Hounslow and Hammersmith and Fulham: Joint Retail Needs Study Update*.

<sup>8</sup> This excludes non-consumption expenditure (for example, savings and investments) and expenditure that would not be incurred within the local area (for example, holiday expenditure).



<b>Table 4.3: Total additional expenditure per annum</b>			
	<b>Option 2</b>	<b>Option 3(a)/(b)</b>	<b>Option 4</b>
Average household annual spend	£17,436	£17,436	£17,436
Net additional residential units	57	433	4,715
<b>Additional direct expenditure p.a.</b>	<b>£993,829</b>	<b>£7,549,615</b>	<b>£82,208,854</b>
Additional indirect and induced expenditure p.a.	£208,704	£1,585,419	£17,263,859
<b>Total additional expenditure p.a.</b>	<b>£1,202,533</b>	<b>£9,135,034</b>	<b>£99,472,713</b>

Not all of this additional expenditure would be retained within Hammersmith and Fulham and Kensington and Chelsea. In relation to convenience goods it is assumed that 90% would be retained, whereas in terms of comparison goods there would be expected to be a greater level of leakage, with only perhaps 30% of spend retained. This would mean that under Option 4 around £41 million of additional local expenditure per annum would be retained within the two boroughs. This compares to £4 million under Option 3(a)/(b) and just £0.5 million under Option 2.

## 4.6 Summary of quantifiable benefits and net present value

The quantifiable benefits attributable to each option are summarised in Table 4.4. The Table represents a broad assessment at this stage and is subject to consideration of detailed proposals. The net present value for each option is also set out within the table. This reflects the extent to which the benefits under each option outweigh the costs to the public sector. The present value of the costs and benefits of each option have been calculated based on the following assumptions:

- an average GVA per employee figure of £60,000 has been applied to the estimates of net additional employment under each option<sup>9</sup>;
- the economic benefits housing can generate by addressing labour shortages through the attraction of new residents has been reflected for each option, based on the results of Department for Communities and Local Government research<sup>10</sup>;
- the GVA impact associated with each job created is assumed to persist for 10 years<sup>11</sup>; and
- a 3.5% discount rate has been applied, in line with HM Treasury appraisal guidance, to the public sector economic costs/receipts and economic benefits.

<sup>9</sup> Annual Business Survey 2009 / ONS sub-regional GVA 2009

<sup>10</sup> DCLG (2010), *Valuing the Benefits of Regeneration*, Economics Paper 7.

<sup>11</sup> BIS (2009), *RDA Evaluation: Practical Guidance on Implementing the Impact Evaluation Framework*.



**Table 4.4: Summary of economic benefits**

	Option 1	Option 2	Option 3(a)	Option 3(b)	Option 4
Gross direct residential units	2,868	2,925	3,301	3,301	7,583
Net additional residential units	-	57	433	433	4,715
Gross direct construction jobs*	20,642	20,693	25,251	23,089	36,033
Net additional construction jobs*	-	24	2,175	1,155	6,369
Employment floorspace (sq m)	30,063	30,063	59,543	59,543	201,397
Gross direct permanent employment	1,287	1,287	3,054	3,054	9,528
Net additional permanent employment	-	-	632	632	2,650
Additional local expenditure p.a.	-	£1.2m	£9.1m	£9.1m	£99.5m
Additional expenditure retained in local area p.a	-	£0.5m	£3.8m	£3.8m	£40.9m
Net present value	£0.02bn	£0.03bn	£0.83bn	£0.99bn	£3.8bn

\*Persons years of employment

From the figures in Table 4.4, it is clear that Option 4 achieves the greatest positive net present value and delivers the largest amount of additional housing and new jobs – it would create over four times as many new jobs as Option 3(a)/(b) and provide more than ten times as many additional homes. The net present value of Option 4 would have to be around 78% or 74% lower respectively to be worse than Option 3(a) or Option 3(b). Consequently, for example, a very substantially lower quantum of floorspace would need to be approved and developed under Option 4 before either Options 3(a) or Option 3(b) was to offer a better economic return.

## 4.7 Wider benefits

### 4.7.1 Overview

Many of the benefits of the project are difficult to precisely quantify, let alone value. The approach to assessing these is based upon a multi-criteria scoring and weighting system. The likely effects of each option are appraised and the scores are assessed in relation to the project itself and its intended outcomes and objectives.

Additional benefits/impacts are expected to include:

- regeneration catalyst;
- social and community;
- image enhancement; and
- environmental and place improvements.

Each of these wider impacts is to some extent interdependent and they will also emerge at different stages.

#### *4.7.2 Scoring and weighting framework*

Each option is given a score according to the contribution it is likely to make to each wider impact. They are scored on a scale of 0 to 100, under the five headings, with the scores to be interpreted as follows:

76-100	=	an extremely significant positive impact;
51-75	=	a significant positive impact;
26-50	=	a positive impact;
1-25	=	a marginal positive impact; and
0	=	a neutral/no change position.

A weighting system is used to assign a weight to each impact according to their perceived importance in enabling objectives to be met. AMION Consulting has developed the weights and assessed the scores, based upon their experience of similar appraisals, along with research and consultations on this project. The use of such multi-criteria approaches is helpful in relation to projects that have multiple outputs and outcomes, many of which are less easily quantified. The analysis inevitably involves a degree of subjectivity but attempts to highlight the relative contribution of each option to these wider benefits. It provides further information upon which to judge the impact of the options.

The following weights out of ten have been applied:

- Regeneration catalyst 9
- Social and community 8
- Image enhancement 8
- Environmental impact 7

#### *4.7.3 Summary of wider benefit weighted scores*

It is considered that Option 4 would achieve the greatest level of wider benefits. In particular, Option 4 is capable of contributing significantly to the regeneration of local deprived communities, providing new high quality housing, a range of additional community services and

facilities and a much improved physical environment. The scale of impact under the other options, particularly Option 1 and Option 2, would be much more limited.

<b>Table 4.5: Summary of wider benefit weighted scores</b>					
<b>Wider benefit</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3(a)</b>	<b>Option 3(b)</b>	<b>Option 4</b>
Regeneration catalyst	90	135	630	540	810
Social and community	80	80	480	480	720
Image enhancement	120	120	400	480	720
Environmental impact	70	105	420	420	630
<b>Total Weighted Score</b>	<b>360</b>	<b>440</b>	<b>1,930</b>	<b>1,920</b>	<b>2,880</b>

#### 4.8 Contribution to scheme objectives

In addition to the analysis of economic and wider benefits, the extent to which each option would meet the stated policy and scheme objectives has been considered as part of the overall assessment of public sector value for money. Option 4 would contribute very substantially to achieving these objectives, as outlined in Table 4.6. The standalone redevelopment options (Option 3(a)/(b)) would make a significant contribution to a number of objectives, but not all. However, Option 1 and Option 2 would only make a minimal contribution.

**Table 4.6: Effectiveness – contribution to scheme objectives**

	Option 1	Option 2	Option 3(a)	Option 3(b)	Option 4
To increase supply of housing, providing quality homes on sustainable new developments	Limited increase in new housing supply from disposal of ancillary land. Further housing elsewhere in Opportunity Area.	Modest increase in new housing supply from disposal of ancillary land.	Significant increase in new housing supply from estates redevelopment.	Significant increase in new housing supply from estates redevelopment.	Very substantial increase in new housing supply from estates redevelopment and incorporation of CapCo and TfL sites.
To create clean and safe neighbourhoods in an area rich in opportunity, where most people of working age work	Only modest infill development would take place. The estates would be managed and maintained. Some new opportunities would be created elsewhere in the wider area, which would increase local opportunities to work.	Only modest infill development would take place. The estates would be managed and maintained. Opportunities would be created in adjacent areas, which would increase local opportunities to work.	Significant positive impact on neighbourhood and adjacent areas. The number of local opportunities to work would increase.	Significant positive impact on neighbourhood and adjacent areas. The number of local opportunities to work would increase.	Very substantial positive impact. Four new neighbourhoods and a new High Street would be created. A substantial number of local employment opportunities would be created.
To provide a mix of housing type, size and tenure to attract people on a range of incomes, creating mixed and balanced communities	Little change in the mix of housing and attractiveness of the estates.	Limited change in housing mix and the attractiveness of the estate.	Significant positive changes in mix and attractiveness. More varied mix of housing.	Significant positive changes in mix and attractiveness. More varied mix of housing.	Very substantial impact on attractiveness.
To allow people to acquire a stake in their home	A limited number of possible opportunities to acquire a stake unless stock transfer was undertaken. Existing Right to Buy would continue.	A limited number of possible opportunities to acquire a stake unless stock transfer was undertaken. Existing Right to Buy would continue.	The redevelopment would provide opportunities to allow people to acquire a stake in their home and would provide more affordable housing. However, this would need to be negotiated with developers.	The redevelopment would provide opportunities to allow people to acquire a stake in their home and would provide more affordable housing. However, this would need to be negotiated with developers.	The negotiations with CapCo mean that there are significant opportunities for residents to acquire a stake in their home. New affordable housing opportunities would be provided.
To ensure development is of a high quality design and provides a mix of local facilities	Only relatively limited development would take place and thus the design quality and mix of facilities would not change greatly.	Some further opportunities would be created to change the design quality of the area but again these would be relatively limited. In addition, the mix of facilities would not change greatly.	There would be much greater opportunity to ensure high quality design and a greater mix of local facilities.	There would be much greater opportunity to ensure high quality design and a greater mix of local facilities. However, the levels differences would mean that there was more limited local integration.	A high quality design and broad mix of facilities is proposed.

To improve access to employment and training opportunities	Opportunities would be created to employment in adjacent areas.	Again, opportunities would be created to employment in adjacent areas.	Significant employment opportunities would be created.	Significant employment opportunities would be created. However, levels differences would inhibit access to these by estate residents, to some extent.	Very substantial employment and training opportunities would be created.
To help to improve educational attainment and health outcomes and secure low levels of crime	There would be little impact on social infrastructure or on education, health and/or crime.	There would be limited impact on social infrastructure or on education, health and/or crime.	The comprehensive redevelopment of the estate would provide the opportunity to address education, health and crime.	The comprehensive redevelopment of the estate would provide the opportunity to address education, health and crime	Substantial improvements could be made to local facilities and the scheme would help to address education, health and crime issues through good design and the provision of new local opportunities.
To improve transport, accessibility and encourage walking through areas	No significant improvements would be made to transport/ accessibility under this option.	No significant improvements would be made to transport/ accessibility under this option.	The access to transport and other facilities and permeability through the area would be improved under this option.	Due to the levels differences, more limited improvements would be made to access and permeability.	Substantial improvements would be made to transport accessibility and permeability
To increase satisfaction with the townscape, public realm, environment and management	No significant changes would be made under his option.	No significant changes would be made under his option.	Comprehensive development of the area would improve the public realm and environment.	Comprehensive development of the area would improve the public realm and environment.	The townscape, public realm and environment would be improved under this option. In addition, CapCo propose to retain and manage the area.

## 5 Conclusions

The economic analysis of the alternative options has identified that:

- Options 1 (minimum intervention) and Option 2 (minimum intervention with infill): these options would mean that the existing communities are not significantly disrupted. However, they would not significantly address the poor layout of the estates nor increase housing choice and supply. The lifecycle costs of maintaining aging homes would be greater than it would be for new homes. Furthermore, the opportunity to comprehensively regenerate the Opportunity Area would be missed, with substantially fewer new homes and job opportunities being created;
- Options 3(a) and 3(b): these options would result in replacement homes for existing estate residents and an increase in housing supply and choice. The replacement homes would have a lower lifecycle maintenance cost compared with the existing properties. However, option 3(a) would require substantial public sector resources, which are not currently available. Option 3(b) would potentially generate a receipt, but would not be compliant with planning policies because it would not address the issue of permeability and would not realise many of the other planning objectives. There would be disruption to residents during the development process, with smaller phases potentially resulting in multiple moves. However, there would be the opportunity to implement a socio-economic regeneration programme including, for example, skills development, local labour and jobs brokerage. Even under Option 3(a), the lack of integration with the adjacent land would probably lead to sub-optimal design and development outcomes. In the case of Option 3(b), it would not improve permeability or the integration of the area. Significantly fewer homes and jobs would be created under Options 3(a) and 3(b) than under Option 4; and
- Option 4: this option presents the best economic case and enables long term qualitative and quantitative objectives of regeneration to be realised. It is a deliverable and viable option and would result in a substantial receipt to the Council and replacement homes for existing estate residents. These new homes would involve lower lifecycle maintenance costs than the current stock. The existing residents would be able to make 'one move only' because the integration of the sites, allowing larger phases and the use of Seagrave Road as a decant site. There would though be some disruption to resident during the development phase. The overall scheme would offer new public open space and a range of social infrastructure, along with a significant increase in housing supply and choice, and a substantial number of new employment opportunities. There would be significant opportunities to develop and implement a socio-economic regeneration programme to maximise the local benefits.

**Based on the preceding analyses, the comprehensive wider Earl's Court redevelopment option (Option 4) is assessed to be the best option. The recommendation of this report is that this is the option the Council focuses on progressing from an economic perspective.**

### **Appendix 3**

## **Summary of engagement with the West Kensington and Gibbs Green Estate Residents**

### **Summary**

This report aims to outline the purpose, process and outcome of the engagement with residents on the West Kensington and Gibbs Green estates that took place prior to the recent consultation exercise.

Since 2008, the Council has undertaken extensive consultation with residents of the West Kensington and Gibbs Green estates. Consultation has centred around the future of the estates and specifically the opportunity that the proposed comprehensive development of the Earl's Court buildings, Lillie Road depot and the West Kensington and Gibbs Green estates offers.

From the outset, the council has been committed to meaningful and extensive engagement and has placed the residents of the West Kensington and Gibbs Green estates at the heart of the engagement process. The Council's engagement strategy has aimed to be as inclusive and transparent as possible and has allowed the Council to work with residents to-

- Understand their aspirations for their estates,
- Understand their concerns and their needs
- Assess the potential benefits and dis-benefits of the potential comprehensive redevelopment scheme, and
- Agree a detailed set of assurances that will protect and assure residents.

The Council has attempted to engage with as many residents as possible throughout the engagement process. Understandably, there is a clear mix of views, opinions and aspirations amongst West Kensington and Gibbs Green estate residents about the future of their estates, with some residents being supportive of regeneration and the possible benefits it could bring, whilst others believing that regeneration of the estates is unnecessary. This report aims to summarise and group the various responses together to extract key resident views, concerns and aspirations.

Throughout the engagement process there has been two key strands of consultation running in parallel – consultation with residents about the inclusion of the estates in the comprehensive redevelopment focusing on the development of assurances for Tenant and Leaseholders/ Freeholders, which has been led by the Council, and consultation on the Masterplan for the proposed comprehensive regeneration area, which has been led by Capital and Counties.

A third strand of consultation has been led by LBHF Planning Authority and has been centred around the development of a Supplementary Planning Document for the proposed development area.

Engagement with estate residents is ongoing. Should the Council wish to include the estates in the proposed comprehensive redevelopment of Earl's Court, the Council will continue to work with residents to ensure that they remain at the heart of any engagement and regeneration plans.

## Background

The Council has been keen to fully explore and understand the potential benefits that could flow from the inclusion of the estates within a comprehensive regeneration scheme and in October 2009 it signed a Collaboration Agreement with Capco and TfL. The Collaboration Agreement provided the legal framework for the three landowners to establish whether comprehensive redevelopment would bring sufficient benefits to justify to resultant change.

Whilst there had been engagement with residents of the West Kensington and Gibbs Green estates during 2008 and early 2009, it was after the signing of the Collaboration Agreement in October 2009 that the Council launched an extensive process of engagement with residents.

## Engagement Strategy

Over the past 18 months the Council's engagement strategy has adapted to meet the needs and requirement of residents on the estates. Rather than dictating a timetable and process for engagement, the engagement strategy has grown organically and has been shaped by the residents of the estates.

To ensure engagement with as many estate residents as possible the council engaged through various forms and mediums throughout the process. This included:

- **Dedicated Regeneration Officers**  
Two Officers have been available at all times to engage with residents. These Officers have completed numerous house visits, drop in sessions and surgeries with residents on the estate.

The Officers are directly involved in aiding the Council make a decision on whether to include the estates. This has allowed issues raised during the engagement process with residents to be fed directly into any eventual regeneration plans.

- **Regular Newsletters**  
Regular newsletters have been distributed to the estates to update each household with any news with regards to the estates. These newsletters are distributed to every door through the Council's delivery contractor.
- **The West Kensington and Gibbs Green Steering Group**  
A key method of engagement with estate residents has been through the West Kensington and Gibbs Green Steering Group.

The West Kensington and Gibbs Green Steering Group has been established by the residents of the estates for residents of the estates. In 2010, a group of residents expressed a wish to set up the Steering Group of local residents in order to talk to the Council about the potential development proposals, to counter rumour and misinformation and to further develop the Tenant and Leaseholder/Freeholder assurances. The Group has received independent legal advice in order to negotiate with the Council.

Membership of the group is open to all estate residents and the group has been advertised extensively by the Council in its publications and at events



on the estates. The group has continued to meet and grow and now has a membership of over 100 estate residents. Until recently the Group has acted as a consultative group but has recently formalized and has created a Limited Company. The Steering Group have agreed the Company's objectives.

The Council works with the Steering Group as a part of its communication strategy for the Earls Court development as this enables access to a wide range of local residents and facilitates the type of engagement the council is keen to undertake.

- **Dedicated Website**  
The Council has a dedicated West Kensington and Gibbs Green website which is updated with all recent information and documents relating to the potential redevelopment project.
- **Surgeries and drop-in sessions**  
At key points in the engagement process, the Council has held drop in sessions and surgeries at the Holiday Inn Express on North End Road and at the West Kensington and Gibbs Green Tenant Halls. At these events Officers have been available to engage with residents about regeneration, answer questions and determine residents concerns and aspirations for the future of the estates.

### Engagement Timetable

The engagement process has been broken into 9 stages of engagement, which are described below:

Stage	Summary of engagement	Form of Engagement
<p><b>Stage 1</b> 2008/2009</p> <p>Estate Regeneration</p>	<ul style="list-style-type: none"> <li>• To carry out a major 'listening exercise' to understand if/how residents felt they could benefit from major investment from the Earls Court and TfL depot redevelopment.</li> <li>• To encourage as widespread an involvement of residents from the estates as possible in the programme, and give everyone the opportunity to take part and respond.</li> <li>• Provide a clear summary of issues and feedback to the Council to help them plan for the future to ensure that residents benefit from the investment opportunities around them</li> </ul>	<ul style="list-style-type: none"> <li>• Newsletter</li> <li>• Drop-in Sessions</li> <li>• Surgeries</li> </ul>
<p><b>Stage 2</b> Winter 2009/10</p> <p>Collaboration Agreement Introduce Capital &amp; Counties</p>	<ul style="list-style-type: none"> <li>• Reassure residents of current position (no decisions made)</li> <li>• Reassure residents of nature of the long term engagement process</li> <li>• Introduce Capital and Counties</li> </ul>	<ul style="list-style-type: none"> <li>• Newsletter</li> <li>• Drop-in Sessions</li> <li>• Surgeries</li> </ul>

	<ul style="list-style-type: none"> <li>• Listen and understand resident concerns</li> </ul>	
<b>Stage 3</b> Spring – Summer 2010  First Draft of Tenant and Leaseholder/Freeholder Assurances  Place making Consultation	<ul style="list-style-type: none"> <li>• Consult on initial safeguards for residents</li> <li>• CapCo introduced Terry Farrell &amp; Partners as the Project Masterplanner &amp; explained the masterplan process</li> </ul>	<ul style="list-style-type: none"> <li>• Council produced a detailed newsletter giving assurances to Council Tenants, Leaseholders and Freeholders.</li> <li>• Surgeries</li> <li>• Drop-in sessions</li> </ul>
<b>Stage 5</b> Winter 2010/11  Detailed Tenant and Leaseholder Assurances  Initial Masterplan Concepts	<ul style="list-style-type: none"> <li>• Consultation on the first detailed Tenant and Leaseholder/Freeholder assurance documents that had been produced collaboratively between the Steering Group, the Council and CapCo.</li> <li>• First meeting of the wider Steering Group</li> <li>• CapCo introduced the concepts informing the production of the masterplan for the site</li> </ul>	<ul style="list-style-type: none"> <li>• Drop-in sessions</li> </ul>
<b>Stage 6</b> Spring 11 Launch of Masterplan	<ul style="list-style-type: none"> <li>• Launch of the masterplan</li> <li>• Understanding estate residents views, aspirations and concerns with the proposed masterplan</li> <li>• Continued Consultation on the Detailed Tenant and Leaseholder/Freeholder offers</li> <li>• Consultation on the design and size of proposed replacement homes at Seagrave Road</li> </ul>	<ul style="list-style-type: none"> <li>• 4 day exhibition</li> </ul>
<b>Stage 7</b> Summer 2011  Pre application Consultation	<ul style="list-style-type: none"> <li>• Pre planning consultation for the main site application</li> <li>• Pre planning consultation for the Seagrave Road detailed application</li> <li>• Understanding estate residents views, aspirations and concerns with the proposed applications</li> <li>• Continued Consultation on the Detailed Tenant and Leaseholder/Freeholder offers</li> </ul>	<ul style="list-style-type: none"> <li>• 4 day exhibition</li> </ul>
<b>Stage 8</b> Winter 2011/12	<ul style="list-style-type: none"> <li>• Consultation on Earls Court Supplementary Planning document on the estate and the wider area</li> </ul>	<ul style="list-style-type: none"> <li>• Newsletter for the estate and wider area promoting consultation</li> </ul>

### Resident Feedback

The Council's engagement strategy has been shaped by the residents on the estate. It has been a reactive - responding to what residents have wanted. Early into the engagement process, it became clear that what residents wanted most from the engagement process was to gain a better understanding of how the inclusion of the estates in a comprehensive scheme would affect them, and how they would be protected. They also wanted to ensure that any promises made to them about the redevelopment would be guaranteed by the council.

In response, the council has, over the last two years attempted to capture all of these concerns and aspirations and ensure, where practicable that they are fed into any Land Agreement with Capital and Counties.

The concerns and aspirations that were common amongst residents of both estates are summarised below:

- **Security of tenure**  
From the outset, residents made it clear that they wanted to remain secure Council tenants. Residents were nervous that any redevelopment on the estates would lead to a change in landlord, which was deemed to be unacceptable by the majority of residents the Council engaged with.
- **Security of rental levels**  
Residents were nervous that regeneration would lead to increased rental levels. Residents emphasised that they required comfort that any regeneration would not cause them to be financially worse off.
- **Demolition**  
Whilst some residents are extremely supportive of regeneration, specifically the potential inclusion of the estates in the comprehensive regeneration scheme, other residents are clearly opposed to any regeneration that includes the demolition of the current properties on the estate.
- **Re-housing**  
A key message that residents have iterated throughout the engagement process is their strong connection with the West Kensington and North End Road area and the strength of their existing community.

Residents emphasised their anxiety that redevelopment would lead to them being forced to move from the area or outside the borough. Residents were keen that any development should allow them to remain within the area, allowing them to continue to use the same schools, services and facilities as are currently used.

Residents also wanted to ensure that any redevelopment would allow them to maintain their sense of community and that any re-housing would happen in a way that allowed support networks to be maintained.

- **One move only**  
Residents made clear that should they have to move due to any redevelopment, they would only want to move once.
- **Affordability**  
Leaseholders and Freeholders on the estates wanted certainty that should they would be fairly compensated and be given the opportunity to purchase an affordable property within the same area as they are living.
- **Process**  
Residents expressed anxiety around any regeneration process. They wanted to understand how regeneration would work in practice and how they would be supported throughout the process. Residents wanted a clear understanding about what was being proposed, how it would affect them and

the likely timescales. Residents wanted reassurance that they would be adequately supported, specifically if any re-housing would be required.

- **Jobs and employment**

There is a strong desire amongst residents to increase employment and training opportunities for local residents. However, residents made clear that they had been disappointed by previous regeneration schemes, failing, in their opinion, to bring the employment benefits for local people that had been promised.

Residents emphasised that it should be local people who reap the employment opportunities that regeneration could bring. They wanted an understanding of how this will be achieved and how the necessary skills training would be put in place to allow residents to be trained to allow them to benefit from any employment opportunities.

- **New Homes**

Residents were concerned over the size and type of new properties that regeneration may bring. Residents emphasised that it was important that any new housing should have comparable room sizes to existing properties on the West Kensington and Gibbs Green estates. Residents also raised concerns over the types of new homes to be provided. Residents living in houses wanted to ensure that any regeneration would provide houses and not only flats.

- **Parking**

Residents of the estates currently benefit from a high number of parking spaces on the estate. Residents raised concerns that regeneration may reduce the number of parking spaces available to them and may increase the cost of parking within the area.

- **Layout of the estates**

Residents had mixed views about the estate. Some residents felt that the estate was poorly laid out and lent itself to anti-social behaviour due to its closed nature and that the green space was poorly designed and under used. Other residents felt that the lay out of the estate resulted in the estate being quiet and peaceful.

## **Tenant and Leaseholder/Freeholder Offers**

To ensure that the Council addresses the issues that had been raised and that are outlined above, the Council has been working with residents to jointly produce Tenant and Leaseholder/Freeholder offer documents which outline what would happen to residents should the estates be included in the comprehensive redevelopment scheme proposed by Capital and Counties.

The offers have been negotiated with residents of the estates, primarily with the West Kensington and Gibbs Green Steering Group. The Steering Group have had legal advice throughout the negotiation of these offers. It has been agreed that the assurances within the Tenant and Leaseholder/Freeholder offers are developed into Individual contracts, for each resident on the estates, setting out their individual position. These contracts have now been produced and are currently being agreed with the Steering Group. Once agreed they will be issued for information to all

residents. In summary the main assurances to both groups of residents are as follows:

### **Tenants**

- Secure Council tenants will remain as such with rents set by the Council in line with other existing Council rents.
- All tenants will be made an offer to move into a new home on the new development which suits their housing needs.
- Tenants will be entitled to a Homeloss payment to compensate them for the move. This is currently set by legislation at £4,700 per household.
- Tenants will have a dedicated re-housing officer to help them through the process and access to free independent housing advice.
- The development will be phased to allow tenants to be re-housed with only one move with no compulsory use of temporary accommodation. Existing groups who wish to remain together will be moved together.
- Tenants who are under-occupying will be offered a new home with one additional bedroom above their need.
- Tenants moving into the new development will be offered new household goods included a fridge/freezer, washing machine/dryer, dishwasher, oven/hob and new carpets and curtains. They will also be compensated for any reasonable costs as a result of moving, such as removal expenses and re-routing of mail.

### **Leaseholders and Freeholders**

- Resident homeowners will receive full market value plus compensation of 10% of its value.
- Resident Homeowners who wish to move into the new development will receive a discount of 10% of the value of their new property.
- If after receiving a discount Resident Homeowners still cannot afford to purchase a home in the new development the Council will hold any outstanding equity, at no rent, up to the value of the new home that should be an equivalent size to their existing home. Homeowners will not be expected to increase borrowing on their mortgage to afford a home in the new development.
- Resident Homeowners who wish to be bought out and leave the area will be offered the value of their home plus 10% Homeloss Compensation unless they move under the Early Purchase arrangement.
- Homeowners will be able to choose the time when they wish to be bought out and move away, up until the time when their property is required for development.
- Homeowners will be entitled to free independent valuation and legal fees for the conveyance.
- Reasonable costs of moving will be funded.

# West Kensington and Gibbs Green Information Pack



The Council is to decide whether to include the West Kensington and Gibbs Green estates within the Earls Court redevelopment scheme. The Council wants to consult residents on the estates and residents and businesses in the local area before taking this decision.

For secure tenants on the estates, this consultation process will also satisfy the requirements of section 105 of the Housing Act 1985.

This document summarises the issues involved and sets out what the Council is proposing to do.

## **Tell us what you think**

This is your opportunity to make your views known. Please see the feedback form in the back of the pack.



## Welcome to this information pack

**This pack has been produced to allow you to have your say, before the Council makes a final decision on whether to include the West Kensington and Gibbs Green estates in the comprehensive redevelopment plans for the Earls Court area.**

For secure council tenants on the estates, this is in part, what is called a Section 105 consultation because it potentially involves significant changes. However, it is also a consultation for everybody who lives or owns a property on the estates, and other residents and businesses in the local area.

As you will be aware, for some time the Council has been working with residents of the estates and EC Properties Ltd (a subsidiary of Capital and Counties Properties plc, the owner of the Earls Court buildings) to explore the benefits of including the estates in the wider plans and understand and address residents' concerns should the estates be included.

After weighing up all the options, the Council has now reached a provisional view that including the estates in the wider plans by entering into a so-called 'Conditional Land Sale Agreement' with EC Properties is in the best interests of local people. However we want your views before making any final decision and so have produced this pack to ensure that you have the information you need to form your views on the Council's proposal.

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## The story so far

**Since 2008:** The Council has been talking to residents on the West Kensington and Gibbs Green estates about the possibility of including the estates in the proposed wider redevelopment of the area, which includes Earl's Court exhibition centres and the Lille Bridge Depot.

**October 2009:** The Council signed a Collaboration Agreement with the two other landowners, Capital and Counties and Transport for London (TfL), to explore the potential benefits of redevelopment.

**Early 2010:** The Council started to develop assurances for tenants, leaseholders and freeholders which sought to protect their interests and address their concerns should redevelopment occur.

**Early 2011:** A group of residents set up the West Kensington and Gibbs Green Steering Group to make sure that these assurances offered the best deal for tenants/leaseholder and freeholders. The group, with independent legal advice, has helped to turn the assurances into legally-binding contracts that would come into force should redevelopment occur.

**Early 2011:** Capital and Counties launch their Masterplan for the redevelopment area.

**June 2011:** EC Properties submit an outline planning application for the redevelopment area and a detailed planning application to build homes on Seagrave Road.

**July 2011:** The Council signed an Exclusivity Agreement with EC Properties which gave the Council the time and resources needed to investigate the potential benefits of including the estates within the comprehensive redevelopment scheme.

**November 2011:** Second round of consultation on the Supplementary Planning Document - the planning document for the Earl's Court Opportunity Area.



## What are the proposals?

**The proposal area** The Council has been considering whether to include the West Kensington and Gibbs Green estates within EC Properties' comprehensive redevelopment proposals.

EC Properties' redevelopment proposals also include the following land holdings:

- The Earl's Court buildings and Seagrave Road Car Park currently owned by EC Properties
- The Lillie Road Depot owned by TfL





## EC properties vision for the area



The planning applications submitted by EC Properties in June 2011 were based on a masterplan produced by Sir Terry Farrell. The masterplan is centred around the concept of building four villages and a high street, linking North End Road with Earl's Court Tube station. Within the masterplan, the Earl's Court buildings, the Lillie Road Depot and the West Kensington and Gibbs Green estates would be demolished to allow for the construction of thousands of new homes, new open space, new offices, new shops and facilities.

### The masterplan envisages:

#### New homes:

- 7,500 new homes (including 808 at the Seagrove Road Site)
- Approx 1,300 affordable homes
- Approx 6,200 private homes

#### Creation of four urban 'villages'

- North End: with a market at the heart of activity
- West Kensington: the new front door to central London with a new commercial hub
- The High Street: including shops, bars and restaurants
- West Brompton: a quieter residential area designed for families with nearby open spaces and a primary school
- Earl's Court: the focal point will be Exhibition Square which will mark the entrance to the residential area and the eastern edge of the High Street

#### Facilities:

- A new high street with shops, cultural and community facilities
- A new primary school with nursery and daycare facilities
- A new integrated health hub offering a range of primary health care
- Playgrounds and facilities for children of all ages

#### Culture and Leisure:

- A new community and cultural venue dedicated to the arts, community learning and entertainment
- New sports and leisure facilities

#### Transfer and Traffic:

- A new high street designed for pedestrians, cyclists and cars which links North End Road to Warwick Road
- A new, north-south thoroughfare called the Broadway designed for pedestrians, cyclists and cars which link Cromwell Road to Lillie Road
- Improvements to Earl's Court, West Brompton and West Kensington stations
- New bus routes and new upgraded bus stops
- Electric car clubs and a series of charging points

#### Seagrove Road:

- 808 new homes
- A 90m long London garden
- Secure underground car parking

The planning applications are currently going through the planning process and have not yet been decided. If you would like more details on the plans please visit [www.lbhf.gov.uk/earlscourtapplication](http://www.lbhf.gov.uk/earlscourtapplication) or [www.myearlscourt.com](http://www.myearlscourt.com)



## The potential land sale agreement

If, after consultation, the Council decides to include the estates in the comprehensive redevelopment proposals it would enter a land agreement with EC Properties. The land agreement would grant EC Properties the right, for up to five years, to purchase the land in phases on satisfaction of a number of conditions including:

- Re-providing the Council with 760 homes within the redevelopment area
- EC Properties securing suitable planning permissions
- The Council securing permission from the Government
- The Tenant and Leaseholder/Freeholder guarantees
- Redevelopment happening on a phase by phase basis to allow residents to move straight into their new home and avoid moving into temporary accommodation while the new homes are constructed
- The Council receiving approximately £100 million as payment for its land
- The Council seeking permission to use compulsory purchase powers as a last resort should negotiations fail
- EC Properties purchasing 11 Farm Lane (see map on page 3) to build new homes which some residents could move to if they choose (the Government's permission would not be needed for this purchase)

Additionally, EC Properties would purchase the former Gibbs Green School site as soon as any land sale agreement was signed (and assuming that the Government also gave permission). This would provide the much-needed funds to build a new borough-wide secondary autistic facility in White City, the building of which has been stalled due to public sector cuts.

## ...and how this could affect residents living on the estates

If the West Kensington and Gibbs Green estates are included within the comprehensive redevelopment proposals all of the 760 properties on the estates would be demolished. All of these homes would then be rebuilt to modern standards within the redevelopment.

Each Secure Council Tenant, Leaseholder and Freeholder would receive a contract outlining the Council's assurances to residents and would have a dedicated re-housing officer to explain the contract and help residents throughout the whole redevelopment process. The terms of this contract have been negotiated by a residents' steering group, using independent legal advice, with the intention of securing the best possible deal for people living on the estates.

The tenant and leaseholder/freeholder contracts are explained in summary below and for residents of the estates more detailed questions and answers explaining the offers are enclosed.

## Secure tenants offer summary

- You will remain a secure council tenant
- You will be offered a brand new home in the redevelopment matched to your need and will be able to stay in the redevelopment area
- Your rent will continue to be calculated in the same way as secure council rents across the borough
- You will be allocated a dedicated re-housing advisor well in advance of any move. They will help you through the whole process, keeping you up to date with progress, understanding your issues and ensuring your need is properly assessed
- If you are currently under-occupying then you will be offered a new home with one room more than is required to meet your housing needs
- Your new home will come with brand new household white goods (fridge/freezer, washing machine/dryer, dishwasher, oven/hob) and new carpets and curtains. You will also be compensated for any reasonable costs as a result of moving, such as removal expenses and re-routing of mail
- All secure tenants who have lived in their home for more than a year will be entitled to a home loss payment of £4,700 to compensate them for the move
- You will receive a disturbance payment which will cover your reasonable costs of moving
- You will have access to free independent advice.
- You will only have to move once and will not be required to move until your new home is complete
- An occupational therapy assessment will be undertaken if requested and identified necessary adaptations will be completed in your new home
- You will be offered compensation for loss of garden or private parking space if you are allocated a home without them
- The Council will set up a committee of residents, council officers, representatives of EC Properties and the builders working on the site so you can contribute to the development and design of homes and the wider scheme

## Resident leaseholder and freeholder summary

- Resident homeowners will get the full market value of your home plus compensation of 10% of its value, up to £47,000
- If you choose to move to a new home in the redevelopment you will also receive a discount if you sign up early
- If you cannot afford to purchase a home in the redevelopment outright you will be given the opportunity to use your compensation and discount towards buying an intermediate affordable home in the redevelopment. You will not be expected to increase borrowing on your mortgage to afford a home in the redevelopment
- You will be entitled to an independent valuation of your property and the Council will provide a dedicated housing advisor
- You will be compensated for any reasonable costs as a result of moving, such as legal fees, removal expenses and re-routing of mail
- You will receive compensation if you paid for Decent Homes work and move out because of any redevelopment
- Service charge for all existing resident leaseholders will be capped at its existing level for five years after you first purchase your new property
- Service charge for existing resident freeholders will be capped at a maximum of £1,000 per annum for five years after you first purchase your new property
- The Council will set up a committee of residents, Council officers, representatives of EC properties and the builders working on the site so you can contribute to the development and design of homes and the wider scheme

## Other estate residents

**Homeowners** If you are not resident in a property that you own on the estates, or you have not owned, or been resident in the property for a year, then the details of how this redevelopment affects you are dealt with in the homeowners' question and answer documents included within this folder. For a fuller explanation of how this will affect you please contact Sarah Lovell on 020 8753 5571 or Philip Morris on 020 8753 3334.

**Tenants** If you are not a secure Council tenant or are a private tenant of a private owner then the details of how this redevelopment will affect you are dealt with in the tenants' question and answer documents included within this folder. For a fuller explanation of how this will affect you please contact Sarah Lovell on 020 8753 5571 or Philip Morris on 020 8753 3334.

**Housing association tenants** If you are an assured tenant of a housing association on the two estates then you will be offered the opportunity to become a Council tenant and the terms of the tenant contract will apply to you.

If you wish to remain a tenant of your existing housing association then you will be able to do so.

## What kind of replacement homes would be built?

- There would be 760 replacement homes provided to match the current numbers and tenure of homes on the estates.
- The new homes would be a mix of houses, flats, and maisonettes.
- All new homes would be built to the Mayor's Design Guide space standards. This is a minimum standard brought in by the Mayor to ensure that all new homes are built to a decent size standard.
- 10% of the new homes would be wheelchair accessible
- All new homes would be built to Lifetime Homes standard - this means that they would be more easily adapted to meet the needs of residents.
- Residents would be able to influence the layout of the replacement homes - choosing whether they would like a lounge/diner or a kitchen/diner. They would also be able to make colour choices and have a range of appliances to choose from.
- There would be a significant number of ground floor properties with their own front door and private gardens and many properties would have balconies.

The typical layout and size of any replacement homes which may be provided can be seen from the following examples of the proposed replacement homes at Seagrave Road.



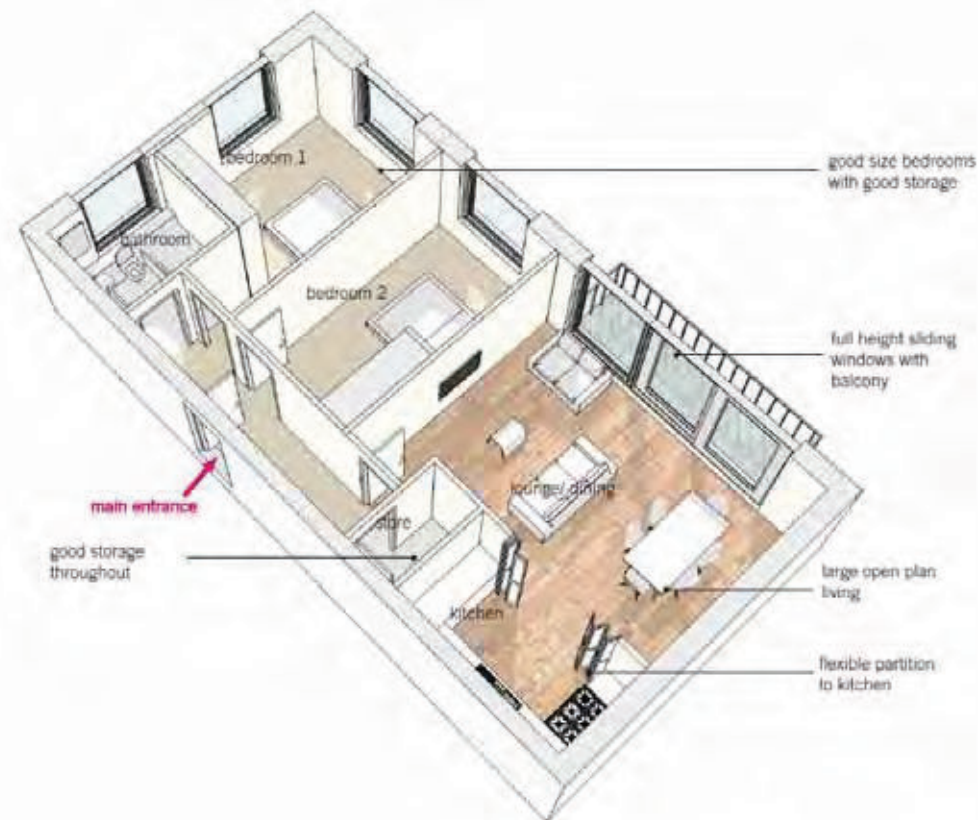


## Two bedroom apartments

BUILDING D | 2 BED APARTMENT - 77m<sup>2</sup> (829 ft<sup>2</sup>)



3rd - 6th Floor Plan 1:50



## Three bedroom duplex

BUILDING D | 3 BED DUPLEX - 101m<sup>2</sup> (1,087 ft<sup>2</sup>)



Ground Floor Plan 1:50

First Floor Plan 1:50

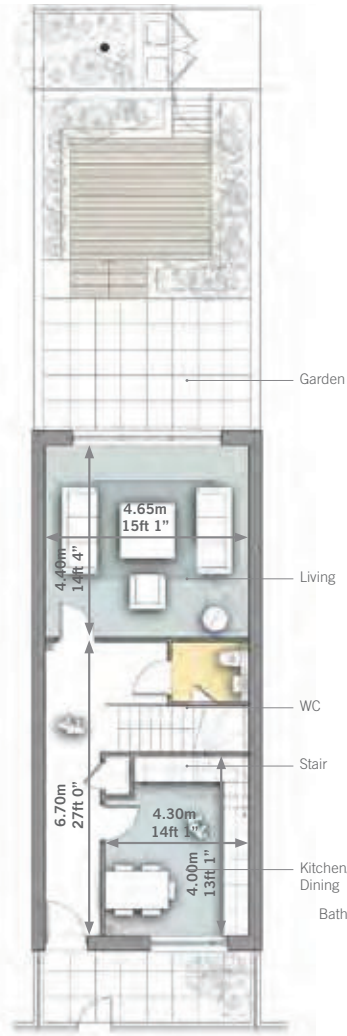


Ground Floor Plan

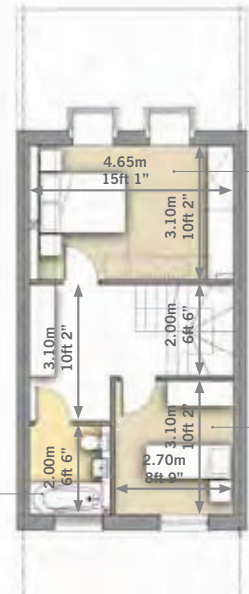
First Floor Plan

## Four bedroom houses

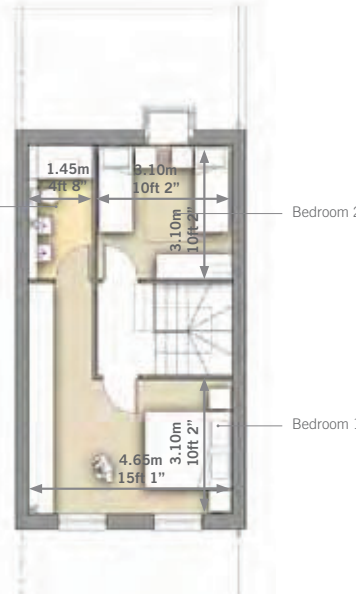
SEAGRAVE ROAD HOUSES | 4 BED HOUSE - 146.4m<sup>2</sup> (1,476 ft<sup>2</sup>)



Ground Floor Plan 1:100



First Floor Plan 1:100



Second Floor Plan 1:100

## When would estate residents need to move?

- The Council has promised that no-one would be forced to move until a new home has been built for them, this avoids people having to move twice
- This does mean that the new homes would be provided in phases over a number of years
- The Council will talk to residents about the development of the phasing plan
- Any phasing plan would be developed to ensure that:
  - Residents only have to move once, directly from their old home into their new home
  - Each phase of new-build homes caters for the needs of residents that have to move into them
  - Phases would be large enough to allow residents to move together to ensure support networks are kept intact
- The first phase of building would be built at the Seagrave Road site
- It is estimated that the first new homes for residents to move into would be ready at the end of 2014 or beginning of 2015
- Currently, there is no set timescale for the development process but it is anticipated that the final moves to new homes could be completed within ten years

## Living on the estate during the building process

- If redevelopment does occur, we recognise that your life does not stop while the building work is happening
- The Council will be working hard to ensure that disruption is kept to a minimum and that security of existing residents is a priority
- Any building sites would be kept secure when work was not taking place
- The Council would look to make sure that, during the building work, any vacant land that became available would be used in a creative way for the good of the community. In other redevelopment areas this has seen resident-led temporary cafes and cultural facilities emerging
- Our absolute priority would be to ensure that the community and neighbourhood continued to flourish while the new homes were being built around it



## Options for the estates - what is best?

To help understand what is best for the West Kensington and Gibbs Green estates and the Borough more widely, the Council has been exploring the potential options for the estates and has commissioned an economic study which looked at and compared the benefits of four options:

**Option 1** - Keep things as they are. The Council would continue to own, manage and maintain the estates. Alternatively, the Council could transfer the estates to a housing association (or a resident-controlled private registered provider) that would then own, manage and maintain the estates.

**Option 2** - The Council would continue to own, manage and maintain the estates but would also seek to develop spare plots of land within the estates.

**Option 3** - Redevelopment of the estate only (not as part of the comprehensive redevelopment plans). The existing properties on the estate would be demolished and replaced with new housing and other supporting uses.

**Option 4** - Inclusion of the estates within the Earls Court comprehensive redevelopment scheme (as explained earlier in this document).

**For a copy of the Economic Appraisal, please see [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken)**

Using this study the Council has looked at which option delivers the optimum benefits for local people living on the estates and in the wider area including:

- New housing and housing choice
- Job opportunities
- Disruption to residents
- Long term management, maintenance and running costs
- New community facilities provided
- Community safety
- Quality of open and play space

## THE FOUR OPTIONS SUMMARISED

Illustrated below are some of the advantages and disadvantages in the Council's provisional view



### Option 1 Maintain the estates as they are (This could include a transfer to a housing association, or a resident-controlled private registered provider)

- No disruption or re-housing for estate residents
- Transfer to a housing association (or a resident-controlled private registered provider) could generate increased local responsibility

- The estates could not be used, as part of the comprehensive redevelopment, to create additional housing
- The estates could not be used, as part of the comprehensive redevelopment, to create more jobs
- Increasing repairs and maintenance costs of existing homes in the estates
- Significant funds needed to maintain the ageing estates

### Option 2 Continue to maintain the estates and develop plots of land within the estates

- Minimal disruption for some estate residents
- Some additional housing (although not as much as under Option 4)
- Creates some jobs (although not as many as under Option 4)

- Increasing repairs and maintenance costs of existing homes in the estates
- Significant funds needed to maintain the ageing estates

### Option 3 Redevelopment of the estates only

(not as part of the comprehensive plans). The existing properties on the estate would be demolished and replaced with new housing and other supporting uses

- Replacement of all existing homes
- Increased housing supply and choice
- Job creation
- Lower repairs and maintenance for new homes
- Lower running costs for residents of new homes
- Improvement to health and education facilities
- New more useable play and open space
- Better layout and design to improve community safety

- Residents lose their original homes, and suffer disruption
- Smaller phases may result in multiple moves for residents
- This option would be unlikely to generate substantial amounts of money for the Council, and might end up costing the Council money
- A long-term redevelopment over a number of years

### Option 4 Include estates in comprehensive redevelopment scheme

- Replacement of all existing homes
- Significant increase in housing choice and supply
- One move only for residents
- Significant job creation
- The Council would receive a substantial sum to invest in the Borough
- Lower repairs and maintenance for new homes
- Lower running costs for residents of new homes
- New health and education facilities
- New more useable play and open space
- Better layout and design to improve community safety

- Residents lose their original homes, and suffer disruption
- A long-term redevelopment over a number of years

The Council has provisionally concluded that Option 4 is the option which delivers the most benefits overall. The Council is also concerned about the affordability of Options 1, 2 and 3, as compared with the financial benefit to the borough's finances of Option 4.

## The option for a housing stock transfer

Whilst some residents are enthusiastic about including the estates in the comprehensive redevelopment scheme, other residents would like the estates transferred to a resident-controlled private registered provider (one of the alternatives under Option 1). This would prevent the estates from being included in the comprehensive redevelopment scheme. The result would be that overall the redevelopment scheme would produce fewer additional homes (including fewer additional affordable homes) and would create fewer jobs. The borough would also lose out on the other advantages listed under Option 4 above.

For these reasons, the Council's provisional view is that the option of including the estates in the wider redevelopment scheme should be pursued first, and a housing stock transfer could be better pursued after the benefits of the comprehensive redevelopment scheme had been achieved, and residents had moved into their new homes.

## Decision making process

Before making any decision the Council is seeking the views of residents and local businesses on whether the estates should be included within the comprehensive redevelopment scheme. You have six weeks to give your views.

The Council hopes to make a final decision in Spring 2012

More information on the scheme can be found by visiting:

- [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken)
- [www.lbhf.gov.uk/earlscourtapplication](http://www.lbhf.gov.uk/earlscourtapplication)
- [www.myearlscourt.com](http://www.myearlscourt.com)

The Council will be holding a series of drop in sessions to talk to estate residents and explain the proposals, the details of which will be advertised on the Council's website.

This is an important consultation about your home and your neighbourhood. If you would like this in large print, Braille or any other format please contact 020 8753 3334

### Arabic

هذه استشارة مهمة حول منزلك والحي الذي تسكن فيه. إذا كنت تريد الحصول على نسخة مترجمة من هذا النص بلغتك، فمرجو الاتصال برقم 020 8753 3334.

### Albanian

Kjo është një fletushkë konsultimi e rëndësishme për shtëpinë dhe lagjen tuaj. Nëse e dëshironi këtë të përkthyer në gjuhën tuaj, ju lutemi kontaktoni në 020 8753 3334.

### Bengali

আপনার ঘর ও নেইবারহুড সম্বন্ধে এটি একটি গুরুত্বপূর্ণ কনসাল্টেশান। আপনি যদি আপনার ভাষায় এটি অনুবাদ চান তাহলে দয়া করে 020 8753 3334 নাম্বারে ফোন করুন।

### Farsi

این مشاوره که راجع به منزل و محله شماست، بسیار مهم می باشد. اگر می خواهید این مشاوره به زبان شما ترجمه شود، با شماره 020 8753 3334 تماس بگیرید.

### French

Il s'agit d'une consultation importante sur votre domicile et votre voisinage. Si vous souhaitez une traduction dans votre langue, appelez le 020 8753 3334.

### Polish

Przeprowadzane jest tu ważne badanie opinii mieszkańców co do ich mieszkań i osiedla mieszkaniowego. Aby uzyskać tłumaczenie na swój język ojczysty, proszę zgłosić się pod nr. 020 8753 3334.

### Portuguese

Esta é uma consulta importante relativa à sua casa e ao seu bairro. Se desejar obter estas informações traduzidas para a sua língua, ligue 020 8753 3334.

### Somali

Wadatashigaani wuxuu muhiim u yahay gurigaaga iyo xaafaddaada. Haddii aad jeclaan lahayd in wadatashigaan luqaddaada laguugu turjumo fadlan la soo xiriir 020 8753 3334.

### Spanish

Este texto es una importante consulta sobre su vivienda y su vecindario. Si desea que se lo traduzcan a su idioma, llame por favor al 020 8753 3334.

### Tagalog

Ito ay isang mahalagang konsultasyon tungkol sa inyong tahanan at mga kapitbahay. Kung nais ninyong maisalin ito sa inyong wika, tumawag lamang sa 020 8753 3334.

### Turkish

Bu, eviniz ve oturduğunuz semt ile ilgili önemli bir danışma belgesidir. Türkçeye çevrilmesini isterseniz, lütfen 020 8753 3334'ü arayın.

### Urdu

یہ آپ کے گھر اور آپ کے قریب و جوار کے بارے میں اہم مشاورت ہے۔ اگر آپ اس کا ترجمہ اپنی زبان میں کرانا چاہیں گے تو براہ مہربانی فون نمبر 020 8753 3334 پر رابطہ کریں۔

# Any questions?

Please contact Phil Morris or Sarah Lovell  
at Hammersmith & Fulham Council on  
020 8753 3334 or 020 8753 5571

**Please contact us if you need this  
information in any other language or  
would like any part of this document  
produced in large print or Braille.**

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**EARLS COURT REDEVELOPMENT**

**APPENDIX 5 - ANALYSIS OF CONSULTATION  
RESPONSES**

September 2012

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- 5. Analysis of the Responses from Individual Residents**
- 6. The TRAs' Response**
- 7. Mr Slaughter's Letter**
- 8. Additional Representations made in light of 23 April 2012 Cabinet Report**

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**Annex 2 - Pre-typed feedback form produced by the TRAs**

**Annex 3 - TRAs' leaflet with suggested response text**

**Annex 4 - Comparison of offers to residents of redevelopment estates across London**

**Annex 5 - The TRAs' response to consultation**

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**Annex 8 - Mr Slaughter's letter to residents**

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**Annex 10 – letter from Mrs K Bowry**

## 1.0 INTRODUCTION

- 1.1 From 6 January 2012 to 12 March 2012, the Council undertook a formal consultation with residents on whether the West Kensington and Gibbs Green Estates should be included in the proposed comprehensive redevelopment of the Earls Court area. This formal consultation also satisfied the requirements of section 105 of the Housing Act 1985 in relation to the secure tenants on the Estates.
- 1.2 A total of approximately 30,000 information packs were distributed to the Estates and across the wider area (defined by Hammersmith Road to the North, Fulham Palace Road to the West, New Kings Road to the South and Warwick Road and Finborough Road to the East). At Annex 1 is the feedback form that was provided to residents as part of the information pack.
- 1.3 The economic appraisal looked at 4 options for the Estates:

**Table 1 – Economic Appraisal options**

Option	Detail
Option 1	Maintain the Estates as they are. This could include a transfer to a housing association, or a resident-controlled private registered provider.
Option 2	Continue to maintain the Estates and develop plots of land within the Estates.
Option 3	Redevelopment of the Estates only (not as part of the comprehensive redevelopment plans). The existing properties on the estate would be demolished and replaced with new housing and other supporting uses.
Option 4	Inclusion of the Estates within the Earls Court redevelopment scheme.

- 1.4 1,612 responses were received from residents, together with a lengthy response from the West Kensington and Gibbs Green Tenants and Residents Associations ('the TRAs'), and a response from Andy Slaughter MP in the form of a letter of objection dated 12 March 2012. This Appendix provides an overview and analysis of these responses, together with the representations that have been made following the Cabinet Report of 23 April 2012.
- 1.5 There was no support amongst consultees for either Option 2 or Option 3. Overall, opinion was sharply polarised between those who supported the Council's proposal (i.e. Option 4) and those who objected to it, many of whom were themselves in favour of the Stock Transfer Option (under Option 1). After stripping out e.g. duplicate responses (see paragraph 2.2 below), 634 consultees (45%) supported the Council's proposal, whilst 660 (47%) objected to it, 32 (2%) raised concerns and the remaining 79 (6%) were neutral. 570 consultees (41%) supported the Stock Transfer Option (i.e. 86% of those who objected to the Council's proposal were in favour of the Stock Transfer Option). These results are presented in greater detail below.

## 2. THE RESPONSES RECEIVED

- 2.1 The feedback form asked residents for their name, address, gender and age. Tick boxes allowed people to indicate whether they lived on the Estates or in the wider area. Estate residents could indicate whether they were a secure Council tenant, a

tenant of Family Mosaic, a tenant of Shepherd's Bush Housing Association, a London & Quadrant tenant, a leaseholder, a freeholder, private tenant or "other".

2.2 1,612 individual responses were received. These were processed as follows:

- Where a resident was found to have submitted more than one identical response only one such response was counted.
- A number of residents submitted two or more responses which contained conflicting opinions. Where the dates of the responses were clear, the latest in time was counted. In some other cases it was possible to tell which was supposed to be the final response by the comments made (e.g. some forms explicitly stated "I have changed my mind..."). In a very small number of cases it was not possible to gain a clear understanding of the consultee's ultimate view, and these responses were not counted.
- Responses were not counted if no name or address was provided.
- Responses from children under 12 were not counted (see paragraph 2.8 below).

2.3 This process reduced the total number of responses leaving a total of 1,405, which was then used for the statistical analysis.

2.4 Over the entire consultation area:

- Approximately 30,000 properties were sent the consultation materials
- 1,405 responses were received, which gives rise to an overall response rate of 4.7%

2.5 On the Estates:

- 760 properties were sent the consultation materials
- 779 responses were received from 516\* properties

**Table 2; consultation responses from the Estates, broken down by tenure**

	Secure council tenant	Family Mosaic	SBHA	L&Q	Lease holder	Free holder	Authorised occupants, PSL & TOL / Private sector
<b>Properties</b>	531	42	7	9	132	39	
<b>Responses</b>	497**	59	13	12	74	26	98***

\* Responses were received from 68% of properties across the estates. Many properties included responses from a number of members of the household.

\*\* Not all secure council tenanted properties responded. Many Council tenanted properties sent in multiple responses whilst a significant number did not respond at all.

\*\*\* Responses include residents who live with Council tenants, private sector tenants who are renting from leaseholders and freeholders.

2.6 In the wider consultation area (excluding the Estates):

- Approximately 29,240 properties were sent the consultation materials
- 626 responded, which is a response rate of 2%

2.7 The overall response rate of approximately 5% is average for this type of mass mail-out. As the figures above show, there was a very much higher response rate from the Estates than from the wider area.

## 2.8 Responses from children

2.8.1 538 responses were delivered to the Council by a delegation from the TRAs. Of these, 98 were from children. All objected to or raised concerns about the Council's proposal. The consultation materials that were sent out did not specify a minimum age for consultees, as it was not anticipated that children as young as 4 would fill in feedback forms (e.g. by drawing pictures). Officers have decided that, not least given the relative complexity of the issues raised in the consultation, it is reasonable to set a minimum age of 12 for the purposes of determining whether a response should be counted as part of the overall statistical analysis.

**Table 3; responses from children**

Age	Number of responses	Number of households at issue	Adult responses from the same households
4 – 11 (not included in results)	46	31	45
12 – 17 (included in results)	52	44	73

2.8.2 Some households submitted multiple responses. This is especially pronounced in households where children completed feedback forms. For instance, the above table shows that 44 properties were responsible for 125 of the responses that were counted (i.e. almost 9% of the total number of responses).

## 3. VIEWS ON THE COUNCIL'S PROPOSAL

3.1 The feedback form asked questions in an unguided way. Officers have therefore had to use judgment to divide the responses into sensible categories for the purposes of the overall statistical analysis. The following categories have been used:

**Table 4 - Categories**

<b>SUPPORT</b>	Where the response clearly stated support or was clearly positive about the Council's proposal
<b>OBJECT</b>	Where the response clearly stated opposition or was clearly negative about the Council's proposal
<b>CONCERN</b>	Where the response did not state clear opposition or clear support, but instead merely expressed concern about an

	element of the Council's proposal
<b>NOT ENOUGH INFO / NEUTRAL</b>	Where the response did not give enough information to be included in any of the above categories, or clearly stated that the consultee was neither for nor against the proposal

3.2 The 1,405 responses break down as follows:

**Table 5; Residents' views on the Council's proposal**

	<b>No of responses</b>	<b>% (following re-checking)</b>	<b>% in 23 April 2012 report</b>
<b>Support</b>	<b>634</b>	<b>45%</b>	43.7%
<b>Object</b>	<b>660</b>	<b>47%</b>	48.5%
<b>Concern</b>	<b>32</b>	<b>2%</b>	4%
<b>Not enough info / Neutral</b>	<b>79</b>	<b>6%</b>	3.9%
<b>TOTAL</b>	<b>1,405</b>	<b>100%</b>	100%

3.3 An interim analysis was presented to the Cabinet on 23 April 2012. Since that date officers have re-checked their analysis and this has resulted in some relatively minor variations to the figures. The final column in Table 5 above shows (for comparison) the old figures that were presented to the Cabinet in April. The re-checked and old figures break down as follows.

**Table 6: Comparison of April and current figures**

	<b>Estate</b>		<b>Wider Area</b>	
	<b>Support</b>		<b>Support</b>	
	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>
	171	175	463	448
	<b>Opposed</b>		<b>Opposed</b>	
	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>
	592	584	68	108
	<b>Concerned</b>		<b>Concerned</b>	
	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>
	4	25	28	32
	<b>Neutral</b>		<b>Neutral</b>	
	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>	<b>Actual</b>	<b>23 April 2012 Cabinet Report</b>
	12	21	67	34
<b>Total</b>	<b>779</b>	<b>805</b>	<b>626</b>	<b>622</b>

3.4 The above shows that both the support for the comprehensive redevelopment in the wider area and the opposition to the comprehensive redevelopment from the Estates are somewhat higher than originally presented.

3.5 Overall, marginally more consultees objected to the Council's proposal than

supported it, and a modest majority either objected to it or raised a concern about it. The majority of the responses from the wider area were supportive, whilst on the Estates themselves the majority objected.

- 3.6 There was an active campaign by the TRAs to encourage residents to respond. As part of this campaign a pre-typed feedback form was produced for use by residents (see Annex 2), and a similar (although not identical) suggested text for the feedback form was also circulated in a leaflet (see Annex 3). Both objected to the Council's proposal (and expressed support for the Stock Transfer Option).
- 3.7 As has been noted, a delegation from the TRAs delivered 538 responses to the Council. All of these objected to the Council's proposal (and expressed support for the Stock Transfer Option). The responses fell into two categories:
- Responses where consultees had signed the pre-typed text or copied out the suggested text in the leaflet;
  - Responses where consultees had signed the pre-typed text and had in addition added in their own hand-written comments.
- 3.8 Among residents on the Estates, there was less objection to (and greater levels of support for) the Council's proposals from residents of the high-rise blocks as compared with residents of the low-rise blocks.

**Table 5; Views of residents on the Estates by type of property**

Response	High-rise		Low-rise		Total	
	nos	%	nos	%	Nos	%
Support	99	35%	72	14%	171	22%
Object	172	61%	420	85%	592	76%
Concerned	3	1%	1	>1%	4	>1%
Not enough info given / neutral	8	3%	4	1%	12	2%
<b>TOTAL</b>	<b>282</b>	<b>100.0</b>	<b>497</b>	<b>100.0</b>	<b>779</b>	<b>100.0</b>

- 3.9 Based on a desk top analysis of housing need low-rise blocks are more likely to be under-occupied than high-rise blocks, and high-rise blocks are more likely to be over-occupied than low-rise blocks. In addition, residents in low-rise blocks are more likely to be in houses with gardens and are more likely to have their own off-street parking. Officers consider that these differences may in part explain the difference between the responses for high-rise and low-rise blocks.
- 3.10 570 consultees supported the Stock Transfer Option. This amounts to 41% of all the consultees who submitted responses.

**Table 6; Responses that supported the Stock Transfer Option**

Tenure	Total
Council Tenant	351
Family Mosaic	58
SBHA	13
L&Q	11
Leaseholder	28
Freeholder	18
PSL, TOL, private tenant other	55

Wider area	36
<b>Total</b>	<b>570</b>

- 3.11 97% of those supporting the Stock Transfer Option did so in an assisted or part-assisted response (that is, a response that at least incorporated the pre-typed text, or made use of the wording in the TRAs' leaflet). Only 3% of those indicating a preference for the Stock Transfer Option did so without using either the pre-typed text or the wording in the TRAs' leaflet.
- 3.12 The relevant statement in the TRAs' pre-typed response was, "*I want the estates to be transferred into the ownership and management of West Ken & Gibbs Green Community Homes (WKGGCH).*" The suggested text in the TRAs' leaflet was similar.

#### 4. SECURE TENANTS' VIEWS ON THE COUNCIL'S PROPOSAL: THE SECTION 105 CONSULTATION

- 4.1 Section 105 of the Housing Act 1985 required the Council to inform its secure tenants of its proposals and give them an opportunity to make known their views on the proposals. The secure tenants are those persons who are parties to the various tenancy agreements that have given rise to secure tenancies. In the case of joint tenancies, all the persons so named will be secure tenants. Of the 584 secure council tenants, 324 responded (equating to a response rate of 55%). Therefore 45% of the secure tenants who were able to express an opinion did not do so.

**Table 7; Secure tenants' views on the Council's proposal**

Response	Total	
	nos	%
Support	103	32%
Object	213	66%
Concern	1	0
Not enough info / Neutral	7	2%
<b>TOTAL</b>	<b>324</b>	<b>100.0</b>

- 4.2 For completeness, officers also analysed the responses by all persons who defined themselves as secure Council tenants in their feedback form. The results are shown in the following table.

**Table 8; Responses from people who defined themselves as secure Council tenants**

Response	Total	
	nos	%
Support	111	22
Object	372	75
Concern	2	>1%
Not enough info / Neutral	12	2
<b>TOTAL</b>	<b>497</b>	<b>100.0</b>



## **5. ANALYSIS OF THE RESPONSES FROM INDIVIDUAL RESIDENTS**

5.1 This section addresses the issues raised in the responses by individual consultees.

The issues have been arranged under 7 'themes':

Theme 1 - Inclusion of the Estates in wider Earls Court redevelopment

Theme 2 - Redevelopment opportunities for the wider area

Theme 3 - The offers to tenants and leaseholders / freeholders

Theme 4 - Consultation / balloting the Estates

Theme 5 - Reasons for wanting to stay / move

Theme 6 - Transport and local facilities

Theme 7 - New housing

5.2 After Theme 7, various miscellaneous issues are identified and addressed.

### Theme 1: Inclusion of the estates in wider Earls Court redevelopment

This theme comes directly from Question 1 in the feedback form, which aimed to capture comments on the overall proposals for the Earls Court Opportunity Area and whether it should include the Estates.

#### **Question 1: “What are your views on the council’s proposal to include the estates within the redevelopment scheme?”**

- 5.3.2 This was the question which most respondents engaged with and it gave rise to the clearest set of responses.
- 5.3.3 This was the question which most respondents engaged with and it gave rise to the clearest set of responses.
- 5.3.4 The main issues arising are arranged below under the following headings:
- Objections from the Estates
  - Support from the Estates
  - Objections from the wider area
  - Support from the wider area

### Theme 1 - Inclusion of the estates in wider Earls Court redevelopment

Objection/Support	Point Made	Quotes	Officers' Response
<p>1. <b>Objections from the Estates</b></p> <p>592 residents from the Estates objected to the Council's proposals.</p> <p>These objections principally fell into 2 categories.</p>	<p><b>a) The need to preserve an established community</b></p>	<p><i>“I object very strongly to the Council's proposals to sell and demolish the West Kensington &amp; Gibbs Green estates. The community is well established.”</i></p> <p><i>“I oppose the Council's scheme as I do not believe it is beneficial to any of the residents. It's not fair to ask people who have been living</i></p>	<p>It is clear that the preservation of the community and neighbourhood were important to residents of the Estates.</p> <p>The Council was already aware that this is an important issue for residents, as it has been a key concern raised throughout the consultations undertaken with the estate residents over the past three years. Recognising this concern, the Council has developed a proposal which aims to keep the community together, and has tried to mitigate any disruption to the community, neighbourhood and existing support networks as much as possible. However, the Council acknowledges that there will be some disruption that it is unable to mitigate or avoid.</p> <p>The council's proposal includes the following measures to help preserve the</p>

		<p><i>here for a long time to just move like that, kicking them out of their homes"</i></p> <p><i>"Well it is not good for the other people who live in this estate to move because they have a flat that is good for them"</i></p>	<p>community:</p> <ul style="list-style-type: none"> <li>- Ensuring that the redevelopment replaces all existing properties on the Estates and that new homes are built before residents have to move, ensuring that residents do not have to move out of the area, and only have to move once.</li> <li>- Ensuring that phases are large enough to allow for a substantial number of residents (approximately 200) to move together, so as to keep local support networks intact.</li> <li>- Attempting to ensure that, when allocating new homes, residents who want to remain neighbours can do so.</li> </ul>
<p><b>2.</b></p>	<p><b>Support from the Estates</b></p> <p>171 residents from the Estates supported the proposal.</p>	<p><b>a) Opportunities offered by the redevelopment</b></p> <p>Some residents welcomed the opportunities offered by the regeneration plan.</p>	<p>Whilst the Council are glad that there is a high level of satisfaction on the Estates, the Council believes that the redevelopment and the provision of new homes would only increase residents' satisfaction.</p> <p>According to the Council's survey analysis the Estates will need £60m of investment over the next 30 years. This places a large economic strain on the Housing Revenue Account. The Council believes that it is far more beneficial for residents and the Council if the Estates are included in the redevelopment scheme and new properties are provided to modern standards which will be more efficient and cheaper to maintain.</p> <p>Data from Housing Benefit and Council Tax Benefit claims in 2011 indicates that 14.9% of homes on the Estates are overcrowded, and 16% of homes on the Estates are under-occupied. This means that many residents are in the wrong sized home – either under or over occupying. The proposal allows the Council to tackle this issue, and ensure that the new homes are built to meet the needs of residents.</p> <p>The Council notes that there is support from the Estates from residents who saw the redevelopment as a way of creating new opportunities for the community.</p> <p>The Economic Appraisal estimates that the proposal will deliver jobs through new commercial opportunities (over 9,500 new jobs) and from increased construction work (36,033 person years). It is also assessed that the proposal will generate £99m per annum for the local economy. The Economic Appraisal is considered in more detail in Section 6 below.</p>

Reasons for support principally fell into four main categories.		<p><i>jobs, happier people."</i></p> <p><i>"Good opportunity for future generations."</i></p> <p><i>"Yes please I would like new homes for our kids"</i></p> <p><i>"The prospect of swapping a one-bedroom flat that is beginning to show its age with hopefully a two-bedroom new apartment is most welcome."</i></p> <p><i>"I feel the redevelopment is a positive thing as the estates itself is not in good condition and need to be updated for the next generations to come."</i></p> <p><i>"I have lived in Desborough House for twenty years .... the scheme is very good the sooner the better I want to get out."</i></p> <p><i>"Yes, pull down, want to go now".</i></p>	<p>The Council has noted the desire for new homes from residents living on the Estates.</p> <p>The Council's proposal involves the re-provision of 760 council homes, funded by the redevelopment, and the construction of approximately 740 additional affordable homes. This offers the opportunity to give residents new homes that meet their present needs and - through increasing housing choice - helps ensure that the future housing needs of the community can be met.</p> <p>The Gibbs Green estate is over 50 years old and the West Kensington estate is approximately 40 years old. Despite decent homes work over recent years, the design and condition of the estates are showing their age.</p>
	<p><b>b) Desire for new homes</b></p> <p>Supportive residents welcomed the opportunity to move to a newly built home and expressed dissatisfaction with the condition of the estate buildings and communal areas.</p>		
	<p><b>c) Improved living conditions as soon as possible</b></p> <p>Residents were impatient to have improved living conditions and wanted them as soon as possible.</p>		<p>The Council understands that residents are impatient to see improvements and impatient for the Council to make a decision as to whether to include the Estates in the wider redevelopment plans.</p> <p>The Council has wanted to fully understand the comprehensive redevelopment proposals and involve residents in the development of its own proposal, before making a final decision.</p> <p>Should the Council take the decision to enter into the CLSA, then the Council will ensure that clear development timescales are communicated to residents on a regular basis.</p>
	<p><b>d) Tackling crime and Anti Social Behaviour (ASB)</b></p> <p>Residents supported the opportunity to tackle crime and ASB through redesigning the entire neighbourhood.</p>	<p><i>"No other (comments) than express my expectation that the redevelopment will benefit the community by having significant reduction in crime in West Kensington/Earls Court area"</i></p>	<p>Many perceived the Estates as the source of crime and ASB. Local data shows the Gibbs Green estate to have had the highest levels of crime and ASB of any estate in the borough over the last 3 years.</p> <p>It will be a planning requirement that the proposals for all sites in the redevelopment area be designed in consultation with the Crime Prevention Design Advisor from the Metropolitan Police. In addition, the CLSA requires all re-provided homes to be certified as "Secure by Design" by the Association of Chief Police Officers. As a result, council officers consider that the redevelopment will be a safer environment for the community</p>

<p>3.</p>	<p><b>Objections from wider area</b></p> <p>There were 68 residents who objected to the proposal from the wider area.</p> <p>These objections fell into two main categories.</p>	<p><b>a) Disruption during construction</b></p> <p>Many residents raised concerns about disruption caused by the construction citing concerns over dust, noise pollution and construction traffic.</p>	<p><i>"I am concerned... for the impact the extended construction will have on residents and businesses of the surrounding area."</i></p>	<p>than the existing Estates and, in particular, will be more effective in minimising ASB.</p> <p>The Council accepts that disruption will be caused during the construction process. The Council will not be able to mitigate these effects this entirely, but it will work with the developer and residents to minimise any disruption.</p> <p>To ensure that disruption is minimised for estate residents, the council has ensured that a number of mitigating measures are included in the proposed CLSA and within the tenant and leaseholder/freeholder offers developed with residents. A number of these measures have been the direct result of earlier consultations with residents.</p> <p>Mitigating measures for estate residents include:</p> <ul style="list-style-type: none"> <li>- Residents having one move only from their current home, to their new home.</li> <li>- All contractors must be registered with the considerate contractors scheme. Contractors registered with this scheme must comply with its reasonable requirements to avoid unnecessary nuisance.</li> <li>- The phasing process set out in the CLSA ensures that when a phase within the Estates is proposed for redeveloped, the Developer will need to produce a Phase Impact Assessment. This assessment will include a number of strategies that explain how the estate will continue to function as a place to live whilst that phase is developed. This will include how all utility services will be maintained and how safe vehicular and pedestrian access will be maintained on the estate, as well as how security of the estate will be maintained. The Council will not agree to the phase unless they are satisfied that disturbance and disruption to existing estate residents has been minimised.</li> <li>- The Council will try to ensure that, during the building work, any vacant land that becomes available is used in creative ways for the good of the community.</li> <li>- The Council will publish regular newsletters to keep estate residents informed about the construction and redevelopment process and timescales. The Council will ensure that there are clear points of contact at the Council and with the Developer so that any issues regarding disruption and construction can be</li> </ul>
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4. Page 135	<p><b>Support from the wider area</b></p> <p>463 residents from the wider area supported the Council's proposal.</p> <p>Reasons for support fell into three main categories.</p>	<p><b>b) Affordable housing</b></p> <p>Some residents felt that low income households would be "priced out" of the area</p>	<p>"do not take account of poorer residents being priced out"</p>	<p>easily raised, and dealt with.</p> <p>The planning process will also place restrictions on the developer to ensure that the disruption caused by the construction is minimised and that the respective contractors comply with their statutory and contractual obligations.</p> <p>760 new homes will be developed for the council to replace the existing homes on the Estates which will be demolished. The mix of the new homes has been designed according to housing need. Council tenants will have secure tenancies with rents calculated in the same way as other secure tenants across the Borough. It is anticipated that a further 740 additional affordable homes would also be developed (the final figure will be determined through the planning process). This significant increase in affordable housing units will increase the housing choice and options for residents in the Borough. It will provide greater opportunities for families wanting to own their home in the area. At present there are currently over 4,000 residents on the home buy register.</p> <p>The Council believes that its proposal will deliver a high quality development which will bring about significant physical improvements across the comprehensive redevelopment area.</p>
	<p><b>a) The appearance of the Estates</b></p> <p>Residents expressed a desire to see the area transformed and described the Estates as "an eyesore" etc.</p>	<p><b>b) Tackling crime and ASB</b></p> <p>Residents supported the opportunity to tackle crime and ASB through redesigning the entire neighbourhood.</p> <p><b>c) Creating a new cohesive neighbourhood</b></p>	<p>"West Kensington estate is an ugly scar in the area"</p> <p>"Definitely include the estate – it will really smarten up the area &amp; attract new business – the estates let the area down at the moment"</p> <p>"The housing estate needs to be rejuvenated. It's currently an inhospitable 'no go' area that is frightening and dangerous and generates a lot of vandalism, theft and dog faeces for the surrounding area."</p> <p>"An opportunity to remove architecture associated with</p>	<p>See the comments under Theme 1, Point 2(d) above.</p>
				<p>The Council notes this support for the creation of a more cohesive neighbourhood.</p>



The Council believes that the comprehensive redevelopment plans will provide a mixed, balanced and sustainable community across the redevelopment area.

A number of residents from the wider community saw the opportunity for the wider integration as a positive way for people to live together in a more socially cohesive way. The Council believes that this can be supported by the provision of the community infrastructure that will be part of the redevelopment, such as the new healthcare provision and schools etc.

*social disadvantage that must not be wasted.”*

*“I think the inclusion of the estates is essential in order to achieve a more homogenous community. At present the area’s communities are in separate pockets that do not interact – this is not healthy”*

*“I think it makes sense to create housing that is better suited to using the space and creating buildings that build social cohesion.”*

Some residents from the wider area embraced the opportunity to create a cohesive neighbourhood, saying that they currently perceived the Estates as “separate” and felt that the regeneration would be “disjointed” if the Estates remained as they were

**Theme 1 Conclusion**

The consultation shows strong support for the inclusion of the Estates from the wider community (at a ratio of 7:1). The consultation has also shown that on the Estates the ratio of opposition to support for the Council’s proposal is close to 4:1. When only secure tenants are included the ratio is approximately 2:1.

## Theme 2: Redevelopment opportunities for the wider area

This theme arises directly from Question 2 in the feedback form, which sought comments on the vision for the area and the master plan described in pages 4 – 5 of the information pack.

### **Question 2: “Are there any further comments you want to make about any aspect of the development?”**

Issues raised under this theme fall into 13 main categories. The issues and the number of residents that raised them can be found in the table below.

**Theme 2 - Redevelopment opportunities for the wider area**

	<b>Point Made</b>	<b>Quotes</b>	<b>Officers' Response</b>
<b>1.</b>	<p><b>Support for the Stock Transfer Option, in the form of a transfer of housing stock to West Kensington and Gibbs Green Community Homes (WKGCGH).</b></p> <p>570 residents (of whom 184 were secure tenants on the Estates) indicated a preference for a stock transfer to WKGCGH.</p>	<p><i>“I want the Council to exclude the West Kensington and Gibbs Green estates from the redevelopment proposals for the Earl's Court Opportunity area all together. I want the estates to be transferred into the ownership and management of West Ken &amp; Gibbs Green Community Homes (WKGCGH)”.</i></p>	<p>As noted in paragraph 5 above, this was the only other Option that was supported by those who participated in the consultation. As such, it is addressed in detail in the main Cabinet Report.</p>
<b>2.</b>	<p><b>Support for the creation of jobs / economic regeneration in redevelopment area</b></p> <p>Amongst those who supported the Council's proposal, this issue was the most frequently cited. 43 residents raised it.</p>	<p><i>“This is clearly a once-in-a-lifetime opportunity to bring jobs, new housing and massive investment to a run down part of the borough”</i></p> <p><i>“My feelings are overwhelmingly positive. This redevelopment will ensure the transformation of our area for the better. We cannot allow this not to happen”</i></p>	<p>In the light of the Economic Appraisal, officers believe that the Council's proposal will generate new jobs and employment opportunities (see also Theme 1, Point 2(a) above). The Appraisal is considered in more detail in Section 6 below.</p>
<b>3.</b>	<p><b>Concern over the disruption during construction</b></p>	<p><i>“I am concerned... for the impact the extended construction will have on</i></p>	<p>Please see response to Theme 1, Point 3(a) above.</p>



4.	<p>33 residents raised this issue.</p> <p><b>Supportive and impatient to see improvements</b></p> <p>21 residents raised this issue. The responses in question demonstrated an impatience to see improvements to the area.</p>	<p><i>residents and businesses of the surrounding area.</i></p> <p><i>"Get on with it",</i></p> <p><i>"As soon as possible",</i></p> <p><i>"Get cracking"</i></p> <p><i>"The quicker the better would like to see it in my lifetime"</i></p>	<p>The Council understands that there are a number of estate residents and residents of the wider area who are supportive of the redevelopment scheme but are impatient for the redevelopment to take place.</p> <p>Before the Council could make a decision on the inclusion of the Estates in the comprehensive redevelopment scheme, that Council had to fully understand the benefits and implications of this large scale project, assess whether this is the best option for the Estates, engage with residents to understand their views and negotiate the best possible deal for estate residents, local residents, businesses and the Borough as a whole.</p> <p>Should the redevelopment go ahead it is anticipated that the whole project will be delivered over a 20 year period, with the replacement homes for estate residents being provided within a 10-15 year period.</p> <p>Like the residents who raised this issue, the Council is keen to ensure that the development progresses quickly so that new homes and improvements to the area are delivered as early as possible. Indeed, the Council has negotiated a number of provisions within the CLSA that should help encourage EC Properties to progress the redevelopment as quickly as possible. This includes a provision that enables the Council to terminate the CLSA if within 10 years of it being signed, EC Properties has not provided the Council with 50% of the required replacement social rent housing.</p> <p>The Council has noted residents' comments on the need to improve the quality and range of shops in the area.</p> <p>The Council believes that the inclusion of the Estates in the comprehensive redevelopment will encourage economic growth in the local area and will increase the quality and range of shops that are available.</p>
5.	<p><b>Would like the quality of local shops to improve</b></p> <p>Responses on this mentioned the poor state of current shops and requested a wider range of shops. The area around West Kensington Tube was cited as being in particular need of improvement.</p> <p>19 residents raised this issue.</p>	<p><i>"It would be great to have better shops with more choice to shop"</i></p>	<p>The Council has noted residents' comments on the need to improve the quality and range of shops in the area.</p> <p>The Council believes that the inclusion of the Estates in the comprehensive redevelopment will encourage economic growth in the local area and will increase the quality and range of shops that are available.</p>

6.	<p><b>Would like to preserve North End Road Market</b></p> <p>North End Road Market was mentioned almost as often as shopping and retail generally. The market area was cited as both looking run down and as being an important source of fresh fruit and vegetables.</p> <p>18 residents raised this issue.</p>	<p><i>"North End Market : this is vital to our domestic economy – both the market and the cheap shops. They must not be priced out and must (esp the market) be retained &amp; protected"</i></p> <p><i>"Please ensure we still have a fruit and veg market!"</i></p>	<p>The Council has noted residents' comments on the North End Road Market and has passed these comments on to the Planning Authority.</p>
7.	<p><b>Would like to see green spaces preserved or improved</b></p> <p>There were requests to retain existing green spaces and to include new areas of green space within the redevelopment.</p> <p>17 residents raised this issue.</p>	<p><i>"Lots of green park for each new development"</i></p> <p><i>"the reason I want this is green park"</i></p> <p><i>"my further concern is that not enough attention has been given to the green areas and sustainability."</i></p>	<p>The Council has noted residents' comments on the green spaces and has passed these comments on to the Planning Authority</p> <p>If the comprehensive redevelopment goes ahead then existing green spaces will not be retained. However the scheme will include an increased number of new green spaces.</p> <p>The amount of open space provided will be dictated through the planning process. The current planning application proposes :</p> <ul style="list-style-type: none"> <li>- 2.97 hectares of publicly accessible green space (including a park and 3 garden squares)</li> <li>- 2.43 hectares of publicly accessible civic space (squares at West Kensington, West Brompton, Earls Court and around the Empress State building)</li> <li>- 2.175 hectares of play space</li> </ul>
8.	<p><b>Concerns about crime / ASB</b></p> <p>Responses in this category mentioned current issues with crime and ASB and supported the opportunity offered by the redevelopment to reduce</p>	<p><i>"I just hope the new development where I'm proud to show my friends with no loud music or anti social behaviour"</i></p>	<p>See the comments under Theme 1, Point 2(d) above.</p>

	opportunities for crime and ASB. 16 residents raised this issue.			
<b>9.</b>	<b>Support for the provision of new community facilities</b> Responses in this section included requests for youth provision, a gym and a multi-faith centre. 16 residents raised this issue.	<i>"they needs schools &amp; places to play"</i> <i>"A good idea to smarten up area and improve facilities"</i>		The Council has noted residents' comments on the new community facilities.  The Council believes that the proposal will deliver significant new community facilities for the local area. These includes an integrated health hub, leisure facilities, a primary school, cultural facilities and new public open space. The precise nature and make-up of the community facilities will depend in part on the planning process. Residents' comments on this point have been passed to the Planning Authority.
<b>10.</b>	<b>Support the improved layout and access in the redevelopment scheme</b> 16 residents raised this issue.	<i>"Looks like big improvement for crossing railway tracks - safe and pleasant alternatives to Lillie &amp; Talgarth. Need a lot of thought as to where bikes and cars go when they reach Warwick Avenue"</i>		The Council has noted these comments and has passed them on to the Planning Authority.
<b>11.</b>	<b>Support for the redevelopment as a means of improving the perception of the area</b> 12 residents raised this issue.	<i>"Very good idea, plans look well thought out and will be a great addition to the area"</i>		Should the comprehensive redevelopment proceed the planning process will ensure that the design meets current access standards.  The Council has noted these comments and has also passed them on to the Planning Authority.
<b>12.</b>	<b>Desire to ensure that local education and health facilities meet demand</b> 16 residents raised this issue.	<i>"Extra strain on local infrastructure (GPs, schools, hospitals, etc). I can see the need for all the changes."</i>		The Council has noted these comments and has passed them on to the Planning Authority.  Should the comprehensive redevelopment proceed the planning process will ensure that the necessary educational facilities and resources are provided to support the needs of the community.
<b>13.</b>	<b>Support for improvement to the public realm</b> 8 residents raised this issue.	<i>"We are delighted to see the proposals for the north/south 'bondway' + 'green' ground level passage"</i>  <i>"The reason I want this is the green park / waterway. (This) is a fantastic idea"</i>		The Council has noted these comments and has passed them on to the Planning Authority.
<b>Theme 2 Conclusion</b>				
A large number of estate residents supported the Stock Transfer Option. This option is considered in the main Cabinet Report.				

Some residents supported the economic benefits that the redevelopment will bring in terms of both new housing and economic growth for the area. Some residents were impatient to see the improvements, asking the Council to 'get on with it'. However, there were concerns raised about the potential disruption during construction. There were a number of comments made regarding facilities used by the community, on topics such as green spaces, shopping facilities, and general public realm improvements. These will be considered primarily through the planning process, should the proposal for the redevelopment proceed.

**Theme 3: The offers to tenants and leaseholders / freeholders**

This theme was mainly drawn from responses to Question 3 in the feedback form, which sought comments on the offers to tenants and leaseholders / freeholders that were included with the information pack ('the offers').

**Question 3: “Are there any comments you want to make on the tenant and leaseholder / freeholder assurances issued with this document?”**

Issues raised under this theme fall into 5 main categories. The issues and the number of residents that raised them can be found in the table below. The Council has also drafted an 'Interim Statement' on the Local Lettings Plan which underpins the key commitments that have been made to residents in terms of lettings and compensation. The 'Interim Statement' is included as an appendix to the Cabinet report, and the Plan will be developed in consultation with residents.

**Theme 3 – The offers to tenants and leaseholders / freeholders**

	Point Made	Quotes	Officers' Response
1.	<p><b>New Homes</b></p> <p>The new homes that would be provided by the redevelopment opportunity were mentioned by 344 residents.</p> <p>11 residents were positive about the prospect of new homes, 11 residents were negative and the remaining 322 were neutral on the new homes offer.</p>	<p><i>“Good opportunity for future generations”</i></p> <p><i>“The only concern I have is that when we are re-housed within the redevelopment that the rents is going to be affordable and reasonable as they are now”</i></p>	<p>The Council's proposal offers the opportunity to deliver approximately 7,500 new homes to the area, of which approximately 740 will be additional affordable homes. As there are currently approximately 4,000 residents on the Council's Home Buy register, waiting to purchase an affordable home in the Borough, the Council believes that the provision of these additional affordable homes is necessary to ensure that residents have greater housing opportunities and choice.</p> <p>The Council also believes that the re-provision on the new homes for estate residents offers the opportunity to build new homes to meet residents' needs, tackling issues such as overcrowding and under-occupancy on the Estates.</p>
2.	<p><b>Clarity of the offers</b></p> <p>390 residents (of whom 107 identified themselves as secure tenants) demonstrated an understanding of the offers by referring to elements of them in</p>	<p><i>“As tenants we would like guarantees rather than assurances though most of us are confused by what the Council wish to offer us. This misunderstanding should be made right as a first priority in the future plans”</i></p>	<p>The Council notes that a significant number of residents were pleased with the clarity of the offers, but that some wanted further clarity.</p> <p>Officers believe that the offers that were included in the information pack are sufficiently clear. However, should the Council decide to proceed with the proposal, the Council will be engaging further with residents. Specifically, Rehousing Officers will hold one-to-one meetings with residents to address any</p>

	<p>their responses.</p> <p>53 residents (of whom 22 identified themselves as secure tenants) thought that the offers were clear.</p> <p>26 residents (of whom 3 identified themselves as secure tenants) were concerned about the clarity of the offers.</p>		<p>concerns and ensure that residents fully understand the Council's proposal. This will provide a further opportunity for questions about the offers to be answered.</p>
<p><b>3.</b></p>	<p><b>Adequacy of the offers</b></p> <p>The adequacy of the offers was mentioned by both residents from the Estates and from the wider area.</p> <p>793 residents (of whom 227 identified themselves as secure tenants) referred to adequacy of the offer.</p> <p>82 residents (of whom 20 identified themselves as secure tenants) were supportive of the level the offer.</p> <p>629 (of whom 192 identified themselves as secure tenants) objected to the level of the offer. Of the objections, 507 (80.6%) were assisted or part-assisted responses.</p>	<p><i>"I think the tenant offer is good"</i></p> <p><i>"The tenant assurance explained seems reasonable if practised as stated"</i></p> <p>The TRAs pre-typed response said: <i>"Given the £100 million the Council hopes to make by selling off the land where I live, the Council's 'offer' is very poor. Most of the 'assurances' are only what the council is obliged to do by law, and there are so many qualifications it's impossible to say how much compensation will be paid for loss of gardens, parking, etc"</i></p>	<p>The offer to tenants on the Estates has been developed by the Council with the assistance of estate residents. The Council believes that the offer is fair and goes beyond the statutory minimum.</p> <p>Officers have compared the offers to those of other London estate regeneration schemes. Overall, the offers exceed those being made to residents in comparable London projects by some margin. (See Annex 4 – comparison of offers to residents of redevelopment estates across London.)</p> <p>The Council is, of course, a not-for-profit organisation. The bulk of the £105m purchase price will be available to be reinvested in the Borough, for the benefit of all local residents.</p> <p>The Council has noted that tenants of the housing associations were largely unsatisfied with the offer that applies to them. The Council is currently in talks with the housing associations and will ensure that the terms of the offer are made clear to housing association tenants.</p>
<p><b>4.</b></p>	<p><b>Whether the Council will deliver the promises made in the offers</b></p>	<p><i>"The council never keeps its promises"</i></p>	<p>The Council notes that a significant number of residents do not trust the Council to deliver its promises and recognises the need for further work to build a trusting relationship with residents and demonstrate that the Council is committed to and</p>



	<p>452 residents (of whom 141 identified themselves as secure tenants) referred to the Council's ability to deliver the offers.</p> <p>260 residents (of whom 65 identified themselves as secure tenants) were neutral, had no opinion or did not give enough information for officers to assess what their opinion was.</p> <p>182 residents (of whom 74 identified themselves as secure tenants) objected as they doubted the Council's ability to deliver the offers, or doubted that the Council intended to deliver the offers.</p>	<p><i>"I don't think the assurances are true. They must be false"</i></p> <p><i>"Assurances are mere puffs in the wind"</i></p> <p><i>"the council's promises are like a pie crust, easily broken"</i></p> <p><i>"I don't believe your promises"</i></p>	<p>capable of delivering the offers.</p> <p>Officers are nevertheless confident that the Council has taken all necessary steps to ensure that it will be able to deliver the offers. For example, the Council has offered to enter into a legal contract with each secure tenant, and each leaseholder/freeholder on the Estates, to ensure that the Council will deliver on its promises.</p> <p>The Council has also ensured that the CLSA is structured so that the promises to residents can be delivered. Most significantly, land will only be passed to EC Properties (in phases), once EC Properties has built new homes (within the redevelopment area) for the residents to move into.</p>
<p><b>5.</b></p>	<p><b>Future Affordability</b></p> <p>Residents raised concerns about future rent levels and the affordability of the new homes.</p> <p>338 residents (of whom 90 identified themselves as secure tenants) mentioned future affordability</p> <p>260 residents (of whom 65 identified themselves as secure tenants) were neutral, had no opinion or did not give enough information for officers to assess what their opinion was.</p>	<p><i>"I am concerned because the cost of rents will increase"</i></p> <p><i>"Housing for young people at an affordable rate with a view to a purchase"</i></p>	<p>The offer to secure tenants includes a commitment that rents in the new homes will be calculated in the same way as secure council rents across the Borough.</p> <p>Resident homeowners raised specific concerns about affordability, saying they would not be able to afford to buy a new home in the local area. However, the offer to resident homeowners makes clear that they will not be expected to increase the borrowing on their mortgage in order to afford a home in the new development. In addition to the offer of the value of their property plus 10% (up to a maximum of £47,000) resident homeowners will be offered an additional 10% discount on a new property in the redevelopment site. Furthermore, the resident homeowners will have their service charges capped at a maximum of £1,000 per annum for 5 years.</p>

	182 residents (of whom 74 identified themselves as secure tenants) were concerned about future affordability.		
<b>Theme 3 Conclusion</b>			
The consultation identified the offers as a key area of feedback. Residents commented on the clarity and adequacy of the offers, and on the ability of the Council to deliver them, as well as on future affordability. Residents also requested further information.			



#### **Theme 4: Consultation / balloting the Estates**

The assisted or part-assisted responses from 534 residents (of whom 184 were secure tenants) raised various issues regarding the adequacy of the consultation. The issues raised were as follows

*“The council has breached its own policies by not consulting with our tenants and residents associations.”*

*“The Council should communicate through our elected representatives, the TRAs and WKGGCH.”*

*“I want the council to agree to be bound by the results of an independent ballot of tenants and owners on the estates as to whether the estates should be demolished. I want the right to vote on my future.”*

The first and third issues were also raised in the TRAs' response, and are addressed in Section 6 below. Officers consider that there is no substance to the second issue. It was appropriate for the Council to correspond directly with residents (both in the Estates and in the wider area) regarding the consultation.

### Theme 5: Reasons for wanting to stay / move

Many residents expressed a preference to stay in their current home. Others expressed a preference to move to a newly built home.

Issues raised under this theme fall into 16 main categories. The issues and the number of residents that raised them can be found in the table below.

#### Theme 5 – Reasons for wanting to stay / move

	Point Made	Quotes	Officers' Response
1.	<p><b>I want to stay in my current home because of the length of time I have lived there</b></p> <p>86 residents raised this issue. 62 of these residents identified themselves as secure tenants.</p>	<p><i>"I have been here for over 30 years"</i></p>	<p>The Council understands that moving to a new home will be difficult for some residents, especially those that have lived in their property for a long time.</p> <p>The Council has tried to ensure that disruption for residents is minimised, ensuring that secure tenants and resident leaseholders and freeholders will be offered a new home in the redevelopment area and that they will only have to move once.</p> <p>The Council appreciates that residents are concerned about losing their gardens.</p>
2.	<p><b>I want to stay in my current home because of my garden</b></p> <p>77 residents raised this issue.</p>	<p><i>"I think it is very bad to take these (garden &amp; car parking) away from me"</i></p>	<p>If the redevelopment goes ahead the Council will receive 75 houses and 66 duplex properties which will all have gardens. Residents who currently have gardens will have priority for these new homes. However, there will overall be a loss of around 48 gardens as a result of the redevelopment.</p> <p>The Council will offer compensation to those residents who currently have a garden but who are not allocated one in the new redevelopment.</p>
3.	<p><b>I want to stay in my current home because of my parking space</b></p>	<p><i>"I have a parking space very important to me"</i></p>	<p>Currently, estate residents enjoy significant parking opportunities on the Estates. The Council recognises that parking is a particular concern as in all likelihood the number of parking spaces for estate residents will be</p>

	<p>66 residents have stated that they do not wish to move because they are concerned about losing their car parking space.</p> <p>97% of those who raised this issue are from low-rise blocks. (Residents in the low-rise blocks are more likely to have a private parking space.)</p>	<p><i>"we will lose parking privileges"</i></p>	<p>reduced if the redevelopment goes ahead.</p> <p>Parking spaces within the new development will be allocated to estate residents who are re-housed with the development. The total number of parking spaces within the new development will be determined by the relevant planning policies, but it is likely to be approximately 456 car parking spaces.</p> <p>The Council's Housing and Regeneration Team will develop a parking allocation policy to ensure that the parking spaces that are re-provided to the Council are allocated in a fair and transparent way. The Council will ensure that the policy prioritises blue badge holders, and residents who need a parking space for disability or health reasons.</p> <p>Please see response to Theme 1, point 1 (a) above.</p>															
<p><b>4.</b></p>	<p><b>I want to stay in my current home because of my neighbours</b></p> <p>159 residents raised the issue of not wanting to move because of their good relations with existing neighbours and community.</p>	<p><i>"Don't destroy our well established community"</i></p> <p><i>"I don't want to miss all my neighbours"</i></p>																
<p><b>5.</b></p>	<p><b>I want to stay in my current home because of the good space standards / concern over space standards in the new homes</b></p> <p>18 current estate residents were concerned about the size of rooms in the new homes and whether they would be as big as their current homes.</p>	<p><i>"I have concerns about the size of properties"</i></p> <p><i>"We want the new home to be the same space"</i></p> <p><i>"I am very worried about the size of my new home"</i></p>	<p>The properties on the Estates were built to Parker-Morris standard and are relatively spacious. All replacement homes would be built to the Mayor's Design Guide space standards (this is a minimum standard bought in by the Mayor to ensure that all new homes are built to a reasonable space and size standard).</p> <p>The Mayor's Design Guide space standards are roughly equivalent to Parker-Morris space standards. In some cases, they are superior. For example, the figures for flats are:</p> <table border="1" data-bbox="1129 192 1327 846"> <thead> <tr> <th>Home Type</th> <th>Parker Morris</th> <th>Mayor's Design Guide</th> </tr> </thead> <tbody> <tr> <td><b>1 bed 2 person</b></td> <td>44.6 m2</td> <td>50 m2</td> </tr> <tr> <td><b>2 bed 4 person</b></td> <td>69.7 m2</td> <td>70 m2</td> </tr> <tr> <td><b>3 bed 5 person</b></td> <td>79.0 m2</td> <td>86m2</td> </tr> <tr> <td><b>4 bed 6 person</b></td> <td>86.4 m2</td> <td>99 m2</td> </tr> </tbody> </table>	Home Type	Parker Morris	Mayor's Design Guide	<b>1 bed 2 person</b>	44.6 m2	50 m2	<b>2 bed 4 person</b>	69.7 m2	70 m2	<b>3 bed 5 person</b>	79.0 m2	86m2	<b>4 bed 6 person</b>	86.4 m2	99 m2
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6.	<p><b>I want to stay in my home because it is relatively new</b></p> <p>This issue was raised by 19 residents. 14 of these residents live in housing association properties on the Estates.</p>	<p><i>"can't see why these houses should be demolished as they were built 10 years ago. I think it is a waste of money"</i></p> <p><i>"I love my home. It doesn't need to be knocked down. My house is only 11 years old"</i></p>	<p>The Council recognises that the redevelopment will mean the demolition of a number of homes which have been built in the last 15 years. This is, however, an unavoidable consequence of the proposals, which will provide 760 new replacement homes, together with additional affordable housing.</p>
7.	<p><b>I want to stay in my current home because I do not want the inconvenience of moving</b></p> <p>6 residents raised the issue of not wanting to move home because of the inconvenience it will cause.</p>	<p><i>"I can't cope with moving at my age."</i></p>	<p>The Council appreciates that moving home will be a significant inconvenience for many residents. The Council has tried to ensure that the re-housing and move process is as smooth as possible and that residents are supported throughout. Each household will have a dedicated Re-housing Officer who can help the household through the re-housing process. This will include identifying residents' housing needs and requirements, informing them about the re-housing and move process, keeping them updated about the project and move timescales. The Re-housing Officer will be able to allocate additional support and services to assist residents. The EIA includes further details of how the Council proposes to mitigate impacts of this type.</p>
8.	<p><b>I want to stay in my current home because I am worried about being homeless</b></p> <p>18 residents were concerned about being made homeless. 13 of these were private tenants.</p>	<p><i>"I think it is wrong the council proposal to include our estate to be demolished because many people will go homeless"</i></p>	<p>All secure tenants will be offered a new home in the redevelopment and so will not be made homeless. Resident leaseholders and freeholders will be offered the opportunity to purchase a new home in the redevelopment area.</p> <p>The Council has no legal obligations to private tenants, however all private tenants will be visited in order to assess their needs. Private tenants with established links to the community may be offered re-housing in affordable homes under the local lettings plan.</p>
9.	<p><b>I want to stay in my current house and I do not want to move to a flat</b></p> <p>30 residents raised the issue of not wanting to move into a flat.</p>	<p><i>"We don't want to live in a block of flats"</i></p>	<p>The new homes would be a mix of houses, flats and maisonettes. There will be a significant number of ground floor properties with their own front door and private gardens and many properties will have balconies.</p> <p>Currently, it is estimated that there will be 141 replacement houses and ground floor duplexes (equivalent to a house) in the new development, as compared to the 190 houses in the Estates. Therefore approximately 50 households will have to move from a house to a flat.</p>

10.	<p><b>I want to stay in my current home because of improvements we have made to it</b></p> <p>20 residents raised this issue</p>	<p><i>"We spent a lot of time &amp; money to improve our home making it the way we like"</i></p>	<p>The Council recognises that some residents will have made improvements to their homes, and understands that as a result some are reluctant to leave them.</p> <p>The Council will develop a policy (in consultation with local residents) to compensate secure tenants for the improvements undertaken to their homes, provided that they are either improvements that the Council (as landlord) consented to, or for which the resident did not need to obtain consent, and which residents will no longer have the benefit of as a consequence of having to move.</p> <p>The Council will also develop a policy (in consultation with local residents) to compensate leaseholders / freeholders for improvements undertaken to their homes, provided that they are either improvements that the Council consented to, or for which the resident did not need to obtain consent, and provided that the costs incurred are not reflected in the increased value of the homes.</p>
11.	<p><b>I want to move because of the current condition of the Estates</b></p> <p>10 residents (who were all secure tenants) stated that they would like to move because of the current conditions on the Estates.</p>	<p><i>"the state of the estates is very poor"</i></p>	<p>These comments are noted. The Council believes that the redevelopment will create a better living environment for residents.</p>
12.	<p><b>I want to move because of the current state of the communal areas</b></p> <p>9 residents (who all identified themselves as secure tenants) stated that they would like to move because of the current condition of the communal areas in the Estates.</p>	<p><i>"It gives those who want to leave a better environment to live in and appreciate a cleaner environment"</i></p>	<p>These comments are noted. The Council believes that the redevelopment will create a better living environment for residents.</p>
13.	<p><b>I want to move because of current state of my home</b></p>	<p><i>"my flat is on the ground floor, it's cold and damp, I'm not happy with it at all"</i></p>	<p>Officers note these comments. The Council's proposal will provide new homes for secure tenants and resident leaseholders/freeholders. The new properties will be built to modern space, sustainability and efficiency</p>

	7 residents (who all identified themselves as secure tenants) stated that they would like to move because of the current state of their home.		standards.
14.	<p><b>I want to move because my current home is unsuitable / does not meet my housing need</b></p> <p>7 residents (who all identified themselves as secure tenants) stated that they wanted to move because their current home did not meet their needs. 6 of the 7 residents lived in high-rise properties.</p>	“ I am overcrowded & have no chance of moving on Locator in my current banding”	<p>The Council recognises that some residents on the Estates are living in homes which do not suit their needs, and that this is more likely to be the case for residents who are living in the high-rise flats.</p> <p>Officers consider that the Council's proposal will provide the opportunity for residents to be re-housed in homes which better meet their needs.</p>
15.	<p><b>I want to move because I want a new home</b></p> <p>44 residents (of whom 34 identified themselves as secure tenants) stated that they wanted to move as they wanted a new home.</p>	“the new homes look fantastic”	These comments are noted.
	<p><b>I would like to move as I would welcome a new community.</b></p> <p>16 residents have stated that they would like to move / see a new community established.</p>	“new opportunities, new people”	The Council recognises that some residents would like to see a new community established. The Council believes that the redevelopment proposal offers the opportunity to build on existing community and support networks, and create a new, balanced and sustainable community.
<b>Theme 5 Conclusion</b>			
<p>Many consultees expressed a wish to stay in their current home because of the length of time they have already lived there or because of their strong ties to the community. The redevelopment proposal seeks to address the second of these concerns by keeping neighbours and communities together as part of the phased re-housing plan. The development of the local lettings plan for the Estates will be undertaken in consultation with residents, which will enable the community to have considerable input.</p>			

Residents in houses were particularly concerned about losing their garden and off-street parking space / garage. The local lettings plan being developed will prioritise people who already live in this type of housing if the houses meet their housing need. But officers recognise that the number of gardens and parking spaces will decrease. Financial compensation will be available if a resident loses their garden or parking space.



### Theme 6: Transport and local facilities

Many responses contained comments about planning-related issues concerning transport and accessibility. This was not in direct response to any of the questions asked. These comments were made more frequently by estate residents than residents in the wider community.

Issues raised under this theme fall into 10 main categories. The issues and the number of residents that raised them can be found in the table below.

Theme 6 - Transport and local facilities

Theme 6 - Transport and local facilities			
Point Made	Quotes	Officers' Response	
<p><b>1.</b></p> <p><b>Would like to see road congestion minimised</b></p> <p>41 residents raised the issue of the potential for traffic congestion arising from the increase in the number of homes.</p>	<p><i>"Therefore redevelopment seems very sensible. A new road from North End Road to Warwick Road should considerably ease traffic congestion in the area"</i></p>	<p>The Council notes these concerns and has passed them on to the Planning Authority.</p>	
<p><b>2.</b></p> <p><b>Want to remain close to educational facilities</b></p> <p>32 residents mentioned their current proximity to educational facilities. Having local schools was often mentioned and residents, especially estate residents, wanted this preserved in the redevelopment.</p>	<p><i>"I have 3 children in the school at the moment and another starting in September. We all want to stay"</i></p>	<p>Officers believe that the majority of residents will be able to remain reasonably close to existing educational facilities on the basis that replacement homes will be provided in the redevelopment area. If the resident's new home is on the main site (bounded by West Cromwell Road, the railway line, North End Road and Lillie Road) the potential maximum distance from their current home would be approximately 250m, depending on where the new home is located. If the resident moves to a new home on Seagrave Road, the furthest distance from the main site will be approximately 800m.</p>	<p>Officers note that additional educational facilities will also be being provided by the redevelopment. The location and size of these facilities will be dealt with through the Planning Process.</p>
<p><b>3.</b></p> <p><b>Concerns over capacity of</b></p>	<p><i>"Adequate provision must be made"</i></p>	<p>The council notes that residents are concerned over the capacity of local</p>	



	<p><b>local rail and underground stations</b></p> <p>18 residents raised concerns over the capacity of local stations</p>	<p><i>regarding transport especially at West Brompton/West Kensington/Earls Court stations, buses and parking in the redevelopment area. Volumes will increase and the stations must be able to cope with this"</i></p>	<p>stations and has passed this point on to the Planning Authority.</p>
4.	<p><b>Concerns over car parking provision</b></p> <p>15 residents mentioned car parking as an issue. Residents were predominantly concerned that the redevelopment would result in less car parking spaces.</p>	<p><i>"It could be a nice big project but it lacks one much needed thing : parking places! There should be twice as many parking places as homes (public or private)"</i></p>	<p>Please see the response to Theme 5, Point 3 above.</p>
5.	<p><b>Want to remain close to Underground stations</b></p> <p>15 residents mentioned the current ease of access to Underground stations and wanted this to be preserved in the redevelopment.</p>	<p>'convenient tube station'</p>	<p>Officers believe that the majority of residents will be able to remain reasonably close to local undergrounds stations. Please see the response to Theme 6, Point 2 above.</p>
6.	<p><b>Want to remain close to bus stops</b></p> <p>12 residents mentioned the importance of remaining close to bus stops.</p>	<p><i>"I hope the bus routes will be improved"</i></p>	<p>Residents may end up moving further away from the bus stops that they currently use (see the response to Theme 6, Point 2 above). However, new bus stops will be included within the redevelopment area. Their exact location will be determined through the planning process. Officers have passed these concerns onto the Planning Authority.</p>
7.	<p><b>Want to remain close to healthcare</b></p> <p>10 residents mentioned the importance of remaining close to healthcare facilities.</p>	<p><i>"I am a patient at Fulham Hospital"</i></p>	<p>Residents may end up moving further away from the healthcare facilities that they currently use (see the response to Theme 6, Point 2 above). However, additional health facilities will also be provided by the redevelopment. (The location and size of these facilities will be dealt with through the Planning Process.)</p>
8.	<p><b>Want to remain close to shops</b></p>	<p><i>"its nice to raise a family near convenient shops"</i></p>	<p>Residents may end up moving further away from shops that they currently use (see the response to Theme 6, Point 2 above). However, additional</p>

	11 residents mentioned the importance of remaining close to shops.		shops and retail facilities will be provided by the redevelopment. (The location and size of these facilities will be dealt with through the Planning Process.)
9.	<b>Support improvements to local bus services</b> 6 residents supported improvements to local bus services.	"I hope the bus routes will be improved"	These comments are noted, and have been passed on to the Planning Authority.
10.	<b>Support improvements to cycling facilities and pedestrians</b> 6 residents supported improvements to cycling facilities and pedestrians	"I would very much like to see the area developed for pedestrians & cyclists"	These comments are noted, and have been passed on to the Planning Authority.
<b>Theme 6 Conclusion</b>			
The consultation identified individual points such as potential increases in road traffic and congestion at train and underground stations. The increased volume of traffic will be accommodated by road and public transport infrastructure improvements which will be agreed through the planning process. This improved infrastructure develops the strong public transport network already in place as well as taking a strategic approach to improving the road network. In addition, there were issues raised by residents of the Estates about the possibility that the redevelopment would move people away from facilities such as schools, underground stations, and healthcare facilities. The relatively short distances that residents of the Estates will be moving, and the additional community infrastructure, should help to mitigate these concerns.			

## Theme 7: New housing

Some responses expressed comments about the proposed new buildings and the housing density within the redevelopment. This was not in direct response to any of the questions asked and was raised by both estate residents and residents in the wider community.

Issues raised under this theme fall into 4 main categories. The issues and the number of residents that raised them can be found in the table below.

### Theme 7 – New housing

	Point made	Quotes	Officers' Response
1.	<p><b>Want to see the area continue to provide affordable housing</b></p> <p>Residents in this category felt that the new development should include social and affordable housing. There was a concern that housing for people on lower incomes would no longer be provided in the area. Some responses mentioned “gentrification”, and “Social Cleansing”.</p> <p>28 residents raised concerns about affordability.</p>	<p>(The plans) “do not take account of poorer residents being priced out unless this is actually your intention, you need to be more robust legally binding guarantees”</p> <p>“I am concerned because the cost of rents will increase. Those who cannot afford the new rents will either have to downsize or move out of the area. Property owners on the estates will be unlikely to be able to buy in the area and have to move out.”</p>	<p>Should the redevelopment go ahead, 760 replacement homes will be built for the Council to replace the existing homes on the Estates.</p> <p>All secure tenants will be able to remain secure tenants in a new home within the redevelopment area. Rents for these properties will be calculated in the same way as secure council rents across the Borough.</p> <p>Resident homeowners will get the full market value of their home plus compensation of 10% of its value (up to £47,000). Those choosing to move to a new home in the development will receive an early purchase discount (of 10%) and can put their compensation towards buying an intermediate affordable home in the redevelopment. Leaseholders and freeholders will not be expected to increase borrowing on their mortgages to afford a home in the redevelopment.</p> <p>Additional affordable homes will be provided through the redevelopment. Whilst the precise number of additional affordable homes will be determined through the planning process, it is anticipated that the redevelopment will create around 740 new affordable homes.</p> <p>Overall, therefore, the redevelopment will <i>increase</i> the amount of affordable housing in the redevelopment area. There is no substance to</p>

			<p><b>Concern about the height of new buildings</b></p> <p>A number of responses mention “30 storey tower blocks” and express concern about the impact on Brompton Cemetery. In all, 27 residents raised concerns about the height of the new buildings.</p>		<p><i>“I think it is preposterous to build blocks of 30 storey flats.”</i></p>	<p>the suggestion that the redevelopment will amount to any form of “social cleansing”.</p>
<p><b>2.</b></p>	<p><b>The design of the new buildings</b></p> <p>Respondents made references to the “glass and steel boxes” shown in the artists’ impressions in the information pack. Some felt these proposals looked “soulless” or generic.</p> <p>17 residents raised concerns about the design of the new buildings.</p>	<p><i>‘I would prefer to see terracing’</i></p>	<p>The Council notes these concerns and has passed them on to the Planning Authority. Should the redevelopment go ahead and detailed planning applications be submitted, residents will have the opportunity to raise any concerns regarding those applications as part of the Planning Authority’s statutory consultation.</p> <p>However, officers do consider that the designs that are currently envisaged afford any good reason not to proceed with the redevelopment.</p>			
<p><b>4.</b></p>	<p><b>Housing density</b></p> <p>16 residents raised concerns about the density of housing within the redevelopment.</p>	<p><i>“Density of living space should be wide space and low levels”</i></p>	<p>The housing density will increase if the redevelopment goes ahead, and so this issue needs to be borne in mind. Ultimately, density will be dealt with through the planning process. The Planning Authority will consider the site’s location and links to infrastructure (particularly transport infrastructure) when considering the density of the redevelopment.</p>			
<p><b>Conclusion</b></p>						
<p>The consultation identified the provision of affordable housing as a key concern about the re-provision of 760 homes for the residents of the estates but also includes approximately 740 additional affordable homes. This significantly increases the number of affordable homes which are available to local residents.</p>						

## Miscellaneous issues

<u>Miscellaneous issues</u>		Officers' Response
Point Made	Quotes	
<p><b>1. Stress/psychological Concerns</b></p> <p>Many residents raised concerns regarding psychological impacts and stress they are feeling due to the uncertainty about the future of the Estates and the stress of having to move home.</p>	<p>"It would be stressful if I had to leave now"</p> <p>"I would feel stressed if I had to move"</p>	<p>The Council recognises that uncertainty about the future of the Estates can cause anxiety and worry. The Council has attempted to mitigate this through engaging residents in the decision-making process and informing residents of the project timescales. But the Council appreciates that residents need certainty about their future.</p> <p>The Council also recognises that moving home can be stressful for residents. The council has allocated a dedicated Re-housing officer to each household to ensure that residents are fully supported and to help address these potentially negative impacts of having to move home. The Re-housing Officer will be able to allocate additional support and services to assist residents who require additional support whilst moving home. Further information on this is contained in the EIA.</p>
<p><b>2. Health issues</b></p> <p>7 residents expressed concern about the prospect of moving on health grounds</p>	<p>"I would not want to move as I don't enjoy the best of health"</p>	<p>Relevant health issues and or/medical conditions will be picked up during the face-to-face meeting with the resident's dedicated Re-housing Officer. The Re-housing Officer will ensure that the resident is re-housed based on their need, and will be able to allocate additional support and services to a resident who needs further assistance. The EIA addresses this issue in more detail, especially as regards elderly and disabled residents.</p>
<p><b>3. Requests for further information</b></p> <p>There were specific enquiries from estate residents about what sort of new property they would be offered, and requests for detailed maps of the redevelopment and for more information about phasing. Some respondents said they had been unaware of the proposals. Others</p>	<p>"they do not go into enough detail"</p>	<p>These requests demonstrate the need to raise awareness and understanding of the proposal through further communications and face-to-face meetings.</p>

	said they had been confused by the different information circulated on the Estates.		
<b>4.</b>	<p><b>Individual housing requirements including extended families and hidden households</b></p> <p>Some residents used the feedback forms to give details of their household and re-housing requirements</p>		These issues will be picked up in the face-to-face interviews to ascertain housing need.
<b>5.</b>	<p><b>Specific housing for retired people</b></p> <p>2 residents raised this issue.</p>		The need for specific housing will be identified during the housing needs assessment process.



## **6. THE TRAS'S RESPONSE**

- 6.1 The TRAs' response (dated 12 March 2012) comprised a covering letter, six "Sections" and an Annex. The TRAs' response is at Annex 5.
- 6.2 The response raises issues in relation to (i) the lawfulness and adequacy of the consultation (in Sections 1 and 2); (ii) the draft Equality Impact Assessment (in the covering letter and Section 3, also Section 6, which deals with an earlier Equality Impact Assessment)); and (iii) the merits of the Council's proposal (in the covering letter, Annex 1, and Sections 4 and 5). Topics (i) and (iii) are addressed below. Topic (ii) is addressed separately in the Equality Impact Assessment.

### **6.3 The lawfulness and adequacy of the consultation**

- 6.3.1 Officers do not accept the TRAs' claims that the consultation was unlawful and/or inadequate. The claims are not set out in detail in this Appendix as the Council has not been consulting on the lawfulness / adequacy of the consultation process. The following points are however noted.
- 6.3.2 It is suggested at page 9 of the TRAs' response that the Council did not consult with the TRAs. This is incorrect. On 22 December 2011, the Council wrote to the chairs of the TRAs to inform them of the consultation process and to offer to meet and explain the consultation documents. In addition, the TRA took the opportunity to respond to the consultation documents at length.
- 6.3.3 The TRAs argue (at page 9) that the matter should be decided by an independent ballot of (it seems) the residents on the Estates. There is no legal requirement on the Council to decide the matter in this way (Schedule 3A to the Housing Act 1985 does not apply). Further, it was appropriate for the Council to consult residents, but stop short of holding a formal binding ballot. First, an appropriate level of democratic accountability is ensured by the fact that the ultimate decision will be taken by elected members of the Council. Secondly, it was appropriate for the Council to consult with residents in the wider area (as well as on the Estates), as the issues posed in the consultation affect the wider area as well as the Estates. Thirdly, similar large regeneration schemes across London have canvassed resident opinion through methods other than a formal binding ballot.
- 6.3.4 The TRAs also argue (at pages 12-13 of their response) that the Council incorrectly referred in the Tenant Offer to the use of CPO powers in relation to secure tenants. However, the Council was in fact correct to make reference to CPO powers in this regard. The Council has power to acquire land on the estates (including secure tenancies) through use of CPO powers under section 226(1)(a) of the Town and Country Planning Act 1990.
- 6.3.5 Finally, the TRAs argue that the information pack made a mistake when it noted that a housing stock transfer could be done after the redevelopment scheme (pages 15-16 of the TRAs' response). This was not a mistake. If the comprehensive redevelopment goes ahead, the secure Council tenants on the Estates will continue to be secure Council tenants - in new properties - after they have been moved, and such tenants could in principle seek a stock transfer in relation to their new properties at that time.

### **6.4 The merits of the Council's proposal: the TRAs' covering letter**

- 6.4.1 The TRAs' covering letter of 12 March 2012 argues that 'a huge majority of households on the estates who responded to your consultation has voted no to demolition', and that their views should be respected.
- 6.4.2 However, if adopted, the Council's proposal will have an impact on the wider area, including in terms of community facilities, public spaces and the potential for new jobs. It was therefore appropriate for the Council to have consulted residents in the wider area as well as residents on the Estates, and their views should be given weight. When all consultees' views are considered, the proportion against the Council's proposal is not much greater than the proportion in favour. Further, the Council conducted a consultation rather than a referendum. Whilst the Cabinet needs to carefully consider the views expressed in the consultation, the Cabinet is ultimately responsible for deciding what is best overall for local people, and it is not bound to reach its view simply on the basis of the proportion of consultees who were in favour or against.
- 6.4.3 The TRAs also asked the Council to personally respond to all responses before any decision is made. The Council has assessed above the responses received from residents. Where residents have raised individual specific concerns relating to their own personal circumstances that need to be addressed, the Council will respond directly to the resident. If the Estates are included as part of the comprehensive redevelopment, all residents will also be able to discuss their individual concerns in the one-to-one interviews that will be arranged by their dedicated Re-housing Officer for the purpose of assessing housing need. The Council will also continue to engage with residents through regular newsletters, drop-in surgeries and events.
- 6.4.4 The TRAs' covering letter argued that there is 'no evidence or rational basis whatsoever' for adopting the proposal. The TRAs also claimed that Annex 1 to the TRAs' response 'shows that [the Council is] just doing this to get rid of us for political purposes'. It is also argued that the purpose of the proposal is to make money for the Council and to profit "your agent of destruction" (which appears to be a reference to Capco / EC Properties). These are strongly worded expressions of disagreement with the merits of the proposals but it does not follow that contrary views of the merits are, as claimed, untenable. Officers are recommending that the Council should enter into the CLSA for the reasons set out in the main Cabinet Report, rather than for any illegitimate financial or party-political reason.

## **6.5 The merits of the Council's proposal: sections 4 and 5 of the TRAs' response**

- 6.5.1 Sections 4 and 5 of the TRAs' response principally addressed the Economic Appraisal undertaken by Jones Lang LaSalle (JLL) and Amion Consulting to which reference was made on page 14 of the consultation information pack. These sections are virtually identical to the representations submitted by the TRAs on the Economic Appraisal during the consultation on the Supplementary Planning Document. Officers have therefore drawn on their analysis of those earlier representations in what follows, as well as JLL's response to the TRA's comments. The analysis of Section 4 uses the same headings as are used in Section 4 itself.
- 6.5.2 Section 4: 'Generally'
- 6.5.3 The TRAs raise a concern that no consultation was undertaken with the Estates' residents for the purpose of preparing the Economic Appraisal. That is correct. There was no legal requirement to consult before obtaining the Economic Appraisal. The absence of such consultation is not in itself a reason to reject the



## Economic Appraisal.

- 6.5.4 The TRAs also argue that the Economic Appraisal contains only 'minimal data' about the Estates. Officers consider that the data on the Estates that was produced in support of the Appraisal is sufficiently detailed.
- 6.5.5 The TRAs criticise what they see as 'subjective opinions masquerading as facts'. It is inherent in the nature of an appraisal that it involves elements of judgment. It is not accepted that the judgments made are masquerading as anything else. The TRAs also argue that some of the wording within the Appraisal was confusing and misguided, such as using the word 'regeneration' when what is meant is 'demolition'. In response, officers have revised the Appraisal so that the word 'regeneration' has been amended to 'redevelopment'.
- 6.5.6 The TRAs criticised the lack of consideration of phasing, and of whether the scheme would be able to proceed smoothly in the current economic climate. JLL have confirmed that 'an assessment of phasing, demand and viability in relation to each option has been carried out as part of the Economic Appraisal'. The main Cabinet Report considers the risk that the comprehensive redevelopment might not in the event be completed in full.
- 6.5.7 The TRAs raised a concern that a lot of the data within the Economic Appraisal has not been identified. JLL have clarified that the data come either from published Lower Super Output Area Census data or from the West Kensington and Gibbs Green Estates Profiles document, which was provided separately to the TRAs in mid December 2011.
- 6.5.8 Section 4: 'Overview'
- 6.5.9 The TRAs criticise the statement in the Economic Appraisal that the Estates 'suffer from discontinuous internal roads', and refer to the DCLG / Department of Transport 'Manual for Streets' (MfS). The TRAs also question whether many of the streets within the Estates are in fact discontinuous and why those that are cannot be redesigned to connect with existing streets. Although there is no explicit statement in the MfS to the effect that "discontinuous streets are in all cases a poor design solution", it is implied throughout the document that a well-connected, permeable network of streets is preferable (see for example page 13 of the MfS). Officers are also satisfied that there are discontinuous internal roads in the Estates (in the sense of dead-end roads that are terminated by buildings, rear gardens or incidental open spaces).
- 6.5.10 The TRAs also criticise the statement in the Economic Appraisal that the Estates have 'poor quality open space' and they refer in this regard to a lack of evidence of graffiti, uncollected rubbish, dumped cars, etc. This statement concerning 'poor quality urban space' refers to the role of open space in the urban grain and layout of the Estates rather than any vandalism or dumping. As the MfS states, "high-quality open space is a key component of successful neighbourhoods" (page 57).
- 6.5.11 The TRAs argue that the existing housing stock is in reasonable condition, and that the demolition of the Estates could not be justified on the basis of their poor physical condition, or social disintegration. However, the state of the current housing stock is not being advanced as a reason for adopting the Council's proposal. What is, however, a consideration is the ongoing management and maintenance costs for the Estates, and the assessment that these will rise over time. The Economic Appraisal does not seek to justify the regeneration of the

estates purely on the grounds of poor physical and/or social condition. Rather, the Appraisal assesses the overall net additional benefits of the inclusion of the estates within the proposed comprehensive regeneration scheme for the Opportunity Area.

*6.5.12 Section 4: 'Background to regeneration'*

- 6.5.13 The TRAs object to the statement in the Economic Appraisal that 'The management and maintenance costs incurred by the Council are expected to increase above that for modern Council owned properties' on the basis that it was not backed by any evidence. JLL has confirmed that the management and maintenance costs adopted in the appraisal for the existing estate proportions were based on the Stock Condition Survey (SCS) conducted by Savills in 2009. JLL have stated that in relation to new stock, it is logical and professional opinion confirms that new accommodation would face lower on-going maintenance costs by virtue of the likelihood of actual renewal costs being required in the short term for older properties. It is assumed that large unexpected costs in the first few years of a new building's life would be covered by NHBC warranties. Savills' statement refers to the benefits of regular replenishment of the stock as part of the Borough-wide management strategy.
- 6.5.14 It was also said that the statement that already 'the average cost per dwelling of the estates is above the average figure for LBHF housing estates' was not substantiated. However, this was calculated using Council records of costs incurred, and officers consider it to be accurate. The TRAs also object that the sums spent on the Decent Homes Programme was not mentioned in the Economic Appraisal. However, these sums were in fact taken into account for the purposes of estimating future maintenance and management costs.
- 6.5.15 The TRAs also state that 'The Economic Appraisal seeks to justify demolition on the woolly grounds of 'design obsolescence resulting from increased housing standards''. This is a mischaracterisation of the Economic Appraisal, which refers to 'design obsolescence resulting from increased housing standards' as part of the explanation as to why the management and maintenance costs for the Estates are expected to increase above that for modern Council-owned properties.
- 6.5.16 The TRAs state that the problems of over and under occupancy identified in the Economic Appraisal could be overcome by better management of the Estates. Officers accept that this is, in principle correct. However, the focus of the Economic Appraisal was on the net additional economic benefits associated with the inclusion or otherwise of the Estates within the redevelopment options for the Opportunity Area.
- 6.5.17 The Economic Appraisal is said by the TRAs to have concluded that 'there is a strong rationale for demolition and including the estates within the comprehensive regeneration of the Opportunity Area'. In fact, the Economic Appraisal refers to there being a strong rationale for 'regeneration' and for 'including the estates within the comprehensive regeneration of the Opportunity Area'. That strong rationale flows from the other matters discussed under the 'Background to regeneration' section in the Economic Appraisal.
- 6.5.18 The TRAs express the concern that the Council's proposal would involve moving the majority of existing residents on the Estates to the Seagrave Road site, and that the current problems with socio-economic deprivation would therefore merely be shifted to a different location. However, the proposal is that only 25% of the Seagrave Road site would be used for re-housing from the Estates, and that the

other re-housing would occur as part of a phased approach to the main site (on land within the Opportunity Area and within the Borough).

*6.5.19 Section 4: 'Alternative options'*

6.5.20 The TRAs object to the statement in the Economic Appraisal that the Estates 'would be unlikely to change physically' under Option 1. Reference is made to their 'vision' for the Estates published in December 2009. The merits of the Stock Transfer Option, and the possibility that it might lead to significant development on the Estates, are considered in the main Cabinet Report.

6.5.21 The TRAs argue that, in its analysis of Option 2, the Economic Appraisal made unsubstantiated claims about the viability of infill development. In fact, this aspect of the Appraisal was supported by various development appraisals and cost models and, as a result, the claims about the viability of infill development can be substantiated.

6.5.22 The TRAs argue that it is unclear what is being proposed under Options 3(a) and 3(b), particularly in relation to what any comprehensive regeneration of the Estates on a standalone bases would look like. What was undertaken was a density analysis looking at viability, rather than an engineered design solution. Officers consider that to have been a reasonable approach.

*6.5.23 Section 4: 'Economic benefits'*

6.5.24 The TRAs question the use of the expression 'new affordable' homes within the Economic Appraisal. Officers have confirmed that 'new affordable' refers to newly-built affordable housing of various tenures, in line with current planning policy and market practice, this includes intermediate tenure housing including affordable rent and low cost home ownership.

6.5.25 The TRAs object to the large increase in private sector housing under Options 3(a), 3(b) and 4 on the grounds that such housing would be unaffordable to many in the borough. However, whilst of course not affordable to many, additional private sector housing still contributes towards meeting general housing need. Further, what is in practice achievable in the way of additional affordable housing (and the ratio of affordable housing to private sector housing) is necessarily limited by financial considerations.

6.5.26 The TRAs state that it is difficult to see how any of the schemes other than Options 1 and 2 come anywhere near meeting the 40% affordable housing target within the London Plan. The purpose of the Economic Appraisal was not to assess compliance with planning policy. Rather, the Economic Appraisal assessed the viability and economic advantages of the various options. It is also worth noting that the Council's core strategy (policy H2), which sets a target of 40%, states that regard will be had to financial viability. Similarly, the London Plan (policies 3.11 and 3.12) requires boroughs to set affordable housing targets but similarly states that regard should be given to viability.

6.5.27 The TRAs ask a series of questions relating to the employment impacts identified in the Economic Appraisal. First, they question the period of time over which the calculation has been made. The answer is, 18 years. Secondly, the question whether the jobs which would be lost during development have been netted off. They have. Thirdly, the TRAs ask how the calculations have been related to the expected performance of the London economy as a whole during the period. The

economic assessment took into account the economic prospects for London, including a forecast that employment is likely to grow significantly over the longer term. Fourthly, the TRAs ask about permanent job losses as a result of the proposals. These were also taken into account.

6.5.28 The TRAs conclude that the figures for permanent employment are 'highly questionable', and argue that the assumed occupancy rates of 90% for offices, 90% for retail and 100% for hotels were 'wildly optimistic'. However, the average vacancy rate for office accommodation in Greater London is 8.2%, and the average vacancy rate for retail premises is 6.5%. Further, the occupancy rate of 100% for hotels means that all hotels are assumed to be open and trading, not that all hotels are assumed to have 100% room / bed occupancy. Overall, officers consider that the Economic Appraisal used reasonable assumptions about occupancy rates.

#### 6.5.29 Section 5 of the TRAs' response

6.5.30 Like Section 4, Section 5 of the TRAs' response criticises the Economic Appraisal. The TRAs argue that the Stock Transfer Option 'would deliver significant physical changes, could deliver infill development, and might even involve wider redevelopment'. Section 4 contains a table (Table 1) that sets out the TRAs' arguments as to why they say the Stock Transfer Option should be preferred over the Council's proposal, and an Appendix (Appendix 1) that lists what the TRAs would plan to achieve if there were a Stock Transfer Option. These issues are considered in the main Cabinet Report.

6.5.31 The 'Option 2' column in Table 1 (which refers in fact to Option 4, the Council's proposal) reiterates many of the criticisms of the Economic Appraisal that are set out in Section 4 of the TRAs' response. Officers note the following additional points.

6.5.32 In the first row of the 'Option 2' column in Table 1, the TRAs object to the Council's proposal on the basis that it gives rise to an unsustainable increase in housing, having regard to the environment, the community and transport. Any proposal to increase housing will need to ensure that the relevant infrastructure is in place to support the increase in housing, this would include environment, community and transport infrastructure. The amount and type of infrastructure required will be determined through the planning process.

6.5.33 In the second row, the TRAs object to the Council's proposal on the basis that the comprehensive redevelopment will 'dirty' the area for over a decade and make it unsafe. This is not a valid criticism of the Economic Appraisal, which looks at the outcomes for local people following comprehensive redevelopment. Officers accept that the comprehensive redevelopment will cause noise and other disruption, but efforts will be made to minimise this. In addition, all building sites will be kept secure when work is not taking place. It is also claimed that the increased population density will make the area less safe. Officers do not agree with this claim.

6.5.34 In the fifth row, the TRAs claim that the Council's proposal would lead to the loss of 240 existing private gardens, 200 garages, 2 community centres, a primary school and a nursery. It is correct that some gardens will be lost. However, it is anticipated that the proposal will deliver 37 acres of new public and private open space, a new primary school, nursery day-care facilities, a health hub and a sports hall.

6.5.35 In the eighth row, the TRAs object to the Council's proposal on the basis that it would create an unsustainable increase in traffic and place an undue burden on

public transport. The levels of traffic and the impact on public transport will be assessed by the Planning Authority as part of the statutory planning application and decision making process.

6.5.36 The TRAs strongly object, in the ninth row, to the Economic Appraisal's conclusion that the townscape, public realm and environment would be improved under the Council's proposal. The TRAs strongly disagree with the design of the comprehensive redevelopment, and argue that it is inferior to what is currently in the area. This is, in part, a question of judgment. Officers take the view that this aspect of the Economic Appraisal is correct.

#### 6.5.37 Summary

6.5.38 Attached as Annex 6 is Amion Consulting's response to the TRAs' criticisms of the Economic Appraisal (as submitted during the consultation on the SPD). Amion Consulting address and, in turn, reject all the principal criticisms made.

6.5.39 Overall, officers disagree with the TRAs that the Economic Appraisal is 'fundamentally flawed'. Officers consider that, subject to the Council being confident that the comprehensive redevelopment (if approved) would be fully completed (an issue which is addressed in the main Cabinet Report), the Economic Appraisal can properly be used to assess the potential economic benefits of the Council's proposal.

#### 6.5.40 Subsequent correspondence with the TRAs

6.5.41 The Council has received further representations from the TRAs since the TRAs submitted their response. These, together with the Council's replies, are contained in Annex 9. Members should read this correspondence carefully.

### **7. MR SLAUGHTER'S LETTER**

7.1 Mr Slaughter's letter of 12 March 2012 in response to the consultation is attached as Annex 7. (Mr Slaughter also wrote a letter to residents on the Estates prior to the consultation deadline of 12 March 2012, on or about 5 March 2012, which is attached as Annex 8.)

7.2 Mr Slaughter appears to be arguing that the Council's proposal should not be adopted because 'a large number of residents feel that the council is pushing these proposals through with indecent haste and is suspicious of the council's motives for that reason'. Whilst the consultation responses indicate that some residents are suspicious about the Council's motives, officers do not consider that this in itself is a good reason for the Council not to adopt the proposal, should it otherwise consider that it is in fact in the best interests of local people.

7.3 Mr Slaughter raises a concern that the Council is intent on proceeding with individual elements of the comprehensive redevelopment scheme before agreement has been reached for all aspects. The Council has not proceeded with individual elements of the redevelopment and is waiting for the Cabinet decision on whether to proceed with the comprehensive redevelopment proposal.

7.3 Mr Slaughter criticises what he considers to be the 'entirely partisan' presentation in the consultation materials, and their lack of detail. These criticisms are not accepted. Officers consider that the materials were reasonable and objective, and

contained sufficient information about the Council's proposal as it stood at the time of the consultation.

- 7.4 Mr Slaughter questions what would happen if the Seagrave Road planning application was 'called in or stopped' by the Mayor, and argues that this would prevent the Council from complying with its 'one move' promise. The Seagrave Road planning application was in fact approved by the mayor on 22 March 2012 and the section 106 agreement and decision letter were completed on 30 March 2012.
- 7.5 Mr Slaughter argues that the re-housing promises are so vague as to be meaningless. Officers do not agree, and consider that the assurances given on re-housing are sufficiently clear. It may be that Mr Slaughter is concerned that, even if a CLSA were entered into, EC Properties would not be bound to complete the comprehensive redevelopment in full. This risk is addressed in the main Cabinet Report.
- 7.6 Mr Slaughter also argues that the overwhelming majority of residents on the two Estates want the Council's proposal 'shelved' and 'want investment to improve the existing much loved and decent neighbourhoods that are their homes'. It is not clear whether Mr Slaughter himself favours the Stock Transfer Option (he does not explain what he thinks should be the source of the investment to which he refers). Mr Slaughter is however correct about the level of opposition on the Estates themselves, although he does not make reference to the level of support amongst the wider community. The Cabinet should carefully consider the levels of support and opposition when deciding whether to adopt the Council's proposal.



**8. Additional Representations made in the light of the 23<sup>rd</sup> April 2012 Cabinet Report.**

Comment	Council's Response
<p>The CLSA between the London Borough Of Hammersmith and Fulham and Capco is about a site near but not adjacent to the Earls Court Interests of Capco. All parties recognise that even if a CLSA between LBHF and Capco is signed that it will not take effect unless there is a prior sake of the development rights by means of a lease regear, either by lease extensions and substantial alteration of the lease terms or by means of a surrender of the existing leases and a regrant of new leases. Indeed in order to make the CLSA effective there will need to be not only a lease regear of the EC1 and EC2 leases, which requires a deal between Capco and its Landlord, the Freehold owner of the Land, Transport for London (TfL) but also a sale of sale of a development leases or leases of the huge Lillie Bridge Depot, owned freehold by TfL with a small but crucial strip of land owned freehold by Network Rail. This is because except for a small area to the south of the site where Capco owns a 50 per cent stake in the freehold of the Empress State building, which is not in the development, is subject to a lease to the Metropolitan Police, and is valued separately in the Capco accounts, the TfL owned Lillie Bridge Depot is between the Land demised to Capco under the trading leases and the freehold land owned by LBHF.</p> <p>The report confirms the above as follows:</p> <p>2.6 Transport for London and Network Rail land ownerships  2.6.1 In order to deliver the comprehensive scheme officers understand that Capco have to reach agreement with TfL for the treatment of their land ownerships.</p> <ul style="list-style-type: none"> <li>• Capco needs to agree a renegotiation of the term of their existing leases from TfL on Earls Court 1 and 2 in order to make the leases suitable for redevelopment.</li> </ul>	<p>The Council notes these comments.</p> <p>The Council can only make decisions in relation to property it owns. CapCo will separately have to negotiate with TfL in relation to land under their control. The conditions precedent the Council has imposed are primarily designed to ensure the delivery of replacement homes before any disposal by the Council. Capco is likely to want to satisfy itself as to its acquisition of any further land interests (as well as securing planning consent) before it serves its Trigger notice (in turn triggering payments). It has a defined period in which to do so. If it has not served the Trigger Notice (which in turn triggers obligations to make payments irrespective of the rate of land transfer) by the long stop date the Council 's right to terminate arises.</p>
	<p>Outline planning consent provides the potential for the redevelopment of the West Kensington and Gibbs Green Estates. The ability of Capco to carry out this development would be dependent upon their obtaining suitable planning permission and on its ability to deliver the replacement homes as required as a condition precedent in the CLSA.</p>

Comment	Council's Response
<p>• The Lillie Bridge depot currently contains an engineering depot and a train stabling facility. The engineering depot will need to be re-located to enable the development to proceed. The train stabling facility will stay but will need to be covered and developed over.</p> <p>• Officers understand that negotiations are ongoing but have currently not concluded on either of these ownerships.</p> <p>2.6.2 It would also be desirable for Capco to reach agreement with Network Rail for developing over the West London Line. Officers understand that negotiations are ongoing but have not currently concluded.</p> <p>2.6.1 above understates the position by saying 'in order to deliver the comprehensive scheme officers understand that Capco have to reach agreement with TfL for the treatment of their land ownerships.' There is no comprehensive scheme or any scheme under the intended planning scenario unless the legal events I outlined above take place.</p> <p>The commercial viability of any scheme depends on porting RBKC values in to the area of the site owned by LBHF.</p>	<p>(please see response above)</p>
<p>Officers have failed to advise that TfL may enter an unconditional</p>	<p>The Council notes the comments. Capco will no doubt be concerned with the viability of the project before serving the trigger notice referred to. Where it does so it will need to make the payments specified in the CLSA and prior to any land transfer, deliver the replacement homes as required in the CLSA. The Council has been advised that the consideration provided to the Council under the CLSA represents best consideration. If Capco is unable to satisfy itself it will achieve values so as to make the scheme viable it is unlikely to serve the trigger notice. If it fails to do so by the relevant long stop date the Council can terminate.</p>
<p>Officers have advised the Cabinet of the accurate</p>	



Comment	Council's Response
<p>development agreement or develop its own land under the proposed planning scenario without LBHF but LBHF may not enter an unconditional development agreement or develop its own land in practice without TFL entering a prior unconditional development agreement or Tfl developing its own land.</p>	<p>picture at all stages of the project.</p>
<p>LBHF are not in a position to grant Capco the development rights of its existing demise under the trading leases, the lease regear or to sell it the Depot or to influence Tfl in its decision.</p>	<p>This is accepted, these parts of land are outside the control of the Council.</p>
<p>From the 9th October 2009 to the 31st December 2011 LBHF was able to influence the decision making of Tfl by its participation in the 9th October 2009 Collaboration Agreement between Capital &amp; Counties Ltd, Transport For London and The Mayor and Burgesses of the London Borough Of Hammersmith and Fulham. Tfl have confirmed the Collaboration Agreement expired on the 31st December 2011. The Collaboration Agreement was considered so important that it was renewed by all three parties in May 2010. Capco said in its 2010 report and accounts 'in recognising that a comprehensive scheme covering all land ownerships involved within the ECOA would be better than taking the sites forward individually, EC&amp;O, Tfl and LBHF renewed their collaboration agreement as land owners in May 2010.'</p>	<p>Although the Council accepts that the Agreement has expired, it has not needed to determine the precise date of expiry, as discussions are on-going between the parties through the Landowners Board.</p>
<p>The Officers failed to report that the collaboration agreement which is the causal and motivating document of the comprehensive agreement expired on the 31st December 2011. Implying the Collaboration Agreement still exists Officers said in the report only the following:  3.2 Collaboration Agreement 3.2.1 In October 2009, the Council signed a Collaboration Agreement with Capco and Tfl to provide a framework within which the three parties could explore the full potential of the scheme and negotiate terms</p>	<p>The Council has comprehensively kept residents and their representatives informed of progress on this proposed scheme.  In any event, the Collaboration Agreement expressed the hope that the terms of a Conditional Joint Venture Agreement was entered into by July 2010 which had clearly not occurred.</p>

Comment	Council's Response
<p>under which land agreements might be entered into.</p> <p>Indeed TfL has confirmed the following in a letter of the 23rd March 2012 to the West Kensington and Gibbs Green TRAs which Officers have failed to report although they have been informed of its contents:</p>	<p>(please see response above).</p>
<p>'To date, the TfL Board has not considered any reports relating to the redevelopment proposals. 'I understand that the main interests held by Capco in land at Earl's Court are two leases of EC1 and EC2 dated 1959 and 1991 respectively. Copies of these leases are available publicly from the land registry. TfL and Capco have previously entered into a Collaboration Agreement. However, this has now expired and there are no existing agreements or arrangements with Capco which bind TfL to dealing with Capco alone.'</p>	<p>The Council notes the comments. The Council are not in control of the TfL land but please see comments above as to the service of the trigger notice. It should be noted that the terms of the Collaboration Agreement itself did not bind TfL "to deal with Capco alone" since the milestone dates had been passed in 2010.</p>
<p>The above is reported to put in to context the likelihood of a comprehensive scheme actually happening. Indeed right now, and unless circumstances change, a comprehensive scheme is not happening and officers have reported incorrectly when they say:</p>	<p>The Council has stated that the scheme is in the 'proposal' stage. Capco has not reached binding agreements with either the Council or TfL but this does not preclude it doing so in due course.</p>
<p>1.1 The proposed development of the Earls Court Exhibition Centre and Lillie Bridge Depot presents an opportunity for the Council to include the West Kensington and Gibbs Green Estates within a larger comprehensive regeneration scheme.</p>	
<p>There is no larger comprehensive regeneration scheme unless and until TfL decide there shall be one and members should be mindful of the statement by TfL 'there are no existing agreements or arrangements with Capco which bind TfL to dealing with Capco alone'..</p>	<p>This was stated in the Cabinet Report dated 23rd April (2.6) headed Transport for London and Network Rail land ownerships.</p>
<p>Given that TfL have no agreements or arrangements with Capco which bind TfL to dealing with Capco alone, why is it that LBHF are straining every sinew to make this CLSA happen which will bind LBHF to</p>	<p>The Council do not agree we are 'straining every sinew'. The reason for negotiating and dealing with Capco is that they can effect comprehensive</p>

Comment	Council's Response
<p>dealing with Capco alone.</p>	<p>redevelopment of the area through renegotiating their leases on EC1 &amp; EC2 and they have an interest in Seagrave Road car park which can provide the first stage of replacement housing. This is essential to deliver the promise to residents to have 'one move' in the re-housing. Capco also have further property interests in the area which would be a considerable obstacle to any other potential developer</p>
<p>It is this binding of LBHF to dealing with Capco alone that makes the CLSA incorrect to sign.</p>	<p>We do not agree with this comment. The CLSA offers protection that unless CapCo can deliver homes CapCo will not be transferred property. Please see comments above in respect to the right of termination if no trigger notice is served.</p>
<p>The incorrectness is amplified by the fact that LBHF cannot cause the comprehensive development to happen. The happening of the comprehensive development is under the control of TfL and TfL may exclude Capco from the process.</p>	<p>Comprehensive redevelopment can only happen by concerted action by LBH&amp;F, TfL &amp; Capco. The CLSA facilitates this. TfL would not be able to achieve a comprehensive development without reaching an agreement with Capco.</p>
<p>LBHF should have sought a deal with the major landowner TfL and excluded Capco. A deal between LBHF and TfL would at least have been between the adjacent freeholders TfL and LBHF and have allowed the two freeholders to control the phasing and ensure best value by putting out to tender appropriate sites within the scheme.</p>	<p>The Council believe the proposal for the CLSA is the best option as a whole, which both creates economic growth &amp; delivers new housing for residents of the borough. It should be noted that Capco already has planning permission to Seagrave Road which is capable of delivering 200 new council homes.</p>
<p>Appropriate rather than comprehensive development would respect the wishes of the residents and only include blocks and houses with democratic consent.  I am now going to briefly list some other concerns which arise from the incorrect policy of entering a CLSA with Capco and from the structure</p>	<p>The Council is not willing to speculate on future property prices or construction costs. The Council has confirmed that they have secured advice to ensure that the terms will represent the best consideration reasonably obtainable for its interests having regard to the timing of payments and the application of</p>

Comment	Council's Response
<p>of the proposed CLSA itself.</p> <p>1) The CLSA is not a land sale. If it is signed Capco will have purchased and LBHF have sold an option for land to be purchased by Capco, for inclusion in a comprehensive development which does not and may not legally exist. The option price is £105m to be paid over 5 years plus the cost of the replacement housing.</p> <p>2) The option price is fixed and the cost of the replacement homes will go up with construction costs.</p>	<p>indexation where applicable.</p> <p>The CLSA is a complex agreement which includes land sale provisions. Any increase in the cost of delivering replacement homes will be met by Capco.</p>
<p>3) The option discount is the difference between the open market value of the land had it been sold just before being required for development, by open tender, and the CLSA cost which will be the a proportion of the £105m plus the cost of the replacement homes. The option discount will increase in size as the scheme progresses.</p>	<p>The Council has confirmation that they are meeting the “best consideration” test. The one move offer to tenants means Seagrave Road is necessary for the first phase of the development. By definition, any developer will seek to increase value by carrying out the development (known as ‘development risk’) which the Council would not like to be subjected to.</p>
<p>4) The option discount can only be quantified at the end of the twenty year build period granted by the CLSA when you can value what the Council should have received for each plot if each plot was sold when required for development. An estimate of the option discount could and should have been calculated however approximate under different possible phasing scenarios and included in the Officer’s report.</p>	<p>The Council has confirmation that they are meeting the “best consideration” test. Calculation of development profit 20 years in the future is of little present value.</p>
<p>5) Under the CLSA Capco have been given 20 years to complete the scheme. Over a twenty year period the value of properties sold will probably have gone up by over 4 times and probably by a lot more if Kensington values are ported in to the LBHF area of the scheme. As end values increase over time so will the option discount and slowly the penny will drop that LBHF have incorrectly signed an agreement that causes the council a vast loss over time.</p>	<p>This is speculation. The Council believes the proposal presents the best way forward to create economic growth and provide new housing for the borough.</p> <p>Realistically development does take time. The Council has an option to terminate the CLSA if certain targets for the delivery of residents housing have not been met be certain dates. The advice on value has been</p>



Comment	Council's Response
<p>6) The deal will create a day one development premium for Capco which will be taken through its profit and loss accounts in the next few years which will prove LBHF have undersold the site. Already Capco have taken a £55 m increase in its profit on a non-existent scheme in its Annual Accounts for 2011 before signing any deal with LBHF or TfL. This will be acutely embarrassing for the Council in the next few years</p>	<p>The revaluation of Capco's assets is not a matter the Council can comment upon prior to entering into any relationship with Capco or its subsidiaries.</p>
<p>7) Should TfL sign with CapCo, and I don't believe they will, LBHF will have plenty of opportunities to develop parts of the site to get full value for its land without giving away an option discount. There is no need for LBHF to sign a CLSA with Capco to develop its land and achieve full value.</p>	<p>Council are committed to a 'one move' approach for residents to minimise any disruption and this relies on the delivery of homes at Seagrave Road. Another developer would not be able to provide the first phase of homes for residents before any residents are asked to move, this would lead to further disruption for residents.</p>
<p>8) 8) In 5.9.1 of the report it says 'Capco have provided the Council with a separate indemnity against any blight claims up to £50m from the date of adoption of the SPD.' This indemnity has been signed as a separate contract and now exists as a legally binding agreement between Capco and the Council. Moral hazard is defined as the prospect that a party insulated from risk may behave differently from the way it would behave if it were fully exposed to the risk. Capco have insulated the council from risk and by so doing has influenced the council to grant it financial benefits. It was indeed confirmed by the leader at the 23rd April 2012 cabinet meeting that Capco had granted the Council a valuable parent company guarantee enhancing the moral hazard. The signed and active indemnity is proof of a close and improper relationship between the Council and Capco.</p>	<p>There has been correspondence between yourself (Mr Osband) &amp; the Council going back a number of months about risks to the Council regarding 'blight' claims from local residents. This risk is enhanced from the date of the adoption of the Earls Court Supplementary Planning Document (SPD). It was essential for the Council to protect itself from the risk of receiving multiple 'blight' claims. The Council is transparent and protecting the interest of tax payers at all stages.</p>

Comment	Council's Response
<p>9) Jones Lang Lasalle and PwC also act for Capco and the advice they both have given fails to quantify the option discount.</p>	<p>Jones Lang Lasalle and PwC are major professional firms with their own strict governance arrangements for situations such as this. The Council does not recognise the "option discount" as the Council is receiving best consideration.</p>
<p>10) The sale of the Gibbs Green School and 11 Farm Lane are boltons to the main deal. They are significant sales in their own right and LBHF have not marketed the sites or gone out to tender to get best bids. The negotiated sale of these sites is one of the more disturbing aspects of this deal. 11 Farm Lane is outside the opportunity area altogether and the Gibbs Green School is in the last phase of the development when it is clear that the top prices to be achieved in 15 to 20 years times will prove the site has been undersold by the council. The Gibbs Green school will have been sold too early in the development process to get best value. Capco have no lease of any part of the 11 Farm Lane site or the Gibbs Green School and the Council will be acting illegally by selling Capco any part of the site without a tendering process.</p>	<p>The Council has had professional advice that it is not acting illegally and is comfortable with the approach that makes the proposal the best consideration. There are overage provisions in the CLSA and re-purchase options that protect the Council if comprehensive regeneration does not take place.</p>
<p>11) LBHF has a legal duty to put the scheme out to tender under its own policies, national and european law. Every council goes through an OJEU process before undertaking a regeneration scheme. LBHF thinks it can legally bypass this process. Bypassing OJEU will leave the Council open to legal challenge. Capco have no lease of any part of the LBHF site and the Council will be acting illegally by selling them any part of the site without a tendering process.</p>	<p>The Council is acting within EU procurement rules. It will of course be necessary to obtain the consent of the Secretary of State before any disposal of housing land is made.</p>
<p>12) The CLSA cannot become effective unless TfL does a prior deal. The LBHF is an addon to something that does not yet exist. The council is selling an option for its land to be included in a development which does not yet legally exist and this itself may be illegal.</p>	<p>There are a number of stages that need to be completed before comprehensive redevelopment takes place. The Council is not acting illegally.</p>
<p>13) LBHF have broken ranks with the principle development partner TfL. TfL have confirmed the Collaboration Agreement expired on the</p>	<p>See comment 6.</p>

Comment	Council's Response
<p>31st December 2011. They do not regard Capco as necessarily their development partner and are exploring other alternatives.</p> <p>14) LBHF have been hyping Capco since 2009 by claiming it is a major landowner when it only has trading leases with no development rights and by consistently backing Capco to become the developer beyond any right or reason. This hyping may have created a defense against cpo premium in Capco's favour and should it be necessary to cpo the Capco trading leases at a premium to the no scheme value, TfL could sue LBHF for recovery of this premium.</p>	<p>The Council disputes they have been 'hying' Capco. Capco is a significant landowner in the area and with a lease for many years to come for the major site of Earls Court conference centre as well as an interest in the Seagrave Road site (with its role in facilitating a single decant). Capco also have other land interests in the area.</p>
<p>15) In 10.7.5 of the report it says 'it should be noted that it is possible that the CLSA will conclude before the TfL deal is concluded.' This is a declaration of the Council's incorrect intention to act independently of TfL, giving a substantial option discount to Capco and a loss to TfL should it be necessary for them to CPO the trading leases, and unnecessarily and incorrectly binding the Council to Capco.</p>	<p>The Council does not recognise the concept of the 'option discount' as the Council is receiving best consideration. The Council believes the CLSA is the best deal for the Council, stimulating economic growth as well as providing new housing in the borough.</p>
<p>16) CapCo now has a unbreakable contract with the Kwok interests, as the CapCo/Kwok Seagrave Road JV contract was only conditional on the grant of planning. The Kwok interests now own 50 per cent of the Kwok/CapCo Seagrave Road JV partnership. The Kwok Capco Partnership is the designated provider of 200 replacement homes under the CLSA and the CLSA cannot proceed without the agreement of the Kwok Capco Partnership. Agreement to the CLSA by the Kwok Capco Partnership is self-evidently a condition of the CLSA.</p> <p>LBHF cabinet resolved on the 23rd April 2012 that 'The Cabinet should instruct officers to continue negotiations with CapCo', despite the arrests of two of the Kwok brothers, Raymond and Thomas Kwok, on the 29th March 2012. (Walter Kwok was arrested 3rd May 2012).</p> <p>On the the 29th March 2012, before the 23rd April 2012 cabinet</p>	<p>Section 6.9.3 of the Cabinet report refers to this issue.</p> <p>Please note that Capco have to operate within UK Law.</p>

Comment	Council's Response
<p>meeting, Reuters reported that "Hong Kong's Independent Commission Against Corruption on Thursday arrested two senior company executives, identified in the media as Sun Hung Kai Properties tycoon brothers Raymond and Thomas Kwok, for corruption".</p> <p>By proceeding to sign the CLSA, LBHF will be subcontracting the provision of 200 replacement homes to entities owned by alleged criminals in the full knowledge that the alleged criminals have been arrested by a respected law enforcement agency of another government for allegedly bribing officials of that government. This undermines the Council's crime prevention strategy.</p> <p>17) The Capco Annual 2011 Accounts contain incorrect facts and valuations which render Capco a not fit and proper partner for the Council to do a deal with. The incorrect facts and valuations are submitted in the following Appendix.</p> <p>Appendix re Capital And Counties Properties PLC (called CAPC in the appendix, the stock market code, for the company and not Capco) 2011 Report and Accounts</p> <p>There are three particular items of concern in the CAPC 2011 Annual Report &amp; Accounts (type into browser <a href="http://tinyurl.com/CAPC2011Accounts">http://tinyurl.com/CAPC2011Accounts</a> to download) for the year ending 31st December 2011 approved at the 20th April 2012 AGM.</p> <p>The three particular items of concern are:</p> <p><b>One:</b></p> <p>The revaluation of the CAPC interests at Earls Court are not based on</p>	<p>(please see response above).</p> <p>The Council believe this deal is the best consideration and is in accordance with all statutory requirements. Further to this the Council believes the deal being proposed is the optimum position for residents.</p> <p>The Council has completed its own financial due diligence on the company that will enter into the CLSA and the proposed guarantor. The CLSA includes mechanisms for frequent testing of the net asset value of the relevant entities with an appropriate duty of care to be provided by the firm acting as auditor.</p> <p>This is commented on in the Cabinet Report.</p>



Comment	Council's Response
<p>fact and substantially inflates the CAPC profit for the year.</p> <p>The CAPC investment at Earls Court are on the 31st December 2011 the trading leases of the Earls Court 1 and Earls Court 2 exhibition centres and this CAPC investment (the two trading leases) are referred to in the CAPC 2011 Annual Report &amp; Accounts on page 89 as having been valued as a 'site with development potential' when they are not a site with development potential and on page 11 it says 'the Group's interests at Earls Court have been revalued from £138 million to £195 million, implying a valuation of £8.6 million per acre across the Group's 23 acres at Earls Court. The independent valuer has changed the basis of valuation to a land valuation having regard for redevelopment potential in light of the progress through the planning process, and this marks a change from the previous existing use basis.' All development rights and development potential belonged to TfL at the 31st December 2011 and still does. At the year end on the 31st December 2012 the site did not have planning permission and still does not. In any case should the site have had planning permission on the 31st December 2011, the additional value would have accrued to TfL, the owner of the development rights and not CAPC.</p> <p>The revaluation is not based on fact and substantially inflates the CAPC profit for the year.</p> <p>The following are the mentions of the change in Earls Court valuation treatment in the CAPC Annual Report and Accounts:</p> <p>Page 11: The Group's interests at Earls Court have been revalued from £138 million to £195 million, implying a valuation of £8.6 million per acre</p>	<p>(please see response above).</p>

**Comment**

across the Group's 23 acres at Earls Court. The independent valuer has changed the basis of valuation to a land valuation having regard for redevelopment potential in light of the progress through the planning process, and this marks a change from the previous existing use basis. The valuation of Capco's interests in Earls Court as at December 2011 reflects the progress made towards realising this potential, with the valuation basis now a land valuation having regard for redevelopment potential, a change from the previous basis of existing use as operational assets. As at December 2011, the valuation has increased to £195 million, a rise of 39 per cent, reflecting a value of £8.6 million per acre versus £6.1 million per acre at December 2010.

**Page 30:**

The valuation of Capco's interests in Earls Court as at December 2011 reflects the progress made towards realising this potential, with the valuation basis now a land valuation having regard for redevelopment potential, a change from the previous basis of existing use as operational assets. As at December 2011, the valuation has increased to £195 million, a rise of 39 per cent, reflecting a value of £8.6 million per acre versus £6.1 million per acre at December 20.

**Page 42:**

A step change in the valuation basis of the Group's interests at Earls Court was achieved in the second half of the year. Under International Financial Reporting Standards the Group's valuers are required to consider the highest and best use when valuing investment and development properties carried at fair value. The highest and best use valuation of the Earls Court exhibition halls at 31 December 2011 was considered to be a land value having regard for redevelopment potential. This contributed to a like-for-like revaluation surplus of 10.9

**Council's Response**

(please see response above).

Comment	Council's Response
<p>per cent recorded on investment properties held at Earls Court &amp; Olympia which attributed a land value of £8.6 million per acre to the site. This reflects the Group's efforts toward achieving planning consents on the ECOA which are discussed further in the Operating Review.</p> <p>Page 89: Valuations are based on what is determined to be the highest and best use. The Group's investment at Earls Court, and Seagrave Road, a car park supporting Earls Court, have been valued as a site with development potential.</p> <p>On a separate but related issue. The trading leases are referred to on page 31 as long leases. The lease of EC1 has only 29 years left expiring 2041 and would not be regarded as a long lease enabling underletting for leasehold apartment use (should there be permission in the lease to build and underlet for such use which there is not).</p> <p>Page 31: Negotiations continue with Transport for London (TfL) in respect of the extension of Capco's existing long leasehold interests at Earls Court, as well as commercial agreements covering TfL and LBHF's land in the ECOA.</p> <p>The evidence of the incorrect revaluation are the two leases of EC1 and EC2 themselves. The leases are not analysed here but I am content that an independent surveyor reading the leases would conclude that no development rights are granted by the leases other than the right to make minor modifications to the exhibition centres.</p> <p>Type in to browser <a href="http://tinyurl.com/EC1Lease">http://tinyurl.com/EC1Lease</a> to download the lease</p>	<p>(please see response above).</p>

Comment	Council's Response
<p>of EC1 - free google account needed. Type in to browser <a href="http://tinyurl.com/EC2Lease">http://tinyurl.com/EC2Lease</a> to download the lease of EC2 - free google account needed.</p> <p><b>Two:</b></p> <p>The non disclosure as a post balance sheet event of the expiry on the 31st December 2011 of the 9th October 2009 Collaboration Agreement (type into browser <a href="http://tinyurl.com/collabag">http://tinyurl.com/collabag</a> to download - free google account needed) between CAPC, TfL and LBHF.</p> <p>Howard Carter General Counsel for Transport For London, TfL's senior lawyer, confirmed the following in a letter (type into browser <a href="http://tinyurl.com/carterlet">http://tinyurl.com/carterlet</a> to download - free google account needed) to Mr Jonathan Rosenberg, Community Organiser of the West Kensington Estate and Gibbs Green Estate TRAs dated 23rd March 2012:</p> <p>'To date, the TfL Board has not considered any reports relating to the redevelopment proposals.' 'I understand that the main interests held by Capco in land at Earl's Court are two leases of EC1 and EC2 dated 1959 and 1991 respectively. Copies of these leases are available publicly from the land registry. TfL and Capco have previously entered into a Collaboration Agreement. However, this has now expired and there are no existing agreements or arrangements with Capco which bind TfL to dealing with Capco alone.'</p> <p>Howard Carter also confirmed in an email (type into browser <a href="http://tinyurl.com/carteremail">http://tinyurl.com/carteremail</a> to download - free google account needed) to Mr Rosenberg on the 9th May 2012 that 'The Collaboration Agreement expired on 31 December 2011.'</p>	<p>(please see response above).</p>

Comment	Council's Response (please see response above).
<p><b>Three:</b></p> <p>The non disclosure as a post balance sheet event of the 29th March 2012 arrest by Hong Kong's Independent Commission Against Corruption of Raymond and Thomas Kwok for alleged corruption. Kwok appears 14 times in the Annual Report and Accounts but there is no mention of the arrests. To put the non disclosure in context there follows a list of all mentions of the Kwok name in the CAPC Annual Report &amp; Accounts:</p> <p>page 5:  Joint venture with the Kwok Family Interests announced  The proposals for the Seagrave Road site receive a boost with a conditional 50:50 joint venture with the 'Kwok Family Interests' – major shareholders of Sun Hung Kai Properties Limited, one of the largest and most reputable real estate companies in Hong Kong</p> <p>page 9:  In February 2012 a resolution to grant planning consent for Seagrave Road was received, which followed the agreement of a conditional joint venture in relation to the site with the Kwok Family Interests in December. These successes will allow the Group to pursue, in partnership, the development of more than 800 homes at Seagrave Road.</p> <p>page 9:  We look forward to working closely with the Kwok Family Interests to take forward the Seagrave Road project.</p> <p>page 11:</p>	

Comment	Council's Response
<p>Seagrave Road increased in value during 2011 by £11 million to £116 million and in December a 50:50 conditional joint venture for the site was agreed with the Kwok Family Interests at £131 million.</p> <p>page 11: The relationship with the Kwok Family Interests will develop during the course of the year as Seagrave Road becomes a development project.</p> <p>page 28: Conditional joint venture for Seagrave Road agreed with the Kwok Family Interests</p> <p>page 28: Take forward Seagrave Road development in partnership with the Kwok Family Interests</p> <p>page 32: The Group will seek to conclude land transactions with LBHF and TfL consolidating future development rights and take forward the Seagrave Road project in partnership with the Kwok Family Interests.</p> <p>page 33: Conditional Joint Venture for Seagrave Road agreed with the Kwok Family Interests</p> <p>page 33: In December 2011 a 50:50 conditional joint venture with the Kwok Family Interests was agreed, signalling an important milestone in Capco's proposals to create new homes and jobs for the area.</p> <p>page 39:</p>	<p>(please see response above).</p>

Comment	Council's Response
<p>In December the Group entered into a conditional agreement with the Kwok Family Interests. The agreement, conditional on obtaining planning consent immune from challenge, is to acquire a 50 per cent stake in the Group's interests at Seagrave Road for £66 million, a 13 per cent uplift on the December 2011 valuation. As the agreement remained conditional at the balance sheet date, the divestment is not reflected in the table above.</p> <p>page 113: On 17 February 2012 the Council for the London Borough of Hammersmith &amp; Fulham resolved to grant detailed planning permission for the Group's plans to redevelop the Seagrave Road the Kwok Family Interests is expected to conclude upon expiry of the three month statutory period which follows finalisation of the Section 106 agreement.</p> <p>page 122: Kwok Family Interests Conditional joint venture partner and major shareholder in a large listed Hong Kong real estate developer.</p>	<p>(please see response above).</p>

# West Kensington and Gibbs Green



## Feedback form

The Council is undertaking this consultation to seek your views on whether or not the Council should include the West Kensington and Gibbs Green Estates within the comprehensive Earls Court Redevelopment scheme. The Council is consulting with all residents on the estates and residents and businesses in the wider area.

For secure tenants on the estates, this process will also satisfy the requirements of Section 105 of the Housing Act 1985.

The Council wants to hear your views on this proposal. This is your opportunity to make your views known to the Council. You are free to comment on any aspect of the proposals and your views will be considered prior to any decision being made.

Should you consider that any aspect of the proposal would or might have any particular impact upon you as a result of your age, disability (if any), marital / civil partnership status, race, gender, sexual orientation, religion or beliefs, or as a result of you being pregnant, or being on maternity, or having undergone gender re-assignment then we would encourage you to explain this to us. The council has attempted to identify the potential impacts in a 'draft Equality Impact Analysis', which you can find at [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken). We would welcome any comments you have on whether we have correctly identified the potential impacts in this document.

You can make your views known by either filling in this feedback form and returning it in the pre paid envelope, or by logging on to on the councils website [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken), or by writing a letter to Philip Morris/Sarah Lovell, Housing and Regeneration, 3rd Floor, Town Hall Extension, King Street, W6 9JU.

The consultation concludes on **Friday 17 February 2012**. We must have your views by then

<b>Name:</b>	<input type="text"/>
<b>Address:</b>	<input type="text"/>
<b>Gender:</b>	<input type="text"/>
<b>Age:</b>	<input type="text"/>

**If a resident of the West Kensington and Gibbs Green estates are you a** (please tick one box):

- Secure council tenant  Tenant of Family Mosaic   
Tenant of Shepherd's Bush Housing Association  London and Quadrant tenant   
Leaseholder  Freeholder  Private Tenant  Other   
Or **resident of the wider area**

Continued over



1. What are your views on the council's proposal to include the estates within the redevelopment scheme?

2. Are there any further comments you want to make concerning any aspect of the development?

3. Are there any comments you want to make on the tenant and leaseholder/freeholder assurances issued with this document?

4. Do you have any suggestions as to how we might communicate with you in future?

Please feel free to continue your answers on a separate sheet if you wish.

**If you would like any part of this document produced in large print or braille, or in another language, please phone 020 8753 5571**

1. What are your views on the council's proposal to include the estates within the redevelopment scheme?

I object very strongly to the Council's proposals to sell and demolish the West Kensington & Gibbs Green estates. The community is well-established. Both estates are in good condition. I value my home and this neighbourhood and I want the Council to respect my wishes. There is no justification for demolishing our homes, for forcing residents to move, or for selling the land for redevelopment.

2. Are there any further comments you want to make concerning any aspect of the development?

Demolition would harm this neighbourhood and the wider area. I want the Council to exclude the West Kensington and Gibbs Green estates from the redevelopment proposals for the Earl's Court Opportunity area altogether. I want the estates to be transferred into the ownership and management of West Ken & Gibbs Green Community Homes (WKGGCH).

3. Are there any comments you want to make on the tenant and leaseholder/freeholder assurances issued with this document?

Given the £100 million the Council hopes to make by selling off the land where I live, the Council's 'offer' is very poor. Most of the 'assurances' are only what the Council is anyway obliged to do by law, and there are so many qualifications it's impossible to say how much compensation would be paid for loss of gardens, parking etc.

4. Do you have any suggestions as to how we might communicate with you in future?

The Council has breached its own policies by not consulting with our tenants & residents associations. The Council should communicate via our elected representatives, the TRAs and WKGGCH. I want the Council to agree to be bound by the results of an independent ballot of tenants and owners on the estates as to whether the estates should be demolished. I want the right to vote on my future.

Please feel free to continue your answers on a separate sheet if you wish.

**If you would like any part of this document produced in large print or braille, or in another language, please phone 020 8753 5571**



**West Kensington & Gibbs Green Tenants & Residents Associations  
West Ken & Gibbs Green Community Homes**

**SALE OF YOUR HOME TO THE DEVELOPER FOR DEMOLITION**

**ADVICE AND GUIDANCE FOR RESIDENTS**

Dear Resident

January 2012

The Council wants to know what you think about its proposal to sell your home to the developer for demolition. It circulated an Information Pack after Christmas and has given you until 17 February to respond.

The consultation is wrong in many respects and, given how much this affects our lives, 6 weeks is not enough time to respond properly. We have asked the Council to give people at least 12 weeks to respond.

The Council has a legal duty to consult with you, but our campaign has forced it to provide more options and information about its proposal than it otherwise would have. Not surprisingly, its consultation gives a very one-sided view because the Council wants to sell off our homes to make huge profits for itself and the developer.

However, the Council has had to admit that if the Government implements S34A, the law that gives us the right to take over our homes, we could use it to stop the sell-off to the developer.

**To save your home you must do your very best to respond to this consultation by filling out and returning the form in the Information Pack. If you are against the Council's plans, we suggest you complete the boxes along the lines set out below, adding any other comments you want about why you oppose demolition and how this would affect you.**

**1. What are your views on the Council's proposal to include the estates within the redevelopment scheme?**

Like most of my/our neighbours, I/we object very strongly to the Council's proposals to sell and demolish the West Kensington & Gibbs Green estates. The community is well-established. Both estates are in good condition (apart from a backlog of building maintenance), and are well-looked after and valued by residents, with few symptoms of anti-social behaviour such as graffiti, broken play equipment, etc. There is no justification for forcing residents to move simply to generate a cash receipt of £100million for the Council.

**2. Are there any further comments you want to make concerning any aspect of the development?**

I/we would like to see the West Kensington and Gibbs Green estates excluded from the redevelopment proposals for the Earl's Court Opportunity area altogether. We would like the estates to be transferred into the ownership and management of West Ken & Gibbs Green Community Homes (WKGCH).

**3. Are there any comments you want to make on the tenant and leaseholder/freeholder assurances issued with this document?**

Given the amount of money the Council hopes to make by selling off the land where our homes stand, I/we think that the offer made by the Council in its consultation document is very poor. Most of the 'assurances' are only a statement of what the Council is anyway obliged to do by law, and many others have so many qualifications that it is impossible to say – for example – how much compensation would actually be paid. I/we do not think it demonstrates a serious desire to consult residents in any meaningful way.

**4. Do you have any suggestions as to how we might communicate with you in future?**

I/we would like you to communicate via our elected representatives, the TRAs and WKGCH. I/we would like to see a properly organised ballot of tenants and owners on the estates as to whether the estates should be demolished, which would be binding on the Council.

**Once you have completed the form, make sure you send it to the Council in the envelope enclosed with the Information Pack. We shall visit over the next few weeks to offer help and advice. As long as the overwhelming majority of residents continue to say no to demolition and yes to community control, we shall win.**

Meanwhile, you can contact us. Sally Taylor, Chair, West Kensington TRA 020 7381 8192; Diana Belshaw, Chair, Gibbs Green & Dieppe Close TRA 020 7381 9446; Shirley Wiggins, Chair, WKGCH 020 7385 1606; Jonathan Rosenberg, Community Organiser, 07961 301 801: [jnr49@gmail.com](mailto:jnr49@gmail.com)

## Annex 4 Comparison of Rehousing Policies

### Tenants

	Right to Return	Option of Council tenancy	Disturbance	Bed need	Right to Buy	Rent	Other
Earls Court	One move	Yes. Option in new build in scheme and move to existing stock. Option for Registered Provider tenants to take up new Council tenancy.	Reasonable costs. New white goods and new carpets and curtains in new Council home.	Guarantee of bedroom over housing need if already under-occupying	Existing rights and discounts carried forward into new build Council and existing Council stock.	Rent calculated in the same way as current rent if move to a Council home	Compensation for loss of parking and gardens and home improvements. Residents can move together to maintain social networks. Outstanding arrears due to the Council will be deducted from homelessness payment.
Green Man Lane Ealing	Can request to return if no properties meet your need. Need to reapply	Yes but only if move into existing stock. All new social rented is Registered	Clear upper limits reviewed annually.	Extra bedroom may be available. Clear criteria. Compensation for downsizing.	New Registered Provider tenants will have Preserved Right to	Rents for new Registered Provider properties are target rent and	Like for like policy (i.e. if in maisonette, will try to offer a maisonette)

	every 2 years. Housing need at time of original referencing.	Provider on assured tenancy.			Buy.	higher than Council. Service charges also apply. No commitments to reduce levels.	
Aylesbury, Southwark	Those who move before new homes are completed, may be able to return if properties available which meet their need. Tenants in early phases can opt to move to later phase of estate and then move to new home.	Yes but only if move to existing property (i.e. not new)	Reasonable costs.	Extra bedroom policy applies.	New Registered Provider tenants will have Right to Acquire.	Rents set by Registered Provider. Will be higher than Council.	Outstanding rent arrears may be deducted from home loss payments
Heygate,	Can express	Yes but only	Reasonable	Extra bedroom	Right to	Rents set by	Outstanding rent arrears may

Southwark	a preference to move to Registered Provider new homes on one of 20 sites around the area but no guarantee of a new home.	if move to another Council property.	costs	policy applies for new Registered Provider and existing Council property	Acquire for Registered Provider tenants.	Registered Provider. Will be higher than Council.	be deducted from home loss payments.
Kidbrooke, Greenwich	Can move elsewhere temporarily and have first priority for new home.			Extra bed policy applies for 2 bed over need. Compensation at £350 per bedroom.			Like for like policy available.
Woodberry Down, Hackney	Legally binding Right to Return to a new Registered Provider property.	Yes but only if move to existing property (i.e. not new).	Reasonable costs.	Extra bedroom policy may apply if certain criteria met.			Outstanding rent arrears will be deducted from homeloss payment.
Canning Town, Newham	Commitment that residents	Guarantee that can stay a Council	Reasonable costs.	Tenants underoccupying will be offered	Will negotiate a Retained	Commitment to negotiate Registered	Outstanding rent, council tax, HB overpayments and repair debts will be taken off



	can move to new development and that right to return will be available.	tenant but not in new development		same number of bedrooms as existing property in new Registered Provider development.	Right to Buy.	Provider rents and service charges in line with Councils.	homeless payment.
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## Leaseholders

	Move to new development	Option of Council tenancy	Basis of home loss payment	Equity share	Disturbance	Basis of valuation	Other
Earls Court	Yes if resident leaseholder	Following need and financial assessment, could offer social rented or intermediate rented.	10% of market value with minimum of £4,700 and max of £47,000. 7.5% of market value for non resident homeowners.	Yes. Council retain value of rest. Can staircase.	Reasonable costs.	If not move to new development and bought before 02/11, Council will pay the price paid.	Additional sales discount of 10% if sign up early. Service charge cap for 5 years. Reimburse early redemption penalties on existing mortgages. Potentially create a leasehold in another council property.
Green Man Lane Ealing	Yes.	In exceptional circumstances.	10% of market value	Yes for resident leaseholders. Registered Provider retains value. Shared equity also available on	Reasonable costs	Market value.	Will facilitate Shared Ownership options with other Registered Providers elsewhere.



Heygate, Southwark	Yes.	Following need and financial assessment, Council or Registered Provider property.		partner Registered Provider properties elsewhere. Yes. Registered Provider retains value of rest.		Market value.	Potentially create a leasehold in another Council property.
Kidbrooke, Greenwich	Yes.	Following need and financial assessment, Council tenancy.	10% of market value with minimum of £4,700 and max of £47,000.	Yes. Registered Provider retain share.	Reasonable costs.	Market value.	
Woodberry Down, Hackney		Following need and financial assessment, Council property.	10% of market value with minimum of £1,500 and max of £44,000. 7.5% of market value	Shared ownership options in new build but would need to pay rent on balance. Shared	Reasonable costs.	Market value.	Potentially create a leasehold in another Council property. Council operates a private Homebuy scheme where

Canning Town, Newham			for non resident homeowners with a maximum payment of £15,000.	equity applies in new homes in development with Registered Provider retain the balance of the value.			Council retains equity value interest.
			10% of market value with minimum of £4,000 and max of £40,000 for resident.	Council will offer equity share scheme.	Reasonable costs	Market value	

Aylesbury Tenants Rehousing Toolkit Update  
 Woodberry Down Secure Tenants Offer Document  
 Canning Town and Custom House Residents Charter  
 Green Man Lane Community Lettings Plan  
 Green Man Lane A Guide for Resident Leaseholders and Freeholders  
 Heygate leaseholders rehousing toolkit  
 New Homes for Heygate Referencing Pack

West Kensington & Gibbs Green Tenants & Residents Associations  
West Ken & Gibbs Green Community Homes

Councillor Stephen Greenhalgh  
Leader of LB Hammersmith & Fulham  
Room 225  
Hammersmith Town Hall  
Town Hall  
King Street  
London W6 9JU

12 March 2012

Dear Councillor Greenhalgh

**Response to consultation by Hammersmith & Fulham Council on whether to include the West Kensington and Gibbs Green estates in the Earl's Court redevelopment scheme**

Thank you for your letter of 5 March 2012 encouraging us to have our say in the Council's decision on the future of our estates. We attach 615 responses from residents, living in about half of all the occupied addresses on the estates, who entrusted us to deliver these forms safely to you.

You asked residents "to spend a few moments to write some comments in the boxes ... this is the time to say what you really think in the boxes provided".

538 residents aged four to 92 have written their personal thoughts and feelings in the boxes and/ or have added pages and pictures. These responses supplement the hundreds you have received directly in writing or online.

538 unattributed responses from residents and 20 from neighbours in the wider area with handwriting in the boxes can be viewed here:  
<https://skysdrive.live.com/redir.aspx?cid=88f7df2072574748&resid=88f7df20725747481107&pa rid=88f7df20725747481103&authkey=IAKy2sFf3j25WIZE>

A huge majority of households on the estates who responded to your consultation has voted no to demolition by several factors to one. Indeed, an absolute majority (in excess of 55%, perhaps 60% or more) of all households has voted to save the estates. Please respect this overwhelming democratic vote and accept the final decision of the majority to exclude the estates from the proposed redevelopment.

Many residents have asked questions and made requests of the Council. We expect you to honour your commitment "to personally ensure" that residents' queries are answered. You, fellow decision-makers and officers must read, and reply to all the responses (including this one), which we would expect you to do anyway before you make any decision on whether to sell off, or grant planning permission to demolish, our homes.

The Council's feedback form encouraged residents to identify particular equality impacts on them to help it correctly identify the potential impacts of the scheme in its draft Equality Impact Analysis. For this reason, we have ordered the forms according to gender, age and tenure

Residents' responses show that the loss of well-loved decent homes, the destruction of their familiar environment, and severe disruption to the essential relationships between

family members, friends and neighbours, would have a highly negative impact on all protected equality groups:

- Children and young people would be separated from friends, neighbours and family support networks, interfering with their schooling and undermining their confidence;
- Children and their families, including pregnant and young mothers, who are private tenants would be made homeless;
- Disabled people such as those who are blind or have impaired mobility are upset; they would be harmed by removal from familiar environments and comfortable well-adapted homes;
- Vulnerable people and those with mental health challenges are disturbed now by the pressure being exerted from the Council; further pressure could worsen their conditions and symptoms;
- People with dementia, currently being protected by family and neighbours, could suffer fatal consequences from removal;
- Elderly people are deeply worried by the threat of removal from surroundings where they feel safe and secure; they would suffer further deterioration to their mental wellbeing and physical health if they were separated from neighbours they trust;
- Delicate support networks for ethnic minorities would be damaged. Given the obscurity of the Information Pack and other material distributed by the Council, people with good English would be disadvantaged, but people with little or no English would be disadvantaged even more (it would be like translating Double-Dutch into Somali or Polish);
- Loss of gardens would hit the youngest and oldest the hardest. You and the developer may personally enjoy ownership of several properties or tens of acres of land: for many residents, the loss of 10 or 30 square metres of their own outdoor door garden/ yard space would be soul-destroying;
- Loss of off-street parking and garages would sorely harm those, especially the elderly and disabled, who rely on visiting support from family members and other carers.

The thousands of highly negative impacts identified by residents in their responses can only be avoided by excluding the estates from the proposed redevelopment. The Council's continued prosecution of the scheme is already causing widespread anxiety, stress, depression, anger and defiance.

On humanitarian grounds alone, and considering the sheer number of vulnerable people affected adversely now, the Council should decide immediately to exclude the estates from the redevelopment proposal.

You have asked us to tell you what we really think: We say: No! No! No! Your high-handed approach is oppressive and has angered most of our neighbours. It is no wonder that so many residents have accused you of being heartless.

We attach to this letter our review of, and response to the Council's consultation process, Information Pack and other documents that you rely on to decide our fate.

West Kensington & Gibbs Green Tenants & Residents Associations  
West Ken & Gibbs Green Community Homes

This proves that there is no evidence or rational basis whatsoever for you deciding to force us out and demolish our homes. Rather, the evidence shows you are just doing this to get rid of us for political purposes (Annex 1 below), to make money for the Council, and to profit your agent of destruction, the developer.

We are more determined and more united than ever to stop demolition. We shall not be moved! With the support of the Prime Minister and the Coalition Government, we shall transfer our estates into the responsible and caring ownership of our community.

Yours sincerely

PP 

Sally Taylor, Chair of West Kensington TRA

PP 

Diana Belshaw, Chair of Gibbs Green TRA

PP 

Shirley Wiggins, Chair of West Ken & Gibbs Green Community Homes

**REVIEW OF CONSULTATION PROCESS AND INFORMATION RELIED ON BY  
HAMMERSMITH & FULHAM COUNCIL TO DECIDE WHETHER TO INCLUDE THE  
WEST KENSINGTON AND GIBBS GREEN ESTATES IN THE EARL'S COURT  
REDEVELOPMENT SCHEME**

12 March 2012

**CONTENTS**

<b>Section 1:</b>	<b>The consultation process</b>
<b>Section 2:</b>	<b>The information pack</b>
<b>Section 3:</b>	<b>Latest draft Equalities Impact Analysis</b>
<b>Section 4:</b>	<b>Proposed Estates Regeneration - Economic Appraisal by Jones Lang Lasalle/ Amion Consulting, November 2011</b>
<b>Section 5:</b>	<b>Economic Appraisal: Effectiveness – contribution to scheme objectives. Alternative consideration of benefits and disbenefits</b> <b>Table 1: Alternative consideration of Effectiveness</b> <b>Appendix 1: Residents' published vision</b>
<b>Section 6:</b>	<b>Estate Regeneration – Economic Options Appraisal Report Equalities Impact Analysis November 2011</b>
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## **SECTION 1. THE CONSULTATION PROCESS**

### **1. Summary**

Between 30 December and 3 January the Council distributed an 'Information Pack' to residents giving them until 17 February to respond. By way of a letter dated 3 February 2012, the Executive Director of Housing and Regeneration extended this to 12 March.

London Council's advice is that local authority consultation should normally comply with the criteria set out in the Government's Code of Practice on Consultation (2008). <http://www.bis.gov.uk/files/file47158.pdf>

It is apparent from the material set out below, that the consultation process was fundamentally flawed because it was improperly and inclusively served, the duration was too short, the scope and impact of the proposal lacked clarity, and the relevant information was not accessible.

Furthermore, there was a very serious error regarding the Council's powers and secure tenants' rights when seeking possession for redevelopment. And the Council mistakenly asserted residents could pursue stock transfer after it sold the land. (See Section 2: Information Pack below.)

The Council's S105 remedy does not satisfy the requirements for council tenants in the borough; the consultation breaches the Council's own policies. Denying the right to vote does not rise to the bar that is expected from relevant guidance and does not afford a level of involvement that meets with current practices.

### **2. Service**

#### **The service of the consultation documents was improper and inconclusive**

The Information Pack states: "For secure tenants on the estates, this consultation process will also satisfy the requirements of section 105 of the Housing Act 1985".

LBHF's Tenancy Agreement states:

- ii) Any notice including a Notice to Quit or Notice of Seeking Possession which the council may serve shall be required under this agreement to serve upon the tenant will be properly and conclusively served if:
  - ii. i) it is delivered to the premises, or
  - ii. ii) it is certified to have been posted to the premises, and in either case
  - ii. iii) it is addressed to the tenant by name or to "the tenant"

[http://www.lbhf.gov.uk/images/sample%20tenancy%20agreement\\_tcm21-115285.pdf](http://www.lbhf.gov.uk/images/sample%20tenancy%20agreement_tcm21-115285.pdf)

The Council did not address the consultation to the tenant by name or to "the Tenant". Indeed, it did not address the consultation to anybody! Instead, it simply placed the covering letter on top of the 'Information Pack' so that the words "Dear Resident" showed through a window in the envelope. No address or name was added, either to the envelope or to the covering letter.

This contravenes the terms of service in the Tenancy Agreement. Therefore, the S105 notice is improperly served and inconclusive.



Some residents said they did not receive the Information Pack. The delivery occurred over several days during the New Year holiday period. The Council should provide evidence to confirm that it actually delivered all the envelopes to secure tenants and to others the Council says it wants to keep informed. Did the Council make direct contact with absentee landlords to ensure they were consulted?

The Council will need to comply with the Tenancy Agreement to achieve proper and conclusive service, re-serving the consultation, addressing it to the tenant by name or to “the Tenant”.

### **3. Duration**

The policy of national Government and London Councils is that consultations should last at least 12 weeks and longer for matters of especial impact on the consultees. The Government Code states:

**Criterion 2 Duration of consultation exercises** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. (CPC 2008)

However, in his letter of 3 February, the Executive Director of Housing and Regeneration states:

the Council has not explicitly adopted the Government’s Code of Practice ... and so ... the Council is not bound by it. What is fair and appropriate depends on all the circumstances.

The six weeks originally set by the Council was plainly an insufficient and unreasonable period for people to consider properly and respond. The Council extended the deadline to 10 weeks. However, given the gravity of the impact on residents, it is plain that the Council should have granted at least 12 weeks if not three or four calendar months. It is difficult to imagine a more important matter affecting people’s lives.

The Council’s actions suggest the consultation exercise is being driven by political and commercial considerations and timetables rather than by the need to consult people properly, ensuring everyone, especially those who are hard to reach.

### **4. Clarity and scope of impact**

The Government’s Code of Practice states:

**Criterion 3 Clarity of scope and impact** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals. (CPC 2008)

It is apparent from the information presented in Section 2 (below) that the consultation documents are not at all clear about the process, what is proposed, the scope to influence and the expected costs and benefits.

There are many instances in the tenant and leaseholder/freeholder ‘offers’ where the questions posed are either not answered at all or contain answers that are misleading, inadequate or contradictory. (See Section 2: Information Pack.)

### **5. Accessibility**

The Government's Consultation Code of Practice states:

**Criterion 4 Accessibility of consultation exercises** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach. (CPC 2008)

### **Essential documents were not accessible to disadvantaged groups**

The explanation preceding the feedback form in the Information Pack states: "The council has attempted to identify the potential impacts in a 'draft Equality Impact Analysis', which you can find at [www.lbhf.gov.uk/kwestken](http://www.lbhf.gov.uk/kwestken). We would welcome any comments you have on whether we have correctly identified the potential impacts in this document."

Given there is substantial evidence that disadvantaged groups have much more limited access to the internet and so large numbers of people would not be able to obtain the information, they would be disadvantaged by the process of consultation itself. The Council should have sent a printed copy of the draft EqIA to everyone.

Despite the Council's emphasis on residents identifying equality impacts, the form itself does not include this as one of the questions.

Likewise, page 14 of the Information Pack refers residents to the same webpage for the Economic Appraisal. A printed copy should have been distributed to all residents as it is the basis for the Council's decision that the estates should be sold to the developer for demolition.

### **6. Changes to the information and geographical extent of the consultation**

During the consultation period, the Council drip-fed confusing snippets of information about the CLSA to residents.

Version 3 states: "The developer must build the new homes before demolishing existing properties on the estate. Only then will the land be passed to the developer."

Version 2 states: "the developer would have a maximum of five years from the date of the Conditional Land Sale Agreement in which to exercise its option to purchase the estate land".

Version 1 states: "the land agreement would grant EC Properties the right, for up to five years, to purchase the land in phases, on satisfaction of a number of conditions".

Version 2 also states: The Council anticipates that it will have received the full (approximately) £100 million by 2020, although the phases of construction and demolition may take considerably longer than that to complete, assuming that all the phases proceed as both the Council and the developer intend.

Version 1 states: "The Council hopes to make a final decision in Spring 2012".

[Link to Version 3](#)

[Link to Version 2](#)

[Link to Version 1](#)

The letter of 3 February from the Executive Director of Housing and Regeneration contradicts the assurances of legally binding guarantees to a new home: "the developer will not be legally bound to proceed with each of the subsequent phases".

Midway through the consultation period, the Council widened the geographical extent to cover much of Fulham, provoking a response from the MP for the neighbouring constituency to respond supporting demolition.

## 7. Breaches of statutory duties, policies and guidance

- A. **The Council failed to comply with S105 (1) and (5) of the Housing Act 1985 and its remedy does not satisfy requirements in respect of other council tenants**

Housing Act 1985

### 1985 CHAPTER 68 PART IV SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

#### *Provision of information and consultation*

#### 105 Consultation on matters of housing management.

(1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—

- (a) to be informed of the authority's proposals in respect of the matter, and
- (b) to make their views known to the authority within a specified period; and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.

(5) A landlord authority shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—

- (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public, and
- (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

On 14 October 2011, when asked to supply a copy of its arrangements under S105, the Council provided:

[http://www.lbhf.gov.uk/images/R1%20Strategy\\_Final%20V.4June09\\_tcm21-1233399.pdf](http://www.lbhf.gov.uk/images/R1%20Strategy_Final%20V.4June09_tcm21-1233399.pdf)

[http://www.lbhf.gov.uk/images/Housing\\_Strategy\\_Final\\_Bookmarked\\_tcm21-80328.pdf](http://www.lbhf.gov.uk/images/Housing_Strategy_Final_Bookmarked_tcm21-80328.pdf)

Neither of these documents makes any reference whatsoever to S105 or to arrangements for consultation with residents.

The Council subsequently, on the same date, provided a copy of 'The Participation Compact 2009'. This document makes no reference to Section 105, nor does it set out any arrangements for appropriate consultation (with one exception, which it has breached - see below), or specify a time period within which secure tenants can make their views known.

The Council subsequently published its arrangements for consultation with West Kensington & Gibbs Green residents under S105 here  
[http://www.lbhf.gov.uk/images/Earls\\_Court\\_Consultation\\_S105\\_of\\_housing\\_act\\_tcm21-167444.pdf](http://www.lbhf.gov.uk/images/Earls_Court_Consultation_S105_of_housing_act_tcm21-167444.pdf)

However, its remedy in respect of West Kensington & Gibbs Green is not a remedy for failing to publish arrangements and not specifying a consultation time period for its many thousands of secure tenants under S105, especially given how many other council estates are threatened with demolition and sale.

**B. The Council has breached its own 'Compact' by not consulting with the TRAs**

The Council's Participation Compact 2009 states:

On major issues that affect all residents – for example changes in the way residents' homes are managed or to the tenancy agreement, residents will be informed and consulted on an individual level and given the opportunity to express their views in addition to the consultation carried out formally with resident representatives.

However, the Council has not carried out any formal consultation with resident representatives.

Instead, it has set up a 'Steering Group' at a cost of more than £38,000 that was designed to bypass the existing democratic process and is unelected.

The Council's 'Response to representations, Proposed Core Strategy 2010', dated around March 2011, states:

The Council has set up a Residents Steering Group to co-ordinate ongoing discussions with residents around key issues such as the Supplementary Planning Document, the design of new homes, the phasing plans, and the provision of new social infrastructure. This group will continue to operate as a primary point of contact for the Council. (pages 5&6)

In late January 2012, two of the three founding members of the Steering Group resigned, primarily because it had become apparent to them, and was later confirmed to all residents by the Executive Director of Housing and Regeneration, that there was no legally binding guarantee on the developer in the CLSA to build subsequent phases of the development.

The Steering Group is obviously a stooge operation and has no legitimate basis.

**C. Statutory Guidance**

Given the nature of what is proposed, the Council should have applied the same level of consultation as laid down in the Housing Act 1985: Schedule 3A – consultation before disposal to private sector landlord, Statutory guidance – paragraph 3: <http://www.communities.gov.uk/documents/housing/pdf/1293538.pdf>

The Guidance is explicit about the need to present a clear choice to people on which they can make a decision, something this consultation utterly fails to do.

The Council should follow the second as well as the first part of statutory guidance above and pose a clear choice in an independently run ballot on whether the estates should be sold to the developer for redevelopment or whether they should be transferred to a community-based housing association.

## **SECTION 2. THE INFORMATION PACK**

### **1. Background**

The Council distributed an Information Pack to residents at the beginning of January 2012. The pack contained:

- A covering letter from the Director of Housing and Regeneration
- Notice of drop in sessions
- Tenant offer
- Leaseholder/ Freeholder offer
- West Kensington & Gibbs Green Information Pack
- Feedback form and envelope

### **2. Summary**

The Information Pack:

- Asks residents whether the Council should sign a land sale agreement which neither the residents, nor their Member of Parliament are allowed to see;
- Poses many questions that it does not answer;
- Contains answers so hedged by conditions, unknowns, and obscure and unwritten policies as to make them impossible to evaluate;
- Disguises what residents would lose, hides their lack of choice, and obscures the increased costs they would face;
- Mistakenly advises tenants it would use CPO powers to force them out, and fails to inform tenants about the legal grounds it could use to seek possession of their homes;
- Mistakenly asserts that residents could use S34A to take over their estates after the land has been sold to the developer;
- Contains so many errors, contradictions and deficiencies as to invalidate the consultation.

The LBHF 'offer' falls far short of what a landlord who was genuinely interested in the welfare of residents would offer. The promises are murky at best, mistaken, contradictory or just not explained at worst. Even if they were properly explained without all the caveats and unknowns, nearly all of them are measures that the Council is legally obliged to take and which would apply to any landlord, including ourselves if we took over the estates.

The remainder of the promises, such as offering to throw away household appliances because it's cheaper for the developer to mass supply and fit, are designed to meet the convenience of the Council and the developer, rather than the interests of the residents.

The Council has not compared this 'offer' with that made to residents of other regeneration schemes. Therefore, it has no evidence to support its extravagant claims



of generosity. Overall, it is apparent that most residents would lose much more than they would gain from what is promised.

3. **Questions not answered, mistaken or contradictory**

3.1 **Covering letter from Director of Housing and Regeneration**

The covering letter states:

The Council is considering whether to include the West Kensington and Gibbs Green estates in wider plans to redevelop the area around Earls Court by entering into a so-called 'Conditional Land Sale Agreement'. But we want to consult residents before making this decision.

The Council has not supplied a copy of the Conditional Land Sale Agreement (CLSA) to residents, nor has it provided an Internet link. Instead, the Council maintains that this document is commercially confidential, and that neither it, nor the negotiations surrounding it can be disclosed (see subsequent letter from Director of Housing and Regeneration 3 February 2012).

On 27 February 2012 the Director of Housing and Regeneration wrote to our MP Andy Slaughter:

I write with reference to your recent enquiry regarding Nick Johnson's role at the London Borough of Hammersmith and Fulham. In your enquiry you asked me to provide you with:

- 1) The number of days Nick Johnson has worked for LBHF this financial year (2011-12) and how much has been paid, in both fees and expenses, either directly to Nick Johnson or to Davies Johnson in respect of work done for LBHF.
- 2) The reason for the extension of his contract.
- 3) If he is involved with anything other than the Earls Court Regeneration Project
- 4) In terms of his involvement with the Earls Court Project : what is his job title; what are his areas of responsibility; who does he line manage; does he have an office provided by the council or does he work from his own premises;
- 5) The length of time his current contract has to run and whether it is the council's intention to renew it.

With regards to question 1) **LBHF have paid Davies Johnson Ltd £119,280** inclusive of VAT to date in the current financial year (2011-12) **for 140 days work**. The VAT can be reclaimed by the Council and the cost excluding VAT is £99,400. No payments have been made directly to Nick Johnson.

With regards questions 2), 3), 4) and 5) the answers to these enquiries are available in the publically available Cabinet Member's Decision "Agreement of a new contract with Davies Johnson Ltd **to enable the preparation of a conditional land sale agreement for the West Kensington and Gibbs Green Estates**" made on 24<sup>th</sup> November 2011. I have attached a copy of this report which can also be found on the Council's website.

<http://democracy.lbhf.gov.uk/documents/s14945/CMD%20-%20Appointment%20of%20Davies%20Johnson%2011td%20final.pdf>

[Bold text is our emphasis]

The CLSA affects residents' lives and futures fundamentally. It is irrational for the Council to consult residents about whether to sign a document, which its keeps secret

from them. We expect the Council to disclose the CLSA in full and immediately, sending printed copies to all residents.

We object most strongly to the Council trying to use the advance payment for the purchase of our estates to pay Nick Johnson to prepare a warrant for the destruction of our homes and community. Our MP will be raising this matter with the Council's Auditor.

### **3.2 Tenant offer**

P1 (cover): States: "This is not a legal document but to further help you understand..."

If it is not a legal document, then it is not binding on the Council.

If it is not a legal document, then it is not a S105 Consultation.

P2: Q2 b) You have a right to move to another Council property in the borough, but have to bid for it through CBL. So if your bid is unsuccessful, it's not a right. Or is it? There is no mention here that the Council has been selling family-sized social rented homes as they become vacant, or that it has been emptying social rented blocks for works, then selling them off, or that it has not approved any new social rented housing for several years, or that it is trying to sell off and demolish other council estates.

P2: Q2 c) "Where will I be moved? ... Move outside the Borough". This question is not answered. All that is being offered is advice. There is no mention of any help. If a tenant cannot access accommodation outside the Borough, because none is available, what will happen to them? This option is only likely to be possible for tenants wishing to move to areas where the demand for social housing is not high.

P2: Q3 Much is made of the dedicated Rehousing Officer. But there is no guarantee that he/ she will not change repeatedly, that he/ she will be effective, or what budget he/ she will control (if any), or whether there will be sufficient resources to deal with up to 750 decant cases.

P2: Q4 "When will I have to move?". "At the moment ... there is no fixed timetable". This question is not answered. How are residents supposed to make a decision on the basis of this information? The developer stated in March 2012 that the timescale for project completion is 20 years.

P3: Q9 states:

**I like where I live now, what happens if I don't want to move?**

.... If we proceed with the development, it would need to be certain that the Council will be able to secure possession of all the homes on the estates. In order to do so the Council would consider, if necessary and appropriate, to make use of compulsory purchase orders in order to allow the Council to take possession of your home.

This is a legal process that the Council must go through before it can exercise any power to take possession of your home. If the Council does choose to use compulsory purchase powers, the law gives you a right to object to the use of these powers and any order may need to be confirmed by the Secretary of State.

This is plainly wrong as CPO powers relate to leaseholders and freeholders. They do not apply to secure tenants.



The Council has not indicated whether it intends to use Ground 10 or Ground 10A to get possession of tenants' homes who will not or cannot move. Both require 'Suitable Alternative Accommodation' which is not explained. Furthermore, the 'offer' summaries on pages 7 and 8 of the Information Pack make no reference at all to powers or rights regarding possession proceedings against secure tenants.

This is a fundamental mistake that prejudices people's rights. This error means the Council has misinformed secure tenants about the statutory grounds it might use in proceedings to recover possession of their homes, and it has failed to inform secure tenants what legal grounds it could use to force them out of their homes and what their rights would be in those circumstances.

P3-4: Q10 The only information that the Council provides for private tenants is: "you will not be entitled to take advantage of the contract being offered to council tenants".

Up to 100 leasehold/freehold properties are occupied by private tenants, many with children. The Council has made no offer to help private tenant households at all. It has not even said it will comply with its statutory duties. That is disgraceful. The Council should be ashamed of itself for threatening to make so many vulnerable families and their children homeless without even making this plain, let alone explaining their duties and people's rights.

The Council offers Housing Association tenants to become council tenants. Elsewhere it says they can remain as HA tenants. Which is it, and who decides? If they want to remain in their home, will their immediate landlord serve notice on them? What do the Housing Associations have to say to their tenants? What are the terms of the leases granted by the Council to the Housing Associations, and how do these affect the tenants?

P4: Q11 This answer misrepresents the tenant-led transfer option and misrepresents the Government's intention to implement S34A of the Housing Act 1985.

**I have heard that the estates may be transferred to the residents. How does this affect the proposals for redevelopment?**

Some residents who do not want the redevelopment to go ahead have indicated that they want to buy the estates themselves under Section 34A of the Housing Act 1985. However, the residents cannot use this law to buy the estates until the Government takes further steps to enable this to happen. The timescale for this is unknown and it is possible that the Government may never do this. If it does then those Council tenants may make an application to buy and manage the estates (or parts of them) and at that stage the Council would need to consider how best to take forward the redevelopment.

The TRAs' solicitor informed the Council in July 2011 that residents from two thirds of households had joined the new association to take ownership of the estates.

The claim that "it is possible that the Government may never do this" does not reflect what the Minister for Decentralisation, Greg Clark MP, told the Leader of LBH&F, Councillor Stephen Greenhalgh, on 14 March 2011:

As you point out, the Department will be formally consulting on regulations and statutory guidance to English local housing authorities that will grant local authority tenants the right to explore a change of landlord and place a new duty on councils to co-operate with their tenants, where transfer is the favoured and viable option.

At the start of the Consultation in January 2012, we understood that publication of the regulations for consultation was imminent. The Council should have contacted the relevant CLG official to confirm the position before misrepresenting the Government's stated intention.

P5: Q3 The question is not answered.

P6: Q5 This question is inadequately answered. Why should anyone lose an entitlement just because a Notice Seeking Possession has been served? It could be contested, and indeed won.

P6: Q6 This question is inadequately answered. There is no mention of the supply of council homes in other parts of the Borough. The Council does not reveal that it has been selling family-sized social rented homes at auction as they become vacant etc. (see above). This makes rehousing elsewhere in the Borough almost impossible. Will the offer be of a new home on the Seagrave Road site only, or will other options be available?

P7: C) The 'Tenant offer' does not identify the impact of its proposal on 191 households living in houses, and whether they would be rehoused in houses, and for tenants with secure garage, off-street parking and permit parking within the estate, whether they would be offered replacement, whether this would be adjacent to their dwelling as at present, and at what cost.

If you have accepted the Contract you will be entitled to compensation for the loss of an exclusive off street parking space or exclusive use of a garden, if these are not provided in your new or alternative home. The Council will develop its policy regarding such fixed level of compensation.

This information is far too patchy and uncertain for the 191 families living in houses to be able to properly consider.

P8: Q8 Paragraph two of the answer contradicts paragraph 1. Either you will pay the same rent as you pay now, or you will pay the 'normal rent' for an equivalent sized council property'. Can it really be the case that these are precisely the same? Council rents are based on values of homes and new homes are likely to be valued higher than existing homes, so the rents are likely to be higher. No indication is given of likely rent increases.

P9: Q9 The question is not answered. Service charges for the new homes "will conform to the Council's borough wide policies". Inevitably for larger blocks there are more services that can be charged. A house or un-lifted block will have a low service charge compared to a block with larger areas of common parts, and several lifts, entryphone, and communal rubbish disposal. The Service Charges will depend on the services delivered. What services and to what standard will have a large impact on the cost. None of this is explained.

P9: Q10 – This question is inadequately answered. Council Tax bands on new homes are likely to be higher than on existing homes due to the band being based on the value.

There is nothing about parking policy or costs for the new development. If there is secure parking the costs are often much higher than an estate parking space, or garage. Many existing homes have integral garages. This is an area where costs to

residents could increase significantly and where hundreds of residents could be deprived of amenities they currently enjoy and depend upon for their wellbeing.

### **3.3 Leaseholder/freeholder offer**

P2: Q3 "Will I be forced to move out?" The answer is obviously yes, using CPO powers. But that is not said.

P3: Q5 This answer says that if you do not accept the Council's offer, the Council will take CPO action. If you don't agree voluntarily, you will lose anything you are not legally entitled to. The answer should have made plain: 'The Council will force you to move out'.

P6: Q2 This question is inadequately answered. No mention is made of the fact that the Mayor decided the planning application that includes demolition of the estates breaches 44 of the policies in the London Plan.

P7: Q3 A) It is not clear what happens if the purchase price is inadequate to buy a 25% share, or if the mortgagee will not transfer the mortgage to another property. Later it says that in this case: "The Council will work with you to ensure that you are not left homeless", hardly reassuring, yet more than what has been offered to the private tenants.

P8: Does not say whether the Council will take away any debts owed by a leaseholder such as service charge arrears, Council Tax arrears, and service charge payments that have been converted into a charge on the existing property from the payment the Council makes to leaseholders or freeholders.

P8: Q2 This question is inadequately answered. The answer does not provide the Effective Date, nor does it indicate when it could be. The Effective Date is completely outside of the ability of any individual homeowner to influence. It depends entirely on the decision-making process and ability of the Council, central government and the developer.

P8: Q3 F) Most of the 'other compensation' heads say: "The Council will develop a policy to...". In other words, the amount is unknown.

### **3.4 West Kensington & Gibbs Green Information Pack**

P2: 'The story so far' gives a completely one-sided account that fails to mention the Tenants & Residents Associations or the evidence for the overwhelming backing of residents to transfer the estates into community ownership.

P16: The Council mistakenly asserts that the estates could transfer to residents after the land is sold to the developer.

#### **The option for a housing stock transfer**

Whilst some residents are enthusiastic about including the estates in the comprehensive redevelopment scheme, other residents would like the estates transferred to a resident-controlled private registered provider (one of the alternatives under Option 1). This would prevent the estates from being included in the comprehensive redevelopment scheme. The result would be that overall the redevelopment scheme would produce fewer additional homes (including fewer additional affordable homes) and would create fewer jobs. The borough would also lose out on the other advantages listed under Option 4 above.

For these reasons, the Council's provisional view is that the option of including the estates in the wider redevelopment scheme should be pursued first, and a housing stock transfer could be better pursued after the benefits of the comprehensive redevelopment scheme had been achieved, and residents had moved into their new homes.

The second paragraph above is seriously mistaken.

A housing stock transfer involves the transfer of the freehold of council property to a registered provider (normally a Housing Association). If the Council signs the CLSA and then sells the land to the developer, tenants will not be able to obtain a stock transfer to the community as the legislation applies only to local authority council estates and not to land owned by private companies.

The Council is trying to mislead residents into thinking they can take over their homes after redevelopment. Yet it knows full well that it would be impossible to transfer the land after the Council sells the freehold to a third party for redevelopment.

P13: States the final moves to new homes "could be completed within ten years". However, CapCo stated in March 2012 that the build programme for the whole of the new development is 20 years. What they did not say was that this depends on financing, no big problems in the building stage (such as contamination left over from the coal yard), or on the sales at each phase, or the lettings of the shops and offices happening, or the many other problems that could delay or scupper the scheme.

#### **4. Questions answered inadequately**

##### **4.1 Covering letter from the Director of Housing and Regeneration**

Who exactly is this consultation for? If it is for residents in the wider area, how wide is that area? (See Section 1: Consultation process above.) This is unclear.

##### **4.2 Tenant offer**

P3: Q6 The Council's 'offer' to come round and pack people's belongings is frankly insulting. (See Section 3: Latest draft EqIA below.)

P3: Q7 States: "will ensure you have an assessment to ensure that the correct adaptations are provided". This is a long way short of a guarantee. In any event, people already have the adaptations they need, at significant public cost, which they don't want destroyed and thrown away. (See Section 3: Latest draft EqIA below)

P3: Q8 The answer admits that pregnant mothers will be disrupted and implies that Council officers will be ready to arrange forcible removal around hospital and delivery dates! (See Section 3: Latest draft EqIA below)

P3-4: Q10 This question is inadequately answered. It is not clear what compensation others will be entitled to. It will only be statutory compensation. In many cases, given the different types of occupancy, it could be limited to homeloss payment or be zero.

P4: Q11 The answer is erroneous as explained above (P16: West Kensington and Gibbs Green Information Pack).



P4: Q12 Maintenance of the estate. This answer suggests that LBHF intend only to do the absolute minimum. There are many outstanding individual repair requests, the lifts in the blocks are inadequately maintained, and there are numerous instances of health and safety deficiencies in the tower blocks. There are also cases where the Council has failed to carry out Decent Homes work that was previously promised.

P5: Q1 This statement: "the type and size of home you will be allocated" and other similar statements reveal to housing experts, but not to residents, that there is no choice being offered at all.

Is this actually a one-offer-only policy? Why has the Council not explained this most critical point to residents? Who will dictate where residents go? Will they get a choice that meets their needs but is balanced with the need of their neighbours? Or will they be forced out to somewhere that is dictated by the Council according to its financial incentives, and so as to achieve yet greater profits for developer?

New homes will be allocated on Council assessed 'housing need size' with one above need for under-occupying tenants. What happens to adult children living with their parents who want to live on their own? No additional social rented homes are being provided in the development, and there is none available elsewhere in the Borough, so there is no scope for housing grown up children in homes of their own. Why is none of this spelt out?

P5: Q4 Tenants will only be offered one bedroom above their need, whatever they occupy now (so a couple aged 50 with no kids would get a 2 bed, a couple with 2 boys aged 14 would get a 3 bed, and so on). Note that this does not apply to homeowners who are to be offered the same size unit as they have now. Again, there is no mention of any choice in what (such as floor level) or where would be allocated.

P5-6: Q5 This question is inadequately answered. Many "reasons" are given "why you may not be offered an alternative home". If these do apply, will you be intentionally homeless? Then what?

P7: Q C) – This question is inadequately answered. It is very unclear what compensation will be offered, if any, for improvements which many residents have invested much time, labour and money. The conditions seem likely to be so onerous as to exclude fair compensation for residents for most of what they have done.

Compensation for loss of garden or car parking: how much? Why does this section not spell out that almost certainly by accepting the 'Contract' you will lose your garden, off-street parking space(s) and garage? Many residents point to this as a brazen example of cheating.

Nuisance or inconvenience: there are so many conditions here it is unlikely that anything will be paid.

"Some of these benefits will depend on your circumstances". In other words, you don't know whether or not you will receive them.

"Some compensation – such as ... relevant adaptations.... will be subject to the Council's policies". In other words you might not get them, and they might not be as good as what you have now.

P7: C) This implies you will only be entitled to compensation from a noisy contractor if you have accepted the contract. In common law, a contractor would have to compensate for nuisance and inconvenience.

P8: Q2 Mutual Exchange is a right that is guaranteed in statute for all Secure Tenants with limited grounds for the landlord to refuse. The answer to the question is inadequate as it implies that exchanges are only subject to Council policy.

P8: Q6 This question is inadequately answered. The answer implies the Right to Buy might already be suspended, or is likely to be. It suggests that anybody making a RTB application now will not have been offered a new home (as existing owners would be). The lack of clarity here could severely prejudice anyone considering buying their home.

P10: Q1 Since the 'independent' legal experts are dependent on LBHF for a recommendation and for payment of their fees, there is little confidence they will be independent. The Council decides the reasonable level of fees, which implies the resident will have to pick up the balance.

#### 4.3 Leaseholder/ freeholder offer

P2: Q1 Regarding the Rehousing Officer: "the Council will do its best...if staff changes prevent this, we will try to ensure that you are introduced to any replacement". This isn't much of an assurance.

P4: Q7 The answer states:

[The Council may want to wait and see what the outcome of the application is before it bought any more homes on the estates.

This means that, under the Offers, if an application for transfer of the estates or any part of them is made under S34A then the Council may suspend our obligation to buy your home before we need it for the development.

This implies that if residents make an application to take over under S34A, the Council will either suspend its "obligation to buy your home" immediately or "may want to wait and see what the outcome of the application is", a process that could take two to three years.

The notion that the Council has an "obligation" to force you out of your home, but that it can "suspend" this obligation at will trumps even George Orwell's most fanciful imaginings.

P9: Q3 A) The answer shows that the offer is for a shared equity basis with the Council, not a new for old. All that will be offered is a home of the same size in the new development, irrespective of what housing need exists.

There is nothing about the terms of the leases in new homes, such as length of lease, service charges, ground rent or any other conditions, and whether any new homes will be freehold.

P9: Q3 B) The 10% early purchase discount is likely to be a discount on a price inflated by 10% or so, which is standard developer practice. There is no mention here that prices may go up and down during the sales period, so waiting longer in a falling market could be to the advantage of a prospective buyer.

The answer does not say whether you will be offered a house if you have a house, or whether you would get a flat if you have a flat.

P10: Q4 Did the Council send the Information Pack to non resident homeowners?

P11: Q9 This answer provides no guarantee that a homeowner won't be made homeless, nor advice as to his/her rights should that happen as a consequence of redevelopment.

P11: Q10 The Council estimates ground rent will be approximately £250 per year. RTB legislation sets RTB ground rent at £10 per year. The Council says it will cap service charges for 5 years, but says nothing about how they will increase thereafter, or whether the resident would face the full increase that would have accrued over those five years.

P12: Q10 Resale of share: the entitlement to pass on the service charge cap once to a family member suggests service charges will indeed increase every year and that at the end of the five years residents would be hit with a huge increase.

Staircasing seems to be a one-way route to buy a larger share of equity, demonstrating the Council's and the developer's concern to extract yet more money from low income people. There is no indication of any option to 'staircase' down. Given how extensively the recession is steadily reducing people's financial resources, it is far more likely owners would need to staircase down, but this would only put them in greater hock to the developer. Either way, part-ownership could disadvantage residents in many ways that are not explained.

#### 4.4 West Kensington and Gibbs Green Information Pack

P7: "The terms of this contract have been negotiated by a residents steering group..." This group is unelected and was set up by the Council to bypass the democratically accountable tenants and residents associations. It has no authority or mandate to negotiate on behalf of residents. (See Section 6 below.)

P8: Service charges for existing resident freeholders will be capped at a maximum of £1,000 p.a. Currently, some freeholders pay no estate-wide service charge, while others pay less than £1,000. Freeholders will face an increase in service charge costs, and after five years they will face another major increase. Why has this not been made explicit?

P13: The Council states: "Our absolute priority would be to ensure that the community and neighbourhood continued to flourish while the new homes were being built around it". This claim is the final false flourish on a preposterous pile of propaganda.

P14-16 Options: The Information Pack fails to present Community Transfer as a stand-alone option. Yet this must be properly considered before deciding whether to sell the estates to a developer or not.

We summarise here (from Table 1 in Section 5 below) how the Community Transfer option:

- Increases affordable housing supply while sale to a developer does not.
- Retains existing community links, infrastructure and networks, while sale to a developer disrupts these over a period of 20 years.



**West Kensington & Gibbs Green Tenants & Residents Associations**  
**West Ken & Gibbs Green Community Homes**

- Provides a housing mix and facilities such as environment, parking, private gardens that sits well with the existing needs while sale to a developer significantly reduces the proportion of social housing in the area and removes facilities.
- Gives tenants the right to individually acquire a stake in their home, preserves the position of existing leaseholders and freeholders, and gives a collective ownership and control over the West Kensington and Gibbs Green Estates. Sell off to a developer provides few of these possibilities.
- Improves the existing infrastructure, rather than dismantling it over a period of 20 years and replacing community infrastructure that works with the promise of something else.
- Builds on existing residents' skills rather than the *possibility* of predominantly low paid and precarious employment in retail and hospitality proposed with redevelopment.
- Provides a less stressful environment in which residents can live, with increased control over home and environment, improving health outcomes, while sale to a developer and wholesale demolition increases anxiety and stress.
- Directs community investment into the issues that are of most importance to the existing community, to improve design, transport and security while sale to a developer does not.
- Gives residents a direct stake in the public realm, with decision-making power, while sale to a developer will not.

### **SECTION 3. DRAFT EQUALITY IMPACT ANALYSIS**

#### **West Kensington & Gibbs Green/ Ear's Court Potential Redevelopment Project (Available on the Council's website at 6 March 2012)**

##### **1. Summary**

The Council's latest draft Equality Impact Analysis lacks evidence to support its assertions, fails to identify many negative impacts and hardly address any of those it does identify. It cannot be relied on to support a decision to proceed with the three recommendations set out below.

The previous draft of the EqIA that was relied on for the Economic Appraisal and the provisional decision in November 2011 to sell the estates is reviewed at Section 6 below.

##### **2. Approach**

The latest version of the Draft Equality Impact Analysis (EqIA) considers the impact of three recommendations on people with the protected characteristics. It assesses whether the effect is positive, negative or neutral, on people with the characteristics, and whether the impact is high, medium or low. In some cases it sets out what action LBHF would take to reduce negative impacts, but in many cases it does not.

The document includes a profile of residents living on the estate in pages 10 to 16.

##### **3. Evaluation**

An Equalities Impact Assessment must be based on evidence: of who the community is that will be affected by proposed policy changes, a clear description of the policy proposed, and a thorough evaluation as to how these proposals will affect people with the protected characteristics.

##### **4. Policy**

The policy assessed is the proposal to enter into a Condition Land Sale Agreement (P1). There is no comment on any deadline for this decision, and therefore the point at which the Equalities Impact Assessment must be completed.

##### **5. Recommendations**

The three recommendations subject to the EqIA are:

1. That the Council grant an option to EC Properties to purchase the West Kensington and Gibbs Green estates.
2. That the council approve the early purchase by EC Properties of land formerly occupied by Gibbs Green School. This will provide the much needed funds to build a new borough wide Secondary autistic school facility in White City, the building of which has been stalled due to public sector cuts.
3. That the council approve the sale to EC Properties of land at 11 Farm Lane to support the redevelopment.

Recommendation 2 contains not just a recommendation, but also the opinion on how and why work has stalled on the school in White City. It implies that one 'area of high deprivation' in the borough is being further deprived to divert resources elsewhere.

Recommendation 3 relates to selling a previously closed supported hostel. There is no assessment in the EqIA as to the need for the service it was providing. That decision has been made and the building declared 'surplus to requirements'. The building is South of Lillie Road, and is not an integral part of the estate.

Each recommendation is assessed for impact against protected characteristics. The assessment includes some commentary on how to reduce negative impacts, but very little.

## 6. Recommendation 1

### Age

The estate profile shows a higher than borough average population of young people. There is no attempt to assess the impact of the recommendation on young people (P3).

Throughout the EqIA there is a commentary on the difficulties some groups will disproportionately feel in moving. This deals with the physical activity of packing, moving and unpacking. There is no assessment of the psychological effects of losing a home. Point (1) includes what the Council intends to do. There are significant qualifications, 'where possible' residents will be moved in groups. There is no idea of how the Council will plan or implement this vague hope.

There is no commentary (P4) on how the Council will reduce the high impact negative effect (2A) on the elderly of having to move to a smaller home.

For (2b) the positive impact of moving to a larger home, there is no evaluation as to what the level of need is, and whether the build that is proposed will meet the need or not. The positive impact cannot be proven without this evidence.

For (3) the assessed positive impact of improved access does not identify whether, and to what degree, this is a problem at present. Removing many houses with ground floor access and replacing them with higher blocks is likely to exacerbate this problem. Another approach to improving access would be to improve pedestrian routes on the existing estates and refurbish lifts in the higher blocks. This option is not evaluated.

The number of ground floor access homes, with access to gardens in the existing and proposed development is not assessed. Their loss could prove to have a negative impact on families with children in particular, and all households that do not get access to ground floor homes in the proposed development.

For (4) there is no assessment of whether new jobs would be temporary, or permanent, and how they would relate to the skills and employment opportunities for existing residents. Without targeting new employment opportunities towards existing residents, this effect is likely to be limited by competition from others outside of the area. The impact is not supported by evidence.

### Disability

For (1) the same impact as for elderly residents is identified (P5). This deals with the physical activity of packing, moving and unpacking. There is no assessment of the psychological effects of losing a home, nor of the various impacts on people with different kinds of disabilities such as impaired vision or mobility.

There are significant possible impacts on the need for service provision changing as a result of large population movements, with the need for Occupational Therapists to assess significant numbers of new homes, and the need for the Council to provide adaptations, most of which have been made or installed already in existing homes. For residents with mental health problems, post move adjustment will generate significant needs for increased support. There is no assessment of how much may be required, whether the resources exist to provide it, and how it would be managed.

For (2) there is no assessment of how many residents with disabilities would move from ground floor access to upper floor access homes.

For (3) existing health facilities are very easily accessible for residents on Gibbs Green. It is unclear where the residents would be relocated, where the new facilities would be relocated, how this provision would be funded, and whether this would be an improvement or not.

For (4) the proposal does not evaluate the number of parking spaces needed for residents, and their location. Many existing estate residents park their car at their front door, or in their own private garage integral to their home. Around 100 houses have off street parking for up to three cars. The proposed development does not include parking arrangements as accessible as this. Rather than 3:1 they are proposed at 0.4:1

#### **Gender Reassignment**

There is no assessment of any impacts (P5). Moving to a new block and being in a different community could generate more anxiety related to acceptance by new neighbours in this protected characteristic than in other residents.

#### **Marriage and Civil Partnership**

There are no impacts identified (P6).

#### **Pregnancy and Maternity**

For (1) this deals with the physical activity of packing, moving and unpacking (P6), and no other impacts. The ability to move decant dates for heavily pregnant or recently delivered mothers does is caveated, 'where possible'. How it relates to availability of accommodation and decant and sale of land dates is unclear. The safety of pregnant or recently delivered mothers in blocks that are substantially decanted is not evaluated.

For (2) options other than complete redevelopment are not assessed. The disruption during building works over 15-20 years, and the impact of closing pedestrian and vehicle routes during that period is not evaluated. There are likely to be 15-20 years of negative effects before many benefits may be realised.

#### **Race**

For (1) there is a negative impact with no commentary on how to reduce the impact. The effect on community, and how BME households on the estate access support services, with an evaluation of the impact on those networks is missing.

For (2) there is no cross-referencing of race and household size data in the estate profile. Without this the assertion is not based on evidence. The likely effect of making significant amounts of private tenants in large homes homeless through the decant process is not assessed by race, nor is there any commentary on the resources needed to provide for these households, or an assessment of the impact on them.

### **Religion**

There is a negative impact (1) on Muslim households without any commentary on how this impact may be reduced (P8). There is no commentary on access to places of worship, or services provided by religious groups before and after any land sale.

### **Sex**

The data quoted (P8) is 11 years old. It is likely to be significantly out of date.

There is a negative impact identified (1) without any commentary on reducing the impact.

The issue of safety and security in buildings during decant, and in living on a building site for up to 20 years is not evaluated.

### **Sexual Orientation**

There is no assessment of any impacts (P8). Moving to a new block and being in a different community could generate some anxiety related to acceptance by new neighbours more than in other residents.

### **7. Recommendation 2**

For a recommendation that involves selling a school currently used to educate Special Needs pupils there are surprisingly few identified impacts (P9).

Inevitably, there will be impacts on children and parents in moving the school from the current location and the change in travel needed to and from the schools where children are displaced to. These impacts will be greater for children with special need and disabilities (and their parents). The ethnic profile of school pupils and the impact on relocation could be significant.

As there are few impacts identified, there is no commentary on reducing these impacts.

### **8. Recommendation 3**

There is no reference to whether the impacts identified as part of the decision to declare the former sheltered hostel 'surplus to requirements' have actions associated with them that should be noted and monitored, nor whether the need for the services in the hostel have been met elsewhere or through alternative provision.

Supported hostels are designed to provide services to people who have some of the protected characteristics set out in an EqIA. There is no evaluation of that in this document.

### **9. Estate Profile**



The information on the estate residents is based on *West Kensington and Gibbs Green Estates Profile* November 2009. The Council supplied us with a printed version of this document dated 2 December 2009. It has declined to supply it electronically and it has not made it available on its website or elsewhere.

Much of the information in Section 3 of the EqIA is not referenced, so it is unclear when the information was gathered, and therefore how close it is to the current situation.

The property profile (P12), which provides numbers for council, housing association and leasehold/freehold properties, is not dated.

### **Age**

The Age profile (P13) is not dated. It shows a higher concentration of children on the estate (24%) compared to the Borough. The EqIA does not assess the effect of the recommendations on children. The *Estates Profile* suggests the proportion of children on Gibbs Green is increasing, but does not identify the base and over what period this may have happened.

The analysis of Council owned properties is based solely on the age of main tenants. So in most cases this is likely to be the sole tenant or the first named joint tenant. It does not include the other members of the household.

Reliable information of the characteristics of individuals in that community is essential for evaluating the effect of policies on groups. The information used by the EqIA is partial and therefore subject to bias. The age analysis relates only to 464 Council owned properties so it completely omits information on the 58 Housing Association and 171 Leasehold and Freehold properties. It is information relating only to the main tenant, not to the complete household, in Council owned homes, and which omits 30% of the households living on the estates.

### **Disability**

The information on P14 describes the number of disabled people in the UK, London, the Borough and the Estates. There is no comment on the kind of disabilities that estate residents have; whether they are physical, sensory or relate to mental health issues.

Without understanding what limiting factors estate residents have, it is impossible to identify the impact of proposed policy changes. The effects for someone who is blind are different to the effects on someone who is quadriplegic.

### **Gender Reassignment**

There is no information on the existing profile of residents on the estate, or in the Borough (P15). Without any information on who the population is, it is impossible to assess the impact on West Kensington and Gibbs Green residents of any proposed policy change.

### **Marriage and Civil Partnership**

The information provided is in two sentences (P15). The first one contradicts the second.

**West Kensington & Gibbs Green Tenants & Residents Associations**  
**West Ken & Gibbs Green Community Homes**

The majority of residents on the West Kensington and Gibbs Green estates are married (54%), which corresponds with the LBHF average (55%). A considerable proportion of residents on the estates are married (25%), which is also consistent with the LBHF average of 26%.

**Pregnancy and Maternity**

The profile identifies teenage pregnancy within the North End Ward as double the Borough average (P15). Whether or not this is accurate, there is no assessment of the impact of proposed policy change on this protected characteristic.

**Race**

The information on race is not dated (P15), so it is unclear how current it is. Information on Council tenants is incomplete, but it is not explicit what proportion of tenants it represents, 25% or 90%. There is no comment about the completeness of information on the other members of the household apart from the tenant, nor on the ethnicity of Housing Association tenants, leaseholders, freeholders and the tenants they have.

**Religion**

The information on religion is not dated (P15-16).

**Sex**

The information on sex (P16) describes the sex profile of London, England and LB HF but says nothing about the sex profile of West Kensington and Gibbs Green.

**Sexual Orientation**

The information on sexual orientation quotes two contrasting sources of information presumably national. There is an assertion that these are understatements for London (without reference). There is no information on LBHF or Gibbs Green.



## **SECTION 4: ECONOMIC APPRAISAL**

**Review of Proposed Estates Regeneration - Economic Appraisal by Jones Lang Lasalle/ Amion Consulting, November 2011**

**Prepared by Keith Colley, B.A. (Hons), FRICS, FCIH, Dip. GM, WKGCH  
Independent Board Member**

### **Background and conclusion**

On 7 November 2011, the Leader of the Council and the Cabinet Member for Housing made the following decision:

#### **WEST KENSINGTON AND GIBBS GREEN ESTATES**

In consultation with residents, the Council has been exploring the potential benefits that will arise from the inclusion of the West Kensington and Gibbs Green estates in a comprehensive redevelopment scheme with adjacent landowners.

In order to help inform further consultation and the Council's decision the Council has undertaken an Economic Options Appraisal which concludes that the inclusion of the estates within the wider comprehensive redevelopment scheme delivers a compelling case for providing the optimum benefits for estate residents, the local area and the Borough as a whole.

1. To provisionally accept and endorse the conclusions contained within the Estates Regeneration Economic Options Appraisal relating to the West Kensington and Gibbs Green estates subject to the outcome of further consultation hereby authorised with local residents, tenants and leaseholders and any required consents from the Secretary of State.

2. To note that the ability for the scheme to be delivered will be contingent on the completion of the Conditional Land Sale Agreement, including Tenant and Leaseholder/ Freeholder Guarantees, that results in best consideration, and progress reports in that regard will be submitted to Cabinet in the usual way.

#### **The Cabinet Members' report states:**

The West Kensington and Gibbs Green estates are now between 30 and 40 years old and lie within the North Fulham area, which remains one of the most polarized in the borough in terms of social, economic and physical terms. In 2010, the area fell within the 20 percent most deprived areas in England as indicated by the Index of Multiple Deprivation.

Consequently the Council has been keen to fully explore the rationale for the redevelopment of the estates and understand whether the inclusion of the estates in the wider redevelopment proposals offers the optimum method for providing replacement housing. For this reason the Council instructed Jones Lang Lasalle to prepare an economic options appraisal to assess the optimum future proposals for the two estates in terms of delivering benefits to the local and wider economy and to inform the Council's future plans and consultation with residents.

The information it presents is drawn from the Economic Options Appraisal (EOA) prepared by Jones Lang Lasalle/ Amion Consulting and from the draft Equalities Impact Analysis (EqIA) prepared by Council Officers.

The Economic Appraisal is also an accompanying document to the revised Earls Court/ West Kensington Opportunity Area Joint Supplementary Planning Document,

November 2011, which says of the Economic Appraisal:

The initial conclusions are that estate regeneration as part of a wider Earl's Court masterplan development delivers the optimum benefits. LBHF, as landlord and being responsible for the estates as housing authority, has accepted and endorsed the conclusions contained within the Estates Regeneration Economic Appraisal, subject to the outcome of further consultation with local residents and any required consents from the Secretary of State.

The Economic Appraisal states:

AMION Consulting, in conjunction with Jones Lang LaSalle (JLL), has been appointed to prepare an Economic Appraisal Report to assist the London Borough of Hammersmith and Fulham (LBHF or the Council) in considering the possible inclusion of the West Kensington and Gibbs Green estates within a comprehensive phased scheme of regeneration for the Earl's Court and West Kensington Opportunity Area.

The conclusion we reach at the end of this section is that the Economic Appraisal is fundamentally flawed and cannot be relied on as a fair and proper assessment of the economic benefits and disbenefits of the options either by LBH&F for informing its decision as a landlord and planning authority on whether to include the estates in the development, or by the Mayor on whether redevelopment complies with the policies in the London Plan.

## 1. Generally

Our specific comments are listed following the structure of the report. However, we have the following general comments on the entirety of the document:

- 1) There appears to have been no consultation whatever during its preparation with the 760 households living on the estate, including with any of the freehold or leasehold owners (including the housing associations which own 58 properties constructed in the last 10 years).
- 2) The document contains only minimal data about the estate itself to the extent that we cannot even be certain that the authors have ever visited it. There is no mention, for example, of the widely different built forms and design solutions on the estate, or indeed that there is any difference between the West Kensington and Gibbs Green estates, which are simply referred to as if they were interchangeable.
- 3) The document generally lists many subjective opinions masquerading as facts. It is written in a semi-formal passive rather than an active style in an attempt to give legitimacy (for example, the use of "it is considered that..." rather than the more straightforward "we think"). This makes it at times difficult to understand. Particularly confusing is the use of the term "regeneration" when what is meant is "demolition".
- 4) The document does not appear to pay any attention to phrasing which of course with a massive scheme such as this will have enormous implications. In particular there is no attempt to take into account the fact that a scheme as large and complex as this is very unlikely to proceed smoothly in the current economic climate. The need and availability for development finance is neither identified nor risk-assessed, a stunning omission for an economic analysis written in the middle of the worst financial crisis since the 1930s.

- 5) Throughout it is not clear exactly what is being compared with what, possibly because the tables which back up the published data do not appear to be available and therefore cannot be interrogated. For example, the base data for crime statistics are not referenced, so it is impossible to assess whether the estates are high or low in incidents of current crimes, and therefore what difference is predicted or expected from the redevelopment options.
- 6) The document contains many unsubstantiated statements. Since these are generally not referenced, it is impossible to prove or disprove them. However, the lack of an evidence-based approach means, in our view, that this document should simply be ignored.

## 2. Overview

- 1) Very little comment is made on the condition of the existing estates. The document states “the two estates suffer from discontinuous internal roads and poor quality open space”.
- 2) Taking the highway layout first, the current guidance is expressed in the DCLG/Department of Transport “Manual for Streets”, published in 2007. This runs to some 140 pages and its very length demonstrates that street design is a complex subject. However, at no point is there a statement that discontinuous streets are in all cases a poor design solution, and indeed many recent private estates ‘suffer’ from the same problem.  
  
Broadly, the guidance suggests “A clear distinction can be drawn between streets and roads. Roads are essentially highways whose main function is accommodating the movement of motor traffic. Streets are typically lined with buildings and public spaces, and while movement is still a key function, there are several others, of which the place function is the most important....Providing for movement along a street is vital, but it should not be considered independently of the street’s other functions”. The guidance suggests a place and movement matrix, with movement of primary importance on (for example) motorways and arterial roads, and place of primary importance on residential streets. In this context, discontinuous internal roads can be seen as an asset, not a liability.
- 3) Having said this, it is difficult to see quite what is meant by ‘discontinuous roads’. Thaxton Road provides vehicle access from North End Road to Aisgill Avenue and the southern part of West Kensington. Mund Steet provides vehicle access to the northern part of West Kensington and to Gibbs Green Estate and Dieppe Close. There is a set of bollards halfway up Aisgill Avenue, and there is a closed iron gate at the junction of Gibbs Green and Beaumont Crescent. These are a deliberate ploy to prevent rat-running and joyriding and could be reinstated at minimal cost if it was considered desirable for housing management reasons (which it is not). In any event, the presence of some bollards and a gate is very far from being a rational justification for demolishing 760 decent homes.
- 4) The statement concerning ‘poor quality open space’ is a purely subjective one not backed up by any evidence whatever – not even photographs of the offending areas. However, the estate as a whole betrays little or no obvious signs of poor management and disinterest amongst residents. So, for example,

there is no discernable graffiti, no evidence of uncollected rubbish or dumped cars, play equipment in communal play areas is generally in excellent condition, and so on. The areas of open space already act as a useful 'open lung', are widely used for dog-walking, and provide a habitat for squirrels and birds in a dense urban area. Furthermore, children and young people whose activities are overlooked from surrounding properties use many of these spaces.

5) The estates do suffer from a lack of private defensible space in some areas, and there is some evidence of a lack of external building maintenance to some of the blocks. However, the estates are generally in reasonable condition for their age and inner London location and indeed are far better than many comparable estates. In any event, spaces can be made more defensible as part of the wider programme of improvements envisioned by residents, easily and for relatively little expenditure.

6) Certainly there is no justification whatsoever for demolishing the estates on the grounds of poor physical condition or social disintegration (See testimony from Gibbs Green resident below).

7) Generally we think the Economic Appraisal makes the mistake of recommending expensive physical solutions to management and maintenance problems. In other words, it presupposes that the answer to the problems of a deprived community is to demolish the homes they live in. There is a plethora of evidence from academic research and from experience that management and maintenance problems may simply reoccur in new buildings unless their root causes are dealt with. If the poverty of the occupants were to be used as the key criterion for deciding whether properties should be demolished, much of the country's housing stock would need to be destroyed!

### **Background to regeneration**

1) The West Kensington and Gibbs Green estates ('the estates' hereinafter) are between 40 and 50 years old. As such, given that there has been almost no new Council house construction since the mid-1980s, they are likely to be amongst the 'younger' buildings in the stock of LBHF. This is doubtless one of the reasons why, as the report acknowledges, "they remain relatively popular with a number of residents".

2) Whilst it is a statement of the obvious that buildings tend to require more maintenance as they get older, the statement that "the management and maintenance costs incurred by the Council are expected to increase above that for modern Council owned properties" is not backed by any evidence – not surprisingly given that there are so few of the latter to act as a comparator. This is of course even truer of the 58 housing association homes that are 'nearly new'. Similarly the statement that the "average cost per dwelling of the estate is above the average figure for LBHF housing estates" is not substantiated. There is no analysis of the costs of management and maintenance improvements in any of the options, nor of whether LBHF costs compare favourably (or not) with those of other landlords managing similar housing stock. Similarly, the fact many millions have been spent on the Decent Homes Programme on the estate (including new kitchens and bathrooms, new windows and doors, new roofs, lift refurbishment, etc.) is not even mentioned.

The Economic Appraisal seeks to justify demolition on the woolly grounds of "design obsolescence resulting from increasing housing standards". The



following testimony, contained in a response (12 December 2011) to the revised SPD, is from a leaseholder who lives on the Gibbs Green Estate:

These 98 flats are extremely well-built, in excellent condition for 50 years old, and designed to a very high standard of comfort and convenience. ....

- 65 sq m of space, including a separate kitchen, hall and upstairs landing
- solid concrete and brick construction, good soundproofing
- large windows in all rooms, front and back
- a balcony big enough to seat two people and dry all your washing
- first floor convenience
- 200 metres from West Kensington station
- very close to useful local shops
- no traffic outside front or back, pleasant views
- free parking
- long-established and friendly neighbours

Why on earth should residents of such a high-quality estate agree to have their homes demolished?

And has the council, and the Mayor, recognised that these two estates suffered no trouble whatever during the summer riots, showing that we do have settled and cohesive communities here?

- 3) Overcrowding is claimed to be slightly above the borough average. Conversely, “an assessment by the Council has also shown that there is significant under-occupancy on the two estates”. However, whilst the term ‘overcrowding’ is intuitively easy to understand (though the basis for the data might be suspect), ‘under-occupancy’ is not defined; nor is it clear where the data comes from. A far cheaper alternative scenario, of addressing this problem by incentivising older tenants to ‘downsize’ once their children have left home as promoted by many local authorities, is not even mentioned. Overcrowding and under-occupation are a function of the management of properties (including demand management) and are not a function of the properties themselves. More effective management of the homes is required to solve these problems, not demolition. To demolish decent homes on the grounds they are overcrowded and under-occupied is plainly irrational.

- 4) We do not dispute the connection between multiple deprivation and unemployment and educational and health outcomes which are well established. However, the document then leaps to the conclusion that “there is a strong rationale for *demolition* (our italics) and including the estates within the comprehensive regeneration of the Opportunity Area”. How this is expected to improve educational attainment, health outcomes, or the quality of life of the existing residents is not clear. Conversely, recent academic research on outcomes arising from the transfer of council estates to community ownership (Ambrose 2010, Satsangi 2011) shows empowerment delivers a range of significant wellbeing benefits especially to disadvantaged groups and

vulnerable individuals. The existing social capital on the estates is neither mentioned nor assessed. Instead the report rehearses statistics that we believe are derived from a Council document entitled West Kensington and Gibbs Green Estates Profile that was quoted as a source for this information in the First Draft SPD and is quoted as the source for the same information in the EQIA. Despite several requests, the Council has failed to provide us with a copy of this document.

5) It is clearly the intention that the majority of residents will be offered alternative accommodation on the Seagrave Road site and presumably the Council's legal advice is that this will satisfy their legal obligation to provide 'suitable alternative accommodation'. However if this does result in a wholesale movement of the population on the estates to another site, it is likely that the indices of multiple deprivation listed will simply be shifted from one ward/ constituency to another. It is also worth recording here that most current residents simply do not want to move to Seagrave Road, and that it is apparent they will not be offered comparable accommodation (in terms of, for example, gardens, garages or on and off street parking spaces).

### 3. Alternative Options

Option 1 – The document suggests transfer to a housing association as an alternative 'do nothing' scenario. However, "it is considered that the estate would be unlikely to change physically if this were to happen". This is not substantiated, and, in any event, is contradicted by the vision for the estates published by the residents associations in December 2009, which set out a programme of improvements that certainly included physical improvements (see below in Section 5: Appendix 1). Perhaps the key constraint here is "delivering a satisfactory level of capital receipt to the Council" – although, of course, we have no idea what that is.

As a consequence, Option 1 lumps together no change of landlord with the transformational change to the community and the neighbourhood that would arise from transfer to a community-based housing association.

Option 2 – The statement that infill development "was likely to be a less attractive proposition" is impossible to evaluate without drawings – however, such a partial approach is used widely on regeneration schemes for the obvious reason that large estates are rarely homogenous. There are 5 main built forms on the estate:

- One and two-bedroom flats in 5 tall blocks of nine, ten and eleven storeys (388 homes)
- Maisonettes in four and five storey 'walk-up' blocks on the Gibbs Green estate, mostly of 2 and 3 bedrooms (98 homes)
- Maisonette blocks facing directly onto North End Road and Marchbank Road (75 homes)
- Nearly new housing association stock, mostly 3 and 4 bedroom houses (58 homes)
- Houses built by the Council on the West Kensington estate (141 homes, 30 of which have been sold freehold)

To treat these very different building types as if they were one and the same is clearly irrational. Given that there is no indication of what this infill development involves we can only conclude that this option has not been *seriously* considered – surely the whole point of an options appraisal.

Neither Options 1 nor 2 reflect the proposals put forward by the residents.

According to the statements made by their associations, transferring the estates into community ownership would deliver significant physical changes, could deliver infill development, and might even involve wider redevelopment.

Options 3(a) and 3(B) – Again it is unclear exactly what these two options involve since there are no drawings of any kind provided - so we do not know what a comprehensive regeneration scheme would look like. Even if one makes the simplifying assumption that the dwelling size mix provided would be exactly the same as currently (which given the comments about overcrowding and under occupation is unlikely), the built form is very unlikely to be the same.

#### **4. Economic benefits**

##### **A. Residential Units**

1) In the table in 4.2.1, only three tenures appear – local authority, new affordable, and private sector. Whilst the first is clear, and does not change in any option, the others are not defined. Particularly it is not clear if 'new affordable' means housing at HCA 'target' rents (also known as 'social rents'), or if the current HCA definition of 'affordable' is used. The distinction is crucial as 'new affordable' rents are likely to be at up to 80% of market rents, or to be various forms of low cost home ownership, both unlikely to be affordable to people on average incomes in the borough. In all options, the number of 'local authority dwellings' (presumably meaning local authority rented homes at 'social' rents) remains at 531 (presumably an estimate of the current number) – all other new 'affordable' homes are as described above.

2) What is clear however is that under Options 3a, 3b and 4 the increase in residential units is almost entirely private units at market values which are very unlikely to be affordable to most current resident of LBHF.

3) If Option 4 were pursued rather than option 1, only another 256 'affordable' units would be provided. Indeed, with options 3(a) and 3(b) less 'affordable' dwellings would be provided as against option 1 (258 rather than 542). Given that 531 genuinely affordable homes already exist (and should therefore be set aside in terms of calculation of the affordable housing ratio), it is difficult to see how any of schemes other than Options 1 and 2 come anywhere near meeting the 40% affordable (however defined) housing target in the London Plan.

Option 4 gives a ratio, for example, of 11.3% once the existing 531 units are netted off. It is no surprise, therefore, that "The Mayor of London considers that LBHF's Core Submission Strategy (2011) is not in general conformity with the London Plan, particularly in relation to its affordable housing policy" (Earls Court OA SPD item 6.7), or that Mayor found the planning applications breached six his London Plan housing policies.

##### **B. Employment Impacts**



In terms of employment impacts, the document attempts to calculate how many new jobs would be created. The statement that demolishing more or less the entire Opportunity Area and building 7,583 new dwellings and large amounts of commercial accommodation would create a lot of temporary construction jobs is self-evident; and it is possible that at least some of these could go to local residents (though residents claim past promises to deliver local jobs through the construction of Earls Court 2 were not met). What is not clear however is:

- What time period this would be over (as there is no information on phasing)
- Whether the jobs which would be lost during the development period (which could easily be up to 20 years) have been netted off
- How this has been related to the expected performance of the London economy as a whole in the period
- The extent of permanent job losses which would result from the proposals. These include thousands of jobs dependent on the Earls Court Exhibition Centres, the Lillie Road rail depot, and SMEs such as Rootstein (the mannequin manufacturer in Beaumont Avenue).

In light of this, the figures for permanent employment created are, to say the least, highly questionable. To take just one example, the assumed occupancy rates (90% for offices, 90% for retail, and 100% for hotels) seem wildly optimistic.

## 5. Conclusion

Our conclusion, therefore, is that the Economic Appraisal suffers from:

- A lack of detail and evidence for its conclusions, which appear to be based on a plethora of subjective opinions masquerading as 'facts'
- An obvious ignorance of the character of the estates and the published aspirations of their occupants
- A lack of transparency about how figures are arrived at and a failure to properly define ambiguous terms
- An irrational justification for demolition based on spurious grounds
- A failure to fairly and properly assess the residents' community transfer option

As a result of these serious deficiencies we think that the Economic Appraisal is fundamentally flawed and cannot be relied on as a fair and proper assessment of the economic benefits and disbenefits resulting from the options either by LBH&F for informing its decision as a landlord and planning authority on whether to include the estates in the development, or by the Mayor on whether redevelopment complies with the policies in the London Plan.

*This section was prepared by Keith Colley, B.A. (Hons), FRICS, FCIH, Dip. GM,  
WKG&GCH Independent Board Member.*

## **SECTION 5: ECONOMIC APPRAISAL: EFFECTIVENESS – CONTRIBUTION TO SCHEME OBJECTIVES**

### **Alternative consideration of benefits and disbenefits**

#### **1. The Options in the Economic Appraisal**

The Economic Appraisal identifies five options:

Option 1: Do minimum intervention (reference case) – under this option, LBHF would continue to own, manage and maintain the estates, as well as retain the West Kensington and Gibbs Green halls.

An alternative scenario under Option 1 would be for the Council to make a stock transfer of the estates to a Registered Provider by a competitive process and subject to the tenants' approval. However, it is considered that the estate would be unlikely to change physically if this were to happen. Moreover, it is unlikely that a package of investment and improvement would be forthcoming at a level which would be sufficiently attractive to tenants whilst delivering a satisfactory level of capital receipt to the Council:

Option 2: Minimal intervention and infill development – under this option, LBHF would again continue to own, manage and maintain the estates, as well as retain the West Kensington and Gibbs Green halls. However, opportunities for additional infill development and additional disposal of Council land within and adjacent to the estates would also be brought forward for development. Consideration was given to larger scale partial redevelopment of the estates. However, it was concluded that this was likely to be a less attractive proposition, since it would be less efficient, disruptive, only address a limited range of issues and fail to realise the full scope of benefits:

Option 3(a): Comprehensive regeneration: standalone estate redevelopment – the estates would be comprehensively redeveloped and, in accordance with planning requirements, the differentials in levels between the three land ownerships would be addressed. This would involve substantial engineering costs;

Option 3(b): Comprehensive regeneration: standalone estate redevelopment – in order to test the costs and benefits of the alternative options, a variation of Option 3(a) has also been developed, which assumes the existing levels are maintained. This option is based on a modest infrastructure budget; and

Option 4: Comprehensive regeneration: wider Earl's Court redevelopment – under this option, redevelopment would be undertaken of the combined LBHF, CapCo and TfL land, as part of the comprehensive redevelopment of the Opportunity Area.

Option 1 lumps together no change of landlord with the transformational change to the community and the neighbourhood that would arise from transfer to a resident-controlled housing association. Yet, the Economic Appraisal states: "the estate would be unlikely to change physically if this were to happen".

Option 2 involves the Council retaining the estates and taking up opportunities for infill development.

Neither of these Options reflects the proposals put forward by the residents. According to the statements made by their associations, the transfer would deliver significant physical changes, could deliver infill development, and might even involve wider redevelopment (Appendix 1).

Consequently, the Economic Appraisal fails properly to assess the benefits of the 'alternative scenario', which is community transfer. But, the report also presents a one-sided consideration of the Options' contribution to scheme objectives by failing to identify the disbenefits that would arise from redevelopment.

## **2. Contribution to scheme objectives**

The Economic Appraisal states:

In addition to the analysis of economic and wider benefits, the extent to which each option would meet the stated policy and scheme objectives has been considered as part of the overall assessment of public sector value for money. Option 4 would contribute very substantially to achieving these objectives, as outlined in Table 4.6. The standalone redevelopment options (Option 3(a)/(b)) would make a significant contribution to a number of objectives, but not all. However, Option 1 and Option 2 would only make a minimal contribution. (4.8)

Table 4.6 is headed "Effectiveness – contribution to scheme objectives".

## **3. Alternative consideration**

We do not think the contents of this table adequately reflect the benefits and disbenefits, so we have prepared the following Table 1 to compare the two most important options: community transfer against demolition and redevelopment.

It is apparent that were Table 1 to be used to score the wider economic benefits, the results would favour community transfer over demolition and redevelopment.

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**Table 1: Alternative consideration of Effectiveness – contribution to scheme objectives**

	<b>Option 1: Community Transfer</b>	<b>Option 2: Demolition and redevelopment</b>
<p>To increase supply of housing, providing quality homes on sustainable new developments</p>	<p>Gradual increase in supply of a mix of owner occupied, social rented and ‘affordable’ housing according to decisions made by the local community. Carefully designed new development infill respects character, and works with estates layout. Increase is sustainable as it is by consent, does not waste decent assets and release embodied carbon, nor place excessive demand on transport and utilities. Potential for redevelopment subject to community decision on what is needed, what could be achieved and how. In line with Government policy on localism and devolving planning and development decisions to local communities. Incremental development tests the economic and environmental sustainability over time without ‘silver bullet’ solutions, which risk wiping away what is strong about the existing physical and social infrastructure.</p>	<p>Detrimental to scheme objectives due to: unsustainable ten-fold increase in housing in the most densely populated area of the country, which is of the wrong type as it is nearly all unaffordable with no additional social rented homes; unwarranted demolition of decent quality homes and wastage of £1.5 million of recent public investment; gross over-development that is unsustainable in terms of the environment, the community and transport; damage to the local, regional and national economy through local overload, skewing of investment away from the Thames Gateway (spatial priority 1 of the London Plan) and the loss of thousands of jobs and £billions of commercial income in west London. Very high risks to delivery in any economic environment, let alone in current conditions with reduced access to mortgage finance for individuals and companies. Access to long-term capital funding uncertain, and the development period includes risks over a significant period of turbulence. Development and delivery period uncertain for a development of this scale. Unsustainable due to unacceptable environmental impact.</p>
<p>To create clean and safe neighbourhoods in an area rich in opportunity, where most people of working age work</p>	<p>Cleaner and safer neighbourhood resulting from resident ownership of the housing and closer working with the Police, Schools, health services and other local agencies by a stakeholder, the community owned landlord, with a long term interest in the area. The landlord will deliver a programme of repairs and improvement to external and internal communal spaces; sensitive infill and expansion of community facilities; and estate-based management. Opportunities will be enriched through the provision of a range of community services that will include supporting younger people towards work and by providing access to training and employment specifically focused on the needs of the local community. More of the benefits are therefore retained in the local area. Community owned landlord can exercise choice on whether to contract services or employ local labour direct, and monitor standards of open space maintenance through onsite management and resident control.</p>	<p>Catastrophic impact. Unjustified demolition destroys existing clean, safe and well-loved neighbourhood; excessive construction works dirty area for over a decade, and phasing and demolition unnecessarily creates successive unclean and unsafe areas. No analysis of how existing jobs are affected by the proposal for complete demolition and redevelopment. Unnecessary demolition makes neighbourhood less safe by severely disrupting social networks and family ties, and by cramming far too many people who don’t know each other into a small area. Removes existing employment opportunities from the exhibition venues and others in favour of uncertain opportunities that might arise from speculative development. 95% of the new housing would be unaffordable to most working people who currently live in the area. Long-term new jobs created are predominantly low wage service sector jobs in retail and hospitality – the very type of jobs that would be needlessly destroyed or displaced by redevelopment of the area. Very few workers in the new retail and hospitality sector would be able to afford to live nearby; increasing commuting congestion and journey times and contributing to carbon emissions.</p>
<p>To provide a mix of housing type, size and tenure to attract people on a range of incomes, creating mixed and balanced communities</p>	<p>The estates already provide a mix of housing type, size and tenure attractive to people on a range of incomes. Sensitive infill and improvement to external and internal communal spaces will further improve attractiveness of homes and neighbourhood. The estates are a mixed and balanced community of social rented tenants, private tenants, lodgers, leaseholders, freeholders, shared owners and their families. End of the income scale as well as homes for people with higher incomes. Overcrowding and under-occupation will be reduced through proper and informed management with opportunities for grown up children to be housed within the community. This is the only option that provides a stable community and builds on the existing social capital, strengthening it through opportunities for existing residents to stay in the area, as their needs, and those of their families change over time. Large number of family houses with private gardens retained. Community-owned landlord reflects local population’s age, ethnicity, sexuality, and gender, and provides services sensitive to its needs.</p>	<p>Grossly distorts the existing mixed and balanced community from 77/23 percent social rented/owners to 8/90 percent social rented/owners and high rented. No additional social rented housing, which is contrary to London Plan; assumed prices and service charges will be way beyond affordable for the vast majority of local people; only those with the highest incomes would be attracted to an almost mono-tenure high housing cost area; the community would be unmixt and unbalanced; failing to provide homes affordable to the vast majority of local people. Large residential development will attract buy-to-let and foreign investors operating as absentee landlords providing short-term rented housing, with the effect that many residents are unlikely to take a long-term view and invest in their community. Proposed redevelopment would undermine social cohesion and provide infertile ground for future growth of social capital. Increase in the proportion of flats compared to houses, with limited private space.</p>
<p>To allow people to acquire a stake in their home</p>	<p>Leaseholders and freeholders will be allowed to keep the individual stakes they have in their homes. Tenants will preserve their Right to Buy at prices that will not be artificially inflated. Service charges will remain affordable. Members of the community landlord (currently residents from two thirds of households) will be able to elect their neighbours to govern the association and hold their landlord to account. This will ensure local people determine the association’s strategic direction and that decisions are based on local need and made with local consent. Community control will boost pride in the area and deliver tighter and more informed management of communal areas. This is the only option that gives existing residents an increased stake in their home and community through a landlord that is a membership organization, owned by the community.</p>	<p>Dispossesses all the individual stakes that owners have in their current homes through buy-outs and CPOs to aid demolition. Removes the democratically accountable stake in their homes residents currently hold through public ownership of the land. Disallows residents the opportunity to exercise their legal right to a community transfer that would give every member of the landlord a real stake in their home and their neighbourhood, democratic accountability, control over leadership, strategy and management. Denies residents a stake through home ownership in the future due to property value inflation assumptions that would place homes beyond the price that is affordable by tenants, even with the Right to Buy, and notwithstanding recent RTB discount increases. The long development period would blight existing freehold and leaseholder properties, with the delivery of any future large scale development viewed as uncertain by lenders, who would then be unwilling to lend for mortgages to buy existing homes in the area, and adjoining the area (as has already happened to owners in Seagrave Road).</p>



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<p>To ensure development is of a high quality design and provides a mix of local facilities</p>	<p>Energy efficiency and quality of existing homes will be improved. Solutions will be assessed taking account both the physical and management options that will deliver the aspirations for improved homes. The community is in the best position to ensure additional development is of a high quality design and provides the mix of facilities needed for the neighbourhood. Facilities will include a landlord service based in the area within walking distance, new community buildings to provide services additional to housing management and maintenance. A community hub to attract and foster the development of voluntary sector and other services that meet the needs of the local community. Incremental development under community control will avoid risk to design quality of new development and mix of new local facilities posed by an oversized redevelopment at the mercy of global financial markets. 240 private gardens retained. 200 garages retained. 2 Playgrounds, 2 Community Centres, 2 GP surgeries, a primary school and nursery retained and improved.</p>	<p>Impossible to verify. The developer has not provided sufficient information to assess properly the quality and design of the proposed main development. Major risk that over-optimistic values assumed by the developer won't be achieved and that, especially given market caution over speculative property development, future phases won't attract required investment. In these circumstances, it's inevitable that quality and design would be sacrificed, or the development would fail, leaving dereliction and loss of existing local facilities in its wake, or, as per Battersea Power Station, would go bust every decade, causing needless dislocation and disruption for generations. Large-scale developments are more likely to adopt 'cutting edge' technology without sufficient regard to the long-term maintenance issues. Access to the facilities provided is not measured against the current use and national importance of the exhibition facilities on site. High-end hospitality use will not be accessible for the great majority of people living in the area. 240 existing private gardens, 200 garages, 2 Community Centres and a Primary School and nursery, all purpose-built, removed.</p>
<p>To improve access to employment and training opportunities</p>	<p>Access to employment and training opportunities will be improved by: the association delivering community services that include opportunities to access employment and training; partnership working between the community landlord, local employment agencies and employers; rents, prices and services charges for homes that are affordable to most working people, and will enable them to take up the jobs most commonly offered in the area. The choice of a community owned landlord to employ direct or contract locally gives the opportunity for more employment and training opportunities to be retained locally.</p>	<p>Worsens access to existing direct and indirect employment by: not replacing the exhibition venues; relocating the rail depot, which provides skilled engineering jobs, some of which may be lost altogether; and displacing Rootstein's and other SME employers in the opportunity area. No improvement in access to training opportunities arises from demolishing the estates, as such opportunities are already available from existing local employers, through existing schemes, or could be obtained from any redevelopment adjacent to the estates. Residents say that previous employment opportunities promised from the EC2 development, never materialised.</p>
<p>To help to improve educational attainment and health outcomes and secure low levels of crime</p>	<p>Educational attainment will be improved by: a stable community environment, greater community cohesion that would especially benefit young people; a range of services and engagement processes to raise aspirations of younger people and assist them to achieve their ambitions. Health outcomes for vulnerable people, especially the elderly and disabled, will be improved by them being supported in their current homes where these meet present needs, able to stay on the estates should these change; not being worried and stressed that they will be forced out against their will; feeling a much greater sense of security and ability to influence what happens to them leading to increased happiness and improved wellbeing; tailored support from a caring landlord. Effective community based action to promote and support multi agency working at neighbourhood level to prevent, identify and respond to crime. Purpose-built Primary School and nursery retained. Stability of community and environment reduces disruption, makes education easy to access and provides environment where improving educational attainment is possible.</p>	<p>Curfews educational attainment outcomes for local children and young adults by: damaging their confidence in believing they can influence what happens around them; imposing long-term uncertainty, insecurity and disruption to their living and future working environment; removing garden space and pride from connection with an historic place. Unacceptable adverse impacts on health outcomes for elderly and disabled people arising from premature deaths caused by the worry and stress from threat of forcible removal, and the dirt, noise and disturbance from living in a building site for more than 10 years. Detrimental impact resulting from loss of gardens, garages and off-street parking to accommodate visiting relatives. Disproportionate negative impact on ethnic minorities and other disadvantaged groups disempowered by imposition of top-down redevelopment. Changing road layouts, disruption to local services such as street lighting, a constantly changing working and residential population over a period of more than ten years and In an ongoing building site provides a fertile environment for crime.</p>
<p>To improve transport, accessibility and encourage walking through areas</p>	<p>Sustainable increase in dwellings will ensure that transport and accessibility is improved through not soaking up future public transport capacity increase, thereby enabling people who live in, visit or work in the area to benefit from planned expansion; avoid worsening local gridlock and delaying A4 traffic to Heathrow. Improvements sensitive to the character of existing built-form will improve safety and attractiveness and encourage walking through areas. Houses and lifted blocks easily accessible for people with mobility disabilities.</p>	<p>Unacceptable worsening of transport accessibility through massive residential and worker population increase generating unsustainable increase in car use that lengthens gridlock periods on roads around the site, increases costs to the economy by extending trunk route journeys west and to Heathrow, soaks up all projected future public transport capacity expansion; and crowds areas with so many people as to discourage people walking through. Travel time to work increased through provision of low wage jobs, but no commensurate rise in accommodation accessible to those in low waged employment.</p>
<p>To increase satisfaction with the townscape, public realm, environment and management</p>	<p>Existing high satisfaction with townscape and public realm will be increased by preserving well-loved homes that are part of people's heritage and by sensitively developing infill homes and amenities determined by the community. Local environment transformed through improvements to communal areas with community involvement targeted to embrace all disadvantaged groups. External Environment improved through accountable and responsive estate-based management. Much higher levels of satisfaction with landlord and greater ability for people to influence their surroundings using local knowledge and for the wider good. Much greater pride in the area from residents having taken control to save their estates. Community owned landlord reflects cultural diversity of population in membership and decision-making, providing sensitive service delivery accessible to residents whose first language is not English.</p>	<p>Destruction of the culturally rich mix of existing uses, styles and ages wrecks a locally familiar and globally admired part of London's historic townscape in favour of over-dense blocks in a canyonesque urban scape overstretching local infrastructure, both existing and proposed. This change is unacceptable: the general public's view of modern non-locally referenced grossly over-dense development is considerably more skeptical than the opinions of architects and their paymasters. Replace satisfaction with the townscape: be detrimental to the idiosyncratic and diverse heritage of gradual development that is the public realm and is easily capable of improvement; present unsustainable negative impacts on the environment; would create ongoing management costs that would be unaffordable to most people in work; and would present a management challenge that is bound to fail needs and expectations.</p>

## SECTION 5: APPENDIX 1 RESIDENTS' PUBLISHED VISION

On 8 December 2009, the West Kensington & Gibbs Green TRAs published the following vision to residents in their newsletter:

### How we would improve our homes and community

Everything must be properly examined and set up before we can take over our homes. Once satisfactory arrangements are in place, council tenants and leaseholders will be able to vote on whether to transfer the estates to a resident-controlled association. **This is what would happen if we took over our homes:**

- Our estates would be owned by a community-based landlord, democratically controlled by residents. Our association would be run by residents elected annually by their neighbours, and managed by professionals. We would not force people to move: we, the residents, would decide the future of our homes and community.
- We would set up an estate-based management and maintenance service tailored to meet individual needs - directly accountable to residents. Staff would be out on the estates and patrolling the corridors, taking an active part. **Things would be dealt with straightaway by people we know, from an office round the corner.**
- After taking over, we would sort out overcrowding by moving existing tenants to bigger homes and by housing their grown-up children - before taking in new tenants. And we would provide better choice and help for moving off the estates.
- Over time and under the direction of residents, we would transform the corridors, stairwells and outside spaces into safe and welcoming entrances; we would improve the areas where there is bad behaviour through proper supervision by staff and CCTV, and by putting such areas to constructive use. We would keep the concierge staff and give the big blocks on West Ken a facelift, making it feel even friendlier to live there.
- We would offer secure lift access for the blocks on Gibbs Green, using transparent lifts and shafts. There are ways of funding these and other estate-wide improvements that would avoid costs falling on leaseholders.
- We would improve our community by organising events, activities and opportunities for residents and neighbours. Leading by example, we would inspire and influence the energy of young people to make our estates a place to feel proud of. We would establish our own relationship with the Police by providing homes for Officers so they can live among us.
- Our rights as tenants and leaseholders would be protected. Council Tenants would keep security of tenure and the Right to Buy; the terms of leases would remain unchanged; and we would not compulsorily purchase freeholders. We would keep rents and service charges affordable by being efficient. **All the money collected would be spent looking after the estates and improving our community.**

The Submission from the West Kensington & Gibbs Green Estates Tenants & Residents Associations to the Secretary of State for Communities & Local Government and the Housing Minister, 19 January 2010, which was sent to the Council at that time, included the following intentions decided by the TRA Committees:

5. We will keep open the opportunity for investment from other landowners that could help deliver more affordable rented housing for those in need along with other benefits to the wider area.
10. Subject to any covenants made on transfer, a tenant led stock transfer would not preclude redevelopment: WKCH could enter into agreements with other landowners and developers that could lead to an increase in built development.

## **SECTION 6: REVIEW OF ESTATE REGENERATION – ECONOMIC OPTIONS APPRAISAL REPORT. EQUALITIES IMPACT ANALYSIS NOVEMBER 2011**

NB: The Economic Appraisal by Jones Lang Lasalle/ Amion Consulting is titled Economic Options Appraisal in the Cabinet Members' report and EqIA. Hence, this section of the review adopts Economic Options Appraisal (EOA) as the report's title.

### **1. BACKGROUND**

The decision taken by Hammersmith & Fulham Council's Cabinet's on 7 November 2011 to accept the conclusions of the Economic Options Appraisal (EOA) report supporting the proposed demolition and redevelopment of the West Kensington and Gibbs Green Estates relies on the findings of the Equalities Impact Analysis (EqIA) dated November 2011.

### **2. SUMMARY OF COMMENTS**

The EqIA is not a proper, fair or rational analysis of the equalities impacts of the Options that were identified in the Economic Options Appraisal report.

The EqIA's methodology for assessing the impacts of Options on protected equality characteristics is obfuscated from the outset; the key option is omitted; the most significant impacts are ignored; the selection of impacts is skewed and those that are identified are misconstrued; there are serious discrepancies in the assessments; and the scoring is perverse, leading consistently to an analysis that is biased against sustainable improvement under Options 1 and 2 and in favour of demolition and speculative redevelopment under Options 3(a) and (b) and 4.

These fundamental flaws tend overwhelming to produce an analysis of the impacts of the Options on protected equality characteristics that is spurious, which does not reflect the true impacts, and which is either irrational, or has been framed to bias the scores in favour of a predetermined preference for demolition and redevelopment.

The assessment of the Options' effects on human rights fails to identify the disadvantages faced by minority ethnic people seeking a fair trial; hides the Council's anti-democratic behavior; does not address the Act or identify disbenefits to the economy, the environment and the wellbeing of local residents; does not reveal the illegitimate motive to gain party electoral advantage; and uses 'regeneration' to disguise demolition, for which it provides no justification.

The assessment of the effects on children's rights is invalid as it relies entirely on the previous faulty analysis. The sections on the Council's Community Strategy and Single Equality Scheme don't supply any evidence that demolition would help achieve these policies' objectives. Nor does the EQIA supply any evidence that its preferred outcome would help achieve the duties in the Human Rights Act.

It is impossible to verify the social and occupation data that is relied on to justify demolition as the Council has failed to provide the Profile, despite several promises.

The description of the Council's engagement strategy and key messages from residents is a travesty of the truth, which studiously ignores the obvious fact that the overwhelming majority opposes demolition. The Council's instigation of a compliant client group and its failure to consult through the registered TRAs beaches council policy. The action plan fails to reduce adverse impacts.



The overwhelming evidence of bias, omission and misrepresentation fatally undermines the EqIA's validity.

The EqIA's content and conclusions are so profoundly erroneous as to be quite unsafe: they cannot be relied upon as an assessment of the impacts of the Options on vulnerable and disadvantaged people, let alone for concluding that the best outcome in equality or any other terms is the demolition and redevelopment of the West Kensington and Gibbs green Estates.

### 3. ANALYSIS OF THE IMPACTS

#### A. Obfuscated methodology leading to biased analysis

The EqIA claims to set out "an analysis of the impact of each of the options on the protected characteristics, outlining whether the option will have a positive/neutral/negative impact and whether it is of low/medium/high relevance to equality".

However, the EqIA repeatedly conflates impacts with rating judgments by including in the impacts it outlines statements such as: "limited impacts", "Significant positive impact", "Very substantial positive impact".

The conflation of impacts with their ratings obfuscates the application of the methodology to the assessment process and biases the scores against Options 1 and 2 and in favour of Options 3(a) and (b) and 4.

#### B. Key missing option and analysis leading to biased scoring

The EqIA claims (on page 1, para 5) that "it assesses the impact of each of the identified options" in the EOA report. However, it *does not* assess the impact of the 'alternative scenario' identified under Option 1 in the EOA report, which is for the Council to make a stock transfer of the estates to a Registered Provider, even though the EOA report *does* make an, albeit partial, assessment of this option.

Thus the EqIA has not analysed the equalities impact of the vision, supported by the overwhelming majority of residents, which would be realised were the estates to be transferred to a community-based housing association.

The omission of the 'alternative scenario' biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

#### C. Significant positive impacts omitted leading to biased analysis

The EqIA omits all the significant positive impacts that would result from the 'alternative scenario' under Option 1, which is the stock transfer of the estates into democratically accountable community ownership. These include:

- The improvement of the housing and neighbourhood according to the needs and wishes, and under the direction of the local community.
- The much greater and more tailored support for vulnerable individuals that would be provided through a community landlord.
- The comprehensive range of community services that would be provided by the community landlord that would be the most effective means for meeting local

needs, especially those of younger people who would benefit from the better access educational, training and employment opportunities that a community landlord can deliver.

- The major improvement to health, well-being and happiness that community ownership provides through people being able to influence for the good what happens to their homes and local environment.
- An increase in housing that is environmentally sustainable, meets local needs and does not overload local transport and other infrastructure.

The omission of these significant positive impacts biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

#### **D. Significant negative impacts omitted leading to biased analysis**

The EqIA omits all bar one of the significant negative impacts from demolition, specifically:

- The stress and worry that demolition and forcible rehousing would have on vulnerable people, including the elderly, disabled, pregnant women and young mothers; and the very inadequate proposals to mitigate the disruption to family ties and social networks and the weakening of social cohesion.
- The stress, worry, noise, disturbance, and dust that would be caused to vulnerable people by the redevelopment of their surroundings of a 10-15 year period.
- The loss of around 240 private gardens- especially vital for elderly and disabled people and for families with young children; and the loss of balconies on Gibbs Green.
- The loss of around 200 private garages, many of which are part of the dwellings, the loss of around 150 off-street parking spaces attached to the dwellings, and the loss of over 200 open-air parking spaces within view of dwellings.
- The loss of easily accessible green space and existing community, educational and play facilities that are currently available to everyone on the estates.
- The loss of access to existing employment, recruitment and training in the area that would be destroyed or displaced in favour of uncertain future employment that would not replace existing.
- Disadvantage to minority ethnic residents whose rights are especially challenged because English is not their first language.

The omission of these significant negative impacts biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

#### **E. Misconstrued and erroneous impacts leading to biased analysis**

It is evident that the impacts the EqIA does identify are misinformed, misplaced, misconstrued and erroneous. Critically:

- The EqIA rates the impact on residents' access to and integration with the wider area as negative in Options 1, 2, and 3(b), and as positive in Options 3(a) and 4. This presupposes that residents' access to and integration with the wider area are low and need significant improvement, which can only be delivered through redevelopment.

In fact, residents already have very high access to and integration with the wider area. In June 2009, the Council reported the results of its own survey of residents, undertaken in December 2008 and January 2009, which found that:

An overwhelming number of residents felt that both estates were very easy to navigate and 85% of respondents found getting around within the estates and 79% externally to be 'very easy'.

Many residents said that access to public transport connections was very easy from both estates as was access to the surrounding areas. Easy access to public transport was voiced by many as one of the most attractive reasons for living in the area.

Perversely, the EqIA rates the preservation of the very high access and integration residents currently enjoy as negative, and its diminution through massive overdevelopment as positive.

- Under 'Age', which relates to older people and children, Options 3 (a) and (b) and 4 outline "very substantial positive impact" through the creation of new social and community facilities, including primary school and nursery provision as well as additional children's play space and new health provision.

But residents already enjoy access to two community centres and two large GP practices housed in new purpose-built premises. There is a purpose-built primary school on Gibbs Green and a purpose-built nursery on West Kensington, both with extensive open areas for play and sports. Also on the estates there are two enclosed playgrounds for younger children; two fenced football and kick about areas for teenagers; and several large green and open areas. Elderly and vulnerable people benefit especially from the support provided by the concierge service in the larger blocks.

Under 'Age', the relevance to equality is assessed as high. However, under 'Disability' and 'Pregnancy and maternity', Options 3 (a) and (b) and 4 outline only "significant positive impact through the provision of new social and community facilities, including new health provision". The EqIA rates this impact as positive, and assesses its relevance to equality as medium. No rationale is supplied to explain this discrepancy.

Inexplicably, therefore, the impact of keeping existing purpose-built functional community facilities, including the concierge service, is not identified or rated under Options 1 and 2. Perversely, their loss under Options 3(a) and (b) and 4 is rated positive. The assessment of relevance to equality is applied inconsistently.

- Under Options 3 (a) and (b) and 4, the EqIA claims "very substantial positive impact" on employment opportunities through the creation of jobs and associated recruitment and training programmes.

But older and younger people already have high access to jobs, recruitment and training. In the Opportunity Area alone, thousands of direct and indirect jobs are generated by the Earl's Court Exhibition Centres, locally and more widely; TfL employs hundreds of staff at the Lillie Bridge rail depot and in Ashfield House, TfL's central staff training facility; Rootstein's, the world's leading manufacturer of lifelike mannequins, provides dozens of jobs; there are jobs too in the school on Gibbs Green and yet more are generated in other buildings in the Opportunity Area.

Sustaining residents' high access to these existing thousands of jobs and diverse recruitment and training opportunities is not identified or rated under Options 1 and 2. Perversely, under Options 3(a) and (b) and 4, their loss in favour of highly uncertain replacement, which would not even match existing, is rated positive.

- The EqIA identifies providing better access through lifts and level access as a positive impact under Options 3(a) and 4. But residents already enjoy access to the vast majority of homes via lifts in the higher blocks and level access to the houses and ground floor apartments. Indeed many of the new housing association homes have specially designed carports for disabled people, the loss of which is ignored.

The positive impact of retaining the lifts and level access residents enjoy now (including disabled carports) is ignored under Options 1 and 2. Perversely, the loss of this access is rated positive under Options 3(a) and (b) and 4.

- The only impact that is rated negative in Options 3(a) and (b) and 4 is "disruption" for vulnerable people, including the elderly, disabled and pregnant women. The EqIA suggests this can be mitigated through providing "help with packing and rehousing".

The misconstrued impacts irrationally bias or have been skewed to prejudice the scores against Options 1 and 2 and in favour of the preferred Options 3(a) and (b) and 4. The proposed mitigation is inadequate.

#### **F. Perverse assessment leading to biased analysis**

Under Options 3(a) and (b) and 4 the EqIA rates 'disruption' from rehousing groups with the protected characteristics of 'age', 'disability' and 'pregnancy and maternity' as negative and assesses their relevance to equality as high, though mitigation is proposed through "help with packing and rehousing".

On any rational expectation, therefore, the impact of 'no disruption' from demolition should be rated positive and its relevance to equality assessed as high. But, under Options 1 and 2 the EqIA rates 'no disruption' as neutral and assesses its relevance to equality as low.

This perverse assessment biases the scores against Options 1 and 2 and in favour of the preferred Options 3(a) and (b) and 4. The proposed mitigation is inadequate.

#### **G. Missing and partial analysis leading to biased analysis**

For 'gender reassignment', 'marriage and civil partnership', 'sex' and 'sexual orientation' the EqIA claims that all impacts will be neutral, using 'N/A' to fill all the columns that rate their impacts and assess their relevance to equality.

For 'race' and 'religion/belief (including non-belief)' the EqIA applies the same 'N/A' treatment, with one exception. In Option 4, under 'race', it outlines the impact that "since some race groups are more likely to over-occupy, a needs based allocation would benefit these tenants". It rates this impact as high and assesses its relevance to equality as low. Under 'religion/belief (including non-belief)', it outlines the impact that "opportunities to locate people near a place of worship would be accommodated where possible". It rates this impact as high and assesses its relevance to equality as low.

This is nonsense. The EqIA claims its standard rating and assessment scoring system for analysing equality impacts on the protected characteristics for six groups is not applicable, except randomly and spuriously in two instances, both of which bias the scores against Options 1 and 2 and in favour of Option 4.

#### 4. HUMAN RIGHTS

##### A. Article 6: Right to a fair trial

No account is taken for the effects of forced repossession on the protected characteristic of 'race'. Tenants and leaseholders, whose first language is not English, will be disadvantaged when seeking a fair hearing.

##### B. Article 8: Respect for your private and family life, home and correspondence

The EqIA claims that: "any interference with the residents' human rights would be proportionate to the legitimate aim of regenerating the area".

This does not address what the Act stipulates, which is that "there shall be no interference by a public authority with the exercise of this right, except such as is in accordance with the law and is necessary in a democratic society for the economic wellbeing of the country".

It cannot be said that the scheme is in accordance with the law because the exclusivity deal to negotiate the sale of the estates to the developer is currently subject to proceedings under Judicial Review.

The Council has bypassed the official democratic bodies, which represent the overwhelming majority of residents, in favour of a minority group of unelected persons not accountable to the residents.

Far from being necessary for the good of the country, redevelopment would harm economic wellbeing by removing £Billions of income from the London and national economy in favour of the very unsustainable property speculation that has floored so many western economies.

The aim is not legitimate since it is driven by the improper motive to gain political party electoral advantage through altering the make-up of the electorate (Annex 1: Greenhalgh and Moss, Proposals for radical reform of social housing, 11 February 2009, Conservative Home).

'Regeneration' is an Orwellian euphemism for demolition. The homes, the rail depot and the exhibition centres are decent, well-loved, and sustainable assets, easily capable of sensitive improvement.



There is no justification for demolition, and redevelopment is not necessary, except to provide an incentive for property speculators to help achieve the public authority's unlawful objective to gain party electoral advantage. Redevelopment is patently detrimental to local people, unsustainable for the environment and harmful to the economy.

#### **5. CHILDREN'S RIGHTS**

The assessment of the impact on children's rights is invalid as it relies entirely on the faulty methodology, content and conclusions outlined in the main part of the analysis above. It omits the evidence of how community transfer would help protect and enhance children's rights and opportunities, especially through dedicated and expanded educational, training and employment services for younger people.

#### **6. LBHF COMMUNITY STRATEGY**

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the objectives of the Council's Community Strategy. It omits evidence that community transfer would help achieve these objectives. It makes no reference to Government policies to empower local communities to take greater ownership and control of their neighbourhoods.

#### **7. LBHF SINGLE EQUALITY SCHEME**

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the objectives of the Council's Single Equality Scheme. It omits evidence that community transfer would help achieve these objectives.

#### **8. EQUALITIES DUTIES**

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the duties in the Act. It omits evidence that community transfer would help achieve these duties through providing an opportunity for all residents to have a stake in their home and a real influence over the future of their neighbourhood.

#### **9. GENERAL DEMOGRAPHIC INFORMATION**

The EqIA stresses that "the information within this section has been taken from the West Kensington and Gibbs Green Estates Profile November 2009".

This same Profile was cited also as the source for social and other occupation data provided by the first draft SPD to justify demolition of the estates. The same information was used in the second draft SPD in the Housing chapter, though this time the Profile was not cited as a source. The Economic Options Appraisal also relies on the Profile, though it does not reference it as the source.

(Additionally: the Statement of Consultation supporting the revised SPD states at 9.4: "The West Kensington and Gibbs Green Estate Profile produced in July 2010 sets out background information on the estates and details the issues arising from the engagement process and conclusions from the process as well as background information on the participants.")

Despite repeated requests for the Profile, and repeated promises that it would be supplied, the Council has failed to provide it. This is suspicious: without being able to

verify the information it contains, this data cannot be relied on to inform the EqIA, the SPD or the EOA.

If the Profile is deficient, is partial, or has been falsified in any way, this could further render unsafe any decisions that depended on it to assess the economic benefits, the equality impacts, and the planning merits that would result from selling off, demolishing and redeveloping the estates.

## 10. ENGAGEMENT STRATEGY

To say that this section of the EqIA is a partial representation of the facts would be to understate its scale of omission and audacity of misrepresentation: it is a travesty of the truth.

The EqIA states:

"The potential inclusion of the estates within the development proposals has been met, understandably by a mix of views from estate residents some estates residents are very supportive of the inclusion of the estates in the redevelopment proposals, some residents are opposed, whilst others want further information before determining their views"

However, the evidence, which it fails to mention, does not support this conclusion:

- Between September and December 2009 around 1,000 residents living in 80% of the homes signed the petition that called on the Council to:
  1. Withdraw the accusation our neighbourhood is "not decent";
  2. Abandon the plans to demolish, redevelop or intensify our estates;
  3. Guarantee that nobody will be forced to move;
  4. Leave it to us to determine the future of our homes and community.

16% of households could not be contacted and 4% refused to sign. The TRAs published this information at the time they served the S34A Notice on the Council proposing the transfer of their estates to a community housing association. They showed this petition to the Council's Cabinet on 18 July 2011. However, they have not sent, nor will they send the names and address of the signatories to the Council because they do not trust them and they have been advised by their MP that the Council could misuse this information. The original petition sheets are kept on file and are available only for the purposes of inspection to verify the signatures and the results.

- On 11 February 2010, some 150 residents attended CapCo's consultation session in the Gibbs Green Hall. According to the report in the Fulham Chronicle on 19 February, *'We won't be moved from our estate without a fight'*; one resident explained, "They want to destroy our estates and that's why we're fighting. Believe me, we've got the Dunkirk spirit here"; and another said, "I won't be going anywhere quietly. They can bet on that." The paper's editor reported:

"Colin, Luke and Jane are three voices among hundreds steeled for a long battle to preserve their communities as they are. Under the banner of the West Ken and Gibbs Green Tenants' and Residents Associations (TRAs) they are urging the secretary of state for housing to allow them to take control of the estate from the council. While they await a legal decision they are planning a long, creative and resilient campaign to block the bulldozers, should they come."



**West Kensington & Gibbs Green Tenants & Residents Associations**  
**West Ken & Gibbs Green Community Homes**

- On 28 July, 2011, the TRAs' Solicitor, Winckworth Sherwood, wrote to the Council's Chief Executive:

"My clients are angry about the Council's use of money and resources to orchestrate a divisive minority campaign to lend credence to its claim that most residents favour redevelopment. The associations, who are democratically elected and formally recognised by the borough federation, feel it's a subversion of democracy, which brings the Council into disrepute. Certainly, if true, it is not a proper purpose for an English local authority.

"I have examined the documentation, and I verify that, so far, residents from two thirds of the 763 addresses on the two estates (i.e. all the residential properties bounded by the plan attached to your 18 July Cabinet report) have signed forms applying to join the new association to take over the estates. These forms state: "West Ken & Gibbs Green Community Homes is dedicated to improving the neighbourhood and to saving the estates by transferring them into community ownership under resident control".

It is evident that the overwhelming majority of residents are steadfastly opposed to demolition and are determined to use Section 34A of the 1985 Housing Act to take over their homes.

.... Further to evidence supplied by my clients, and to the intervention of the Financial Services Authority Chairman, Adair, Lord Turner, the Council's developer associate, Capital & Counties recorded: "Inability to reach agreement with adjacent landowners (including risk of section 34A of the Housing Act 1985 in relation to the London Borough of Hammersmith & Fulham (LBHF) land in ECOA)" as one of its principal risks and uncertainties in its Annual Report and Accounts 2010."

West Ken & Gibbs Green Community Homes Limited is incorporated as the community association to take over the estates: over 600 residents are Members; over 100 residents and Members attended the Company's AGM to elect a Board of residents; and the Board has elected Officers and co-opted three experts.

The EqIA states:

"In order to engage effectively with the Council and to counter rumour and misinformation a group of residents formed the West Kensington and Gibbs Green Steering Group. The group has grown and has developed its role in negotiating and working with the Council and CapCo in looking at the potential redevelopment scheme. The Group has advised the Council on how best to engage and communicate with residents, have negotiated Tenant and Leaseholder assurances for all estate residents and act as a point of contact for residents."

The EqIA does not mention the West Kensington & Gibbs Green Tenants & Residents Associations, even though these are the officially registered TRAs. The Council's lack of support for the registered TRAs and its instigation of a compliant client group is contrary to the Council's Participation Compact 2009, which states:

".... all Compact partners will encourage and support T&RAs. These will be representative bodies drawn from the residents of council housing and subject to registration criteria.

.... Registered T&RAs are the focus of the formal resident and involvement processes in Hammersmith and Fulham. They are also the main focus for local consultation at estate level for both HFH and the Council."

What rumour and misinformation? Where is the evidence for this assertion? The information circulating on the estates was that the council wanted to sell the estates to the developer for demolition and redevelopment and that the Leader of the Council had said residents would be moved to Seagrave Road.

The EqIA claims "a group of residents formed" the Steering Group. But, the Council's own statements provide overwhelming evidence to the contrary:

"We want to set up a steering group." (Council newsletter Summer 2010)

"The Council will set up a steering group". (Council newsletter November 2010)

"The Council has made a commitment ... by establishing a residents Steering Group. ... Harry Audley, who some of you may know has successfully worked with residents and the Council for a number of years as Chair of the White City Tenants and Residents Association amongst other roles, has volunteered to act as an independent Chair for this meeting." (18 January 2011, letter from Council to selected residents)

"The Council has set up a residents' steering group." (H&F Cllr Harry Pibbs, 11 February 2011, Conservative Home)

"Residents Steering Group: The Council has set up a residents group." (Officer briefing for H&F Councillors, February 2011)

"The Council has set up a Residents Steering Group to co-ordinate ongoing discussions with residents around key issues such as the Supplementary Planning Document, the design of new homes, the phasing plans, and the provision of new social infrastructure. This group will continue to operate as a primary point of contact for the Council." (Council's response to comments from TRAs on Proposed Core Strategy 2010)

In March 2010, without the knowledge of, and absent any authorisation from the TRA Committees, the Chair and Secretary of West Kensington and the Chair of Gibbs Green TRAs accepted an invitation to meet with the Council. At this meeting, they agreed to go along with the Council's plans and to negotiate 'assurances' for residents. The Council then wrote confirming this arrangement to those three individuals in their TRA capacities, even though they had been acting alone, without authorisation, and against the TRAs' policies. The letter was not sent to any Committee Member other than the three individuals concerned.

At subsequent TRA Committee meetings, these three TRA Committee Members tried to impose the arrangement they had agreed with the Council on the associations. However, the majority of Committee Members were not prepared to betray the petition, signed by so many residents, and were determined not to break the many resolutions agreed unanimously at General Meetings to oppose demolition and to seek community transfer.

The three Committee Members lost several votes in Committee; at the beginning of May 2010, they resigned from the TRA Committees. It is these three residents who were subsequently used by the Council to form the core of the Steering group. Since then, the Council has spent at least £38,000 on supporting and organising the Steering Group. The developer also supports the Steering Group, attending and hosting its meetings.

The Steering Group was born out of a breach of trust by the Council and by these three former Committee Members. The Steering Group is unregistered, is unelected, and is unaccountable to residents. How many Members does it have? How does it choose its

Board? Who are its paymasters? It has no authority to negotiate contracts on behalf all residents or to act as a point of contact for estate residents.

In January 2012, two of the three founding members of the Steering Group resigned once it became apparent there was no legally binding guarantee on the developer to build the subsequent phases.

The EqIA claims:

"The Council has a dedicated West Kensington and Gibbs Green website which is updated with all recent information and documents relating to the potential development of the project."

At 12 December 2011, the position on this 'dedicated website' was:

- Newsletters post March 2011: Not available.
- Cabinet decision to enter an Exclusivity Agreement (18 July 2011): Not available.
- Cabinet report on decision to accept the EOA report and this EqIA (7 November 2011): Not available.
- Page last updated: 22 August 2011.

## 11. KEY MESSAGES FROM RESIDENTS

The EqIA states:

"There is a clear mix of views, opinions and aspirations amongst the West Kensington and Gibbs Green estates residents about the future of their estates, with some residents being supportive of regeneration and the possible benefits it could bring, whilst other believe that regeneration of the estates is unnecessary".

This is a gross misrepresentation of the facts, which are that the overwhelming majority of residents, backed by their registered Tenants & Residents Associations are opposed to demolition and have formed a company to take over their estates.

The EqIA's key messages from residents disproportionately reflect the views of a small minority and barely reflect the views of the majority. Their content is obviously partial, and designed to support an analysis that favours demolition.

## 12. REDUCING ANY ADVERSE IMPACTS

The EqIA ignores seven significant negative impacts (set out above). Thus, it makes no attempt to mitigate these, and so it fails to reduce their adverse impacts.

The 'offer-document' containing the so-called 'assurances' the Council claims to have negotiated does not offer any significant advantages to residents. On 23 May 2011, the TRAs' Solicitor, Winckworth Sherwood advised:

"The contract does not guarantee that you will be better off. Most of its commitments are only undertakings to consider following policies that they may decide in the future, and are limited to what the Council can afford at the time. The contract offers less compared to standard offers made by other councils in similar circumstances. It tells you nothing about where you would go and what choice of offers you might get

The contract claims it does not reduce or take away your legal rights. This is untrue, since, for example, tenants who sign lose the right to register their rights under the Family Law Act 1996; would not be allowed to bring sick relatives to live with them; and would not be allowed to keep their fridges, cookers and washing machines.

Any benefits from the contract would depend on your personal circumstances, not now, but at some time in the future when the Council tried to make you move. So, before signing a legal contract to surrender your tenancy, we advise that you must get separate advice from an independent expert in housing law with a duty to advise you without any possibility of being influenced by the Council or the developer.

The Council expects you to consider a contract to surrender your tenancy without making any arrangements for you to get advice, and that, once you've signed, you should be advised by someone appointed by the Council. You should not consider signing any contract on such a basis.

Anyway, the contract might easily be challenged in court as invalid because it's uncertain the Council has acted reasonably in balancing its duties as a landlord against its interests as a developer, and it appears the process for obtaining agreement is open to abuse. Therefore, it's quite possible a judge would decide the contract has no effect.

This contract is a premature and unfair attempt by the Council to persuade you to surrender your tenancy and home before it has even decided whether to include the estates in the redevelopment, and before a planning application has been submitted. It does not offer any guaranteed benefits. Worse still, signing it would weaken your position with the Council and stop you taking actions that may well be in your interests later on.

In summary, this contract would reduce your legal rights, weaken your negotiating position, and take away your freedom to act in your interests and those of your family. We advise you in the clearest possible terms: don't sign this document."

### **13. ACTION PLAN**

The EqIA's action plan is woefully inadequate: it does not address the seven negative impacts outlined above, especially the loss of so many gardens, garages, green areas and the unnecessary distress and worry caused to elderly and vulnerable residents.

The action plan is built on top of a faulty tower of mistaken analysis: consequentially, it fails to reduce significant adverse impacts.



## **Annex 1: Greenhalgh and Moss: Proposals for radical reform of social housing**

*Stephen Greenhalgh is leader of Hammersmith and Fulham council and heads up the Conservative Councils Innovation Unit, which is tasked with "formulating a bold Conservative blueprint for local government".*

*John Moss is a Chartered Surveyor who has worked in regeneration for over twenty years and worked on the Party's regeneration policy review under Lord Heseltine; he contested Hackney South and Shoreditch in 2005. Here they preview their forthcoming paper on the reform of social housing.*

On the day of the first Opposition social housing debate for three years, we ask here whether this is the time to reform social housing. It may not be an issue for the current intake of Conservative MPs at this time, but it will become an issue for many new MPs elected from target marginals which have far higher levels of social housing. Figures supplied to Greg Hands MP from the Commons Library show that shadow housing minister Grant Shapps's seat (Welwyn Hatfield) has the highest percentage of social rented housing of any Conservative seat. Some key targets have huge percentages: Hammersmith at 36%, Westminster North at 30% and Birmingham Edgbaston and Battersea both at 29%.

Whilst Conservatives are at a highpoint in local government, we still have a mountain to climb in our inner cities. We have no Conservative councillors in Liverpool, Sheffield or Newcastle and just one in Manchester. Many inner London boroughs remain either Labour or Liberal Democrat-run. Our control of Birmingham relies on what Mike Whitty terms "a rainbow coalition" with the Lib-Dems, and in Leeds we rely on the Greens as well. Finally Boris Johnson's stunning victory in our capital city was largely a suburban revolt. Why is this?

The current state and levels of social housing in our inner cities may provide part of the answer. All our inner cities have relatively high levels of social housing compared to their suburbs.

Today social housing has become welfare housing where both a dependency culture and a culture of entitlement predominate. Two thirds of social tenants of working age are unemployed and only 22% are in full time employment. 50% of social housing is located in the most deprived 20% of the country. Competition revolves around drawing welfare support and taking something out of the system. Competitive principles of freedom, self-reliance and personal responsibility run counter to this culture. Calling for the state to provide a "hand up instead of a hand out" is unlikely to resonate

These figures from London might help explain the consequences of this for the Conservative party:

Twenty Boroughs (excluding the City) have less than 25% social housing. Thirteen Councils are Conservative controlled, two are run by Conservative minority administrations, there is one Conservative/Lib-Dem coalition, three Lib-Dem run and one Lib-Dem/Labour run.

The remaining twelve Boroughs have more than 30% social housing. Eight are Labour controlled, one Lib-Dem, two Lib-Dem/Conservative coalitions and just one, Hammersmith & Fulham, Conservative run. H&F provides us with a unique opportunity to view the problems of social housing from the inside.

Public sector housing is run as a national housing service that fails many of the very people it was designed to help and delivers a risible return on assets. Why has the current social housing system not been overhauled? Politics combines the business of persuasion with the art of the possible. We understand that it is the risk of a political backlash which has stymied the debate over social housing reform. Morrison, Porter and Rachman are three historical figures who must shoulder much of the blame for this.

Currently the political debate appears to be simply about the quantity of social housing that needs to be built to meet "housing need". The issues have been reduced to a discussion about

numbers – numbers which are as nonsensical as proverbial production figures for Soviet tractor factories.

However the professional and academic debate is well ahead of the politicians. There is considerable appetite for reform amongst those working for Registered Social Landlords (RSLs) and amongst council housing officers up and down the country. There is real concern that the current social housing system is failing the very people it was designed to help. Social housing was meant to help lift people out of the slums. Instead many social housing estates have become the very ghettos of multiple social deprivation that they were supposed to replace. This is a view not just held by Conservatives. Newham's Labour elected Mayor, Sir Robin Wales recently told a conference that "Many council estates have become what they were fighting in the first place – social ghettos."

The Hills Review was a masterpiece in analysing the problems of social housing. However this thoughtful academic ducked pinpointing solutions which would deliver mixed communities that incentivise people into employment instead of leaving them in welfare ghettos. Whilst the social case for reform is undeniable, the financial case is just as strong. A conservative estimate values public sector housing stock at around £300 billion and yet the return to RSLs and councils on this capital investment is barely 1%.

So what should we do? Politicians responsible for large swathes of social housing should and probably do, make every effort they can to create mixed communities in their most deprived areas. However, we also need a brave government to reform public sector housing so that councils and RSLs are free to manage their housing assets in a more sensible way based on what is right for the local area.

In our pamphlet, we set out in four key principles for the reform of social housing:

- 1. A duty to house and a duty to help** □ This sets out to define the role of social housing, separating the duty to provide physical housing to those who cannot act for themselves through age infirmity or disability, from the duty to help those in need but who are able to act on their own behalf to secure a suitable home in the market through funding and advice.
- 2. A right to manage public sector housing** □ We call for extensive deregulation of the social housing sector to allow RSLs to diversify and councils to manage their assets in order to deliver mixed and sustainable communities. This will require an end to the prescriptive national allocation system for social housing and its replacement with local systems which address local problems. Finally we call for a shift from bricks and mortar subsidies - which have buried the needs of individual households in the rush for numbers - to personal subsidies that would lead to greater individual responsibility and empowerment.
- 3. A right to buy part of your home** □ We want innovation and freedom for Councils and RSLs to be balanced by stronger rights and greater incentives for residents. There are many ideas out there. However, at its core, this policy should feature a ladder into home ownership for social tenants through the right to buy part shares in their homes – a right matched with a "buy one get one free " discount to extend that ladder of opportunity further down the income scale.
- 4. A common and consistent tenure** □ We call for tearing down the Berlin Wall of varying tenure and rent levels that operates between the private rented and social rented sectors to promote easier understanding and more transparency in management.

There are huge social, economic and financial pay-offs if we reform social housing. The current social housing is warehousing poverty in the core of our great cities – cities which need to be the very engines of economic growth. With the reform of the social housing system that we advocate, social housing would continue to be available to those who cannot house themselves and would provide properly for them, but would provide a hand up rather than a hand out to people who work hard and play by the rules but who cannot afford to buy market housing or pay private sector rents.

More homes would be built but there would be a greater mix of housing types and tenure and

**West Kensington & Gibbs Green Tenants & Residents Associations**  
**West Ken & Gibbs Green Community Homes**

mix of people in them. Breaking up the current concentrations of welfare housing in our inner cities would see educational outcomes rise, health improve and crime levels drop as neighbourhoods thrived once again. A system that puts home ownership or partial home ownership at its core would see an increase in personal wealth and encourage greater social mobility.

We estimate that these reforms would increase the money available to Councils and RSLs to build new homes by £5 billion per annum and yield an additional £75 billion over ten years from sales of part shares. That is enough to build 900,000 new homes over ten years, 400,000 more than Labour have set out to achieve. The future recycling of that investment through the perpetual motion we envisage would continue to provide fund for reinvestment in social housing for years to come and wipe out housing debt along the way.

Without radical reform social housing will remain a destination for life for those on welfare rather than a launch pad. Financial returns on public sector housing will remain pathetically low and public sector housing debt will remain high. Welfare reform is also set to fail without a reform of welfare housing. Finally, the rhetoric around localism will ring hollow if a defective national system for public sector housing remains in place.

What needs to happen now? First the political debate must move from the quantity of social housing built to the quality of the housing environment provided by the state. Then we need a bold Conservative government to listen to the housing professionals who are fed up with tinkering around the edges and embrace a reform agenda that will contribute hugely to fixing our broken society.

Conservative Home, February 11, 2009 in Stephen Greenhalgh and John Moss | [Permalink](#)





**London Borough of Hammersmith and  
Fulham**

# **Proposed Estates Regeneration: Economic Appraisal - Response to Comments**

Report

3rd February 2012

AMION Consulting Limited  
Customs House, 7 Union Street, Liverpool L3 9QX

## London Borough of Hammersmith and Fulham

# Proposed Estates Regeneration: Economic Appraisal - Response to Comments

## Report

**3rd February 2012**

Reviewed and approved by: Signature(s):	
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Date:	3 February 2012

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## 1 Introduction

AMION Consulting, in conjunction with Jones Lang LaSalle (JLL), prepared an Economic Appraisal Report to assist the London Borough of Hammersmith and Fulham in considering the possible inclusion of the West Kensington and Gibbs Green estates within a comprehensive phased scheme of regeneration for the Earl's Court and West Kensington Opportunity Area. The Economic Appraisal was an accompanying document to the revised Earl's Court and West Kensington Opportunity Area Joint Supplementary Planning Document (November, 2011).

This report sets out a response to the comments from West Kensington & Gibbs Green Community Homes and the West Kensington & Gibbs Green Tenants and Residents Associations (WK & GG Community Homes and WK & GG TRAs) on the Economic Appraisal report. The response within this report is focused on the concluding comments from the WK & GG Community Homes and WK & GG TRAs, which state that the Economic Appraisal suffers from:

- “a lack of detail and evidence for its conclusions, which appear to be based on a plethora of subjective opinions masquerading as ‘facts’;
- an obvious ignorance of the character of the estates and the published aspirations of their occupants;
- a lack of transparency about how the figures are arrived at and a failure to properly define ambiguous terms;
- an irrational justification for demolition based on spurious grounds; and
- a failure to fairly and properly assesses the residents’ community transfer option.”

Each of these comments is dealt with in turn below. A full response to all of the comments received from the WK & GG Community Homes and WK & GG TRAs has been submitted separately.

In considering the comments from WK & GG Community Homes and WK & GG TRAs, the purpose and scope of the Economic Appraisal should be borne in mind. It is not intended to be an assessment of the impacts of the redevelopment on the two estates alone. Rather, its focus is on assessing the **economic** costs and benefits to the boroughs of Hammersmith and Fulham and Kensington and Chelsea of the inclusion or not of the estates within the proposed comprehensive regeneration scheme for the Opportunity Area.

## 2 Response to comments

### 2.1 Lack of detail and evidence

The Economic Appraisal is based upon a thorough review and analysis. It comprises a clear and logical assessment of the gross and net additional impacts of five alternative options, drawing on a range of evidence including socio-economic data, economic and financial modeling and market assessments. The report has been produced in line with HM Treasury's Green Book,

which indicates that all spending proposals should be accompanied by a proportionate and well structured appraisal.

An assessment of phasing, demand and viability in relation to each option has been carried out as part of the Economic Appraisal. In addition, appropriate management and maintenance of the stock forms part of each of the options appraised. The management and maintenance costs of the options have been considered and are included within the assessment of the net present value.

The assessment of the net additional benefits includes specific consideration of leakage, displacement, multiplier and deadweight effects for each of the options and has been informed by various analyses, as well as recognised data sources and guidance (for example, the Department for Business Innovation and Skills' guidance on assessing additionality). In doing so, for example, the potential for permanent job losses under each of the alternative options has also been considered (through the assessment of displacement and deadweight).

## 2.2 Ignorance of the estates and aspirations of occupants

The Economic Appraisal was informed by a number of site visits and various contextual analyses, including socio-economic data, market assessments and development appraisals. The condition of the estates was considered as part of the Economic Appraisal. For example, it informed the analysis of future costs.

The results of the Council's consultations were also reviewed as part of the Economic Appraisal. The Council has been consulting extensively with residents of the estates over the past two years in order to understand the issues and concerns that they may have over the inclusion of the estates as part of comprehensive redevelopment of the Earl's Court and West Kensington Opportunity Area.

The Economic Appraisal has had regard to the various proposals (including those of local residents) for the area.

## 2.3 Lack of transparency

The Economic Appraisal presents the key assumptions and results of the analyses. Technical terms, such as those associated with additionality, are defined in the document. The additionality assumptions are explicitly identified so that the gross to net additional adjustment is clear.

The Report was informed by socio-economic analysis which was based on published Lower Layer Super Output Area data, together with information contained in a Council document (West Kensington and Gibbs Green Estates profiles).

## 2.4 Irrational justification for demolition

The Economic Appraisal indicates that there is a rationale for 'regeneration'. Many regeneration schemes involve redevelopment. Therefore the use of the word regeneration is

considered appropriate. Demolition of the estates would only be undertaken as part of a phased re-provision of homes and hence regeneration.

The identification of the comprehensive redevelopment scheme for the Opportunity Area as the best option is based on a clear analysis of the economic case. The Economic Appraisal does not seek to justify the regeneration of the estates purely on the grounds of poor physical and/or social condition. Rather, the Appraisal assesses the overall net additional benefits to the two boroughs of the inclusion or not of the estates within the proposed comprehensive regeneration scheme for the Opportunity Area.

The Council acknowledges that Decent Homes Funds have been spent on the estates and this is accounted for in estimates of future maintenance and management costs. This is one of a range of considerations included within the Economic Appraisal.

The comprehensive redevelopment of the Opportunity Area, which will be facilitated by the inclusion of the estates, will generate significant net additional economic benefits to the two Boroughs of Hammersmith and Fulham and Kensington and Chelsea which local residents can benefit from.

## 2.5 Failure to assess residents' community transfer option

Options 1 and 2 included the potential for improvements and infill development, such as those proposed under the residents' community transfer. It is also understood that the Council has indicated that it would be willing to pursue options for local ownership following redevelopment.

The Economic Appraisal has had regard to the various proposals for the area, including those of local residents. Its focus was on the net additional benefits to the two boroughs of the inclusion or not of the estates within the proposed comprehensive regeneration scheme for the overall Earl's Court and West Kensington Opportunity Area.

## 3 Conclusion

The Estate Regeneration Economic Appraisal study has been completed. It has assessed the additional economic costs and benefits for the two boroughs of Hammersmith and Fulham and Kensington and Chelsea of five options (including a reference case) for the estates and the wider Earl's Court and West Kensington Opportunity Area.

The Estate Regeneration Economic Appraisal is not considered to be 'fundamentally flawed'. It has appraised a variety of options for the estates ranging from minimal intervention through to comprehensive regeneration as part of the Earl's Court and West Kensington Opportunity Area. The Economic Appraisal included analysis of the gross and net additional impacts associated with each option. It has informed the Council's decision about the inclusion of the estates within the proposed comprehensive regeneration scheme for the Earl's Court and West Kensington Opportunity Area. It has also been used to inform the current consultation document about whether or not to enter into a land sale agreement involving the West Kensington and Gibbs Green Estates.



Andy Slaughter, Labour MP for Hammersmith  
Shadow Minister for Justice  
House of Commons, London, SW1A 0AA  
020 7219 6052

PhilipMorris/SarahLovell  
Housing and Regeneration  
LBHF

12<sup>th</sup> March 2012

Dear Sir,

I am writing in response to the consultation on the Conditional Land Sale Agreement , referring to the letter sent to residents above Melbourne Barrett's signature and dated 3<sup>rd</sup> February 2012. Many residents have shown me their copy of the letter and expressed their misgivings about both the overall plan and the process by which the council seeks to progress it. It is clear to me that a large number of residents feel that the council is pushing these proposals through with indecent haste and is suspicious of the council's motives for that reason.

There are many other reasons that I feel this land sale should not go ahead, and that the associated development needs to be halted and reconsidered at the most fundamental level. Linked as it is to the whole Earls Court Opportunity Area scheme, it is difficult to separate the sale of the West Ken and Gibbs Green Estates from the scheme as a whole – the developer clearly sees the whole scheme as a strategic whole, which makes it all the more worrying that the council is intent on proceeding with individual elements of the scheme before agreement has been reached across the whole piece.

Nevertheless, I shall try to confine myself here to issues that specifically relate to the CLSA.

My first concern is that the offer made to tenants and leaseholders, is presented – at considerable public expense – from an entirely partisan position. This is a document produced entirely from the developer's point of view and has the appearance of a holiday brochure, glamorising the development and paying only the most superficial attention to the very many, very serious concerns that residents have raised over this project, and sidelining the large, organised groups of residents who have examined the proposals in details and have expressed their opposition. Yet this document is proposing the biggest single life change that many hundreds of these people will ever experience – a huge civil engineering project that will change the whole world for thousands of people. A responsible council would present this information in a more dispassionate, unbiased way. The only balancing point of view is from individuals such as myself and those tenants and residents who have organised themselves into voluntary groups. Against the economic might of the council and its development partner, other points of view get drowned out. One might expect a developer to behave in this fashion, but for the council who should have the best interests of its electors at heart, it is a denial of democracy, and the consultation exercise a piece of window dressing.

What would happen if the Seagrave Road application was called in or stopped by the Mayor? The one move promise touted in the Consultation document would become meaningless. This is only one illustration of why it is unwise to proceed with elements of the scheme before it is all in place.



Further promises about rehousing are so vague as to be meaningless – the reassurances they offer are all dependent on the whim and fortunes of the developer – as the resignation statement by the head of the council’s own steering group revealed , there are no legally binding reassurances to back up these promises.

How can the council expect residents to comment on a CLSA which it refuses to publish? This is the most extreme illustration of the fact that this document asks people to make life-changing decisions with virtually no reliable information to hand. The summary “What kind of replacement homes would be built?” is 150 words long and offers little useful information to someone trying to take a decision such as this. Even those determined enough to read the small print associated with this section, will find disingenuous and evasive answers like this:

**Q Will the room sizes of the new homes be smaller than the size of my current property?**

**A The room sizes of all new homes will meet the space standards set out in the London design Guide published by the Greater London Authority, The standards are based on the parker Morris standards which were in operation in the 1960s and 1970.**

This sort of evasive blandishment is more suited to a used car salesman than a council which has the interests of its tenants and leaseholders at heart.

The council knows very well that over three-quarters of residents households have signed up to become members of the West Kensington Gibbs Green Community Homes Group, which is committed to using section 34A of the Housing Act to take control of the estates and administer them for the benefit of the community. The council will see, amongst the responses to this consultation, evidence that the West Kensington Estate TRA, the Gibbs Green and Dieppe Close TRA, and the West Ken & Gibbs Green Community Homes groups have all reached democratically arrived at decisions to oppose these plans; the Chair of the council’s steering group resigned accusing the council of incompetence and duplicity over its relationship with the developer and what it was telling residents. I submit that the council knows very well what the overwhelming majority of residents on these two estate think of these plans: they want them shelved and they want investment to improve the existing much loved and decent neighbourhoods that are their homes.

I ask the council to stop the CLSA immediately, withdraw its proposals to demolish the estates, and open a meaningful dialogue with residents about how they would really like to see their homes improved.

Yours sincerely,

Andy Slaughter



HOUSE OF COMMONS  
LONDON SW1A 0AA

Andy Slaughter  
Member of Parliament for Hammersmith  
Shadow Minister for Justice

Dear Resident

**WEST KENSINGTON AND GIBBS GREEN ESTATES**

Legal action by residents has forced the Council to consult you about demolishing your home, and all 760 homes of your neighbours. The Council wants to sign a contract with a developer to sell both estates for £100m. Yet, you are not allowed to see this document, and nor am I. The Council is keeping it a secret.

This is all about making money for rich and powerful people. The developer and the Council want to build 7,500 flats in blocks up to 30 storeys as part of an £8 billion redevelopment. You will end up living on a building site for up to 20 years.

You will be forced out of your home. Tenants will be offered a flat, but the Council has not said where. There will be no new affordable rented homes, so nothing for your children. If you live in a house you could lose your garden, parking space and garage and be forced to downsize. Leaseholders and freeholders will have to move away or accept a reduced share of a replacement flat. Private tenants will be made homeless.

The Council has admitted that "the developer will not be legally bound to proceed" with building the new homes, but that the Council would get its £100 million up front. Most residents, including many who the Council claimed supported them, have realised they are being lied to. The vast majority of you are against demolition and in favour of community control.

The Council is running down the estates to try and demoralise you. The lifts are not maintained and repairs never get dealt with. I was shocked by the case of one of your elderly neighbours: he had no running water since 2010 and no heating since last summer. After I told the Council, and despite bitterly cold weather, it took another two weeks for them to fix it.

These tactics won't work. I know that nearly all of you like your homes and feel comfortable and settled on the estates among friends and neighbours you trust. Your homes are structurally sound. You have spent a lot of time and money improving your homes, making them how you like.

As your elected Member of Parliament, I am truly disgusted at the way you are being treated. The Council and the developer should be ashamed of themselves for preying on weak and vulnerable people, causing stress to individuals and anxiety in the neighbourhood. It's immoral, and makes me very angry.

You are part of a proud and decent community where people care, where families, friends and neighbours look out for one another. The Council cannot rip this apart. It cannot dictate your future, nor can the developer steal your land.

You deserve justice and respect, and you will get it. I will fight to save your homes. I shall ask the Government to allow you to take over your estates. This must be your decision.

The Council has asked you to fill out more forms. Their deadline is 12 March. Tell them what you think!



**Andy Slaughter**

**Member of Parliament for Hammersmith  
Shadow Minister for Justice**

West Kensington & Gibbs Green Tenants & Residents Associations

C/o Sally Taylor  
Flat 7, 231 North End Road  
London W14 9UQ

Melbourne Barrett  
Director of Housing and Regeneration  
London Borough of Hammersmith & Fulham  
Town Hall  
King Street  
London, W6 9JU

7 December 2011

Dear Mr Barrett

**Tenant led stock transfer of the West Kensington & Gibbs Green Estates**

We have reviewed your Proposed Estates Regeneration – Economic Appraisal Report published in November 2011.

The report sets out several options for the future regeneration of the estates. One option it discusses is a stock transfer of the estates to a registered housing provider. But the report is critical of that approach.

Our offer for a tenant led stock transfer of the estates, first communicated to you in January 2010, falls squarely within this option. We have always made clear to you our offer was not conditional on the full implementation of section 34A Housing Act 1985. On 22 December 2009 we emphasised to Lyn Garner "the Council is at liberty to co-operate with our proposed disposal while the Secretary of State considers whether to make regulations requiring the Council to co-operate. Regardless of s34A, the Council already has the power to co-operate with our proposed disposal; the regulations for stock transfer are long-established; and the stock transfer route is well-known and well trodden." Our further correspondence of 18 November 2010, 12 February 2011 and 28 July 2011 (to mention a few at random) make the same point.

We do not consider the report's conclusions about stock transfers to third party landlords are justified. Stock transfers are proven to bring major benefits to estates and their communities and they have had the consistent support of central government over the past two decades. **We would therefore like to meet with you as soon as possible to demonstrate why it would be unreasonable to include the estates in the wider redevelopment of Earls Court and to negotiate our proposal for a tenant led stock transfer.**

Our scheme has taken great strides over the past year. We incorporated West Ken & Gibbs Green Community Homes Limited which has a membership of over two thirds of the Estates and a board of directors containing housing experts with experience of tenant stock transfers and local residents. Members agreed at the AGM on 27 September 2011 to commence transfer of the land to the community.

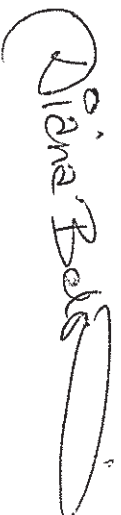
We are, of course, aware of the Council's Exclusivity Agreement with CapCo authorised by Cabinet on 18 July 2011. The terms of the Agreement have not been published and we are concerned it will preclude these negotiations. We trust you will notify us if this is the case.

We look forward to your response. We are confident you will be pleasantly surprised by our scheme's benefits for tenants and the wider community.

Yours sincerely



**Sally Taylor**  
Chair, West Kensington Estate TRA



**Diana Belshaw**  
Chair, Gibbs Green & Dieppe TRA

**London Borough of Hammersmith & Fulham**  
Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 4228  
Email: Melbourne.Barrett@lbhf.gov.uk

22<sup>nd</sup> December 2011

Ms Sally Taylor  
Chair of West Kensington Estate TRA  
Flat 7, 231 North End Road  
London W14 9UQ

Dear Ms Taylor

**Briefing on proposals for Earls Court**

The Council is about to consult on whether to enter into a Conditional Land Sale Agreement that would have the effect of including the West Kensington and Gibbs Green estates in the comprehensive redevelopment scheme.

We have conducted our own assessment which concludes that including the estates in the comprehensive redevelopment scheme would be in the interests of local people. However, before we make any final decision, we want to hear the views of people living there and in the wider area. We are therefore consulting residents.

For secure tenants on the estates, this consultation process will also satisfy the requirements of section 105 of the Housing Act 1985.

The consultation will start on **6th January 2012** and conclude on **Friday 17<sup>th</sup> February 2012**.

Please could you let us know if you would like to organise a briefing in the new year so that we can brief you on the consultation process. If you would like a briefing please call Philip Morris on 020 8753 3334 and we will do our best to organise a meeting to accommodate you.

Yours sincerely



Melbourne Barrett  
Executive Director of Housing and Regeneration

Melbourne Barrett MBA MRICS  
Director of Housing and Regeneration

**London Borough of Hammersmith & Fulham**  
Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 4228  
Email: Melbourne.Barrett@lbhf.gov.uk

22<sup>nd</sup> December 2011

Ms Diana Belshaw  
Chair of Gibbs Green & Dieppe Close TRA  
105 Gibbs Green  
London W14 9NE

Dear Ms Belshaw

**Briefing on proposals for Earls Court**

The Council is about to consult on whether to enter into a Conditional Land Sale Agreement that would have the effect of including the West Kensington and Gibbs Green estates in the comprehensive redevelopment scheme.

We have conducted our own assessment which concludes that including the estates in the comprehensive redevelopment scheme would be in the interests of local people. However, before we make any final decision, we want to hear the views of people living there and in the wider area. We are therefore consulting residents.

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Please could you let us know if you would like to organise a briefing in the new year so that we can brief you on the consultation process. If you would like a briefing please call Philip Morris on 020 8753 3334 and we will do our best to organise a meeting to accommodate you.

Yours sincerely



Melbourne Barrett  
Executive Director of Housing and Regeneration

Melbourne Barrett MBA MRICS  
Director of Housing and Regeneration



23 December 2011

Sally Taylor  
Chair, West Kensington Estate TRA  
Diana Belshaw  
Chair, Gibbs Green and Dieppe TRA  
c/o Sally Taylor  
Flat 7, North End Road  
London W14 9UQ

Dear Sally Taylor and Diana Belshaw,

**Tenant Led Stock Transfer of the West Kensington & Gibbs Green Estates**

I write with reference to your letter regarding the above dated 7 December 2011, handed to me at the end of our meeting on the evening of the same date.

I note the contents of your letter and it will be brought to the attention of Members when we feed back responses to the consultation exercise which will be undertaken shortly. I also look forward to receiving your response to the consultation.

Yours sincerely,



Melbourne Barrett  
Executive Director Housing & Regeneration

cc Councillor Andrew Johnson  
Councillor Stephen Greenhalgh

**West Kensington & Gibbs Green TRAs  
West Ken & Gibbs Green Community Homes**

Send reply to:  
Jonathan Rosenberg,  
Community Organiser  
[Jlnr49@gmail.com](mailto:Jlnr49@gmail.com)

Melbourne Barrett  
Executive Director, Housing and Regeneration  
London Borough of Hammersmith & Fulham  
Town Hall  
3rd Floor, Extension,  
King Street,  
London W6 9JU

10 January 2012

Dear Mr Barrett

**CONSULTATION ON SALE AND DEMOLITION OF THE ESTATES**

The consultation the Council has issued is wrong in many respects. At this stage we want to make it plain that, given how much this affects our lives, 6 weeks is not enough time for people to respond properly.

London Council's advice is that local authority consultation should normally comply with the criteria set out in the Government's Code of Practice on Consultation (2008).  
<http://www.bis.gov.uk/files/file47158.pdf>

Criterion 2 of the Code, 'Duration of consultation exercises' states: "Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible".

Given the gravity of what is being consulted on, six weeks is plainly an insufficient and unreasonable period for people to consider properly and respond. Clearly, it should be 12 weeks or longer, especially as it is difficult to imagine a more important matter affecting people's lives.

Please will you, at the very least, extend the consultation period to 12 weeks and inform residents accordingly. Alternatively, please explain the Council's reasons for providing half of the recommended period. Is this in fact being driven by commercial considerations and timetable rather than the need to consult people properly?

Many people, especially those who are disadvantaged, do not have access to the internet and so will not be able to read copies of important documents referred to in the Information Pack. Therefore, we request you send printed copies of the Equalities Impact Analysis, Economic Appraisal and Conditional Land Sale Agreement to all residents as soon as possible.

Yours sincerely

**Sally Taylor, Chair West Kensington Estate TRA**

**Diana Belshaw, Chair Gibbs Green & Dieppe Close TRA**

**Shirley Wiggins, Chair West Ken & Gibbs Green Community Homes**

**West Kensington & Gibbs Green TRAs  
West Ken & Gibbs Green Community Homes**

(7)

Send reply to:  
Jonathan Rosenberg,  
Community Organiser  
[jlmr49@gmail.com](mailto:jlmr49@gmail.com)

Melbourne Barrett  
Executive Director, Housing and Regeneration  
London Borough of Hammersmith & Fulham  
Town Hall  
3rd Floor, Extension,  
King Street,  
London W6 9JU

13 January 2012

Dear Mr Barrett

**Conditional Land Sale Agreement**

We understand that the Council and its lawyers met on 11 January with a resident and explained some elements of the Conditional Land Sale Agreement. Please can you explain to us the basis for this meeting and meet with us to discuss the CLSA.

Now that one resident is party to the content of the CLSA it is only fair that you treat all those being consulted equally and accede to our previous request that you to send a printed copy of the CLSA to all residents. Since the current consultation is on whether to proceed with the CLSA, the Council is legally obliged to disclose this document to residents.

Yours sincerely

**Sally Taylor, Chair West Kensington Estate TRA**

**Diana Belshaw, Chair Gibbs Green & Dieppe Close TRA**

**Shirley Wiggins, Chair West Ken & Gibbs Green Community Homes**

London Borough of Hammersmith & Fulham  
Executive Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 4228  
Email: Melbourne.Barrett@lbhf.gov.uk

19<sup>th</sup> January 2012

Ms Belshaw, Chair of Gibbs Green & Dieppe Close TRA  
Ms Taylor, Chair of West Kensington Estate TRA  
c/o Dianne Belshaw  
105 Gibbs Green, London  
W14 9NE

Dear Ms Belshaw and Ms Taylor,

Thank you for your letter of 13 January.

I did of course meet with you on 7th December 2011 with Philip Morris and as indicated, I am more than happy to meet again to further explain the proposal and discuss any specific concerns. This is an open offer available to both the TRA and the Steering Group.

It is within that context that a member of the Steering Group wanted to raise a specific question and the easiest way to effect this was for the resident to join a pre-arranged existing meeting for a short period. The issue which the resident had raised was in relation to which of the developer's group of companies would be parties to the CLSA.

In summary the resident (who is of course a freeholder and therefore not part of the statutory consultation under section 105 of the Housing Act) joined this meeting to discuss this technical point and the meeting continued long after his departure. The resident has not seen any legal documentation other than what is in the consultation pack. I would be happy to grant a similar request from the TRA to discuss any concern or issue in relation to the consultation or the process behind it.

If you would like a meeting, please feel free to contact Philip Morris on 020 8753 3334 who will be able to arrange this.

Yours sincerely,



Melbourne Barrett  
Executive Director of Housing and Regeneration

London Borough of Hammersmith & Fulham  
Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 4228  
Email: [Melbourne.Barrett@lbhf.gov.uk](mailto:Melbourne.Barrett@lbhf.gov.uk)

3<sup>rd</sup> February 2012

Ms Taylor, Chair of West Kensington Estate TRA  
Ms Belshaw, Chair of Gibbs Green & Dieppe Close TRA  
c/o Sally Taylor  
Flat 7, 231 North End Road  
W14 9UQ

Dear Ms Taylor and Ms Belshaw

Thank you for your letter of 10 January 2012.

As regards the timeframe for the consultation, the Council has not explicitly adopted the Government's Code of Practice to which you refer and so, as set at page 5 of that Code of Practice, the Council is not bound by it. What is fair and appropriate depends on all the circumstances.

In the present case, the consultation materials are (and were specifically designed to be) readily digestible, and reasonably concise. In addition, the Council has in any event been consulting and engaging with residents of the Estates extensively since 2008. For example:

- Two dedicated Regeneration Officers have been in post since late 2009 to be points of contact for residents. These Officers have completed numerous house visits, drop-in sessions and surgeries.
- Regular newsletters have been distributed to every household in the Estates to provide updates.
- The Council has maintained a dedicated West Kensington and Gibbs Green website ([www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken)) which has been updated with relevant information and documents relating to the potential redevelopment project.
- At key points in the engagement process, the Council has held drop-in sessions and surgeries at the Holiday Inn Express on North End Road and at the West Kensington and Gibbs Green Tenant Halls. At these events, Council Officers have been available to discuss regeneration issues with residents, answer questions and listen to residents' concerns about and aspirations for the Estates.

Thus, the consultation does not raise issues that are wholly new to residents. I also note that the arrangements for the s. 105 consultation were advertised on the West Kensington and Gibbs Green webpage two weeks before the consultation process began.

I have written to residents with some further information confirming that the deadline for the consultation is being extended to Monday 12 March 2012. I attach a copy of his letter.

In the circumstances, the Council considers that the new consultation period provides residents with sufficient time to make their views known to the Council.

The Council also does not propose to send out further documentation for the purposes of the consultation. The draft Equality Impact Assessment and Economic Appraisal are available on the internet, should any resident wish to read them. Residents who want to read these more detailed documents but who are unable to access the internet can contact Phil Morris or Sarah Lovell (whose numbers are on the back page of the Consultation Pack) and ask for copies to be posted to them.

Page 6 of the Information Pack summarises the key aspects of the proposed Conditional Land Sale Agreement for the purposes of the consultation, and Mr Barrett's letter contains further information in this regard. The precise terms of the proposed Agreement are still being negotiated, and are in any event confidential. They therefore will not be shared with residents as part of the consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Barrett', with a long horizontal line extending to the right.

Melbourne Barrett  
Executive Director of Housing and Regeneration

**London Borough of Hammersmith & Fulham**  
Executive Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 5571  
Email: sarah.lovell@lbhf.gov.uk

14<sup>th</sup> May 2012

Ms Belshaw, Chair of Gibbs Green & Dieppe Close TRA  
Ms Taylor, Chair of West Kensington Estate TRA  
c/o Dianne Belshaw  
105 Gibbs Green, London  
W14 9NE

Dear Mrs Belshaw and Ms Taylor

### **West Kensington and Gibbs Green Estates Update**

I am writing to thank those of you who sent us your views during the recent consultation on the proposal to enter into a so-called "Conditional Land Sale Agreement", and to update you on recent developments.

As you may be aware, on 23rd April 2012 a report outlining the initial findings of the consultation was presented to a meeting of the Council's Cabinet. The report also set out information on the likely terms of the Conditional Land Sale Agreement, and gave detailed financial information.

At the Cabinet meeting councillors noted that the Conditional Land Sale Agreement was 'suitable for recommendation' to the Council, subject to certain points of detail.

This does not mean that everything has been finalised, or that a final decision has been taken about whether or not to enter into the Conditional Land Sale Agreement, but it does mean that good progress is being made towards taking that final decision.

Officers are now finalising negotiations on the Conditional Land Sale Agreement so that a final report, including a full analysis of the consultation responses, can go to a Cabinet meeting later this year.

If you would like to read the 23rd April Cabinet report you can do so by logging on to [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken), or you can request a hard copy of the report by calling Sarah Lovell on 020 8753 5571.

If you would like to make any comments on the information contained within the Cabinet report you can do so by emailing [sarah.lovell@lbhf.gov.uk](mailto:sarah.lovell@lbhf.gov.uk) or by writing to Sarah Lovell at 3<sup>rd</sup> Floor, Hammersmith Town Hall Extension, King Street, W6 9JU. The Council would welcome any comments by 30th May 2012.



We will keep you updated with future developments regarding the West Kensington and Gibbs Green Estates. If you have any questions please contact Sarah Lovell on 020 8753 5571 or email her on [sarah.lovell@lbhf.gov.uk](mailto:sarah.lovell@lbhf.gov.uk)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'MBA', with a long horizontal flourish extending to the right.

Melbourne Barrett  
Executive Director of Housing and Regeneration

# West Ken & Gibbs Green Community Homes Limited

Melbourne Barrett  
Executive Director of Housing and Regeneration  
LB Hammersmith & Fulham Council  
3rd Floor  
Hammersmith Town Hall Extension  
King Street, Hammersmith  
London W6 9JU

29 May 2012: **URGENT**

Dear Mr Barrett

## **Proposed disposal of West Kensington & Gibbs Green estates: Consultation analysis and inspection arrangements – serious concerns**

I am writing further to your letter dated 14 May 2012, in which you invited West Kensington & Gibbs Green residents to make comments by 30 May on the information contained in the 23 April Cabinet report, which outlined the initial findings of the consultation on the Council's proposal to enter a Conditional Land Sale Agreement (CLSA) for the disposal of residents' homes to a developer, albeit you concealed this proposed agreement from residents and the public.

You have previously received (though not responded to) our 60-page critique of the Council's consultation process. Unfortunately, we are bound to report now that we shall not be able complete our comments on the Council's analysis of the consultation by 30 May because the Council has obstructed us from inspecting the consultation feedback forms.

In any event, the two-week deadline you have set for comments is unreasonable, given the complexity of the information contained in the Cabinet report and the scale of its impact on residents. Government and London Councils policy is that consultation periods should last a minimum of 12 weeks.

On 18 April, the Chair of West Ken & Gibbs Green Community Homes (WKGCH) wrote to the H&F Council's Head of Governance and Scrutiny, (copied to two other Council Officers and to the Chairs of West Kensington & Gibbs Green TRAs):

We would like to formally request to inspect the consultation responses before the Cabinet meeting on Monday April 23. According to the Council's press release "Earl's Court progress report to go before Cabinet" published April 16 2012, "By the time Cabinet meets all the responses will be available for inspection upon request, including the responses that were not considered."

There is, however, no specification regarding who to contact or how to get in touch. Could you please forward this email to the relevant parties and let us know as soon as possible when we could view the responses for inspection?  
Please acknowledge the receipt of this email.

Around 20 April the Council distributed a newsletter to residents promising:

From Monday 23 April, H&F Council will be making all consultation responses available for inspection by appointment. You will be able to see all the responses that were considered as well as the responses we were unable to consider.

The WKGCH Chair received no response to her letter to LBHF's Head of Governance and Scrutiny. Following your presentation to Cabinet on 23 April, she wrote to you on 24 April:

## West Ken & Gibbs Green Community Homes Limited

We were told at the Cabinet meeting last night that residents' responses to the Earl's Court consultation would be available for inspection as early as today. I emailed Mr Adewumi about this on 18th April last week. (see email)

Please let me know when and how we can make arrangements to view these.

Again, receiving no reply, the WKGCH Chair wrote to you and the Head of Governance and Scrutiny on 2 May, copied to the two TRA Chairs:

I am still waiting for a response to my emails of 18th and 24th April.

It was not until 8 May, almost three weeks after our original request, when the Council finally responded to make arrangements for inspection.

On top of the unexplained delay, the Council then imposed unwarranted and unreasonable restrictions on inspection that plainly made it impossible for us "to see all the responses" as the Council had promised. On 8 May, Mr Patterson, from the Council's Housing Services department emailed the WKGCH Chair:

I can arrange an appointment for you to inspect the feedback forms from the recent consultation.

Appointments are for one person at a time. Inspections are for up to 45 mins and there can be no photography or copying of the forms.

Please contact me to arrange your appointment.

On 10 May, Celine Kuklowsky, Community Organiser for the West Kensington & Gibbs Green estates, attended the Council offices to begin our formal inspection. After 45 minutes, she was stopped, even though she had made only partial progress through more than 800 forms residents of the estates (we have not even begun our inspection of the 600 responses from the so-called 'wider area').

On 21 May, she requested another visit to continue our formal inspection, which was agreed and took place on 24 May. Since our work was far from complete, and we had found many discrepancies that suggested a pattern of distortion biased towards the Council's demolition stance, the Community Organiser immediately requested a third visit. Mr Patterson responded on 25 May:

The 45 minute inpection [sic] was specified to protect the privacy of respondents. You have already exceeded the allotted inspection time of 45 minutes with the second inspection. I am therefore not going to arrange another appointment for you to inspect the forms.

When the Community Organiser asked Mr Patterson on 10 May to explain the purpose behind the Council's inspection restrictions, he replied these were "for data protection reasons". This is insupportable. Either the data can be viewed or it cannot. There is no in-between position.

The subsequent version of the argument, that the restrictions were "specified to protect the privacy of respondents", is equally spurious, since the Council blacked out all names and addresses and heavily redacted many forms (including entire paragraphs) to remove all personal references. Clearly, the Council obscured this personal data to ensure it did not breach the Data Protection Act when it made the response forms available for inspection by the public. Therefore, neither "data protection" nor "privacy" can possibly be used to justify the restrictions and blockage placed by the Council on our formal inspection.

## West Ken & Gibbs Green Community Homes Limited

We understand that the Council intends to rely on its analysis of the consultation feedback forms when it makes its next decision on whether to sign the CLSA. Inevitably, also, it will have to report this information to the Government.

We have very serious concerns about the rectitude of the Council's analysis, which, far from being allayed by our inspection that you unreasonably curtailed, have only deepened. Inter alia, we have identified:

- Difficulties reconciling the numbers in the Council's analysis with the numbers of forms it has placed in each category;
- Miscategorisation of residents 'against' and residents 'concerned' into 'no opinion', leading to miscounting;
- Absence of any procedure for dealing with 'duplicates', leading to miscounting, erroneous exclusion and miscategorisation;
- Failure to date and have any procedure for dealing with forms from residents changing their minds, leading to miscategorisation and miscounting;
- Forms discounted for no apparent reason, leading to miscounting;
- Forms counted as 'in favour' that were so heavily qualified they should have been categorized as 'concerned' or even 'against', leading to miscounting;
- 18 'in favour' forms, which contained the same brief or similar content, which appeared to be written by a single hand, and which contained no signature or mark attesting authenticity.

We discovered well over a hundred miscategorised or suspect responses. Nearly all of these biased the results in one direction, and not only resulted in a systematic distortion of the analysis in favour of the Council's position for demolition, but also hid the true scale of residents' opposition to redevelopment and denied residents' fixed determination to transfer the estates into community ownership.

From our inspection, which you arbitrarily limited to one and a half hours, it appears that the three and a half to one majority of residents against demolition is a significant undercount, amounting to gross misreporting.

Outwith any further investigation, which you blatantly obstruct now, we conclude that the Council has not only misrepresented its own analysis of the results but has also miscategorised the consultation response forms to such an extent as to render its analysis worthless for Cabinet Members to rely upon when making any decision about whether to sign the CLSA. Worse, the Council is in danger of staging a lie, presenting a poisoned chalice for the Government to sup when it forces it to consider whether to grant consent for disposal of the estates to the developer for demolition.

The evidence we have gathered does more than lend credence to the charge that the Council has perverted the results of its informal and statutory consultation by systematically distorting and misrepresenting its analysis; it explains why the Council has made up the rules as it went along for limiting and disallowing our formal inspection.

The grounds we have itemized are sufficient for us, and for any sensible member of the public to fear that Council officers may be colluding to falsify the overall consultation results and to suspect that they may be conspiring to stop residents' elected organisations from discovering the truth, thereby misleading also the Council's Cabinet, the public and the Government.

## **West Ken & Gibbs Green Community Homes Limited**

The Council has broken its “you will be able to see all the responses” promise by delaying, restricting and finally blocking our formal inspection. The Council has no data protection or privacy defence against us continuing with our formal inspection. We have detected evidence of systematic bias: it is our duty to resume our formal inspection in the public interest, in the defence of our homes and community, and in the cause of national policy, which is Localism and the Big Society.

The Council will make itself incapable of sustaining any case that it has validated its analysis through independent inspection, unless, and immediately, it:

- Restores and maintains continued access for us to scrutinize the categorization and genuineness of response forms, without time limit, so we may complete our formal inspection absent unreasonable restrictions;
- Commissions an independent analysis of the response forms to be undertaken by a neutral assessor appointed with our agreement; and
- Institutes a formal Review under the Freedom of Information Act of the Council’s handling of the request we made on 18 April to take up its invitation for residents to see all the responses, since more than 20 working days have elapsed within the time it is statutory for you to provide a satisfactory response.

Yours sincerely

**Jonathan Rosenberg**  
**Community Organiser**

**West Ken & Gibbs Green Community Homes Ltd**  
**West Kensington Estate Tenants & Residents Association**  
**Gibbs Green & Dieppe Close Tenants & Residents Association**

Cc: Derek Myers, Chief Executive LBHF; Greg Clark, Minister for Decentralisation and Planning; Andy Slaughter MP; The Information Commissioner; WKGGCH Board Members.

**London Borough of Hammersmith & Fulham**  
Executive Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 5571  
Email: sarah.lovell@lbhf.gov.uk

1st June 2012

Mr Jonathan Rosenberg  
West Ken & Gibbs Green Community Homes Ltd

Dear Mr Rosenberg,

**Earls Court Regeneration Project**

Thank you for your letter of 29 May. I am considering the points you have raised and will write to you with my substantive response next week.

In the meantime I am prepared to extend the time for you to respond to my letter of 14 May to Friday 8 June at 4pm. I can not give you more time as Cabinet are due to make a decision about entering into the CLSA on 23 July and I will need to consider your response and include it in my report to members.

If you would like to make another appointment to view the consultation responses please contact Shaun Dunleavy on 020 8753 4244.

Yours sincerely,



Melbourne Barrett  
Executive Director of Housing and Regeneration

# West Ken & Gibbs Green Community Homes Limited

Melbourne Barrett  
Executive Director of Housing and Regeneration  
LB Hammersmith & Fulham Council  
Hammersmith Town Hall Extension  
King Street  
London W6 9JU

7 June 2012

Dear Mr Barrett

## **Proposed disposal of West Kensington & Gibbs Green estates: Consultation analysis and inspection arrangements – serious concerns**

Further to my letter to you, dated 29 May 2012, I received at 10.04 am on 6 June an email from a Council Officer, Jennifer Liang. This email purported to send on to me an email, which, it seemed, was sent to me at 10.50 am on 2 June by the Council's Head of Litigation, Janette Mullins, who stated: "I have been asked to forward this letter to you."

Not recalling the receipt of an email from the Council's Head of Litigation on 2 June 2012, I checked my inbox, and I searched through my 'trash' and 'junk' boxes, neither of which I have emptied since well before 2 June. However, I could not find any email from a Janette Mullins, Head of Litigation at LB Hammersmith & Fulham.

The email to me from Jennifer Liang, dated 6 June, which purported to send on the email from the Council's Head of Litigation, attached a letter signed by you to me, dated 1 June 2012, whose file name is 'Final Letter to the TRA, and the Word 'document properties' of which I have attached at Annex A. This letter stated:

### **Earls Court Regeneration Project**

Thank you for your letter of 29 May. I am considering the points you have raised and will write to you with my substantive response next week.

In the meantime I am prepared to extend the time for you to respond to my letter of 14 May to Friday 8 June at 4pm. I can not give you more time as Cabinet are due to make a decision about entering into the CLSA on 23 July and I will need to consider your response and include it in my report to members.

If you would like to make another appointment to view the consultation responses please contact Shaun Dunleavy on 020 8753 4244.

Notwithstanding the inexplicable circumstances surrounding my receipt of this communication, 33 minutes later I instructed Celine Kuklowsky, the West Kensington & Gibbs Green Community Organiser who conducted the previous two 45-minute inspections, to contact the Officer you nominated, Shaun Dunleavy, on the phone number you provided, so that she could make arrangements for our next inspection, which, as you know, is in furtherance of our investigation into how the Council has categorised responses to its consultation on the proposed Earl's Court redevelopment, and about which, in our letter to you dated 29 May, we raised serious concerns. Therefollowing she:

1. Rang Mr Dunleavy on the phone number you provided at around 10.45 am on 6 June; Mr Dunleavy did not answer, so she left a voicemail message asking him to contact her to agree the next time she could attend the Council's offices to continue our inspection of the consultation response forms;
2. Sent an email to Mr Dunleavy at his Council email address at 12.56 pm on 6 June to the same effect, but received no reply;



## **West Ken & Gibbs Green Community Homes Limited**

3. Rang the phone number you provided at around 2 pm on 6 June; Mr Dunleavy did not answer, and she was unable to leave a further message because the Council's phone system did not put her through to his voicemail;
4. Rang the phone number you provided at around 3 pm on 6 June; Mr Dunleavy did not answer, and she was unable to leave a message because the Council's phone system put her through to an automated message that advised the caller to contact the switchboard, or to dial the person's extension, which was the number she had rung in the first place;
5. Sent a further email to Mr Dunleavy at his Council email address at 4:29 pm on 6 June, but received no reply;
6. Rang the phone number you provided at 9.58 am on 7 June, with the same result as at 4. above;
7. Rang the phone number you provided at 10.33 am on 7 June, with the same result as at 4. above; and
8. Rang the Council's switchboard at 10.36 am on 7 June to request that the operator put her through to Mr Dunleavy's extension. The operator transferred her to his extension, but Mr Dunleavy did not answer, and she was unable to leave a message because the Council's phone system put her through, yet again, to an automated message that advised her to contact the switchboard, or to dial the person's extension, the former which was the number she had rung in the first place, and the latter which was the number to which the operator had transferred her.

I do not understand how it can be that the Council's Head of Litigation appears to have sent me an email, which I do not recall, and have no evidence of, receiving. Under the Freedom of Information Act, please send me any relevant correspondence or documentation involving Council Officers and Members.

At no stage did we manage to speak with your nominated Officer, Mr Dunleavy; he did not answer our phone calls; we received no phone calls or voicemail messages from him; and he did not reply to our emails, to which, we confirm also, we received no bounce-backs. Under the Freedom of Information Act, please send me any relevant correspondence or documentation involving Council Officers and Members.

In the circumstances I have detailed in this letter, which you may admit are curious, if not Kafkaesque, please understand why it is impossible for us to comply with the deadline-extension you set, of 4 pm tomorrow 8 June, for us to respond to your letter of 14 May 2012.

Yours sincerely

**Jonathan Rosenberg**  
**Community Organiser**

**West Ken & Gibbs Green Community Homes Ltd**  
**West Kensington Estate Tenants & Residents Association**  
**Gibbs Green & Dieppe Close Tenants & Residents Association**

Cc: Derek Myers, Chief Executive LBHF; Andy Slaughter MP; The Information Commissioner.

# West Ken & Gibbs Green Community Homes Limited

## Annex A

The 'Document properties' we 'grabbed' at 10.31 pm on 7 June 2012 from Word document, file name: 'Final Letter to the TRA'

### SUMMARY

Title: Date – month – year

Subject:

Author: ADM

Manager

Company: London Borough of Hammersmith and Fulham

Category:

Keywords:

Comments:

Hyperlink base:

### STATISTICS

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Statistics:

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Characters: 582

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Lines: 43

Paragraphs: 8

Pages: 1

London Borough of Hammersmith & Fulham  
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08 June 2012

**By E-mail**

Mr Jonathan Rosenberg  
West Ken & Gibbs Green Community Homes Ltd  
rosenberg@freeuk.com

Dear Mr Rosenberg,

**Ref: *letter in response to the TRAs' letter of 29 May 2012***

Thank you for your letter of 29 May 2012. I am responding to it on Melbourne Barrett's behalf, as he is at present on annual leave.

You refer to a deadline of 30 May 2012 for comments on the information contained in the 23 April 2012 Cabinet report. In fact, Melbourne Barrett's letter of 14 May 2012 set a deadline of 28 May 2012. In any event, as set out in Mr Barrett's letter dated 1 June 2012, the Council has agreed to extend this deadline until 4pm on 8 June 2012. I appreciate that this is a tight timeframe. In the circumstances, I can also confirm that, so far as is possible, any comments that are received after that deadline will be taken into account when any final decision is taken by the Cabinet.

You claim in the first paragraph of your letter that the Council "concealed" the proposed Conditional Land Sale Agreement (CLSA) from residents and the public. I am unsure what you mean by this. If you are referring to the fact that the 23 April 2012 Cabinet report did not attach a draft of the CLSA, then I would note that in fact the report contained detailed information on the structure of the CLSA. The draft CLSA itself was not published for the 23 April 2012 Cabinet meeting because it remained the subject of negotiations and contained some information that was still commercially confidential.

The TRAs' response of 12 March 2012 is being considered by officers together with all the responses submitted by residents. I can confirm that it will be taken into account when a final decision is taken.



You object in your letter to the fact that the Council has sought to impose a limit on the length of time for which an individual could inspect the consultation responses. As you note, the Council decided on this approach for data protection reasons. You argue that this is “insupportable”, and that the data in question either can be viewed or cannot. The issue is however one of the appropriate management of risk. In particular, although the forms in question have been redacted to remove personal information that may identify individual consultees, there remains a risk that individual consultees could nevertheless be identified on the basis of their handwriting. Further, the longer someone is able to study the responses, the higher the likelihood will be that an individual consultee may be identified in this way. On this basis, the Council decided to set a time limit of 45 minutes per individual (although I understand that Ms Kuklowsky was in the event allowed to inspect the responses for 1½). The Council has however carefully considered your concerns, and has decided that this time limit should no longer be applied. Ms Kuklowsky (or any other representative of the TRAs) is therefore free to make further appointments to inspect the redacted responses, should she wish to do so.

You also make a number of complaints about the Council's analysis of the consultation responses.

First, you claim a systematic bias in favour of identifying support for the Council's proposals and/or minimising opposition. The analysis and categorisation of the consultation responses inevitably involves questions of judgment, not least because consultees were asked questions in an unguided way. There may therefore be room for different opinions when characterising certain individual responses. However, overall, officers have conducted the analysis in a fair and even-handed way. I entirely reject the claim that there has been any systematic bias one way or the other.

Secondly, you complain that there is no procedure for dealing with duplicates. In fact, where a resident was found to have submitted more than one identical response only one such response was counted.

Thirdly, you complain that there is no procedure for dealing with response forms from residents who have changed their mind. In fact, there was such a procedure. Where the dates of the responses from an individual resident were clear, the latest in time was chosen. Where it was possible to tell which was supposed to be the final response from the comments made in the form (e.g. the form contained words to the effect, "I have changed my mind..."), that form was chosen. In the small number of cases where it was not possible to gain a clear understanding of the consultee's ultimate view on either of these bases, the responses were not counted.

Fourthly, you argue that forms have been discounted "for no apparent reason". This is incorrect. Where forms were discounted, this was because they were duplicates, earlier forms from residents who had changed their minds, or forms from children under 12 (see paragraph 3 of Appendix 5 to the 23 April 2012 Cabinet report).

Fifthly, you refer to 18 "in favour" forms in the same handwriting. However, there are also many "objection" forms that appear to be in the same handwriting. Officers have treated both categories in the same way.

Finally, you suggest there are difficulties in reconciling the numbers in the Council's analysis with the number of forms in each category. You do not however identify any particular errors. The Council considers that the numbers in question are accurate.

In summary, the Council rejects your complaints regarding the analysis of the consultation responses, and considers that the analysis conducted to date may properly be relied on by Cabinet members. It follows that the Council will not be commissioning the independent analysis of the consultation forms that you have requested.

The Council also notes the final paragraph on the third page of your letter, which comes very close to (or is perhaps intended to be) an allegation of bad faith on the

part of Council officers. Any such allegation would be extremely serious. It follows from the above that it would also be entirely baseless. I specifically reject it.

In truth, the Council has sought to operate with a high degree of transparency in this matter. The 23 April 2012 Cabinet report put much more financial information into the public domain than would be usual for a local authority involved in such a potential transaction, and no information was placed in the private / exempt part of the agenda. This spirit of openness has also been applied to the consultation responses. It is not unusual for only summary information to be placed in the public domain about the consultation responses received. But the Council has permitted members of the public to inspect the forms themselves (subject to necessary redactions). In addition, it is clear that the majority of residents on the Estates who replied to the consultation (which was only a proportion), are against the proposals, and equally clear that this has not in any sense been hidden from the Cabinet. The point was made in the Cabinet report of 23 April 2012 (see Appendix 5), and it will be re-emphasised again in the subsequent report to Cabinet.

Finally, you ask in your letter that the Council institutes a formal review under the Freedom of Information Act 2000 (FOIA) into the Council's handling of the TRAs' request of 18 April 2012. It appears that the Council did not respond substantively to that request, for which I apologise. However, FOIA is not the appropriate statutory scheme. The TRAs' request was not made under FOIA, and indeed did not make any reference to it. More significantly, the Council did not grant inspection rights under FOIA (FOIA is concerned with unrestricted access rights to information, as opposed to inspection rights that are subject to the type of restrictions that the Council has imposed here).

Yours sincerely



Derek Myers  
Joint Chief Executive



## West Ken & Gibbs Green Community Homes Limited

Derek Myers  
Joint Chief Executive  
LB Hammersmith & Fulham Council   
Hammersmith Town Hall Extension  
King Street  
London W6 9JU

10 June 2012

Dear Mr Myers

### **Proposed disposal of West Kensington & Gibbs Green estates: Consultation analysis and inspection arrangements – serious concerns**

1. Thank you for your letter, which I received by email at 4.32 pm on 8 June 2012.

You claim that you are responding to the letter I sent to Mr Barrett, dated 29 May: “on Melbourne Barrett’s behalf, as he is at present on annual leave”. This confused me because, in his letter to me, dated Friday 1 June, Mr Barrett claimed: “I am considering the points you have raised and will write to your [sic] with my substantive response next week”. Was Mr Barrett’s annual leave for the Jubilee holiday/ half-term week beginning 4 June known to him, or to you, by 1 June, or did he request his annual leave of you thereafter, at very short notice?

I have numbered the paragraphs in this letter in the same order as the paragraphs in your letter.

2. You claim that: “in fact Mr Barrett’s letter of 14 May 2012 set a deadline of 28 May 2012”. However, this is flatly contradicted by paragraph 7 of Mr Barrett’s letter of 14 May, which states:

If you would like to make any comments on the information contained within the Cabinet report you can do so by emailing sarah.lovell@lbhf.gov.uk or by writing to Sarah Lovell at 3rd Floor, Hammersmith Town Hall Extension, King Street, W6 9JU. The Council would welcome any comments by 30th May 2012.

I attach, at Annex A, Mr Barrett’s 14 May letter, which a resident of Churchward House received through her letterbox around that date. She scanned and emailed it to me in PDF format on 17 May 2012. You can see that there is no reference to any date of 28 May 2012.

My letter to Mr Barrett, dated 7 June, recorded that I did not receive his 1 June letter until 6 June, and detailed the curious, if not Kafkaesque, circumstances contrived by the Council, which made it impossible for us to comply with his deadline of 4 pm on 8 June. I have not received any reply from him to this letter, either before his 4 pm 8 June deadline, or thereafter.

In the letter you emailed me at 4.32 pm on 8 June, you said you “appreciate” that the deadline of 4 pm on 8 June, which had expired 32 minutes earlier, “is a tight timeframe”. Thank you.

3. You claim that you are: “unsure what [we] mean [by] the first paragraph of [our] letter that the Council “concealed” the CLSA from residents and the public”. We



## West Ken & Gibbs Green Community Homes Limited

explained this point to you, three months ago, on 12 March 2012, at page 11, Section 2, 3.1, in the response we submitted to the Council:

The Council has not supplied a copy of the Conditional Land Sale Agreement (CLSA) to residents, nor has it provided an Internet link. Instead, the Council maintains that this document is commercially confidential, and that neither it, nor the negotiations surrounding it can be disclosed (see subsequent letter from Director of Housing and Regeneration 3 February 2012).

....

The CLSA affects residents' lives and futures fundamentally. It is irrational for the Council to consult residents about whether to sign a document, which it keeps secret from them. We expect the Council to disclose the CLSA in full and immediately, sending printed copies to all residents.

4. Thank you for providing the Council's first written acknowledgement of its receipt of the response we submitted on 12 March 2012 to its consultation on whether to include the estates in its proposed redevelopment scheme, and for your assurance that the Council will take this response, together with all the responses submitted by residents, into account when it takes a final decision. We shall make further submissions to the Council in due course.

5. You claim it was me who noted that: "the Council decided on this approach [the 45-minute restriction] for data protection reasons"; and then you claim that: "the issue is ... one of the appropriate management of [the] risk [that] individual consultees ... could be identified on the basis of their handwriting [and] on that basis, the Council decided to set a time limit of 45 minutes per individual".

Under the Freedom of Information Act, please send me the risk management assessments, the records of these decisions, and any emails, correspondence, notes of discussions and meetings, and other relevant documents.

When the Council announced, in writing to residents, on its website, and at Cabinet on 23 April, that it was making the consultation responses available for public inspection, it mentioned no restrictions. We spoke three times with Council Officers, but when, as recorded in Annex B, we asked for an explanation of the Council's reason for its 45-minute restriction, the Council Officer did not give the explanation which you now provide. Nor did Mr Barrett make any mention of it in his letter, dated 1 June.

Notwithstanding the merits or otherwise of your explanation for the Council's 45-minute restriction, you went on to claim: "The Council has carefully considered [our] concerns, and has decided that this time limit should no longer be applied [, and that we are] free to make further appointments to inspect the redacted responses".

Under the Freedom of Information Act, please send me the risk management assessment, the record of this decision, and any emails, correspondence, notes of discussions and meetings, and other relevant documents.

In my letter to Mr Barrett, dated 7 June, I detailed the lengths to which we went on 6 and 7 June to take up his offer for us to make a further appointment to inspect the consultation responses, which are part of the circumstances the Council contrived to make it impossible for us to comply with his 4 pm 8 June deadline. Still, we have heard nothing from Mr Dunleavy, the Council Officer who Mr Barrett nominated to arrange our next inspection.

## West Ken & Gibbs Green Community Homes Limited

Evidently, far from being, as you claim, "free to make further appointments", we are being restricted, stopped, and obstructed by the Council from making any further appointments, without good reason.

6. In my letter, dated 29 May, I raised very serious concerns about the rectitude of the Council's analysis of the consultation responses. These are not complaints to the Council: rather, they are grounds for us to challenge in the Courts any decision that the Council may make on whether to enter into the CLSA with the developer, Capital and Counties PLC, or with one of its subsidiaries, which relies on a faulty or false analysis of the consultation responses: they are grounds, furthermore, for making a serious complaint to the Information Commissioner; and, we think, they are evidence of public scandal.

7. The bias, which we allege and which you reject, resulted from the Council's systematic miscategorisation of a significant number of responses, and which distorted the results of the consultation analysis, unfairly, in one direction. We have already allowed for your point about "questions of judgment", as you can see from our inspection notes at Annex B, where we commented:

many of the forms are difficult to categorize (as they ramble on for example without clearly stating if the person is for or against), so I understand the subjective nature of categorizing some of these forms. However, it is apparent that there is miscategorizing.

Were your point valid, and were the Council's analysis "even-handed", as you claim, we should have observed about half the miscategorisations favouring the Council's position. We did not. Instead, nearly all the miscategorised forms we detected were miscategorised away from the category of outright opposition to the scheme, such as the 22 forms we observed, which clearly expressed concerns, but which the Council had miscategorised into the file for responses in favour of the scheme.

8. We saw that the 'Not counted' file contained 24 response forms marked "Duplicate". However, we also found forms duplicated within the files for other categories, which had no "Duplicate" mark on either of the copies.

9. Some forms had "date received" stamped on them; many more had none. In the "Estates discounted" file, we counted 3 sets of forms that were discounted for having contradictory opinions. In our inspection notes (Annex B), we recorded that:

Interestingly, in all of these forms, the date received for the form in favour of demolition was clearly stated by the council, while the dates for forms from the same person stating they were now against the demolition was not marked. Presumably because they were received after the yes forms. I raised this point with Patterson, that if the forms were received after they clearly should be counted as the view of the person, to which he replied not all forms were dated systematically.

We observed two forms in the 'Estates for' file, which expressed a change of opinion, but which bore no "date received" stamp.

10. The Council rejected many forms without indicating the reason for rejection by marks such as "Duplicate".

The Council rejected 18 forms, which contained the residents associations' standard typewritten response with no additional handwriting, without marking the reason for rejection.

## West Ken & Gibbs Green Community Homes Limited

11. The point we made about the 18 'in favour' forms, which contained the same brief or similar content, and which appeared to be written by a single hand, was that none of them contained any signature or mark attesting authenticity. There is no parallel with forms in the 'against' file, because in the vast majority of these cases, forms not in the respondent's handwriting bear verifying statements and signatures, and are markedly different from each other in content.

12. The restriction of our inspection to two 45-minute sessions meant we only had time to count forms in three of the seven files. According to the Council's analysis of the consultation responses, annexed to the 23 April Cabinet report, there should be: 189 forms in the 'Not counted' file, whereas we counted 149; 21 forms in the 'Estates no opinion' file, whereas we counted 19; and 25 forms in the 'Estates concerned' file, whereas we counted 21. What discrepancies occur in the much larger files we have not counted? Where are the missing forms?

13. The Council rejects our serious concerns that it is guilty of bias through its systematic miscategorisation of the consultation responses at the same time as it blocks us from further inspection. The Council refuses to commission an independent analysis of the consultation responses, although it is apparent there are too many discrepancies distorting the results in one direction for it to be sustained that the analysis is fair or even-handed. Despite powerful evidence to the contrary, you claim that: "the analysis conducted to date may be properly relied on by Cabinet members".

14. You have provided no evidence, whatsoever, to support your claim that our allegations, however construed, are "entirely baseless".

Our determination to save our community is boundless. We are not intimidated by threats from the Council, veiled or otherwise; and we shall not allow the Council, Capital and Counties PLC, the Mayor of London, nor any other collaborator or contractor, to bully residents out of their much-loved homes.

Did you not read the 538 consultation responses we published; do you not recall those which exclaimed: "How dare You!"?

According to the notes of our first 45-minute inspection, attached at Annex B, the Council discounted a response from a person for being "potentially violent". Was this the response it discounted?

I disagree because it is not present and it is a load of bullocks. All my friends live here and I love my estates, West Ken and gibbs green. The Council will benefit from it because there taking 10 million quid from the developer. It will destroy our neighbourhood. If you come round here I will lamp you in your head for rudeness. I WANT YOU TO FUCKING Read this!!!!

Under the Freedom of Information Act, please send me the Council's assessment policy for, its risk management assessment of, and its decision to discount, "potentially violent" responses, along with emails, correspondence, notes of discussions and meetings, and other relevant documents.

15. You claim that: "in truth, the Council has sought to operate with a high degree of transparency in this matter ... This spirit of openness has also been applied to the consultation responses". Preposterous! The public shall decide, the Information Commissioner shall determine, and, ultimately, the Courts shall judge, what is true. We have provided the Council with evidence to substantiate our allegations,

## **West Ken & Gibbs Green Community Homes Limited**

whereas, you have supplied us with nothing, which is of any material substance, to corroborate the Council's claims.

You admit: "it is clear that the majority of residents on the Estates who replied (which was only a proportion), are against the proposals". Far from "only", the proportion of households who replied was 68%, which we reckon is a satisfactory turnout for a vote according to any sensible person's measure.

The Council's analysis hid the three-and-a-half-to-one result against demolition by not producing totals, and by not expressing these in percentages. Worse, as we have evidenced, the Council miscategorised sufficient numbers of response forms as to distort significantly the results, thus undercounting, in our estimation by more than one factor-to-one, the number of residents against demolition that was reported to Cabinet on 23 April.

16. Finally, you "apologise" for the fact that "the Council did not respond substantively to" my request for information, dated 18 April 2012. Notwithstanding your apology, the Council has still to respond substantively to my request for a formal Review of its handling of my information request to take up its invitation for residents to see all the responses, since well over 20 working days have elapsed within the time it is statutory for you to provide a satisfactory response. Nonetheless, I accept your apology.

Regardless, it is for the public to make sense of this labyrinthine plot; it is for the Information Commissioner to decide what the Council should provide under the Freedom of Information Act; and it is for the High Court of Justice to quash any decision, which it decides, on the evidence before it, is unreasonable.

Please ensure that you bring this letter, and the correspondence it cites, to the attention of Cabinet Members, as soon as practicable.

Yours sincerely

**Jonathan Rosenberg**  
**Community Organiser**

**West Ken & Gibbs Green Community Homes Ltd**  
**West Kensington Estate Tenants & Residents Association**  
**Gibbs Green & Dieppe Close Tenants & Residents Association**

Cc: Melbourne Barrett, Executive Director of Housing and Regeneration   
LBHF; the Secretary of State for Communities and Local Government; the Minister for Decentralisation and Planning; Andy Slaughter MP; The Information Commissioner.

# West Ken & Gibbs Green Community Homes Limited

## Annex A

Letter to residents from Melbourne Barrett dated 14 May, which was delivered to residents, and which states "30<sup>th</sup> May 2012" as the deadline for comments.

London Borough of Hammersmith & Fulham  
Executive Director of Housing & Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 5571  
Email: [sarah.loveell@lbfh.gov.uk](mailto:sarah.loveell@lbfh.gov.uk)



14<sup>th</sup> May 2012

Dear Resident,

### West Kensington and Gibbs Green Estates Update

I am writing to thank those of you who sent us your views during the recent consultation on the proposal to enter into a so-called "Conditional Land Sale Agreement", and to update you on recent developments.

As you may be aware, on 23<sup>rd</sup> April 2012 a report outlining the initial findings of the consultation was presented to a meeting of the Council's Cabinet. The report also set out information on the likely terms of the Conditional Land Sale Agreement, and gave detailed financial information.

At the Cabinet meeting councillors noted that the Conditional Land Sale Agreement was 'suitable for recommendation' to the Council, subject to certain points of detail.

This does not mean that everything has been finalised, or that a final decision has been taken about whether or not to enter into the Conditional Land Sale Agreement, but it does mean that good progress is being made towards taking that final decision.

Officers are now finalising negotiations on the Conditional Land Sale Agreement so that a final report, including a full analysis of the consultation responses, can go to a Cabinet meeting later this year.

If you would like to read the 23<sup>rd</sup> April Cabinet report you can do so by logging on to [www.lbfh.gov.uk/kvestiken](http://www.lbfh.gov.uk/kvestiken), or you can request a hard copy of the report by calling Sarah Lovell on 020 8753 5571.

If you would like to make any comments on the information contained within the Cabinet report you can do so by emailing [sarah.loveell@lbfh.gov.uk](mailto:sarah.loveell@lbfh.gov.uk) or by writing to Sarah Lovell at 3<sup>rd</sup> Floor, Hammersmith Town Hall Extension, King Street, W6 9JU. The Council would welcome any comments by 30<sup>th</sup> May 2012.

We will keep you updated with future developments regarding the West Kensington and Gibbs Green Estates. If you have any questions please contact Sarah Lovell on 020 8753 5571 or email her on [sarah.loveell@lbfh.gov.uk](mailto:sarah.loveell@lbfh.gov.uk)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'MBT', written over a horizontal line.

Melbourne Barrett  
Executive Director of Housing and Regeneration



Melbourne Barrett MBA MRICS  
Executive Director of Housing and Regeneration



# West Ken & Gibbs Green Community Homes Limited

## Annex B

### Notes from inspection of H&F consultation responses, May 10, 2012, 2pm, Hammersmith Town Hall

I met with Chris Patterson from the Hammersmith & Fulham Housing team on May 10, 2012 at 2pm at the Hammersmith Town Hall. I was only allowed to inspect the forms for 45 minutes and I had to be unaccompanied "for data protection reasons", according to Patterson. He sat in the room with me and seemed to be monitoring my activity throughout.

This is what I could gather: (NB the figures I've counted should be considered as estimates as I didn't have a lot of time, and as personal data was blocked out, it was difficult to make sense of a lot of it).

The forms were divided into several different binders:

- Estates for
- Estates against
- Estates no opinion
- Estates concerned
- Wider area for
- Wider area against
- Not counted

I didn't look at the wider area binders at all.

#### Responses from estate residents in favour of demolition:

There were very few essays. Most of the forms have only a "yes" or a "100% in favour" written on the first question and nothing in the other boxes.

Some forms clearly have the same handwriting – but so do ours.

#### No opinion and Concerned binders:

The distinction between the "no opinion" and the "concerned" forms is questionable as many of those counted as 'no opinion' are clearly either very concerned or actually against the demolition scheme. I counted about 5 forms from people who were clearly against (counted as no opinion) and 4 very concerned (counted as no opinion).

Of the **Concerns**: the majority are very negative about the scheme, the council's propositions and don't believe the council. A good proportion of these responses are leaseholders. Of the "concerned", I counted 5 who were clearly against the demolition or happy with their living arrangements.

I asked Chris Patterson, in the room with me, who had decided the distinction between the categories "concerned" and "no opinion" as so many forms clearly express serious concerns and he said it was a team of council officers who did it.

The **Not Counted** binder was the most problematic, and I was only starting to wrap my head around the whole thing when Patterson told me my time was up.

## West Ken & Gibbs Green Community Homes Limited

- I counted 44 forms that were clearly against the scheme – some of these are marked as “duplicate” forms. Others aren’t.
- I counted 22 forms for the scheme – also some of these are marked as being duplicates
- There were 35 discounted forms from children (the Council says there are 42 they discounted, difficult to count without all the information visible).
- 1 form was from a youth that was discounted for being “potentially violent” as the young man told the Council not to come back to the estates
- 18 of our pre-written response forms (with no additional writing on them) were discounted
- I counted a total of 24 duplicates in the binder (clearly marked – some of these discounted forms weren’t marked up well or systematically. It really was not clear if some were in fact duplicates or not, there didn’t seem to be a very clear procedure there. Some had dates on them, others didn’t).
- I tried to count all the forms in the “not counted” binder and mark down the tenures of residents (these figures include duplicate copies). The totals are: 84 tenants; 13 leaseholders; 10 private tenants; 7 family mosaic; 24 wider area residents; 5 LQ; 3 freeholders; 2 other; 1 SBHA

Total = 149 – the council’s official figure is 189 – so I’m off by 40 (and this includes duplicates). I’m not sure if that’s an error in my counting, or if there were 40 of those sheets missing from the binder... something worth looking at again.

Finally there were three sets of 2 and 3 forms that were discounted for having contradictory opinions. Interestingly, in all of these forms, the date received for the form in favour of demolition was clearly stated by the council, while the dates for forms from the same person stating they were now against the demolition was not marked. Presumably because they were received after the yes forms. I raised this point with Patterson, that if the forms were received after they clearly should be counted as the view of the person, to which he replied not all forms were dated systematically.

Some forms had entire paragraphs blocked out for “data protection purposes”, while others had things like the word “leaseholder” in sentence “I am a leaseholder”) blocked out, while other forms didn’t have this information blocked out at all. There clearly wasn’t a systematic procedure of dealing with the data – with some forms having “date received” on them, and others not having this information at all.

There were quite a few forms in the “not counted binder” that I couldn’t make a clear reason for them being discounted as they were neither children, nor marked as duplicates. also it wasn’t clear in some duplicate forms if the original answer had been counted at all.

Other than Shirley and I, no one else has asked him to come in to see the forms from what he told me.

CK Community Organiser, West Kensington & Gibbs Green estates

**Second visit to inspect consultation results, Thursday May 24 2012,  
Hammersmith Town Hall 3pm.**

I met with an associate of Chris Patterson’s – Danny (didn’t catch his last name).



## West Ken & Gibbs Green Community Homes Limited

Again I was given 45 minutes, and the man stayed in the room with me the majority of the time. He noted/verified with me this was my second time inspecting the forms.

A couple of the binders were a little different than when I first inspected. This could be because some of the original binders were too small to fit all the responses. (for example the estate support binder was merged with the estates concerned and the estates no opinion into one larger binder because the binder used previously was too small.)

I only had time to focus on One binder – the one called Estate – Support + Concerned + No Opinion.

### **ESTATES NO OPINION:**

Discrepancies:

1) There were **19 forms total in the binder**. The consultation analysis says there were **21 that were counted as no opinion** on the estates. I recounted 3 times to make sure I hadn't miscounted.

2) Of these

- 3 should clearly be counted as against;
- 6 should clearly be counted as concerned ("I am concerned about...");

### **ESTATES CONCERNED:**

Discrepancies:

1) Total forms = **21** when **25 forms were counted as concerned on the estates by the Council** in their analysis

2) One form was photocopied twice without the word "duplicate" on it (so apparently supposed to be counted as an extra form). This shouldn't be counted twice. The total in the binder than should be considered as **20. There are thus 5 missing forms.**

3) Of these:  
4 of these should be considered against the scheme. One form says "At the moment I am against it. I could change my mind if I could see what you are proposing to build ie size of flats and homes".

### **ESTATES SUPPORT:**

Discrepancies:

1) I identified two different people's handwriting that came up multiple times, and said virtually the same thing each time. These forms generally only had the first or the first two answers filled out with one or two words like "100% in support" or "good idea". I identified at least 5 forms from one person's writing and about 18 that looked like it was from another person's writing. This could potentially signify fake answers, however we also have in our responses a number of forms with similar handwriting – for example if people couldn't spell and asked for help. There are several forms that Alice and I have helped fill out as well.

## West Ken & Gibbs Green Community Homes Limited

- 2) The way many of the "in favor" are counted is questionable. For example I counted at least 22 answers that were qualified with things like "if you're telling us the truth, then I support the scheme". The majority of these answers continue on to discuss their concerns about not having real guarantees about what will happen to them, and even talk about the money the Council stands to gain by kicking poor people out. It could be argued that these answers should be, at the very least, considered as "concerned" votes, and not in favour.
  - 3) Aside from the 22 mentioned above, another 4 should be counted as concerned as they spend the time expressing concerns at length.
  - 4) 1 form should clearly be counted as against: "I don't like moving"
  - 5) At least 2 forms were duplicates and not marked as such (same problem as in the Concerned binder). As they aren't marked as duplicates, I'm assuming they are counting them as separate forms. There may be others as well. I tried to do my best to find duplicates like these, but with hundreds of answers, it was difficult to spot.
  - 6) The majority of answers had very few words in them, and generally only a few words in the top box. I counted only 25 forms that were real essays, filling out at length all the boxes. Many of these were in fact part of the batch of 22 essays mentioned above (I didn't count exactly how many of these were essays though).
  - 7) Two different forms have the words "I changed my mind, I am now in support". It is unclear how their previous and perhaps later forms were dealt with. As they were in the binder, these 2 forms were clearly counted as support votes.
  - 8) One form had the words "Like I said previously" at the beginning this could potentially imply they counted twice the same person's answer. their procedure for dealing with people who changed their minds is very unclear and difficult to be made more clear without the name of the people responding on the forms.
- I asked the man for another appointment to inspect further and he told me he would as Chris Patterson. I have followed up with an email upon returning home, May 24 2012.
- The only thing I would say is that many of the forms are difficult to categorize (as they ramble on for example without clearly stating if the person is for or against), so I understand the subjective nature of categorizing some of these forms. However, it is apparent that there is mis-categorizing.
- I have tried to record and count as objectively as possible those forms that clearly differ from the categories they are in.

**London Borough of Hammersmith & Fulham**  
Housing and Regeneration  
3<sup>rd</sup> Floor, Extension, King Street, London W6 9JU  
Tel: 020 8753 4228  
Email: [melbourne.barrett@lbhf.gov.uk](mailto:melbourne.barrett@lbhf.gov.uk)  
Web: [www.lbhf.gov.uk](http://www.lbhf.gov.uk)



Date: 21 June 2012

Jonathan Rosenberg, Community Organiser  
West Ken & Gibbs Green Community Homes Ltd  
West Kensington Estate TRA  
Gibbs Green & Dieppe Close TRA  
105 Gibbs Green,  
London W14 9NE

Sent via email to [rosenberg@freeuk.com](mailto:rosenberg@freeuk.com)

Dear Mr Rosenberg,

**West Kensington & Gibbs Green Estates**

I write in response to your letters of 7 June 2012 and 10 June 2012 to myself and Derek Myers, respectively.

I address below certain of the issues that are raised in those two letters. However, I want first to provide you with an update on the decision-making timetable.

As you know, the Council has been proceeding on the basis that the Cabinet would be able to take a final decision on whether or not to enter into the Conditional Land Sale Agreement (CLSA) at its meeting on 23 July 2012. However, negotiations over the CLSA have yet to be concluded, and it is now clear that it will not be possible to reach a final decision on that date. Instead, the Council is now working towards reaching a final decision at the 3 September 2012 Cabinet meeting (there being no meeting in August).

This change enables the deadline for any representations that you would like to make on the information contained within the 23 April 2012 Cabinet report to be extended to 16 July 2012. This new deadline will allow you further time to consider that report (and its attachments) and, if you feel it is needed, further time to inspect the (redacted) consultation responses. The consultation responses will continue to be available for inspection throughout this period, and - as Mr Myers confirmed in his letter of 8 June 2012 - no limit will be applied to the overall length of time for which individuals can undertake such inspections. Further, it remains the case that (as confirmed in the 8 June 2012 letter), so far as is possible, any comments that are received after the new deadline of 16 July 2012 will also be taken into account when the final decision is taken by the Cabinet.

In your 7 June 2012 letter you raise a concern about my letter of 1 June 2012. Janette Mullins, Head of Litigation was asked to email this letter to you on my behalf due to my absence on annual leave. She attempted to do so on 2 June 2012. You did not receive

her email because, for reasons that are unclear, it was returned to her as undeliverable. I attach a copy of the "undeliverable" email receipt, in case it is of interest. On 6 June 2012, Jennifer Laing, my personal assistant attempted to resend the letter. As appears from your letter of 7 June 2012, that subsequent attempt was successful.

My letter of 1 June 2012 suggested that you contact Shaun Dunleavy if you wanted to make another appointment to inspect the consultation responses. However, it was overlooked that he was in fact on leave until 11 June 2012. This was why he did not respond to Ms Kuklowsky's emails and phone calls.

On 6 June 2012, Ms Mullins discovered that Mr Dunleavy was on leave when she received (at 17:03) an "out of office response" in response to an email that she had sent to him. Again, in case it is of interest, I attach a copy of this email. Ms Mullins contacted officers in my department to alert them to the potential difficulties that this might cause given that Mr Dunleavy's contact details had been contained in the 1 June 2012 letter. However, as a number of officers involved in the Earls Court redevelopment project were on leave at the time, this issue was unfortunately not dealt with as quickly as it should have been. Nevertheless, on 7 June 2012, Mark Brayford, Head of Client Team, accessed Mr Dunleavy's voicemail to check for any messages. In the event, there were no messages to be retrieved. I am afraid I am not able to explain why the voicemail message left by Ms Kuklowsky at around 10:45 on 6 June 2012 was not available to be picked up by Mr Brayford, or why the Council's phone system prevented Ms Kuklowsky from leaving further messages. I can only apologise for the inconvenience that you have been caused.

To assist you in the future I invite you to send all emails relating to the proposed Earls Court redevelopment to the relevant addressee and to also copy them to [westken]@lbhf.gov.uk. I will ensure that this specific email address is monitored by officers so that there is no undue delay in providing you with a response in the event that an individual officer is on leave.

I turn next to your letter of 10 June 2012. I do not propose to respond to each and every point made in that letter, not least because Mr Myers' letter of 8 June 2012 already makes the Council's position plain on a number of the issues. However, I respond below to the points that I think I can usefully address.

In paragraph 2 of your 10 June 2012 letter you point out that my letter of 14 May 2012 in fact specified a deadline of 30 May 2012. I accept that, and apologise for the erroneous reference to a deadline of 28 May 2012 in Mr Myers' letter of 8 June 2012.

In paragraph 3 of your letter of 10 June 2012 you have explained what you meant by your claim (in your earlier letter of 29 May 2012) that the Council had "concealed" the proposed CLSA from residents and the public. Thank you for that clarification. I can confirm in turn that the Council's position remains as set out in Mr Myers' letter of 8 June 2012: the CLSA was not published at the time of the 23 April 2012 Cabinet meeting because it remained the subject of commercial negotiations yet to be concluded.

In paragraph 5 of your letter of 10 June 2012 you refer to your earlier letter of 7 June 2012. I have dealt with this letter above.

Paragraph 6 of your letter appears to suggest that a complaint may be made to Information Commissioner in relation to your concerns about the Council's analysis of the consultation responses. You may wish to note that in fact the Information Commissioner has no jurisdiction over such matters.

Paragraphs 7-12 of your letter complain of bias and error in the Council's analysis of the consultation responses. The Council remains of the view that it has conducted a proper analysis. I note the following additional points:

- The Council did not require the consultation responses to be signed. Accordingly, responses that were written in the same handwriting were counted as long as they appeared to come from different residents, irrespective of whether they bore verifying statements / signatures.
- It is also unfortunately the case that not all responses were date-stamped on receipt by the Council. This means that in some cases officers have had to use their judgment to determine the order in which multiple responses from the same resident were received. However, in so doing, officers have not been biased in favour of any particular viewpoint.

- I understand that after the consultation responses had been copied, redacted and put into the files for inspection they were not recounted. It is therefore possible that there are minor discrepancies between the original responses that the Council has been using for its analysis and the redacted versions that have been made available for inspection. Officers will check and if any minor discrepancies are found the revised figures will be used in the documentation that goes before the Cabinet.

As regards paragraph 13 of your letter of 10 June 2012, I have dealt above with the issue of arranging further inspections of the consultation responses.

In relation to paragraph 14 of your letter of 10 June 2012, the form in question contained foul language and a threat of violence and is for that reason not helpful or constructive. Nonetheless you have quoted from it and your letter of 10 June will be put before Cabinet Members, so the quoted content from that form will, for what it is worth, be before Cabinet Members who are in any case already well aware of the strength of feeling of some objectors.

At paragraph 16 of your letter of 10 June 2012 you seem to be repeating your request for a formal review of the handling of your "information request" which, from context, you appear to consider is a statutory entitlement. At the end of Mr Myers' 8 June 2012 letter, Mr Myers explained that this was not in fact a FOIA matter. You do not provide any reason to conclude otherwise. I therefore do not propose to revisit this issue.

I can confirm that your letter of 10 June 2012 will be put before Cabinet Members when they come to make a final decision about whether or not to enter into the CLSA.

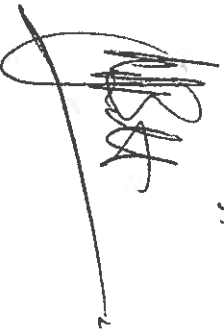


Contrary to the tenor of some colourful phrases used in your letters (e.g. "Kafkaesque", "labyrinthine plot") there is no sinister hidden agenda in this exercise. The Council is merely doing everything it can to ensure that the decision-making process is fair and lawful. We acknowledge that some communication difficulties and administrative errors in correspondence have occurred. This is regrettable and we have apologised where it has occurred.

May I assure you that officers and the Council's legal advisers are acutely aware of your determination to seize on any point, large or small, that you perceive may assist in your campaign to stop the proposed development. The Council respects your democratic right to campaign in this way but does not accept that your detailed points add up to a case that the Council is behaving unreasonably or unlawfully. We will do our best to ensure that, on our side, the tone of the correspondence remains cordial at all times.

Finally, I note that various FOIA requests are made in your letters of 7 and 10 June 2012. These will be responded to in due course in accordance with the Council's standard procedure for requests of this type.

Yours sincerely,



Melbourne Barrett  
Executive Director of Housing and Regeneration

Encs undeliverable email message of 2 June 2012  
the out of office email of 6 June 2012



## Mullins Janette

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**From:** Microsoft Outlook  
**To:** 'rosenberg@freeuk.com'  
**Sent:** 02 June 2012 10:50  
**Subject:** Undeliverable: West Kensington & Gibbs Green  
**NorSaved:** Yes

### Delivery has failed to these recipients or distribution lists:

'rosenberg@freeuk.com'

A problem occurred during the delivery of this message. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message later, or provide the following diagnostic text to your system administrator.

---

Sent by Microsoft Exchange Server 2007

### Diagnostic information for administrators:

Generating server: exchange11.lbhf.gov.uk

IMCEMAILTO-rosenberg+40freeuk+2Ecom@lbhf.gov.uk  
#550 5.4.4 ROUTING.NoNextHop; unable to route #:

#### Original message headers:

Received: from EXCH14C.lbhf.gov.uk ([10.1.14.48]) by exchange11.lbhf.gov.uk  
([192.168.48.95]) with mapi; Sat, 2 Jun 2012 10:50:28 +0100  
Content-Type: application/ms-tnef; name="winmail.dat"  
Content-Transfer-Encoding: binary  
From: Mullins Janette <Janette.Mullins@lbhf.gov.uk>  
To: "'rosenberg@freeuk.com'"  
<IMCEMAILTO-rosenberg+40freeuk+2Ecom@lbhf.gov.uk>  
CC: Barrett Melbourne <Mel.Barrett@lbhf.gov.uk>  
Date: Sat, 2 Jun 2012 10:50:27 +0100  
Subject: West Kensington & Gibbs Green  
Thread-Topic: West Kensington & Gibbs Green  
Thread-Index: AclAP5N5HT1PSRJasayu8LXjMPsFeA==  
Message-ID: <FB7788EE345B744BA502C00DCD8D2B0A0663F795E7@EXCH14C.lbhf.gov.uk>  
Accept-Language: en-US, en-GB  
Content-Language: en-US  
X-MS-Has-Attach: yes  
X-MS-TNEF-Correlator: <FB7788EE345B744BA502C00DCD8D2B0A0663F795E7@EXCH14C.lbhf.gov.uk>  
MIME-Version: 1.0



West  
Kensington & Gibbs



**Mullins Janette**

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**From:** Dunleavy Shaun  
**Sent:** 06 June 2012 17:03  
**To:** Mullins Janette  
**Subject:** Out of Office: West Kensington & Gibbs Green: consultation analysis and inspection arrangements - serious concerns F

I am away from the office until June 11th. Your e-mail is not being forwarded, but I will deal with it on my return.

# West Ken & Gibbs Green Community Homes Limited

Melbourne Barrett  
Executive Director of Housing and Regeneration  
LB Hammersmith & Fulham Council  
Hammersmith Town Hall Extension  
King Street, Hammersmith  
London W6 9JU

26 June 2012

Dear Mr Barrett

## **Proposed disposal of West Kensington & Gibbs Green estates: Consultation analysis and inspection arrangements – serious concerns**

1. Thank you for your letter, dated 21 June, which I received on 22 June, in response to the letters I wrote to you and to Mr Myers, dated 7 and 10 June 2012.
  2. You say you address “certain of the issues that are raised in those two letters”. This implies, and the content of your letter confirms, that you do not address all of the issues I raised. Why is that?
  3. You say that the Council delayed the Cabinet decision on whether or not to enter the CLSA from 23 July to 3 September 2012 because “negotiations ... have yet to be concluded”. Under the Freedom of Information Act, please provide me with the record of the decision to delay Cabinet’s next consideration of the CLSA. Please provide also the emails, correspondence, notes of meetings and other documents relevant to the CLSA negotiations, and which made it “clear that it will not now be possible to reach a decision on” 23 July.
  4. Thank you for extending the deadline to 16 July 2012 for us to make representations on the 23 April Cabinet report; for offering further time to inspect the (redacted) consultation responses; and for lifting the 45-minute restriction on individuals to undertake inspections.
  5. Thank you for attaching the “undeliverable” email receipt. I, too, cannot account for why this email was not delivered, as I am not aware of anyone else having had problems emailing this address at that time. Did the Head of Litigation take any steps to find my alternative email address, which is provided under ‘Contact’ on the ‘About’ page of the People’s Estates’ website <http://westkengibbsgreen.wordpress.com/about/>? If you have any difficulties in future, please send emails to [jlvr49@gmail.com](mailto:jlvr49@gmail.com).
  6. On Friday 22 June at 5.02 pm, Celine Kuklowsky, our deputy Community Organiser, sent an email to Mr Dunleavy, and to the new email address you provided. She has received no response, and nor have I heard from Mr Dunleavy, or from any other Council officers pursuant to the Council’s commitments to provide us with unlimited access to carry on our inspection.
- As we advised in our email, Celine Kuklowsky shall attend Hammersmith Town Hall tomorrow, 27 June. Please arrange for an officer to meet her at 2 pm.
7. It is curious that the Head of Litigation received an ‘out of office’ reply in response to an email she sent to Mr Dunleavy, whereas we received no such reply in response to our emails. Under the Freedom of Information Act, please provide me with the email Ms Mullins sent to Mr Dunleavy, which provoked the ‘out of office’ reply.

## West Ken & Gibbs Green Community Homes Limited

You were on leave, Mr Dunleavy was on leave, and you say that when Ms Mullins contacted officers in your department “to alert them to the potential difficulties that this might cause” for our inspection she discovered that “a number of officers involved in the Earl’s Court project were on leave”. Under the Freedom of Information Act, please provide me with the annual leave schedule for the Council Officers involved with the Earl’s Court project from Easter 2012 to date.

You say that you are “not able to explain why the voicemail message left by” us could not be retrieved, and you conclude: “I can only apologise for the inconvenience that you have been caused”.

I think you can do more than that. Do you think it is satisfactory for a caller engaged in important business with the Council to be given the run-around by automated messages; that everyone is on leave at the same time and does not know it; that emails don’t get delivered or don’t get resent promptly; that voicemail messages cannot be retrieved; and that out of office replies are inconsistent in content and transmission?

Will you undertake to use your influence with the administrative part of the Council to investigate how these errors occurred so that the Council can avoid any recurrence?

8. As I have reported in 6 above, immediately following receipt of your latest letter, our deputy Community Organiser emailed Mr Dunleavy at 5.02 pm on 22 June to arrange an appointment for Wednesday 27 June to continue with our inspection. She copied this email to the new email address you have provided. Still, we’ve heard nothing from Mr Dunleavy, or from anyone else.

9. I do not understand why you “do not propose to respond to each and every point made” in my letter to Mr Myers of 10 June 2012. As you say, Mr Myers: “makes the Council’s position plain on a number of the issues”. However, it does not address all the points I raised, and the evidence I supplied, in my response to his letter.

Given your role, I would have expected it to be your responsibility to respond to all of my points, rather than just to respond to “the points which [you] think [you] can usefully address”. If you cannot address all the points, then please let me know who will and when.

10. I accept your apology for Mr Myers’ erroneous claim that “in fact” your letter of 14 May 2012 stated the deadline was 28 May 2012. You accept that in fact your letter specified the deadline was 30 May 2012. Inexplicably, Mr Myers placed some weight on this, his opening point, in his letter to me. Under the Freedom of Information Act, please provide me with the relevant documents to account for how Mr Myers came to make this mistake. Who drafted his letter to me, who checked it, and what inquiries did Mr Myers make to ensure it was accurate?

11. Regarding the information I supplied to evidence our charge that the Council “concealed” the CLSA, you say: “Thank you for that clarification”. This was not a clarification: I merely quoted from what we had sent you on this matter three months previously.

It was obviously irrational for the Council to consult with residents (between January and March 2012) about whether it should sign a document that it did not allow them to see. I don’t understand how Mr Myers’ explanation that “the CLSA was not published at the time of the 23 April 2012 Cabinet meeting because it remained the subject of commercial negotiations yet to be concluded” has any bearing on the matter. Indeed, it suggests that even the Council itself did not know what it was consulting about at that time.

## West Ken & Gibbs Green Community Homes Limited

Under the Freedom of Information Act, please tell me which Officers, Members, consultants, partners, legal advisors and others are involved in negotiating the CLSA, and inform me of the costs the Council has incurred to date. Please also provide a chronology showing how the negotiations have progressed.

12. You have not responded adequately to my letter of 7 of June, as paragraph 7 above refers.

13. With regard to our concerns about the Council's analysis of the consultation responses, you say: "that in fact the Information Commissioner has no jurisdiction over these matters". I would have thought the Council might have been more cautious about making claims of "fact", given your earlier apology for Mr Myers' strenuous, yet erroneous, claim of "fact". I shall continue to copy this correspondence to the Information Commissioner.

14. You say: "Paragraphs 7-12 of your letter complain of bias and error in the Council's analysis of the consultation responses". Paragraph 6 of my letter to Mr Myers states:

These are not complaints to the Council: rather, they are grounds for us to challenge in the Courts any decision that the Council may make on whether to enter into the CLSA with the developer, Capital and Counties PLC, or with one of its subsidiaries, which relies on a faulty or false analysis of the consultation responses; they are grounds, furthermore, for making a serious complaint to the Information Commissioner; and, we think, they are evidence of public scandal.

Your first bullet point does not address paragraph 11 of my letter to Mr Myers, which explained:

The point we made about the 18 'in favour' forms, which contained the same brief or similar content, and which appeared to be written by a single hand, was that none of them contained any signature or mark attesting authenticity. There is no parallel with forms in the 'against' file, because in the vast majority of these cases, forms not in the respondent's handwriting bear verifying statements and signatures, and are markedly different from each other in content.

In your second bullet point you say: "it is unfortunately the case that not all responses were date-stamped on receipt by the Council". If, as you claim in these cases, Officers' judgment has "not been biased in favour of a particular viewpoint", how do you account for our observation that these responses were categorized in favour of demolition?

In your third bullet point you say that because the forms were not recounted after they had been processed and made available for inspection: "it is therefore possible that there are minor discrepancies between the original responses that the Council has been using for its analysis and the redacted versions that have been made available for inspection". You seem to be suggesting there are two sets of files and that the discrepancies are between these two sets.

I hope that through our further inspection, and through your Officers checking what you call "minor discrepancies", we can determine whether the systematic bias we have described was resultant from miscategorisation of the responses, or from discrepancies that arose between the sets of responses.

15. We look forward to hearing back from Mr Dunleavy or another Officer as soon as possible so we can confirm the continuation of our inspection for this Wednesday, 27 June.

## West Ken & Gibbs Green Community Homes Limited

16. I take it from what you say that you confirm the form we quoted from is indeed the one you discounted for being “potentially violent”. We found it in the ‘Not-counted’ file alongside the responses from the 40 or so children whose forms you discounted on the ground that they were less than 12 years of age.

You say: “the form in question contained foul language and a threat of violence”. That is your opinion. Equally, it could be suggested that the respondent was communicating in plain old Anglo Saxon, and deploying Cockney rhetoric to emphasise, as it turned out, his forlorn hope that you would take good note of his opposition to demolition.

You may think that the form: “is for that reason not helpful or constructive”. But this is not a rational ground for discounting it. In any event, if this is your ‘rule’, then the Council has applied it inconsistently. Other forms contain the same swearword, variations of it, and other swearwords. Many forms also contained a “threat”, if not of “violence”, most certainly of physical defiance.

Undoubtedly, this language is direct; and there is no question that it involves swearing. However, not all swearing is “foul”; and threats, however unwelcome, are subject to interpretation, are a question of degree, and, naturally, should be kept in context.

I look forward to receiving the answer to my Freedom of Information request for the Council’s policy for dealing with “potentially violent” responses. In the meantime, please confirm that the Council did not discount any other forms for this reason.

You say that my: “letter of 10 June 2012 will be put before Cabinet Members, so the quoted content from that form will, for what it is worth, be before Cabinet Members who are in any case already well aware of the strength of feeling of some objectors”.

The import of that form was that the respondent, very strongly, wanted you to read it. Instead, the Council discounted it; and now, you’ve belittled its worth.

Unlike any other consultation or vote, the Council failed to provide the totals or percentages for residents and households for and against. Now, you describe the many hundreds of residents who expressed strong feelings in their responses as “some objectors”, even though these formed the overwhelming majority of respondents, indeed, an absolute majority of households living on the estates.

17. To my mind, Mr Myers provided opinions and bureaucratic defences rather than any rational or legal grounds for not taking up my request for him to institute a formal Review under FoI. We shall continue to treat our inspection requests as Freedom of Information requests.

You say that you do not propose to revisit this issue, (a formal Review under FoI), albeit this was a decision taken by Mr Myers. Under the Freedom of Information Act, please provide me with any documentation relating to the decision not to institute a formal Review under FoI.

18. Thank you for your confirmation that my letter of 10 June 2012 will be put before Cabinet Members when they make their final decision on the CLSA. Please confirm that you will put all of my letters (with the same subject heading as above), along with the replies from you and Mr Myers, before Cabinet.

19. You say: “Contrary to the tenor of some colourful phrases used in your letters (e.g. “Kafkaesque”, “labyrinthine plot”) there is no sinister hidden agenda in this

## **West Ken & Gibbs Green Community Homes Limited**

exercise". I agree that the agenda is not hidden. The Council has been open about its agenda, and has publicly promoted and supported demolition; and, we have exposed how this appears to have influenced its analysis of the consultation responses.

You say: "The Council is merely doing everything it can to ensure that the decision-making process is fair and lawful". There is a great deal of evidence, much of it now the subject of fresh Judicial Review proceedings, to suggest that this is not true.

You say: "We acknowledge that some communication difficulties and administrative errors in correspondence have occurred. This is regrettable and we have apologised where it has occurred". I have previously thanked you for this apology. However, since you do not seem to have investigated these difficulties and errors, you have little evidence to support your claim that your agenda is not, as you call it, "sinister".

20. You say: "The Council respects [our] democratic right to campaign in this way but does not accept that [our] detailed points add up to a case that the Council is behaving unreasonably or unlawfully".

We questioned every claim where we had evidence to support an opposite contention and where we doubted its veracity. We provided material evidence to support the detailed allegations we made about miscategorisation, yet Mr Myers provided nothing of any substance to support his claim that our allegations were "entirely baseless".

Nor have you. You declined to respond to all of my points; you devoted most of your letter to explaining and apologizing for administrative errors, albeit, aside from providing us with an alternative email address, you made no proposals for ensuring these errors do not recur; you side-stepped the point Mr Myers failed to address about the 18 forms with the same handwriting; and you claimed the discrepancies were between rather than within the sets of forms.

Neither you nor Mr Myers have addressed my detailed points on the substantive matter of systematic miscategorisation. So, how can the Council decide it "does not accept that [our] detailed points add up to a case that the Council is behaving unreasonably or unlawfully"?

21. I look forward to receiving the Council's responses to the FoI requests I have made in this letters, and in my previous letters of 7 and 10 June.

Yours sincerely

**Jonathan Rosenberg**  
**Community Organiser**

**West Ken & Gibbs Green Community Homes Ltd**  
**West Kensington Estate Tenants & Residents Association**  
**Gibbs Green & Dieppe Close Tenants & Residents Association**

Cc: Derek Myers, Chief Executive LBHF; Andy Slaughter MP; The Information Commissioner; WKGCH Board Members.



Date: 24 July 2012

Jonathan Rosenberg, Community Organiser  
West Ken & Gibbs Green Community Homes Ltd  
West Kensington Estate TRA  
Gibbs Green & Dieppe Close TRA

105 Gibbs Green,  
**London W14 9NE**

Dear Mr Rosenberg,

### **West Kensington & Gibbs Green Estates**

Thank you for your letter of 26 June 2012. I respond below.

As to paragraph 2 of your letter, you are right that I did not address all of the points raised in your letters of 7 and 10 June 2012 in my letter of 21 June 2012. As explained later in my letter of 21 June 2012, Mr Myers' letter 8 June 2012 had already made the Council's position plain on a number of issues. As regards your paragraph 9, neither I nor anyone else at the Council will be responding to the issues that I considered could not usefully be addressed by the Council.

As to your paragraph 5, Janette Mullins did not attempt to identify an alternative email address for you. Thank you for identifying an alternative address.

As to your paragraphs 6, 8 and 15, I understand that Sarah Lovell replied to Celine Kuklowsky's email of Friday 22 June on Tuesday 26 June 2012, and that Ms Kuklowsky attended to inspect the consultation responses on 27 June 2012, and 5 and 16 July 2012. Ms Kuklowsky's email was addressed to Shaun Dunleavy and "westken@lbhf.gov.uk".

As to your paragraphs 7 and 12, I note your comments regarding the automated message system but I do not consider an investigation to be necessary.

I note paragraph 13 of your letter. As a matter of law, the Information Commissioner has no jurisdiction over the Council's analysis of the consultation responses. You have not identified any argument to the contrary. That said, you are of course free to send correspondence to the Information Commissioner as you see fit.

Melbourne Barrett MBA MRICS  
Director of Housing and Regeneration



I also note your comments in paragraph 14 . I do not accept your claim of systematic bias but in, so far as is possible, the Council will consider any further representations that you wish to make.

As to your paragraph 16, you are incorrect in your assumption that the form you quoted from was discounted for being “potentially violent”. The form in question was included in the “not-counted” file because the resident in question submitted duplicate forms. No forms were discounted because residents used bad language or threatened violence.

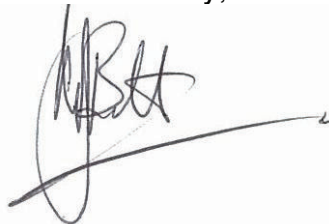
Paragraph 17 of your letter is noted. The Council’s position remains as set out in my letter of 21 June 2012.

As to your paragraph 18, the Council proposes to put before the Cabinet your letters of 29 May 2012, and 7, 10 and 26 June 2012, together with the Council’s responses (from Mr Myers and myself). If there are any further letters that you wish to be included, I would be grateful if you could identify them for me.

Paragraphs 19 and 20 contain further argument relating to the alleged inadequacies of the Council’s analysis of the consultation responses. As explained above, this will be put before the Cabinet in due course. I remain of the view that the Council’s position has already been sufficiently stated in previous correspondence. I do not propose to lengthen this letter by repeating the points already made.

Finally, I note that various FOIA requests are made in your letter of 26 June 2012. These will be responded to in due course in accordance with the Council’s standard procedure for requests of this type.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'MBA', with a long horizontal flourish extending to the right.

Melbourne Barrett MBA MRICS  
ExecutiveDirector  
Housing and Regeneration

## West Ken & Gibbs Green Community Homes Limited

Melbourne Barrett  
Executive Director of Housing and Regeneration  
LB Hammersmith & Fulham Council  
Hammersmith Town Hall Extension  
King Street, Hammersmith  
London W6 9JU

27 July 2012

Dear Mr Barrett

### **Proposed disposal of West Kensington & Gibbs Green estates: Consultation analysis and inspection arrangements – serious concerns**

I write further to my letter of 26 June and to your invitation to respond to the Council's analysis of consultation responses, reported to Cabinet on 23 April 2012.

My previous letters exposed the serious discrepancies we detected in the binders for responses from the estates' residents, and which evidenced systematic bias of the results in favor of the Council's avowed sell-off and demolition agenda.

We have now inspected the 'wider area' binders, where we have found equally disturbing discrepancies, including forms apparently altered by the Council to suit miscategorisation.

I previously sent you the report of our first two inspections. I attach now the report of our three most recent inspections.

Missing forms, wandering binders, duplication, miscategorisation, and tampering: all these conspire to inflate the numbers in favour of demolition and to reduce the numbers against. This is an extraordinary situation, for which, I expect, you will be only too anxious to account.

Yours sincerely

**Jonathan Rosenberg**  
Community Organiser

**West Ken & Gibbs Green Community Homes Ltd**  
**West Kensington Estate Tenants & Residents Association**  
**Gibbs Green & Dieppe Close Tenants & Residents Association**

Cc: Derek Myers, Chief Executive LBHF; Andy Slaughter MP; The Information Commissioner; The People's Estates website.

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**Report from the three inspections of H&F Council's consultation analysis**  
**July 27 2012**  
**by Celine Kuklowsky, Community Organiser, West Ken & Gibbs Green estates**

This report summarises three consecutive inspections I carried out on the H&F consultation feedback forms on June 27 at 2pm, July 5 at 2pm and July 16 at 2:30pm. Each time I was met by and supervised by Council Officer Dan Hollas. My previous inspections focused on the responses from residents of the estates. These inspections have focused on the responses from residents from the 'wider area'.

**1) TOTALS**

Each binder contains fewer forms than the totals stated by the Council. These numbers generally start out lower than the Council's totals and are further lessened by a significant number of unmarked duplicate forms (i.e. forms that are photocopied numerous times and present in the same or different binders without any mark identifying them as duplicates).

The table below represents the totals given by the Council's 'initial statistical analysis' report to Cabinet on 23 April 2012 as well as the totals I counted both with and without duplicate forms included.

It is difficult to spot duplicates when leafing through hundreds of forms. Therefore, the total number of forms I counted that exclude duplicate forms should be considered as conservative estimates of the true totals.

<b>SUMMARY FINDINGS OF INSPECTION OF WIDER AREA RESPONSES</b>				
<b>CATEGORY</b>	<b>Council Totals</b>	<b>Total forms counted including duplicates</b>	<b>Total forms counted without duplicates</b>	<b>Difference between H&amp;F totals and my totals</b>
<b>Wider Area Support (2 binders)</b>	<b>597</b>	<b>331</b>	<b>297</b>	<b>- 266 with duplicates - 300 without</b>
<b>Wider Area Neutral</b>	<b>34</b>	<b>31</b>	<b>28</b>	<b>- 3 with duplicates - 6 without</b>
<b>Wider Area Concerned</b>	<b>32</b>	<b>32</b>	<b>26</b>	<b>Same total with duplicates - 6 without</b>
<b>Wider Area Against the scheme</b>	<b>108</b>	<b>109</b>	<b>80</b>	<b>+ 1 with duplicates - 28 without</b>
<b>Discounted binder</b>	<b>189</b>	<b>179</b>	<b>167</b>	<b>- 10 with duplicates - 22 without</b>

## 2) DUPLICATES

There are two kinds of duplicate forms in the binders. One set of forms has the word “duplicate” or “copy” marked on it by the Council. I counted 47 of these in the Discounted binder. The other set is made up of responses that are photocopied and don’t have any words or marks identifying them as copies. These forms are interspersed throughout all of the binders and are in much greater number than the marked duplicates. I counted 84 unmarked duplicates in the Wider Area For, Wider Area Against, Wider Area Concerned, Wider Area Neutral and the Discounted binders. (Previously, I counted many such forms in the estates binders – see my previous inspection reports). Some of the most noteworthy examples are:

- One form with the handwriting “Agree” in the first answer box and “no” in the second has been photocopied 10 times in the Wider Area Support 1 binder and twice in the Wider Area Support 2 binder without any mark identifying them as duplicates;
- One form (containing the WKGCH campaign’s pre-filled answers as well as identical circular marks made by the Council) has been photocopied 16 times and placed in the Wider Area Against binder without any mark identifying them as duplicates;
- One form handwritten “Yes” in response to the first question and no other response has been photocopied 7 times and is present in both of the Wider Area support binders without any mark identifying them as duplicates;
- A little over 1/3 of answers that can be found in the Wider Area Support binder 1 can be found photocopied once in the Wider Area Support binder 2 without any mark identifying them as duplicates;
- In the ‘Discounted’ binder, one form has the word “duplicate” on it and has been photocopied three times by the council

### Some photocopied forms were found in contradictory binders:

- One form containing only the words “Am aware but fussed not” can be found both in the Wider Area Support and Wider Area Neutral binders, without any mark identifying them as duplicates;
- A form with the words “disturbances should be kept to a minimum” was also placed in both binders without any mark identifying them as duplicates;
- One form with only the word “Unaware” is present in both the Wider Area Concerned and Wider Area Neutral binders without any mark identifying them as duplicates

The errors arising from extensive duplication appear to inflate the numbers supporting demolition and decrease the numbers opposing demolition.

## 3) MISCATEGORIZATION

There are numerous occasions where the Council clearly miscategorizes forms (I have observed this problem in the estate binders, and mentioned them in my previous inspection reports). For example:

- In the Wider Area in favour binder, at least four forms should be categorized as against the scheme, as one person states they are “dead against the pulling down” of the estates; another says “I think it is appalling that the Council is prepared to sell this land for £100 million”; the third states “not needed; redundant; unsustainable; poorly thought out; not appropriate to the local area or population” and the fourth “it would be an unlawful shame to lose this all”
- One form was entirely blank and counted as a “Wider Area Neutral” response

- 2 forms in the Wider Area Against binder mention social housing in general (for example “more cheap housing in London”) but make no pronouncements on the scheme itself;
- One form in the Wider Area Against binder says “no objections” on it

Apart from the resident mentioned below in the ‘Data Protection’ section, there appear to be other problems with categorizing residents. In both the Wider Area Against and Wider Area Support binders, there is evidence that some of these respondents live on the estates and should not have been categorised into the wider area. For example, one person describes TV problems on the West Kensington estate and goes on to say that to “improve what we got would be just fine”.

In the Wider Area Support 1 binder, there are 6 website responses which have no addresses on them. According to the Council’s own rule, because they have no addresses, they should have been categorized into the discounted binder.

#### 4) CENSORED INFORMATION

On many of the forms which have been duplicated, the Council has blacked-out parts or all of the responses, altering the import of the response. It has then placed different versions of the same form in different categories/ binders, according. it would seem, to suit those categories. This practice of blacking-out parts of forms was applied extensively apparently to shift forms across categories.

Some examples include:

- One form had the words “I like it. I would like something for young people e.g. community centre” written in the first answer box (no other writing on the form). This form was copied and placed both in the Wider Area Support binder and the Wider Area Against binder. However, in the latter binder, the words “I like it” were blacked out, so it only read “[blacked-out] I would like something for young people e.g. community centre” written in the first answer box.
- The word “disturbances” in the sentence “disturbances should be kept to a minimum” (mentioned in the Duplicates section) has been blacked out one form and not blacked out in a separate binder;
- One form has the words “I am aware of this development” entirely blacked out (with no other writing on the form) in the Wider Area Concerned binder. I saw this same form, not blacked out, in another Wider Area binder;
- Two forms have the words “not aware” (different forms) that are also entirely blacked out in the Wider Area Concerned binders,
- Another form simply states, “Don’t care. You have already made up your minds” with the first part, “Don’t care” blacked out in the Wider Area Concerned binder;
- In the discounted binder at least 10 forms have entire paragraphs blacked out

#### 5) DATA PROTECTION ISSUES

On a significant number of forms, words and paragraphs have been blacked-out by the Council. This was done for “data protection reasons”, according to the Council. There were a number of occasions where personal data should have been blacked-out (according to the Council’s own rule for handling this material), but was not:

- At least four forms in the Wider Area Support 1 binder have email addresses in full view;

- One form in the Wider Area Support 1 binder has a telephone number in full view

In the Wider Area Against binder, one of the forms is an email sent from a resident to Secretary of State Eric Pickles. There are a number of problems with this form:

- The respondent's name and email address were not blacked-out;
- From my knowledge, I believe this respondent to be a resident of the West Kensington estate and not a resident of the wider area and as such his response should not be in this binder at all.

#### **6) MULTIPLE SETS OF RESPONSES AND BINDERS**

It's clear from my 5 inspection visits that there are multiple sets of response forms, as evidenced by the numerous unmarked duplicates present across the binders. Many forms have been photocopied so many times that the content of the form is significantly degraded or even impossible to read. It is unclear why there are as many photocopies, what system there is, if any to handle and classify these copies.

Different binders appeared throughout my several inspections. For example, on my 5 July visit, there were two "wider area support" binders (where there had previously only been one), and two "estate object" binders where there had previously only been one.

During my visit to the Council on 27 June 2012, Council Officer, Sarah Lovell, entered the room and removed a green binder with the words "Estates contradictory" on it that was not included in the binders I was allowed to see. This binder was held by Council Officer Dan Hollas at the time. I had never seen the binder before, nor did I see it again after my visit on 27 June.

#### **7) NOTABLE CHANGES SINCE PREVIOUS INSPECTIONS**

Aside from the shifting binders described above, I noted a change has been made since my previous inspection report, suggesting there has been some tampering with the forms since their initial public release. During my inspection visit on 27 June 2012, I observed that the form which the Council had previously excluded for being "potentially violent", had been altered and re-categorized. The words "potentially violent" have been blacked-out by the Council and this new form was placed in the Wider Area Against binder.



Date: 21<sup>st</sup> August 2012

Jonathon Rosenberg  
West Ken & Gibbs Green Community Homes Ltd,  
105 Gibbs Green,  
London,  
W14 9NE

Dear Mr Rosenberg,

**RE : West Kensington & Gibbs Green Estates**

Thank you for your letter of 27 July 2012 and the attached report.

The consultation responses have now been rechecked by officers, and some minor discrepancies have been corrected. Save as to this, the Council maintains its position as set out in earlier correspondence on this issue, and in particular considers that it has conducted a proper analysis of the consultation responses.

I briefly address the issues raised in Ms Kuklowsky's report below, adopting the numbering in her report.

(1) Totals

Ms Kuklowsky has incorrectly stated the Council's figure for wider area support. The figure she gives is 597. The figure as reported to Cabinet at its meeting on 23 April 2012 was in fact 448 (see table 3 of Appendix 5 to the relevant Cabinet report). Thus, the comparison has been undertaken on an incorrect basis.

Further, even as regards her figures, it appears that Ms Kuklowsky has neglected to add together the total number of consultation responses in the two binders of wider area support to which she refers. One bundle contains 329 consultation responses (which is very close to Ms Kuklowsky's figure of 331 / 297). However, the other bundle - which contains 104 consultation responses - appears to have been overlooked.

(2) Duplicates

There was a small number of duplicate consultation responses. These were however identified and removed in the rechecking to which I have already referred.

### (3) Miscategorisation

The rechecking revealed that a small number of consultation responses had been miscategorised. These have now been correctly categorised.

### (4) Censored information

Some of the duplicates to which I referred above under (2) had also been redacted. This issue has now been resolved.

Officers have not used redaction as a means of miscategorising consultation responses.

### (5) Data Protection

The Council would like to thank Ms Kuklowsky for pointing out the instances where personal details had not been redacted. The consultees in question will receive an apology.

### (6) Multiple sets of responses and binders

I can confirm that Ms Kuklowsky was given access to all the consultation responses.

### (7) Notable changes since previous inspections

One consultation response was changed (in that information was redacted) during the inspection process. No other changes were made.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MBA', with a long horizontal flourish extending to the right.

Melbourne Barrett  
Executive Director for Housing and Regeneration

Mrs K. Bowry,  
14 Grimwade Avenue  
Croydon, CR0 5DG  
8<sup>th</sup> August 2012

Chief Executive,  
Derek Myers,  
Hammersmith Town Hall  
King Street, W6 9JU  
Dear Mr Myers,

**RE: Regeneration of Gibbs Green, London W14**

I am the leaseholder of 12 Gibbs Green, London W14 9NB. I believe that on 3<sup>rd</sup> September 2012 a deputation is going to present a case to the Cabinet regarding regeneration of Gibbs Green Estate.

As I do not live or work in the area I am not allowed to voice my opinion regarding the decision that is going to be made about my property. I would appreciate if you would put my views in front of the Cabinet.

Gibbs Green Estate is very efficiently run and the buildings are maintained to a high standard.

There is also a playground for young children and the flats are of good size. My flat boasts a small garden and it is in prime location and not too far from Knightsbridge!

I believe the developers are a consortium from Hong Kong and as you can appreciate their prime interest is profit making. They of course are not interested in the area that truly needs regeneration, which is the road from West Kensington Tube Station. Here there are shops, which are run down and dilapidated and need pulling down. But obviously there is more money in building flats and hence H&F Council has been paid well by the developers to give them more profitable area.

I would like to know how many Cabinet Ministers have actually gone and checked out the area and also looked at Gibbs Green Estate.

I bought the Council flat as that was all I could afford in the Capital after years of hard work. I get a regular income from the rent which supplements my pension, which has already been eroded.

I believe the residents who are on benefits would be moved into these luxury flats.

So everyone is a winner--the Council, the developers and people on benefits.

The old lady who has worked hard for her property-WHO CARES!!!

Yours sincerely,



Mrs K. Bowry

**Headline summary of proposed terms for a Conditional Land Sale Agreement to be entered into between the London Borough of Hammersmith and Fulham (the Council) and a EC Properties LP (part of the Capital and Counties group) (Capco).**

**16 August 2012**

**Thumbnail sketch:** The CLSA is to be an agreement for the disposal of land in phases by the Council to Capco with vacant possession at a price of £105m (the **Price**). As the land is currently occupied by secure tenants and by leaseholders (and some freeholders) the agreement is to provide as a pre-condition of the transfer of land that the relevant statutory consents have been obtained and that 760 (or an increased number if Seagrave Houses are included (see below)) replacement homes are constructed to current London wide standards. It is a pre-condition of transfer, although not an obligation, that CapCo provides replacement homes to objectively-assessed standards. The Council will hold a long leasehold interest in each of these replacement homes. They will be used in part to re-house secure tenants. The Council will also grant long leases to qualifying owners who have elected to take up such leases in replacement to their existing homes. The Council will retain any Replacement Homes not required for either of the above.

**Key terms:**

**Exclusivity Agreement:** In July 2011 (extended for a further year on its expiry in 2012), the Council signed an Exclusivity Agreement with Capco. In return for the right to negotiate exclusively with the Council for a year to ascertain whether the final terms of a CLSA could be concluded, Capco paid £15m, £5m of this is non-refundable and £10m is refundable if the parties do not enter into the CLSA. These payments will be treated as part payment of the consideration under the terms of the CLSA when entered into. Once the CLSA is completed the Council will retain the £10m sum unless it is unable to secure Secretary of State's (SOS) consent to sell the land (or otherwise is not authorised to enter into the CLSA).

**Gibbs Green School and 11 Farm Lane.** It is proposed that Capco will acquire these properties at a price of £15m at the same time that the CLSA is exchanged. Completion is to take place straight away and the full price is to be paid on completion. These funds would not be repayable unless the Council did not have the power to sell. If the CLSA is terminated then a conventional overage provision will apply to development undertaken on these sites. Capco have requested that completion of the transfer of title to Gibbs Green School is postponed until the school vacate. Consequently at exchange of the CLSA there will be in place an unconditional agreement for the transfer of title to Gibbs Green School and the full consideration of £9,300,000 will have been paid and released to the Council. This does mean that any consents required for the disposal of the school (and if relevant Farm Lane) will need to have been obtained prior to exchange of the CLSA.

**Gibbs Green and Farm Lane Overage.** Where no material development has commenced prior to service of the Trigger Notice the Council will have a right to buy back both properties at the cost paid plus indexation (and cost of works undertaken). If the Trigger Notice is served Gibbs Green falls out of this overage regime and is only subject to Scheme Overage (if relevant). If material development has taken place but the Trigger Notice is not served (in the case of Gibbs Green School) or in any event where material works have been commenced in the case of Farm Lane overage is payable at the rate of 25% of any profit earned on the development after a 20% IRR.

**Seagrave Road Houses (8a and 8b and 10 and 12 and 1 Rickitt Street).** Capco is entitled to make proposals for these properties to be included within the project. Capco are to provide documentation at a level that would support an outline planning permission to facilitate consultation on this proposal. If the Council believe it is appropriate to do so having regard to such proposal the Council will then

commence consultation with the residents. The tenants are to be offered the same arrangements as those proposed for secure tenants across the wider site.

Following completion of the consultation process and the making of a planning application Capco wish to be able to request that the Council makes an application to the Secretary of State for disposal. The decision to dispose cannot be made ahead of the consultation and consequently the Council reserves its rights to make this decision having regard to the consultation.

If (following consultation) a decision is made to include Seagrave Road Houses then the requirement in relation to replacement homes is increased accordingly and the number of houses to be provided is increased to 77 houses.

**Land to be Sold:** This is referred to as the "Option Land". In addition to the two sites above the land to be sold comprises the West Kensington and Gibbs Green Estates. Gibbs Green School will be treated as part of the Option Land for the purposes of main scheme overage where the Trigger Notice is served (see below) but Farm Lane will not.

**Secretary of State's Consent:** Consent is required for the sale of housing land. The agreement (and the option granted by it) will be exchanged conditional on this consent which will be applied for shortly following exchange. The decision to apply for consent needs to be confirmed by a full Council meeting. If consent cannot be obtained (either without conflicting conditions or to both parties satisfaction) then the agreement can be terminated and £10m will be repayable to Capco.

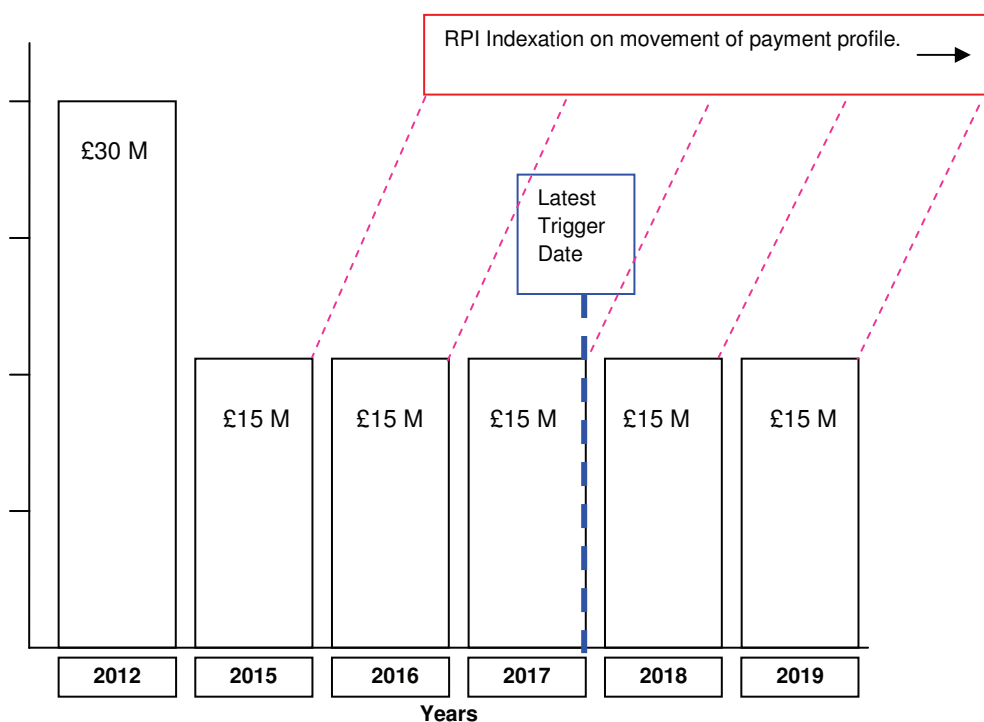
**Trigger Notice:** Capco is to have up to the earlier of 5 years from the date of the CLSA and 9 months from the date the Seagrave Road Affordable Housing has become Habitable to serve notice confirming that it wishes to proceed with the transaction. It should be noted that there is no obligation to build out the Seagrave Road Affordable Housing and consequently completion could be held off by Capco. This would however have implications for Capco under the Seagrave Road Section 106 Agreement. In this time it is envisaged that Capco will satisfy itself as to the acceptability of any planning consent granted and the viability of its scheme. It is anticipated that it will seek to agree terms with TfL during this period. If the trigger is not served, but SOS consent has been obtained and there has been no other successful challenge to the Council's right to enter into the CLSA then the Council will retain the £15m paid. If the Trigger notice is served the first of the Advance Payments is payable and the following Advance Payments will be due as set out below. If Capco ascertains that the terms of the planning agreement or market conditions render the transaction no longer viable it is likely that they will reject the form of SOS consent so that the £10m is repayable.

**Section 34A Challenge:** Insofar as a successful application is made under Section 34 A of the Housing Act 1985 the land affected will be excluded from the CLSA and the consideration will be adjusted. The number of Replacement Homes will be reduced by the number of Existing Homes within the relevant area, in addition the Advance Payments will be reduced (on a pro rata area based on a payment of £90m) provided that in any event the £15m will not be repayable by reason of the operation of such refund.

**Advance Payments:** The cash consideration is payable in 5 yearly instalments with the first payable on 31.12.2015 or, if later, the date the Trigger notice is served. These payments are due irrespective of when vacant possession is achieved and the land transfers take place. Notwithstanding this there is also provision to increase the payments where needed so that the phases drawn down cannot result in land having been transferred to a value in excess of the payments made. In reality it is likely that the Advance Payments will run ahead of land transfer.

If the first payment is made after 31.12.2015 (ie by reason of the Trigger notice being served after that date) then the payments will be indexed by reference to RPI (Note: the indexation is applied to that element of the payment which is received later than it would have been had the Trigger notice been served and the first payment and subsequent annual payments been made on and annually after 31.12.2015).

See diagram:



### Allowable Capital Expenditure (ACE) and Allowable Revenue Expenditure (ARE)

ACE is cost incurred by the Buyer in funding acquisitions from leaseholders and freeholders or in securing vacant possession (including compensation payable). At the option of the Council it can be rolled forward until deducted from Advance Payments. If the deduction would amount to more than 50% of the Advance Payment the balance is rolled forward to the next Advance Payment. ACE carries a holding cost (cost of funding) which is 6.5% over 6 month LIBOR from time to time. This is felt to be a high cost of funds and accordingly the Council currently intends to make as little use of such funding as practicable. Where the Council does incur the costs it is to be entitled to pay down these costs early (to reduce holding cost accruing) but otherwise the costs are to be deducted from Advance Payments.

The Council would be entitled to require that Capco meet the first £7.5m of acquisition costs under Early Purchase Agreements and up to a further £7.5m of the cost of entering into agreements with Existing Owners (once there is a Satisfactory Scheme Planning Permission, SOS Consent and 106 Agreement). Once the Trigger Notice has been served the Council can require Capco fund all Standard Purchase Contracts entered into with Existing Home owners. As stated it is not currently the intention of the Council to use this facility given its cost. The Council has a degree of control as to how many Early Purchase Agreements are entered into as these are intended to address hardship as determined by the Council. Once the Satisfactory Scheme Planning Permission is in place



however it is anticipated that Council will be required, by promises that have been made to residents, to enter into Standard Purchase Contracts as requested. This process will incur transactional costs and payments and where individuals exercise their entitlement to require the Council to acquire their homes (at 10% above market value) the Council will incur capital costs (including SDLT) in so doing. If it does not intend to look to Capco to fund these acquisitions (due to the cost of funding) it will need to have funds available to meet this commitment.

ARE is the revenue cost (after income) of managing the properties acquired prior to their incorporation in a demolition phase. Deduction Accounts are to be prepared annually from 31.03.2013 however Capco have agreed to roll these sums forward (subject to holding cost) to be deducted from Advance Payments. It is now stated to be the intention of the Council wherever practicable to retain ownership of any Existing Homes acquired and to manage such properties and their letting itself in part so as to avoid incurring ARE.

### **Replacement Homes**

The re-provision is required to include 760 (increased as appropriate if Seagrave Houses are included) (see below) homes of which 75 (77 if the Seagrave Road Houses are included) are required to be houses and 66 are required to be ground floor maisonettes or duplexes (with access to gardens) (house equivalents). It is anticipated that additional affordable homes (circa 740) will be required pursuant to the Planning Agreement entered into with the Scheme Permission.

Replacement homes are required to be built to the following standards in order to satisfy the pre-condition to transfer of land

- Space standards within the London Mayor's Design Guidelines,
- Code for Sustainable Homes 4
- 100% Lifetime Homes
- Secured by Design certification
- HQI score of upper mid-quartile
- At least Silver Standard Building for Life

### **Scheme Overage**

Scheme overage will be payable in respect to all implementable consented gross external area (GEA) above the agreed Base GEA. This will be payable at a rate of £17.50 per sq ft and £1,000 per additional car parking space (exceeding 4311). This is payable in respect to additional consented development across the wider scheme area ie the planning red line.

### **Securing Vacant Possession**

The land will be transferred in phases. Capco intend to undertake development at Seagrave Road which will include the first Replacement Homes. It should be noted that there is (and can be) no obligation on Capco to construct Replacement Homes or to do so in any particular location. However, there is a provision which means that Replacement Homes, if they are provided, must be provided on Seagrave Road until the cap for that site is reached and can only then be provided elsewhere. Given the pre-condition that Replacement Homes (based on the number of Existing Homes within the land requested to be drawn down by Capco) are to be constructed, independently certified as being habitable and handed over before transfer of a Demolition Phase it is anticipated that Replacement Homes will be constructed to meet the needs of residents on the next phase so that residents of one Phase are decanted to Replacement Homes constructed on land vacated by residents decanted to earlier Phases.

Land cannot be transferred to Capco unless Capco has already constructed Replacement Homes to meet the needs of residents (subject to the caps referred to but ascertained by reference to a needs assessment carried out by the Council). For each phased transfer of lands Capco will begin by providing (non-binding) information, to be used by the Council in its engagement with residents, showing the proposed phase and the replacement accommodation. The outcome of this engagement will feed into the development of a PPDN. Capco and the Council have agreed to both allocate resources to this process and Capco has agreed to provide feedback including the extent to which they are able to modify their proposals as a result of the feed back or the reasons why they cannot. This is an obligation to engage and have regard to feed back. It does not entitle the Council to impose changes.

Allied to this process, however, is a requirement for CapCo to provide for the Council's approval details of a scheme designed at minimising and mitigating the impact of demolition on the residents of the remaining estates (known as a Phase Impact strategy). The strategy deals with issues such as access, maintenance of car parking and services.

Not less than 6 months after the beginning of the engagement process a formal notice is to be served by Capco identifying the next Phase. An updated needs assessment is then carried out in relation to those Council tenants resident within the Phase. It is intended that the parties will by then have a clear understanding as to the nature and number of Replacement Homes to be provided however the requirement is to be based on the needs assessment. It will also take account of those leaseholder and freeholder contracts in place with residents within the proposed Phase. Notwithstanding this Capco are not to be obligated to provide to the Council, for Council Tenants, more than 10% more than the number of homes or gross internal area of existing homes within the Demolition Phase identified. The Flex does not extend to the number of Houses or House Equivalents.

The Council can select how many bedrooms (up to five) are to be included with each unit subject to these caps. There is an overall maximum gross internal area of replacement homes to be provided as well as the cap of 760 (increased as appropriate if Seagrave Road Houses are included).

As Replacement Homes are constructed for residents prior to transfer of the land on which they currently live there is a strong commercial incentive for Capco to develop out. Notwithstanding this where Capco have not delivered Replacement Homes (exact number and area to be agreed) by the date 10 years following exchange (with provision for additional time to be given where they have nearly done so) the Council is entitled to terminate the Agreement (although it will then need to pay back the consideration attributable to the land not transferred).

The Council will be able to reject a proposed phase if it causes such nuisance and annoyance to residents of dwellings on the retained land that such dwellings would not be reasonably habitable or if it would restrict reasonable access or necessary servicing. The Executive Group is to agree a remaining estate management strategy to ensure that the quality of life of residents is not unduly compromised.

If work ceases for 6 months (or up to 9 months where the Capco indicates work is about to re-commence but it does not) the Council can insist that actions are taken: demolition completed and made good, a partially completed building completed as to the exterior and structure and surrounding area made good etc. If Capco or its successors or funders fail to take such mitigating action the Council can gain access to undertake the works and charge Capco.

The Replacement Homes to be provided to meet the needs of a Demolition Phase must include at least 60% of the number of council for rent houses in the Demolition Phase. If Capco cannot achieve

this and no other acceptable solution can be found then the Council can veto the phase. Alternatives to houses such as ground floor maisonettes and duplexes with gardens will be provided for the remaining residents within the Phase living in houses who are not allocated houses as Replacement Homes.

### **Council Tenants**

Secure Tenants will be offered Replacement Homes. Under-occupying tenants will be offered a new home with one additional bedroom above their need. There will be no need for temporary accommodation – tenants will have one move only to their new home.

Secure tenants will remain secure tenants and their rents will continue to be set in line with other existing council rents. A homeloss payment of £4,700 per household will be made by the Council. New white goods, carpets and curtains will be provided in their new homes.

### **Buy-back of existing Leasehold and Freehold Interests**

To achieve vacant possession, it has been recognised to be in the interests of the Council and Capco for contracts to be entered into with owners under which they can either require the Council to buy their homes or to provide them with Replacement Homes.

Once there is a Satisfactory Scheme Planning Permission, SOS Consent and 106 Agreement the Qualifying Owner's (QO's) are to be encouraged to take up the Advance Purchase Offer. This is an agreement under which the QO agrees to sell its property when the Phase within which it is located is selected for development. The QO is to benefit from the right at any time to elect to sell (and will be paid 10% above market value) or to take a lease of a Replacement Home when available. It is to benefit from the terms agreed between the Council and Capco so that the consideration payable for the lease of the replacement home will be treated as 10% below market value. The QO is to commit its existing equity and the Council intends to seek to facilitate/use its influence to encourage a panel of lenders to assist the resident to raise an equivalent to its existing mortgage towards the cost of the replacement home. The Council is to provide the balance of the consideration through a shared equity scheme. No rent or interest will be charged on the Council shared equity element.

The Council will have agreed with QOs that it will cap the service charges for the new properties for 5 years. The costs of moving, valuation and legal advice will be funded by the Council. Capco have agreed to cap the service charge on the Council units (for Council tenants or retained by the Council) for the life of the head lease subject to indexation. The Council may need to fund a shortfall if the QO service charge increases above the cap.

### **Registered Provider (Housing Association) Ownerships**

The Council will need to complete negotiations for relocation of the Registered Providers (RPs) who have long leases and properties on the estates. Assured tenants of the RPs will be offered the right to become Council tenants and stay within the new development.

### **Compulsory Purchase**

Ultimately if agreement cannot be reached with existing tenants and owners the Council has agreed (subject to it being an appropriate use of such powers at the time) seek Cabinet authority to use its compulsory purchase powers to secure vacant possession of the Option Land. This is intended to be promoted on planning grounds. The Council also agreed (subject to appropriate considerations and Counsel's advice) seek authority to promote CPO to enable development within Seagrave Road and

within other parts of the Earls Court Regeneration Area within the Council's administrative boundary. In the latter two cases all costs will be borne by Capco, but in the case of the Option Land all costs will be borne by the Council or funded by Capco and recovered from the Council by deduction from the Advance Payments.

Notwithstanding the intention that compulsory purchase would be used as a last resort the parties have agreed to the appointment of an Independent Representative (IR). This is to be an individual (or firm which allocates an individual) with significant experience of re-housing tenants and occupiers and housing relocation and renewal schemes. Residents affected by CPO will be able to make representations to the IR who will have power to advise how the process may be managed in a way to impact less severely on the personal circumstances of that individual including providing assistance, altering the order of decant or the allocations but does not extend to an ability to defer the ultimate VP date.

The Council has also agreed to use its powers of appropriation (under planning legislation) as an alternative to compulsory purchase, including in respect of land owned by CapCo. Appropriation gives rise to rights to compensation. In respect of land currently owned by the Council and forming part of the Option Land, the Council will bear any costs. In respect of land owned by CapCo, it will be necessary to agree a scheme in advance of any appropriation, the overriding principle of which is that (a) the Council will not be exposed to any costs as a result of it and which provides for security to cover any exposure, and (b) security acceptable to the Council will be provided in advance.

## **Damages**

The Council will be subject to a performance regime for delivery of vacant possession to agreed dates. If the Council can be shown to have failed to meet dates, due to matters within its control, then the Council will be liable for damages to Capco. These damages are capped at £10m (indexed at RPI). We have been told that Officers are satisfied that the performance dates are reasonable and achievable. If damages arise in excess of the cap they accrue and are payable through Compensation Overage in the circumstances set out below.

No damages will be payable, however, in respect of a failure to meet the performance regime in respect of compulsory purchase of non-Option Land.

## **Termination**

Termination by the Council:

As well as termination for Insolvency or breach of the NAV requirements the Council can terminate if the Trigger Notice has not been served by the Trigger Notice Long Stop Date (see above), where the Advance Payments are not made, if the Replacement Home Accommodation Leases are not granted when due, where SOS Consent has not been obtained or where the Halfway Condition (delivery of Replacement Homes) has not been met.

The Collateral Agreement also covers circumstances where a challenge can lead to an entitlement to terminate.

Termination by Capco:

Capco can terminate where:

- no application is made to the Secretary of State within 5 months of the CLSA (or 4 weeks of the first Council meeting following exchange) or if Secretary of State Consent is not obtained within 12 months of the application having been made; or
- the Council has failed to complete any Time Critical Item by the expiry of the relevant period; or
- in relation to any Phase or CPO a cabinet resolution is not made or otherwise the CPO progressed within an agreed period; or
- the Council has not submitted a CPO to the Secretary of State for confirmation within 30 days of the making of the CPO; or
- in relation to any Phase the Council is able to confirm a CPO but fails to do so within two months of being enabled to do so; or
- one of the events occurs which would result in the Council abandoning a CPO; or
- the Secretary of State or any other confirming authority has either (i) decided not to confirm a Satisfactory CPO or (ii) has not within 12]months of the date on which the application was sent to the Secretary of State for such confirmation made a decision confirming the same; or
- the Council has failed within 1 month of the relevant notification of satisfaction to publish the required notices confirming the making of the CPO / General Vesting Declaration (GVD) or within 20 Wording Days to serve the relevant notice to effect entry as to third party interests or rights; or to a serve relevant notices (GVD); or
- otherwise fails to secure vacant possession of any CPO Land and to complete the Relevant Phase Transfer and the transfer of all interests and rights and New Rights by the relevant VP Date; or
- if appropriation does not go ahead according to an agreed timetable, or authority is not given, or (authority having been given) is not progressed; or
- if a Road Closure Order is necessary to enable a Phase to be developed in accordance with a Satisfactory Main Site Planning Permission and such road closure order will not be or has not been obtained (and is secure from Challenge) by the relevant VP Date; or
- the Council fails to perform its obligations in relation to the making of payments within 90 days of the same having been demanded in writing and becoming due; or
- where there is a material breach of the Council's other obligations and the Council has failed to remedy such breach within 90 days of notice.
- In the event of a valid Section 34 A application; or
- In the event of a successful challenge JR or Procurement Challenge to the Council's ability to enter into the CLSA.

The view taken is that as Capco can only terminate the whole agreement rather than a phase the breadth of the termination rights is consistent with the fact that Phases are brought forward at Capco's discretion.

In the event of termination the Council is to retain the consideration paid for Gibbs Green School and Farm Lane. It is to retain the £15m (originally paid under the Exclusivity Agreement but treated as part payment under the CLSA) save where the £10m is repayable in the circumstances set out above. All land transferred to Capco will be retained by them. All Existing Homes which have been vacated as a result of the occupant moving into a Replacement Home will be retained by Capco (and a lease granted to them as relevant). All Replacement Accommodation where a lease has been granted to the Council will be retained by the Council. The Council will retain all of the Advance Payments that proportionately relate to the Phases (land) already transferred to Capco. If Capco had acquired Existing Properties or had such properties transferred to it (as the Council can do in order to call on the indemnity but which it no longer intends to do) Capco would retain those properties but the relevant entitlement to reclaim costs relating to those properties would fall away.

If a "Refund Termination Event" (a public sector delay event) exists at the date of termination or where termination arises due to a failure to meet the Halfway Condition (failure to have built enough Replacement Homes) then the balance of the Advance Payments will be reimbursed to Capco. If there is no Refund Termination Event at the time of Termination the Council will retain whatever Advance Payments it holds.

There is also to be an audit of expenses and holding costs incurred which Capco would have been entitled to deduct from the Advance Payments (if not all made at that time).

Compensation Overage (or overage following termination):

In the event of termination and subsequent disposal by the Council of land which would have been caught by the CLSA within 5 years overage is payable where the land is sold for more than the combined cost to Capco of the attributable land payment and relevant proportion of the Replacement Home cost. This is set at a base level of 25% of the additional consideration. If the Council are liable to Capco for damages for breach but these have not been paid due to the LAD cap then the rate of overage is to be an additional 50% (in addition to the base 25%) of the excess consideration.

### **Longstop date**

The final end date for the agreement is 2035. The Council will have received the full cash consideration (excluding any potential payments under overage arrangement) by the 10 anniversary of signature of the CLSA at the latest (subject to prior termination).

### **Fighting Challenges**

It is recognised that there is a significant chance that a number of the decisions made by the Council on this project may be challenged. As a result we have advised you separately on such challenges. It has been agreed that such advice is outside the scope of this summary.

### **Independent evaluation of the commercial terms and best consideration.**

Jones Lang LaSalle and PWC have been appointed to advise the Council in respect of negotiations and to provide the Council with confirmation that the overall transaction represents the best consideration that could reasonably be obtained by the Council. We are informed that a residual land value model has been used to arrive at a valuation for the land. This model has been adapted to reflect the deal and the scheme as it has evolved. We are further informed that a detailed model audit has been satisfactorily completed.

This firm and the Council's other professional advisors (in their respective capacities and as to their respective areas of expertise) have been closely involved in negotiating the terms of this transaction and have confirmed that they remain of the view that the agreement and arrangements when concluded will represent best consideration and an appropriate use of the Council's powers. A draft letter from Price Waterhouse Coopers is attached at Appendix 4. Final signed letters from advisors are to be attached to any cabinet report.

**Note this is an overview and not a comprehensive report. Prominence is given to matters by reference to queries raised and to assist overall understanding rather than by reference to financial or legal importance.**

**SNR Denton UK LLP.**



## **London Borough of Hammersmith & Fulham**

### **Earls Court & West Kensington Local Lettings Plan**

#### **Interim Statement**

#### **1. Summary**

- 1.1 This document sets out how Hammersmith & Fulham Council intends to adopt and deliver a local lettings plan for eligible residents of the Earls Court & West Kensington regeneration scheme area. This document is an interim statement, which forms the framework of what the final Local Lettings Plan will comprise. It will be the subject of further development, detail and consultation with the West Kensington & Gibbs Green Steering Group, before formal adoption in line with legislative requirements.

#### **2. Background**

- 2.1 Gibbs Green and West Kensington estates are council housing estates built in the early 1960s and 1970s respectively to provide social housing. Each of the estates includes a number of properties owned by leaseholders/freeholders (originally bought under the right to buy) who are either residents or who have let out their homes for private rented purposes. There are a number of properties owned by the Council and rented to secure tenants. There are a further three Registered Providers (also known as housing associations) who rent to assured tenants and provide a combined total of 58 homes for social housing purposes. The Earls Court West Kensington Opportunity Area was first identified in 2009 as an area for regeneration and the Council has been consulting on the possible regeneration since this time.

#### **3. Vision**

- 3.1 The Council is seeking to comprehensively regenerate the local area. It is aiming to create a better place to live and work in tandem, address the high levels of deprivation and physical decline that the area currently exhibits. The scheme is expected to provide over 9,000 new jobs as well as the provision of 7,500 new homes. The regeneration scheme is planned to achieve a transformational change to both estates and the surrounding area. Outcomes will include new town centres; improved transport infrastructure; improved economic health of businesses; and providing new community infrastructure to benefit the wider North Fulham area in which this scheme is located. The site will deliver significant economic growth and provide a new gateway to London, as well as re-providing 760 brand new homes for those eligible residents who live in the area presently.

- 3.2 The Council's proposals are underpinned by the Mayor of London's London Plan, which features the Earls Court and West Kensington scheme as one of his 33 Opportunity Areas. Along with White City and Old Oak, the Earls Court West Kensington Opportunity Area is one of three opportunities in Hammersmith & Fulham to accommodate new housing, commercial and other development linked to existing or potential improvements to public transport accessibility.
- 3.2 The Council's vision for Earls Court West Kensington Opportunity Area to regenerate the local economy and provide new housing is identified in our Local Development Framework Core Strategy. The Earls Court West Kensington Opportunity Area is one of the Council's 5 key regeneration opportunity areas for growth in the borough. The Council have also identified Earls Court West Kensington Opportunity Area as a key theme within the Council's Corporate Plan to regenerate the borough.
- 3.3 The scheme is also identified as a priority in two key housing documents: the Council's Borough Investment Plan (Dec 2011) and Draft Housing Strategy (May 2012) which is expected to adopted in October 2012.
- 3.4 The final Local Lettings Plan is intended to facilitate the relocation of eligible residents from the current West Kensington and Gibbs Green estates as well as those occupying Registered Provider properties (all identified in section 4 below) to enable the comprehensive regeneration of the Earls Court and West Kensington Opportunity Area.

#### **4. Area Affected**

- 4.1 The properties affected by the local lettings plan include Gibbs Green estate, West Kensington estate and the Registered Provider (RP) infill properties. The street or block names of these properties are:

##### **Homes that are Council Owned & Managed (including leaseholders & freeholders)**

Churchward House (1-88)  
Fairburn House (1-88)  
Gibbs Green estate (1-38; 101-160)  
Aisgill Avenue  
Stanier Close  
Ivatt Place  
Marchbank Road  
Sharnbrook House (1-40)  
North End Road (1-8)  
Desborough House (1-80)  
Lickey House (1-80)  
Bellamy Close

Franklin Square

**Family Mosaic Housing Association**

Leery Close (1-6)  
Thaxton Road (1-15 – odd numbers)  
Dieppe Close (1-28)

**London & Quadrant Housing Association**

Marchbank Road (63-71 – odd numbers)  
Aisgill Avenue (14 a,b,c&d)

**Shepherds Bush Housing Association**

Garsdale Terrace (1 -7)

- 4.2 There are 191 private car parking spaces on the estate in garages, car ports and hard-standings. In addition, there are approximately 350 parking spaces dedicated to permit parking within the estate boundary. Across the two estates 189 households enjoy the use of their own private gardens
- 4.3 The replacement housing for secure tenants and assured tenants will be primarily defined by the housing needs of the residents in the first phase of re-housing. More detail on the mix and location of the replacement housing will be feature in the final Local Lettings Plan.

**5. Guiding Principles to the Council’s Approach**

- 5.1 The Local Lettings Plan will be governed by the following guiding principles:
- Residents will be consulted on all the policies and their views, where possible, will be taken into account.
  - The Council will establish a Local Lettings Plan Working Group to oversee the development and implementation of the Plan.
  - This Local Lettings Plan will operate within the legal and regulatory framework and the policies of the Council.
  - This Local Lettings Plan must support the sustainable management of the estate during the regeneration programme period.
  - The Council will be sensitive to equalities issues which may arise during the local lettings plan process and have regard to relevant

legislation. This will include taking account eligible residents' special needs.

- Residents must sign the relevant contract to be eligible for the full terms of the re-housing offer.
- The Council can only proceed with the local lettings policy once the Conditional Land Sales Agreement (CLSA) is signed.
- Eligibility for the scheme will be determined by the tenancy /ownership status of the resident concerned.
- Resident homeowners will only be eligible for the move to the new site if they have lived at their property a year from the 'Effective Date'<sup>1</sup>.
- For the purposes of this document, a social housing tenant or tenants (i.e., joint tenants) are deemed to include those who are registered members of the household who are eligible for re-housing under the terms of the final Local Lettings Plan.
- The Council will freeze its re-housing obligations for registered members of the household from the 31<sup>st</sup> October 2012. However, registered members of the household will have to have been in occupation a year prior to this date.
- Any compensation payments made will be offset against accrued debt with the Council, e.g., rent arrears.
- Eligible residents will include secure tenants of the council; homeowners (i.e. former secure tenants who have exercised their right to buy and are now freeholders and leaseholders of the council); assured tenants of housing associations (also known as Registered Providers), who will be entitled to the local lettings plan offers set out in this document.
- Tenants of private sector landlords (whether assured shorthold tenants or on other forms of private tenure terms) will **not** be eligible for rehousing under the terms described in this Interim Statement and the final Local Lettings Plan. The Council will assist with their relocation where necessary under the policies set out in the Housing Allocation Scheme.

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<sup>1</sup> The Effective Date is the date on which the Council will make these Leaseholder/Freeholder Contracts available to homeowners. The date is dependent upon key approvals being in place, giving more certainty that the scheme can go ahead. The approvals that need to be in place are as follows: the grant of satisfactory planning permission on the main development site along with the signature of any related planning agreements, the consent of the Secretary of State for the Council to sell its housing land and the Council signing the CLSA with EC Properties Ltd. The date that all of these key approvals have been secured is the Effective Date.

- The primary objective of the Local Lettings Plan will be to facilitate the successful relocation of all eligible residents from existing homes to new accommodation. An additional objective is to help ensure that the relocation process and associated management issues does not detrimentally impact on the successful management of the estate and the remaining residents' well being.
- Acknowledging the long timeframe for the regeneration scheme, proposals for 'meanwhile uses' for the housing that is vacated by relocated households will be developed which will reflect the priorities and policies set out in the Council's Housing Allocation Scheme. Where households are allocated homes on a 'meanwhile use' basis, they will **not** be entitled to rehousing under the terms set out in this Local Lettings Plan Interim Statement and the final Local Lettings Plan.

## **6. Key Commitments**

6.1 The following commitments are made to eligible residents affected by the regeneration scheme as described in Section 3 of this document:

- Eligible residents will receive the offer of a brand new home
- Existing secure tenants' rights will be unaffected by the move, except where there are specific circumstances that will be made clear during the process.
- All residents will be expected to move only once
- If residents wish to move to an area outside the regeneration scheme area (including outside Seagrave Rd) they will be supported with their re-housing aspirations
- Resident homeowners will not be expected increase borrowing to purchase an affordable home in the site.
- Service charges will be capped for 5 years for resident homeowners who move to the redeveloped site. Service charges will be capped for secure tenants who move to the redeveloped site.
- Where possible, the Council will seek to facilitate 'group moves' (where 2 or more households wish to be re-housed in close proximity to each other) that have been requested by residents.
- An under-occupying secure tenant or assured tenant will be offered a new home that meets their bedroom need in line with the Housing Allocation Scheme policy in place at the time, plus one bedroom

- Statutory Home loss and discretionary disturbance payments will be paid
- Compensation will be paid for loss of garage/car parking spaces (secure tenants), loss of private garden space (secure tenants), and major works service charges (resident homeowners).

## **7. Quantum and Cohorts of Housing Need**

- 7.1 There are up to 760 households to be re-housed from the site, who are primarily families with 2, 3 & 4 bedroom housing need. It is likely that some households will want to use the regeneration scheme as an opportunity to move out of the area, whether they are secure or assured tenants or are resident or non resident homeowners.
- 7.2 Households which are secure tenants will be eligible to be re-housed and there will also be the opportunity for tenants of Registered Providers to be included in the regeneration scheme. Those existing residents who are private tenants will have no eligibility for a move to the redeveloped site, however, the Council will provide support for private tenants and their housing needs through the Council wide service we already offer.
- 7.3 In seeking to meet identified cohorts of need within the households that need to be re-housed, the Council will establish links with the local community services to assess local housing needs of residents with physical disabilities, learning difficulties and any other needs that need to be taken into consideration. The Council will set up an Advocate System where the resident can opt to have their matters dealt with by a nominated Advocate, usually a close family member or other appropriate person.
- 7.4 Residents who currently occupy private sector housing (including homeless households registered with the Council) will be assessed on a case by case basis in line with the Council's Housing Allocation Scheme, but will **not** be eligible for the housing offers set out in this document. Where homes are allocated on a 'meanwhile use' basis (as described in section 5.1, final bullet point), these residents will similarly **not** be eligible for the housing offers set out in this document.

## **8. Timeframe**

- 8.1 The developer has planning permission to build housing on the Seagrave Rd site within the regeneration area. This will provide the first 200 homes for residents to move from the West Kensington and Gibbs Green regeneration. The first 150 of these homes on Seagrave Road are expected to be ready for occupation by 2015 which will enable the start of the first (advanced) phase of the final Local Lettings Plan.

- 8.2 The further phases may be developed from 2015 based on the re-provision of the housing within the regeneration area. The Council can serve notice to terminate the CLSA if the developer has not served its trigger notice (confirming its commitment to make advance payments and to preserve its rights to proceed with the development in accordance with the phasing plans) within 9 months of the first 150 properties being built on Seagrave Road or 31 December 2017.

## **9. Housing Allocation Scheme**

- 9.1 The policy framework for the rehousing approach will be governed by the Council's Housing Allocation Scheme, likely to be substantially the May 2012 Draft document currently out to consultation. Detail is set out in sections 4.19 – 4.24 of the Draft scheme. The Housing Allocation Scheme is expected to be adopted in October 2012.

## **10. Advanced Local Lettings Plan – Seagrave Rd**

- 10.1 To help deliver the early phase of the Local Lettings Plan, the Council will deliver an Advanced Local Lettings Plan (that will be set out in the final version of this Plan) which will cover:

- Those secure tenants who do not wish to move to the regeneration scheme site. Secure tenants who opt for this, will be offered a transfer to another Council secure 'lifetime' tenancy and will still be eligible for home loss and disturbance compensation, provided they have been resident since the 'freeze' date and have been resident 1 year prior to the need to be re-housed. Where secure tenants express a preference for a housing association tenancy, this will be let on an assured 'lifetime' tenancy. Such an option will not constitute an offer under the terms of the final Local Lettings Plan. Secure tenants who opt for this option will not be eligible for a transfer back to the regenerated site or eligible for the enhanced compensation package. If tenants wish to move to an alternative area outside the Hammersmith & Fulham area, the Council will use the appropriate channels to support this request.
- Those secure tenants wishing to move to Seagrave Road if there are surplus properties available after the first phase of residents have been re-housed. These will be prioritised on the following basis :
  - Tenants who are vulnerable and/or whose housing needs are affected by medical conditions
  - The floor level of available properties
  - Those residents who wish to move from a house to a flat or maisonette
  - Residents most affected by demolition and construction works



- Date of registration for the ‘Advanced Local Lettings Plan’
- Where all other factors are equal, preference will be given to the resident with the earlier date the relevant contract was signed

## **11. Buy Back of leasehold & freehold properties and Local Lettings Plan Options**

- 11.1 The Council will develop a Buy Back Policy which will encompass the leaseholder and freeholder contracts which will be made with resident and non resident homeowners after the Effective Date. .
- 11.2 The Council will engage a ‘Buy Back’ officer who will lead on the negotiations of the purchase of the interest and the offer of a discounted sale for a new home in the redeveloped site. Resident homeowners will not have to increase their mortgage in their move to the new site.
- 11.3 The Council will engage in separate discussions with each of the 3 Registered Providers and make a fair and reasonable offer...

## **12. Equalities**

- 12.1 In developing and delivering the final version of this Local Lettings Plan, the Council will have regard to the needs of equality groups and potential positive and negative impacts when preparing the equalities impact assessment initial screening document.

## **13. For Further Information Contact:**

- 13.1 Dan Hollas, Project Officer, Housing & Regeneration Department; tel 020 8753 3334; [dan.hollas@lbhf.gov.uk](mailto:dan.hollas@lbhf.gov.uk); [www.lbhf.gov.uk](http://www.lbhf.gov.uk)

Appendix 1

Table of Policies

Policy	Secure Tenant	Assured Tenant	(RP)	Resident Homeowner	Non resident homeowner	Private tenant
Local Letting Policy	✓	✓		x	x	x
Advanced Local Letting Policy	✓	x		x	x	x
Buy Back Policy	x	x		✓	✓	x
Home loss & Disturbance Policy	✓	✓		✓	✓	x
Decent Homes Policy	x	x		✓	✓	x
Loss of Private Garden Policy	✓	✓		x	x	x
Loss of Car Parking space	✓	✓		x	x	x
Long Term Secure Tenant Policy	✓	x		x	x	x



## Appendix 8 – Housing Standard’s Comparison

During consultation and at the 23<sup>rd</sup> April 2012 Cabinet Meeting, concern was expressed about the size of the new re-provided homes. Residents wanted an understanding of how the new homes, built to the London Design Guide Size Standards, compare to the Parker Morris Standards to which most Local Authority Housing adhered between 1961 - 80.

The table below demonstrates how the current London Design Guide Size Standards compare to the Parker Morris standards.

Home Type	Parker Morris Size Standards	London Design Guide Standards
1 bed 2 person	44.6 m2	50 m2
2 bed 4 person	69.7 m2	70 m2
3 bed 5 person	79.0 m2	86 m2
4 bed 6 person	86.4 m2	99 m2

The Council has also obtained the size standards of three properties on the estates and compared these to the size of the new homes being built on Seagrave Road.

Room	1 Bed flat on estates	1 Bed flat in Seagrave Road
Lounge	16ft 3” x 9ft 11”	17ft 4” x 11ft 2”
Kitchen	11ft x 6ft	11 ft 2” x 8ft 5”
Main Bedroom	15ft x 8ft 5”	12ft 8” x 9ft 8”

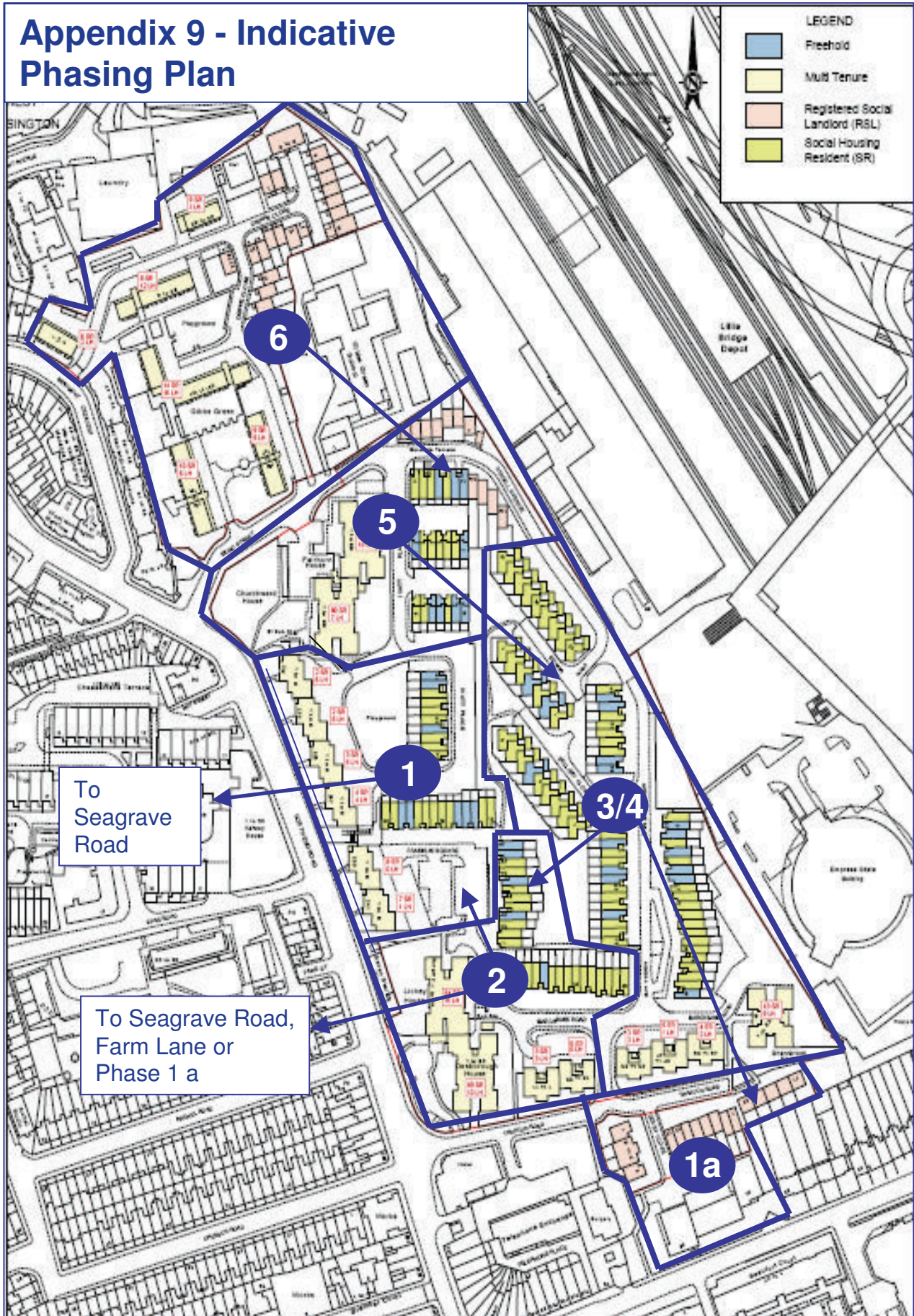
Room	2 Bed flat on estates	2 Bed flat in Seagrave Road
Lounge	17ft 8” x 8ft 8”	19ft 8” x 14ft 8”
Kitchen	11ft x 8ft 6”	10ft x 5ft
Main Bedroom	16ft 6” x 8ft 4”	12 ft x 9ft

Room	4 Bed house on estates	4 Bed flat in Seagrave Road
Lounge	12ft 5” x 13ft	15ft x 14ft
Kitchen	10ft x 12ft	14ft x 13ft
Main Bedroom	10ft x 12ft	15ft x 10ft

Note : Residents requested the measurements in ‘Imperial Units’



# Appendix 9 - Indicative Phasing Plan



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13 August 2012

**FINAL DRAFT – SUBJECT TO CONDITIONAL LAND SALE AGREEMENT**

Dear Mel,

**EARLS COURT REGENERATION – VALIDATION OF CAPITAL & COUNTIES’ OFFER**

We refer to the ongoing discussions between the London Borough of Hammersmith & Fulham (the Council) and Capital & Counties Properties plc (CapCo) concerning the proposed redevelopment of the land holdings of the Council, CapCo and Transport for London (TfL) in the Earls Court regeneration area and the offer from CapCo to acquire the Council’s interests in land.

**Scope of this advice**

We have been asked to comment on the acceptability and deliverability of the offer, as the basis for a Conditional Land Sale Agreement (CLSA) to be entered into by the Council and CapCo (the Parties). This advice relies on the following:

- the data contained within the financial model prepared by CBRE Ltd (CBRE) on behalf of CapCo and disclosed to the Council to allow an assessment of CapCo’s proposals;
- the assumption that CapCo will enter into similar arrangements with TfL to enable the holistic redevelopment of the joint landholding;
- the Parties acceptance that further design and cost plan development will continue until and beyond the submission of detailed planning applications for development phases and that this will affect the programme, costs and values currently reflected in the financial model; and
- spreadsheets provided by LBHF which are used to calculate the value of the 171 leaseholder/freeholder replacement units. We understand these values to have been provided to LBHF by CapCo based on valuation advice provided to CapCo by Savills plc.



**CapCo's offer**

- CapCo has offered to enter into a CLSA with the Council, committing to acquire the Council's landholding of approximately 20.855 acres for the main site as well as properties at 8a and b, 10 & 12 Seagrave Road and 1 Rickett Street (the Seagrave Road Houses) and 11 Farm Lane for the following consideration:
  - the provision of 760 replacement homes to an acceptable specification and delivery programme;
  - an additional five replacement homes to replace the Seagrave Road Houses; and
  - a cash payment of £105 million, payable in tranches against an agreed programme.

In our opinion, based on the data available at this stage and subject to the specific assumptions provided below, this consideration is acceptable when derived from an assessment of the information currently available and would reflect best consideration for the Council.

The principal elements on which this assessment is based are the EC Harris LLP (ECH) whole site cost plan and the CBRE financial model. We understand that a warranty or duty of care has been obtained from ECH concerning the accuracy and market alignment of the cost plan and from CBRE concerning the accuracy of the financial model and its constituent data. Furthermore, we understand that the CBRE financial model has been independently audited on behalf of the Council by Mazars LLP.

Appendix I, attached to this letter, provides an analysis of the principal assumptions contained in the financial model and our analysis and sets out a number of factors that will affect the value inherent in the CapCo offer.

Yours sincerely



**Christopher Pratt**  
**European Director**



## APPENDIX I

### 1 Implications of the timing of the cash payments

The timings of the cash payments determine the total present day value of the payments (based at May 2012). The table below shows the implications (in net present value terms) of receiving payments in line with the agreed receipt profile.

Payment Schedule	NPV of £105m discounted at 6.6%* pa
£30m (May 2012) ** £15m (Dec 2015) £15m (Dec 2016) £15m (Dec 2017) £15m (Dec 2018) £15m (Dec 2019)	£82.41m

Notes:

\* Treasury nominal discount rate (with an allowance for inflation at 3%)

\*\* We understand that £15m of this amount was transferred to LBHF in July 2011. The early receipt of this sum is not reflected in the discounting above, where it has been assumed to be received in May 2012.

### 2 These factors increase the strength of the current consideration offer

#### Finance Rate Assumed

The model has adopted a universal finance rate of 6.5%. Although the finance rates have not been revisited in the model for some time, this remains a realistic blended assumption.

The current mid-price of the 20 year swap rate is circa 2.7%, assuming a typical development period margin of up to 4%, this would give rise to a total rate of 6.7%. If this higher rate was to be incorporated in the model the land value would reduce.

Also, arrangement fees are currently not included in the model and when incorporated will increase financing costs and consequently reduce land value. It is anticipated that arrangement fees of 1-2% would be charged in the current development finance market.

As 100% financing has been assumed in the model, the equity has therefore also been priced at 6.5%; we consider that this is low for the nature and risks of development that CapCo is

accepting but indicates that CapCo is intending to take its equity return from development profits.

#### **Code for Sustainable Housing**

CapCo has assumed that Code Level 5 will be required by the time development is undertaken on site, the current financial model reflects costs delivering a standard in excess of Code Level 4.

We understand that CapCo is expecting to absorb the additional cost of any normal industry sustainability requirements that are in place at the points at which detailed planning consents are obtained.

#### **Private residential sales rates**

The private housing sales rates included within the model are fair and reasonable in the current market, with rates ranging from £736/sqft to £1,488 /sqft.

Under the current CapCo offer, however, the Council's cash receipt is protected if the sales values reduce in the future.

### **3 This factor introduces a degree of risk at present**

#### **Section 106 contributions**

In the planning applications submitted to the boroughs CapCo has set out the full range of community benefits and planning gain assumptions (education provision and local job creation, for example) that it believes will be required across the development.

We understand that commercial negotiations surrounding the cost contributions to the boroughs' and GLA's requirements are still on-going and will ultimately need to be reconsidered in the context of the financial model out turn values.

**4 Table of Assumptions**

<b>Assumption</b>	<b>Comment</b>
Overall scheme size of 10.1m sqft	<p>The model currently reflects a scheme size of 10.11m sqft GEA (or 9.64m sqft GIA). We understand that this is acceptable to the Council.</p> <p><i>GEA – gross external area</i> <i>GIA – gross internal area</i></p>
Financial Model – Status of replacement home unit numbers.	<p>Please note that the latest version of the model that we have does not reflect the current commercial negotiations regarding the number of decant affordable units to be provided on the main appraised site.</p> <p>The model currently assumes 560 decant affordable units on the main site and hence a remaining 200 decant affordable units off this main site. However we understand that the current anticipation is for between 137-187 units to be delivered off the main site at Seagrave Road.</p> <p>However the overall sqft of decant affordable units on the main site will be at the same level that is currently appraised in the current model, which uses values and costs on a per sqft basis.</p>
Procurement Method	<p>This advice is based on the assumption that a public procurement exercise would not need to be undertaken relating to the delivery of replacement affordable housing.</p>
Implication of new social housing policy on social for rent units	<p>It has been assumed that the proposed new social housing policy will not have an impact on the value or cost of the social for rent units that are being returned to the Council as they are replacement homes.</p>
Phasing of replacement homes	<p>The delivery of the 760 replacement homes should be prioritised over the delivery of the additional 740 affordable homes.</p>
Indexation of cash payments	<p>Indexation is applied to payments that are not made at the agreed milestone.</p>
Indexation of overage rate	<p>Indexation is incorporated into the overage provisions.</p>

<p>Parking provision</p>	<p>Adequate parking provision relating to the 760 replacement homes will be required.</p> <p>It is understood that the main site planning application incorporates a residential parking ratio of 0.6 and that the Seagrave Road planning consent (across the whole scheme) provides the same ratio.</p>
<p>Reliability of the CBRE financial model</p>	<p>The residual land value approach taken by CapCo is considered to be a normal market methodology for valuing developable land, especially in the absence of direct market comparables.</p> <p>We have undertaken a high level model review with queries and comments directed to CBRE. Necessary amendments have been made by CBRE and revised models have been released. We have again reviewed the revised model. The model results appear robust with sensitivity results as expected. In line with our earlier recommendation, we understand that Mazars LLP has completed a comprehensive independent audit of the financial model and that no material concerns have been raised.</p>
<p>Financial results</p>	<p>The adequacy of the CapCo offer has been assessed in relation to the results of the current financial model.<sup>1</sup></p> <p>Based on existing assumptions in the model, a residual land value of £8.74 million per acre is calculated, equating to a total LBHF land value of £182 million. This value includes no growth or discounting (which we consider to be robust).</p> <p>However, the current model excludes value for the replacement (decant) units contained within it. We consider that there should be some value attributable to these units.</p> <p>The model also includes two “Payments to Seagrave Road” totalling £33.5m. We don’t consider that these costs should be included within the model.</p> <p>Finally, the model assumes a universal profit on cost level of 20%, which we consider appropriate for the private residential units but too high in relation to the commercial and affordable residential spaces.</p> <p>We have run a revised model with three key changes.</p>

<sup>1</sup> The CBRE financial model version reviewed/adapted in compiling this analysis is: DFBC 4 for JLL (13.12.11) inc Variable Profit

	<ol style="list-style-type: none"> <li>1. We have attributed value to the decant units: using the CapCo affordable sales rates presented within the model (which were switched off in the model for the decant units) we have run the model with the inclusion of value for the decant replacement units. The CapCo affordable sales rates are £125/sqft for the social rent units and £285/sqft for the intermediate rent units, both representing tenure value.</li> <li>2. We have removed the £33.5m “Payments to Seagrave Road” cost.</li> <li>3. We have adjusted the developer profit levels to 20% (Private Residential), 10% (Commercial) and 6% (Affordable Residential).</li> </ol> <p>The adjusted land value with this change is £10.83m per acre, equating to a total LBHF land value of £226 million.</p> <p>The output value from the model does not consider the land at 11 Farm Lane, which we understand to be priced at an additional £5.7m as agreed between CapCo and LBHF or the Seagrave Road Houses for which the consideration is agreed at £500,000 plus an additional five houses. Although the Farm Lane consideration is arguably at the lower end of an independent market sale value range, this value is considered acceptable to LBHF as part of a large scale scheme of this nature. This land will accelerate the rate of decant within the scheme and will facilitate value on the main site which may otherwise have been lost without this additional decant site.</p> <p>The cost per unit obtained from the CBRE financial model for a social rent affordable unit is £174,400 (construction cost, contingency &amp; professional fees).</p> <p>The total number of replacement social rent council owned units is 531, which will partly be delivered outside of the main site appraised by the financial model. Using a pro-rata calculation, this equates to a total cost of £92.61m for the provision of the 531 replacement Council owned social rent units when using this per unit average cost. The provision of these units by CapCo saves the need for LBHF to deliver these units itself, which would have been a requirement for LBHF to achieve full vacant possession of the land.</p> <p>The average size of the social for rent affordable units in the model is 1,000sqft GEA (952sqft GIA/ 786sqft NIA).</p> <p>An additional 58 RP units will also form part of the consideration and we</p>
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	<p>understand these will replace the current 58 affordable units held by RPs. The additional cost for these 58 social for rent RP units is £10.12m<sup>2</sup> using the average cost per unit of £174,400 (as per the financial model). Although the value of these units will ultimately lie with the RPs, the provision of these units by CapCo saves the need for LBHF to deliver these units itself, which would have been a requirement for LBHF to achieve full vacant possession of the land.</p> <p>The market value of the additional 171 homes forming part of the Consideration is £104m<sup>3</sup></p> <p>It is understood that value for these units will be achieved by LBHF as part of the consideration by way of either:</p> <ul style="list-style-type: none"> <li>- the sale of the units at market value; or</li> <li>- the use of the units as replacement leaseholder homes, and therefore meeting LBHF vacant possession costs (equity offer to leaseholders) with the additional equity being retained by LBHF.</li> </ul> <p>Of the 171 leaseholder units 117 are resident leaseholder units and 54 are non-resident leaseholder units. If these 117 new homes were all to be used to replace the existing units we understand the equity in the new homes may be attributed as follows:</p> <p>117 Resident Leaseholders <sup>4</sup>  Full Market Value: £72.16m  Equity Offer to leaseholders : £47.91m  Retained Council Equity: £ 24.24m</p> <p>However we understand LBHF wishes to discount the retained equity relating to the 117 current resident leaseholder units to simulate the period over which the Council will be able to realise the equity. We have made no allowance for capital value growth over this period. LBHF has reduced this value from £24.24m to £15.53m. This provides a reduced total value of the 171 leaseholder units to LBHF as part of the consideration of £95.37m.</p> <p>The Council will also receive a number of car parking spaces, at this stage a</p>
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<sup>2</sup> These calculation is a pro rata linear calculation performed using cost per unit and applicable number of units

<sup>3</sup> This figure relates to 100% market value.

<sup>4</sup> It is understood that when calculating equity stakes in the units a discount to market value may be incorporated. The equity breakdown figures above have been provided to us by LBHF in the spreadsheets "LH Equity-April2012 non residents.xls" and "LH Equity- April 2012 residents"

	value has not been attributed to them, doing so would increase the value of the consideration.
Value of 171 non-social rent units	<p>We have used spreadsheets provided by LBHF that calculate the full market value of the 171 units based on the defined unit mix within the spreadsheets. We understand these values to have been provided to LBHF by CapCo, and are at a level that LBHF is comfortable with.</p> <p><i>1 bed £400,000 - 21 units</i>  <i>2 bed £575,000 – 85 units</i>  <i>3 bed £650,000 – 24 units</i>  <i>4 bed £728,000 – 2 units</i>  <i>3 bed house £750,000 -29 units</i>  <i>4 bed house £795,000 -10 units</i></p>
Value of Affordable units within model.	The output land value from the model is affected by the affordable rates in the model (£285/sqft for intermediate units and £125/sqft for social rent units). We understand that although CapCo considers that no value should be attributed to these units in the financial model, LBHF is satisfied with putting value into the model at these rates.
Cost of 589 social rent units forming part of consideration	<p>We have taken the per unit cost directly from the model for the social for rent units in the model and applied this to the total number of replacement social for rent units</p> <p>LBHF needs to be satisfied with the assumption that the cost for the social for rent units on the Seagrave site is at the same level as the costs for the social for rent units on the main site, and that the average unit size across the two sites is closely comparable.</p>
Properties at Farm Lane and Seagrave Road	It is understood that the Farm Lane site is being bought by CapCo from LBHF for a price of £5.7m and that the properties at 8a and b, 10 & 12 Seagrave Road and 1 Rickett Lane (the Seagrave Road Houses) are being purchased for £500,000 plus an additional five social rent units on the main site and that these properties will be used to facilitate the decant of the existing homes.
Growth and discounting	<p>The land value calculated in the model is derived from costs and revenues that do not include any growth – including growth would be likely to increase the land value.</p> <p>However, the land value also excludes any allowance for the time value of money – that is, no discounting has been applied to the cash flow or capital receipts in future periods, this would reduce the present value of the land.</p>



	<p>In summary, assuming that the downward value impact of discounting is greater than any increase achieved through adding growth, the land value would reduce.</p>
<p>Contingency, professional fees and development management fees</p>	<p>The model is based on contingency and fee rates as follows:</p> <ul style="list-style-type: none"> <li>Enabling Works 5%</li> <li>Off Site Road Improvements 5%</li> <li>Road, Structural and Civil Infrastructure 5%</li> <li>Public Transport; Rail Infrastructure, Bus and Cycle Provisions 15%</li> <li>Utilities / Site Services Infrastructure 5%</li> <li>Infrastructure Abnormals 15%</li> <li>New Buildings – Abnormals 10%</li> <li>Car Parking - basement (all uses) 15%</li> <li>Public Spaces 5%</li> <li>Construction Contingency 5%</li> <li>Development Contingency 2%</li> <li>Professional Fees 12.5%.</li> </ul> <p>We consider these rates to be fair and reasonable given the nature of the scheme. A construction contingency of 5% is reasonable given the scale, complexity and timings of the scheme. The higher rates relating to infrastructure costs are deemed to be reflective of the uncertainty surrounding the exact level of these costs as they are unique to this scheme.</p>
<p>Category and value of additional affordable homes</p>	<p>The consideration has been assessed in relation to the current out-turn land value from the financial model and is therefore based on the current inputs in the model.</p> <p>It is understood that the additional affordable homes will take the form of shared equity units and this is reflected in the model. These units are not transferred to the Council and the Council doesn't participate in the value of these units.</p>
<p>Justification of/change in construction cost levels</p>	<p>Given the scale and complexity of the scheme, it would not be practical for each party to have its own cost consultant build an independent cost plan.</p> <p>Clearly, the effect of any deviations from the current costs in the model would need to be considered when determining residual land value.</p>

<p>Developer's profit of 20% on land and affordable units</p>	<p>The model currently assumes the developer profit levels on cost and land at 20%:</p> <p>20% is at the higher end of the acceptable profit margin and reflects the risk profile and scale of the project. We would consider this to be too high for the affordable and commercial units and have run the model with the following developer profit levels:</p> <p>Private Residential: 20% Affordable Residential: 6% Commercial: 10%.</p> <p>We understand that LBHF is comfortable with these revised levels of developer profit and considers the 20% level applicable to the private residential fair given the quantum, nature/complexity and risk profile of the scheme.</p>
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Private & Confidential

**For the attention of: Jane West**

London Borough of Hammersmith and Fulham  
Town Hall, King Street  
Hammersmith  
LONDON W6 9JU

16 August 2012

Dear Sir

### **Earl's Court Redevelopment**

Capital & Counties Limited ("Capco"), the leasehold owners of the Earl's Court 1 and 2 exhibition centres wish to redevelop their land holdings and those of Transport for London (TfL), freehold owners of Lillie Bridge Depot and Earl's Court, and those of the London Borough of Hammersmith and Fulham ("the Council", "You") within the Earl's Court regeneration area. The Council's interest in the regeneration area comprises of two housing estates, West Kensington and Gibbs Green.

You have considered the prospect of a major regeneration across the three landholdings together with Capco and TfL. Capco have now put forward an offer for the Council's share of land on the Earl's Court site. The consideration offered is supported by a financial model which computes a residual land value for a development specification over the entire site. We understand from you that this residual land value calculation is predicated upon the parties selling the land which they currently own with vacant possession and any costs associated with achieving vacant possession are to be borne by the current landowner.

The residual land value is pro-rated for the Council's share of land based on acreage (the Council's land represents 20.855 acres of the total 65.866 acre site, excluding the Seagrave car park site). We understand from you that Capco have also offered cash consideration for the site at Farm Lane and five additional Council owned properties at Seagrave Road and Rickett Street.

### **PwC scope of work**

This letter documents our review of the latest iteration of the financial model submitted to us ("*DFBC 4 for JLL (13.12.11) inc Variable Profit.xlsx*", "*the 2012 model?*") which has been developed by CBRE for Capco to enable the revenues and costs of the development to be assessed, and the net residual value of the land to be determined on the basis of project phasing, tenure and market sale assumptions. PwC have reviewed this model, and have also reviewed its preceding iterations under separate engagement letters ("*VIABILITY RLV FOCUS 4KShurgue2 (Update 25 May 11).xlsx*" - "*the 2011 model?*", and "*Earls Court - Concept II - Vi.1 26.11.2010 ECH 5.2.zip*" - "*the 2010 model?*").

The 2012 model sets out the residual land value for the Earl's Court site only. You have appointed PwC to undertake a high level review of the scope, content and structure of the 2012 model and the

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assumptions that underpin it to confirm whether it provides an accurate residual land value and whether it is a reasonable basis to assess the commercial deal proposed by Capco.

We have reviewed the overall structure of the 2012 model; the logical flow of the calculations between the inputs, workings and output sheets; and we have reviewed the basic mathematics underpinning these calculations. We have not tested each calculation in detail and therefore cannot comment on the accuracy of each and every calculation within the 2012 model.

We have cross referenced the model to development schemes of a similar nature to ensure that the list of model inputs appears complete. Our review has focussed on the material revisions to the key assumptions driving the model, as compared to the corresponding assumptions in the 2011 and 2010 models. This includes developer assumptions, financing assumptions and macro economic assumptions. We have not had sight of any of the master plans associated with the development and have therefore been unable to review the list of assumptions against these. We have therefore only been able to review infrastructure and construction costs at a high level.

The Council, Capco and TfL accept that the proposed redevelopment scheme is subject to further design iterations. This may continue beyond the planning application stage and will have an impact on the revenue and costs which underpin the 2012 model. Any material changes to the schematics of the redevelopment may have a material impact on the residual land value derived for the Council's share of land.

### Capco's Offer for Council Land

#### The table below summarises Capco's offer to the Council

<b>Earl's Court</b>		
Council land area	20,855 acres	Excludes the Seagrave car park site
Cash consideration	£105m	This is the absolute value of cash without applying any discounting to reflect the profiling of the cash receipts.
		Refer to note 1 which details the impact of discounting, and also details the portion of this cash consideration received for Council owned assets outside of Earl's Court.
Social homes	£103m (589 units)	Refer to note 2 which details the method by which this value is determined.
Intermediate homes (gross value to be shared with leaseholders)	£104m (171 units)	Refer to note 3 which details the necessary upfront costs attached to taking these units and the uncertainty surrounding their realisable value.

#### Note 1 – Cash consideration

- We understand the amount of **£105m** is inclusive of the cash consideration the Council have accepted for the site at Farm Lane and five additional properties at Seagrave Road and Rickett Street.
- We understand from you that the cash consideration attributed to the Farm Lane site and the additional five properties at Seagrave Road and Rickett Street is expected to be in the region of **£6.2m**. We have not been presented with any information supporting this value and are therefore unable to comment on whether these elements represent Best Consideration.
- The site at Farm Lane and the five properties at Seagrave Road and Rickett Street are not within the Earl's Court masterplan and do not form any part of the residual land value determined by the financial model.
- The Council have confirmed that the amount of **£105m** will be subject to inflation if payments are made beyond the payment dates scheduled within the CISA, to reflect inflation for the payment delay period only.
- The cash amount of £105m should be discounted to reflect its value to the Council in present value terms. The minimum discount rate applied for this purpose should be 6.60% (which reflects the government risk free rate based on a long term inflation assumption of 3.00%). The present value of the consideration would then be £82m.
- The actual discount rate applied may be higher than 6.60% to reflect the risk of non delivery by Capco. The present value of the cash consideration would then be lower than £82m.

#### Note 2 – Social homes

- We understand from you that Capco have undertaken to provide 589 replacement homes. Up to 162 of these will be provided at Seagrave Road. Whilst this creates some uncertainty with regards to the number of replacement social homes to be provided on the Earl's Court site, the Council have confirmed that in all scenarios, they are to receive 589 replacement homes in total. The Council have also confirmed that under all scenarios, the total square footage of social housing provided on the Earl's Court site will remain as per the figures set out in the 2012 model.
- We understand from you that, under the terms of the conditional land sale agreement with Capco, upon the sale of the Council's share of land on the Earl's Court site, an obligation is created for the Council to re-house the existing tenants residing there. The Council's obligation may be extinguished on the provision of replacement social homes by Capco.
- On this basis, the Council have opted to value the consideration offered by the replacement social homes at the construction cost of those homes (including professional fees applied at 12.5% but excluding any associated cost of finance).
- The construction cost for the 427 social homes at Earl's Court (this does not include the homes provided at Seagrave Rd) has been provided by Capco as £66m and this has been pro-rated to arrive at a construction cost of £91m for the entire suite of 589 units. Professional fees of 12.5% have then been applied to arrive at a cost of £103m.
- We have not reviewed the construction cost assumptions. Technical consultants should review the robustness of this assumption and we understand that the Council are seeking a duty of care from them.
- We have not considered the cost or opportunity cost of securing vacant possession of sites occupied by the two Council estates or the value of the new homes as they are to be recorded on



the balance sheet of the Council's HRA (which is likely to be at a discount to the value of their construction cost).

### **Note 3 – Intermediate homes**

- We understand from you that the figure of **£104m** represents the market value of the 171 replacement homes. This is based on market values provided by Capco and we have not reviewed these values. Technical consultants will review the robustness of this assumption and the Council are seeking a duty of care from them.
- We understand that the Council has chosen to value the consideration represented by the intermediate homes at the market value of the homes. As explained below, the Council may realise the market value of these homes by selling them on the open market, or offer equity in these homes to the existing leaseholders to effectively meet the costs of vacant possession which the Council would otherwise incur.
- The following information has been provided for information purposes and is based on information provided by the Council; it is not included within our financial model review work:

### **Overview**

- The Council have informed us that there are 171 existing leaseholder units on the Earl's Court site, of which we understand 117 units are owner occupied with the remaining 54 being non resident owners.
- In the absence of the provision of replacement intermediate homes by Capco, the Council would bear an obligation to buy out existing leaseholders or to provide them with replacement homes. This would effectively constitute a cost of vacant possession to be borne solely by the Council, as the residual land value received by the Council is predicated upon land being sold with vacant possession having already been achieved.
- However, all 171 existing leaseholder units are to be replaced by Capco (with upto 38 of these units to be provided at the Seagrave Road site). These replacement homes therefore allow the Council to meet the costs of vacant possession as follows:

### ***Non resident leaseholders (all figures and information provided by the Council):***

- The 54 non resident leaseholders will be given a total cash payment of **£18m**, which is to be provided by the Council.
- The Council will then have sole ownership of 54 new homes and may sell them on the open market generating receipts of up to **£32m**.
- In net terms (after the cost of obtaining vacant possession), these 54 replacement homes are therefore worth **£14m** to the Council but it must be borne in mind that the Council retain sales price and sales timing risk on these units.

### ***Resident leaseholders (all figures and information provided by the Council):***

- The 117 resident leaseholders will have the option to either:
  - (i) receive a cash payment from the Council to the value of their existing property plus, if appropriate under the leaseholder offer, additional payments that may be due for home loss

and disturbance. The Council will then have sole ownership of the new home and may sell it on the open market at full market value; or

(ii) receive an equity stake in a new home at the market value of their existing property plus an additional 10% to reflect a home loss payment. A 10% off-plan purchase discount may also be taken into account. The Council will then have ownership of the remaining equity portion in that home.

- The Council's equity share in these units therefore remains uncertain and is dependent upon whether existing leaseholders opt for a cash payment or an equity stake in the new property.
- Based on Council calculations, should all 117 owner occupied leaseholders opt for an equity stake in a new home, the Council would require an upfront cash payment of £1m (relating to disturbance) and would have a retained equity stake in those units of £24m.
- Should some of the owner occupiers opt for a cash settlement, the Council will have the ability to sell the corresponding replacement homes. The value of the Council's cash receipt may then increase, and the Council's retained equity would then dwindle.
- Based on Council calculations, in the scenario where all leaseholders opt for a cash payment, the maximum upfront cash payment required from the Council is £59m (this includes the disturbance payment). Based on figures provided by Capco, the Council may then become the sole owners of new homes with a market value of £72m. In net terms (after the cost of obtaining vacant possession), the 117 resident leaseholder homes would therefore be worth £13m to the Council in market value terms, but it must be borne in mind that the Council would retain sales risk on these units.
- It must also be borne in mind that the existence of a market for the Council's equity share in these units is uncertain and the Council are advised to carry out further work to assess the value of this equity investment given its relatively illiquid nature. Such a valuation should recognise that the Council's equity stake does not earn any rental income and there is no certainty as regard to the timing of when a leaseholder will choose to sell their home.

### **Residual land value of Council owned land**

The residual land value of the Council's land derived by the Capco model is **£182m**.

We have raised a number of questions on the revenue and cost assumptions used to derive this residual land value. This analysis, and the impact on the Council's land value is considered in the Financial Model Analysis section below.

### **PwC Conclusion**

Based on the scope of work that we have undertaken (within the constraints outlined above), we have confirmed that the 2012 model uses a format, typical for projects of this type, to calculate a residual land value for the land parcel held by the Council, Capco and TfL. We have found no material errors with the logic and arithmetic underpinning the calculations within the financial model. On reviewing the list of model inputs and assumptions, we have found no material omissions when compared against development schemes of a similar nature. We therefore conclude (within the constraints outlined above) that the 2012 model provided by Capco provides a reasonable basis to assess the value of the Council's share of land on the Fari's Court site.





By reference to the scope of work we have performed and our comments noted in this letter, the offer made by Capco for the Council's share of land on the Earl's Court site appears to offer best consideration based on the financial model and its input assumptions and the high level nature of the development plans. Given the scale of the development and high level nature of the development plans and model, the value of the Capco offer is sensitive to relatively small adjustments to input assumptions.

The proposed redevelopment scheme is subject to further design iterations. This may continue beyond the planning application stage and will have an impact on the revenue and costs which underpin the 2012 model. Any material changes to the redevelopment may have a material impact on the residual land value derived for the Council's share of land. Before accepting Capco's offer, we understand that the Council are awaiting receipt from Capco's cost consultants confirming the duty of care they owe to all parties over key model cost and revenue inputs, and are also awaiting the results of an external model audit which has been commissioned.



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Yours sincerely

A handwritten signature in black ink, appearing to read "Richard Parker", written in a cursive style.

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## Financial Model Analysis

### 1.0 Affordable housing (social and intermediate) outputs

Issues	Impact and Considerations
<p>The 2012 model reflects a 10.1m sq ft (GEA) development scheme with:</p> <ul style="list-style-type: none"><li>• 427 replacement social for rent homes;</li><li>• 133 replacement intermediate homes;</li><li>• 740 additional intermediate homes.</li></ul>	<p>There has been a reduction of 0.3m sq ft to the development underpinning the 2012 model. It is noted that the relative proportion of the building tenures remains broadly in line with the previous development scheme. The Council should ensure that:</p> <ul style="list-style-type: none"><li>I) revised masterplans have been reviewed by technical consultants;</li><li>ii) the revised redevelopment scheme offered by Capco remains acceptable to the Council, and meets their affordable housing requirements; and</li><li>iii) the revised redevelopment scheme is congruent with the scheme reflected in the 2012 model.</li></ul>
<p>The model excludes the site at Seagrave Road as that site does not form part of the development. Capco will offer the following units to the Council from Seagrave Road as part of the current deal:</p> <ul style="list-style-type: none"><li>• Up to 162 replacement social for rent homes;</li><li>• Up to 38 replacement intermediate homes</li></ul>	<p>Whilst only small adjustments have been made to the number of social and intermediate homes that populated the 2011 model, these figures remain advanced from the number of homes that populated the 2010 model. The affordable housing tenure mix may have a material impact on the residual land value determined.</p> <p>The total number of replacement homes provided by Capco on the Earl's Court and Seagrave Road sites will be 589 social homes and 171 intermediate homes. Capco may deliver fewer than 162 social homes and fewer than 38 intermediate homes on the Seagrave Road site. In this scenario, the corresponding number of homes for each tenure type on the Earl's Court site will be greater than those set out in the 2012 model, i.e. the Earl's Court site will then contain more than 427 social homes and more than 133 affordable homes.</p>
<p>In addition Capco will provide 5 replacement homes to replace the properties at 8a, 8b, 10 and 12 Seagrave Road and 1 Rickett Street. These are also excluded from the model.</p>	<p>However, we understand from you that the total square footage of each housing tenure on the Earl's Court site will remain constant under all scenarios. As the 2012 model builds up revenues and costs on a per square foot basis, the revenues and costs associated with the Earl's Court site will remain constant irrespective of the number of social and intermediate homes delivered. In such a scenario, however, the average unit sizes for each tenure type will be smaller than in the 2012 model and the Council should ensure that unit sizes continue to meet Council requirements under all scenarios.</p>

## 2.0 Council equity stake within intermediate homes

### Issues

The Council are provided with 171 replacement intermediate units. The Council must provide these existing 171 leaseholders either with a cash payment to buy their home or an equity stake within a new home at a value in line with the market value of their existing home.

The Council will either own the new home outright (where the existing leaseholder opts for cash payment) or retain an equity portion in the new unit (where the existing leaseholder opts for an equity stake in the new home).

There are 54 non owner occupied units. The leaseholders for these units will receive a cash payment only and their associated replacement units will be owned outright by the Council and may be sold on the open market.

It must be borne in mind that the Council's retained equity stake has no associated rental income stream and its value over time will reflect capital growth only.

Cash associated with the Council's equity is only realised when the property is sold. For those homes where the existing leaseholder opts for a cash payment, it is our understanding from the Council that the property may be sold on the open market immediately. However, it is unknown how many existing leaseholders would proceed with this option. For the homes which become shared ownership, there are a number of unknown factors (including owner behaviour, average tenancy lifespans and transient market conditions) which make the timing of any cash receipt very difficult to determine.

For these reasons, the Council's retained equity stake does not represent an attractive investment to third parties.

The value of the retained equity in today's terms must therefore be heavily discounted to reflect the illiquidity associated with it and the uncertainty attached to its value over time.

### Impact and Considerations

Council have prepared a calculation (within "Decant costs.xls", "LH Equity- April 2012 residents.xls" and "LH Equity- April 2012 non residents.xls") which quantifies the following:

#### (i) Non resident leaseholders

- The cash payment required to buy out the 54 non resident leaseholders to achieve VP on the existing site (£18m).
- The open market value of the 54 replacement homes owned by the Council on the redeveloped site (£32m).
- In net terms, based on the calculations noted above, these 54 replacement homes are therefore worth £14m to the Council in market value terms, but it must be borne in mind that the Council retain sale risk on these replacement units.

#### (ii) Owner occupiers

- The upfront cash payment required by the Council to obtain vacant possession on those units where the leaseholder opts for a cash settlement.
- The notional value of the new homes owned solely by the Council.
- The notional value of the Council's retained equity in the remaining replacement homes on the redeveloped site.

Based on Council projections, the two extreme scenarios have been examined to quantify the Council's maximum exposure:

#### 1) Where all 117 leaseholders opt for a replacement home:

- i) Upfront cash required by Council = £1m (to cover disturbance costs)
- ii) Notional value of the new homes owned solely by Council = £Nil
- iii) Notional value of the Council's retained equity stake = £24m

#### 2) Where all 117 leaseholders opt for a cash settlement:

- i) Upfront cash required by Council = £59m
- ii) Notional value of the new homes owned solely by Council = £72m

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iii) Notional value of the Council's retained equity stake = £Nil

All assumptions driving the calculation to arrive at the figures presented above have been provided by the Council. It is outside the scope of our work to perform any detailed testing on the calculation or the assumptions which underpin it.

The Council should consider discounting the retained equity figure of £24m further to reflect the uncertainty of the quantum and timing of the associated cash receipts over time.

The Council should also clarify any legal restrictions which may be placed upon the re-sale of the intermediate homes, such as whether they can be sold as private homes on the open market.

Within any constraints identified, the Council could further incentivise existing leaseholders to opt for the cash payment. This would allow the Council to retain 100% ownership of the new intermediate homes which they could then sell on the open market to realise the cash value. The Council should also conduct market testing to determine whether their equity stake represents an investable product for third parties.

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### 3.0 Due diligence over cost and revenue inputs

Issues	Impact and Considerations
<p>We understand that the Council are seeking a duty of care over the cost and revenue inputs from technical consultants. Council are still awaiting receipt of this to obtain comfort over the completeness and accuracy of these inputs.</p>	<p>There is the potential for further revisions to be made to the cost and revenue inputs upon completion of the technical consultant review which may impact the residual land value calculated.</p>
<p>We have noted material revisions made to the following inputs when compared against the 2011 model and comfort should be sought on the accuracy of these:</p> <ul style="list-style-type: none"><li>• <b>£25m</b> of additional income received during the development from advertising hoardings, cash machines, temporary uses etc.</li><li>• <b>£10m</b> of additional income described as Energy Capital Contribution. The 2011 model contained no equivalent revenue.</li><li>• <b>£123m</b> of planning, site clearance costs and costs associated with the continuity of occupation have been added. The 2011 model contained no equivalent costs.</li><li>• Construction cost for retail units have increased by 35%*.</li><li>• Construction cost for affordable residential units have increased by 20%*.</li><li>• The sales value of the intermediate homes has increased by 45%.</li><li>• The sales value of the boutique hotel has increased by 40%.</li></ul> <p>* (all movements determined on a pro rata basis for the revised development scheme)</p>	<p>The additional income streams should be reviewed for accuracy and completeness. We understand from the Council that this is to be reviewed by technical consultants and will be covered in the duty of care provided by them to the Council.</p> <p>The additional £123m of cost includes £34m of cost associated with the site at Seagrave Road. The 2012 model computes a residual land value calculation for the Earl's Court site only. The £34m of cost associated with Seagrave Road should therefore be removed.</p> <p>Capco should confirm that they will bear the risk on the completeness of the planning, site clearance costs and the costs associated with the continuity of occupation. The residual land value determined should not subsequently be revised to compensate.</p>
<p>In addition, we have previously noted material revisions made to the following cost inputs when compared against the 2010 model and comfort should be sought on the accuracy of these:</p> <ul style="list-style-type: none"><li>• Infrastructure costs have increased by 30%.</li><li>• Sales costs have increased by 50%.</li></ul>	

## 4.0 Developer return

Issues	Impact and Considerations
<p>The 2012 model assumes that a return of <b>20%</b> is applied to <b>all</b> residential units.</p> <p>This represents a departure from the 2011 model which applied a developer return of:</p> <p><b>20%</b> to private units; <b>6%</b> to affordable units; and <b>10%</b> to commercial units.</p>	<p>For the private residential units, the developer return of 20% is at the upper end of the range of acceptable values, and this reflects the risk profile associated with these units on a development scheme of this scale and nature.</p> <p>However, for the affordable and commercial units, the developer return of 20% is considered too high for the risk profiles associated with those units.</p> <p>We have run the 2012 model with a revised developer margin in line with the values employed in the 2011 model which reflected developer returns within an acceptable range of values for each tenure type. This has resulted in an increase of c.£53m to the total residual land value and an increase of c.£17m to the residual value of the Council's land.</p> <p>It should be noted that the impact of the higher developer profit is negated by the finance costs in the model which appear conservative and which have a favourable impact on the residual land value derived. Refer to point 9 for further detail.</p>

## 5.0 Sales value of additional intermediate homes

Issues	Impact and Considerations
<p>The sales value of the additional intermediate homes within the 2012 model is £285 per square foot.</p> <p>This has increased from the value of £200 per square foot employed in the 2011 model.</p>	<p>Council should confirm that this sales value is a viable purchase price for the potential landlord in order to ensure delivery. It is however noted that Capco will bear the risk on the viability of this sales value.</p>
<p>The council is relying on Capco and other parties to deliver these 740 additional intermediate homes.</p>	<p>Council should confirm through planning obligations or its sale agreement that the delivery of 740 additional intermediate homes can be enforced.</p>



## 6.0 Sales value of replacement affordable (social and intermediate) homes

Issues	Impact and Considerations
<p>The 2012 model does not include any sales value for the replacement affordable (social and intermediate) homes.</p>	<p>The residual land value is a reflection of all those revenues and costs which may accrue on a scheme developed for the site. If the replacement affordable homes are subsequently offered as part of the consideration this should not reduce the residual value of the land. The replacement affordable homes already reduce the cash element of the consideration offered by Capco and the homes should therefore be valued in the residual land value calculation.</p> <p>Based on the values Capco have provided, the replacement social homes have been valued at £125 per square foot and the replacement intermediate homes have been valued at £285 per square foot. We have not tested these figures, and the Council are advised to seek a duty of care from technical consultants.</p> <p>Applying these values to the replacement social and replacement intermediate homes in the 2012 model, the total residual land value increases by c.£48m. The Council's residual land value would then be £197m.</p> <p>This Council have examined the results of this scenario and factored this into their negotiation strategy with Capco. Capco's offer for the Council's land continues to exceed the residual land value calculated under this scenario.</p> <p>It should be noted that the impact of no revenue stream being applied to the replacement affordable units is negated by the finance costs in the model which appear conservative and which have a favourable impact on the residual land value derived. Refer to point 9 for further detail.</p>

## 7.0 Phasing and delivery rate of affordable (social and intermediate) homes

Issues	Impact and Considerations
<p>Capco's delivery schedule for the affordable (social and intermediate) homes assumes that almost half of the affordable homes will be delivered after 2020. This phasing programme includes the 740 additional intermediate homes.</p>	<p>Current rate of delivery of affordable housing appears slow. It is however noted that existing tenants will not be decanted until the replacement affordable housing is available. The Council should ensure that the replacement affordable (social and intermediate) housing is completed before the additional intermediate housing. The total number of affordable housing units available to the Council does not diminish over time.</p>

## 8.0 Timing risk of £105m cash receipt

Issues	Impact and Considerations
<p>The cash consideration of £105m is the value in absolute terms – the impact of indexation and discounting has not been considered.</p>	<p>The value of the consideration received by the Council is impacted by the time value of money and inflationary increases to costs and revenues.</p> <p>We have calculated the present value of the cash receipt profile as outlined in the draft copy of the CLSA provided to us by the Council on 22 February 2012. We have assumed that the CSLA will be signed by 31 May 2012 and that Capco will take the option to develop on the land before 31 December 2015. We note that should the trigger be served after 31 Dec 2015 then the £75m is due in five equal payments on the service of the trigger and the subsequent four anniversaries thereof. Payments received late as a result of this are indexed.</p> <p>It therefore follows from the CSLA that:</p> <ul style="list-style-type: none"><li>• An exclusivity payment of £15m is received on 31 May 2012 which will contribute to the consideration due. We understand from the Council that this amount was transferred to the Council in July 2011, but the early receipt of this payment has not been factored into the discounting calculations set out below where the receipt is assumed to be on 31 May 2012.</li><li>• £10m of this exclusivity payment becomes refundable if the CSLA is not entered into.</li><li>• A further £15m payment for the Gibbs Green School and Farm Lane sites is also due at 31 May 2012.</li><li>• The balance of £75m will then be paid in five equal payments 31 Dec 2015 and the subsequent four anniversaries thereof.</li></ul> <p>Based on these assumptions, we have run a series of present value calculations to demonstrate an indicative profile of the cash consideration in present value terms. As the cash is received in tranches but is not indexed to reflect the time value of money (save for any delay periods for payments beyond the dates scheduled within the CLSA), nominal discount rates have been applied with a long term inflation assumption of 3%.</p> <p>The minimum discount rate to apply is the government risk free rate of 6.60% (based on a long term inflation assumption of 3.00%). The present value of the consideration would then be £82m.</p> <p>The actual discount rate applied may be higher than 6.60% to reflect the risk of non delivery by Capco. The present value of the cash consideration would then be lower than £82m. We have provided a range of PVs under different discount rates for illustrative purposes as follows:</p>

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**Issues****Impact and Considerations**

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Discount rate    PV of cash consideration

- 6.60%            £82m
- 9.00%            £77m
- 12.00%          £70m

## 9.0 Finance costs

Issues	Impact and Considerations
<p>The 2012 model assumes a blended average cost of capital of 6.5%.</p> <p>This appears optimistic against current market conditions and other schemes which have been exclusively funded through the private sector. In addition, we would expect a senior debt arrangement fee to be applied on the provision of the facility or at each debt drawdown, but the 2012 model includes no such fee.</p>	<p>Increased costs of finance would reduce the Council's residual land value. This may partially negate the impact of the reduced developer return (point 4.0) and the revenue ascribed to the social and affordable housing (point 6.0) which would increase the Council's land value.</p> <p>As this does not improve the Council's negotiating position, no further scenario analysis or presentation to Capco on this subject is proposed.</p>

## 10.0 Audit status of financial model

Issues	Impact and Considerations
<p>We understand that the Council have commissioned Mazars LLP to conduct an independent audit of the 2012 model and this has now been completed. We have not seen and information in relation to this audit.</p>	<p>We understand that the model audit process has now been completed. We recommend that a review of the key model audit findings is completed to ensure all relevant items have been addressed.</p>



**PwC**

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## Equalities Impact Assessment

<b>Overall Information</b>	<b>Details of Equality Impact Analysis</b>
<b>Financial Year and Quarter</b>	2012-2013
<b>Name and details of policy, strategy, function, project, activity, or programme</b>	<p><b>The Earls Court Redevelopment Project</b></p> <p>The council is proposing to enter into a Conditional Land Sale Agreement (CLSA) to grant an option to EC Properties to include certain council-owned land within a comprehensive regeneration scheme that covers the Earls Court Exhibition Centre buildings and Seagrave Road car park (both owned by Capital and Counties plc, which owns EC Properties) and the TfL-owned Lillie Bridge Depot. The council-owned land includes the West Kensington and Gibbs Green estates.</p> <p>From 6<sup>th</sup> January – 12<sup>th</sup> March 2012 the Council undertook a consultation process to seek residents' views on the council's proposals to include the estates in the wider regeneration scheme. During this consultation residents were also invited to make comments on a draft Equalities Impact Analysis (EIA) that had been published on the council's website. The draft EIA sought to assess, by reference to the protected characteristics, the impact of entering into the CLSA on those directly affected by the development – the residents of the West Kensington and Gibbs Green estates, and the pupils at the Queens Mill School temporarily located at the former Gibbs Green School site.</p> <p>The council has considered the comments received as part of this consultation process, and has as a result updated the EIA and further refined its proposals.</p>
<b>Lead Officer</b>	<p>Name: Sarah Lovell          Position: Project Officer          Email: sarah.lovell@lbhf.gov.uk          Telephone No: 020 8753 5571</p>
<b>Date of completion of final EIA</b>	17 <sup>th</sup> August 2012



<p><b>Section 02</b> <b>Plan for completion</b></p>	<p><b>Scoping of Full EIA</b> Start date of EIA: 18<sup>th</sup> June 2011 Lead Officer: Sarah Lovell</p>								
<p><b>What is the policy, strategy, function, or project, activity, or programme looking to achieve?</b></p>	<p><b>The recommendations in question</b></p> <p>After a number of years of engagement and negotiation with residents of the West Kensington and Gibbs Green estates, residents of the local area and EC Properties / Capital and Counties, council Officers are considering recommending to the council that it enters into the CLSA with EC Properties. This would involve three key recommendations:</p> <ol style="list-style-type: none"> <li>1. That the Council enter into Conditional Land Sale Agreement with EC Properties LP.</li> <li>2. That the Council approve the early purchase by EC Properties of land formerly occupied by Gibbs Green School.</li> <li>3. That the Council approve the sale to EC Properties of land at 11 Farm Lane to support the redevelopment.</li> </ol> <p><b>The Potential Impact of the Recommendations</b></p> <p>Below, the recommendations are assessed against the protected characteristics. ‘+’ indicates a positive impact, ‘-’ indicates a negative impact and ‘/’ indicates a neutral impact. ‘L’, ‘M’ and ‘H’ indicate that the impact is of low, medium or high relevance to the protected characteristic in question. Any mitigating measures are listed after each identified impact.</p> <p><b>RECOMMENDATION 1</b></p> <ul style="list-style-type: none"> <li>• That the Council enter into Conditional Land Sale Agreement with EC Properties LP.</li> </ul> <table border="1" data-bbox="1316 100 1465 1783"> <thead> <tr> <th data-bbox="1316 1525 1393 1783">Protected Characteristic</th> <th data-bbox="1316 1352 1393 1525">+/-</th> <th data-bbox="1316 1180 1393 1352">L/M/H</th> <th data-bbox="1316 100 1393 1180">Assessment</th> </tr> </thead> <tbody> <tr> <td data-bbox="1393 1525 1465 1783">Age</td> <td data-bbox="1393 1352 1465 1525"></td> <td data-bbox="1393 1180 1465 1352"></td> <td data-bbox="1393 100 1465 1180"><i>Where age is referred to, it refers to persons of a particular age (e.g. 32</i></td> </tr> </tbody> </table>	Protected Characteristic	+/-	L/M/H	Assessment	Age			<i>Where age is referred to, it refers to persons of a particular age (e.g. 32</i>
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Age			<i>Where age is referred to, it refers to persons of a particular age (e.g. 32</i>						

*year olds) or range of ages (e.g. 18 - 30 year olds).*

**(1)** The impact of residents having to leave their current homes on the estates is likely to be greater for elderly residents than for other residents in general. Packing, moving and unpacking is likely to be particularly difficult for such people. Elderly residents may also suffer greater psychological effects, including stress and uncertainty, for example in relation to having to move, and as regards living in an initially unfamiliar environment (after moving). Further, elderly residents may rely more on neighbours and nearby family for support, and moving home may affect these support networks. 42 consultees raised concerns about the impact of having to move, given their age. 49 other consultees referred to concerns of this type in relation to family members, or as a general matter.

- Each household will have a dedicated Re-housing Officer, who will help them through the re-housing process. This will include identifying residents' re-housing needs and requirements, informing them about the re-housing and move process, keeping them updated with the project and move timescales and supporting residents throughout the whole process. The Re-housing Officer will be able to allocate additional support and services to assist elderly residents when moving home. For example, this support will - if requested - take the form of allocating a packing and unpacking service to help elderly residents with the physical move, or allocating more of the Re-housing Officers time to work with the resident and/or the resident's family / carer / support network.

- The Re-housing Officer will also be able to sign older residents up to the council's 'advocate scheme.' Under this scheme an older resident can nominate an 'advocate' (usually a son or daughter), who can then liaise with the Re-housing Officer to make all the necessary arrangements for the move, and handle related matters, on the older resident's behalf.

- Where residents need additional support the Re-housing Officer can refer residents to other council services. These services include Adult

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Services and the Floating Support Services, which offer free support to local residents to help them with many aspects of their lives. This support can include: helping residents settle into a new home, helping residents stay in contact with friends and family, reporting repairs, sorting out rent and other tenancy issues, filling in forms and writing letters and informing residents about other services. The council will also ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a resident is having adjustment problems, the Re-housing Officer will allocate additional support for them, including from Adult Services or the Floating support services mentioned above.

- It is a condition of the CLSA and it will be a part of the redevelopment project's Local Lettings Policy that, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. A needs assessment will help the Council to know what support networks and which neighbours each resident wants to move with.

(2) The impact on private tenants of not being offered a replacement home in the redevelopment may be greater for elderly private tenants than for other private tenants. Elderly private tenants may find this more stressful, and may lose local support networks if they are unable to find a new home in the local area. Private tenants who have elderly relatives nearby may find it harder to support or care for them (one private resident mentioned this issue). Families with school-age children who are private tenants may also suffer a detrimental impact if they are unable to find a new home in the local area.

- Private tenants will be offered housing advice by the Re-housing Officers. This will include information on their housing options and where they can receive additional re-housing advice and support. Where residents can demonstrate a clear connection to the local area the council will help them to find alternative accommodation within the area. However, beyond this, officers do not consider that it will be

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				<p>possible to further mitigate any age-related negative impacts on private tenants.</p> <p><b>(3)</b> If the redevelopment goes ahead, council tenants will be re-housed based on their need. From the point of view of age, the impact of this would vary from case to case:</p> <p><b>(3a)</b> For an older couple or an older single person whose children have left home and who are now occupying a large flat or house, the result would be that they would be offered a smaller property (albeit that they will be offered a home with one additional bedroom above their need). This would have a negative impact on such people.</p> <p><b>(3b)</b> For a younger couple or a younger single person with children whose current accommodation is over-occupied, the result would be that they would be offered a new property that meets their needs (up to a maximum of a 5-bedroom property). This would be a positive impact.</p> <p><b>(4)</b> The provision of new homes as part of the redevelopment provides the opportunity for better access (as regards common areas, lifts, level access, and access routes to homes from the wider area), which would positively impact on older residents with age-related mobility impairments, as well as parents with young children. The new homes will be built to new accessibility standards, including as set out in the Approved Document M - Access to and Use of Buildings and in the Lifetime Homes Standard. These standards are an improvement on those that applied when the existing estates were built. The proposals will also include provision for 10% of wheelchair accessible housing across the entire redevelopment. This should include provision of wheelchair accessible housing for all existing residents of the estates who, following an individual needs assessment, are found to require it.</p> <p><b>(5)</b> During the consultation one resident mentioned that their home had been adapted due to their age. Adaptations will be made to the new</p>
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		/ and +	<b>H</b>	

homes in accordance with the Occupational Therapist's assessment of the individual resident's needs. Those residents who currently have homes to which adaptations have been made, and who continue to need those adaptations, will have adaptations made to their new homes. Those residents who are assessed to need adaptations by the Occupational Therapist, but who are not currently living in homes with those adaptations, will have them completed for their new home. Overall, therefore, this aspect of the redevelopment is likely to have either a neutral or a positive impact on elderly residents.

**(6)** During the consultation, the Hammersmith & Fulham Disability Forum and a number of individual consultees raised issues regarding proximity to existing health / social / community / retail facilities, and bus routes. It is not possible to be precise about how far each resident who will be offered a new home will have to move. However:

**(6a)** If the resident's new home is on the main site (bounded by West Cromwell Road, the railway line, North End Road and Lillie Road) then the resident may end up being closer to or further away from existing facilities (the maximum additional distance being approximately 250m), depending on precisely where their new home is located. The impact of this may well be greater for elderly residents, and residents with young children.

**(6b)** Approximately 200 new homes will be re-provided for qualifying residents at the Seagrave Road site. The furthest distance between the furthest edge of the main site and the Seagrave Road site is approximately 800m and the nearest distance is approximately 320m. According to the plans, re-provided houses will be in a block at the rear of the Seagrave Road site. Amongst those re-housed on the Seagrave site, the increased distance from shops and other facilities is likely to be felt more by elderly residents and residents with young children.

- The proposed redevelopment will also give rise to a range of new facilities which can be accessed by residents, such as the

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				<p>proposed Sports and Leisure Hub. This should help to mitigate the impact for those residents who end up moving further away from existing facilities.</p> <ul style="list-style-type: none"> <li>The planning process will require a new health facility to be provided as part of the redevelopment. The new health facility will be located so as to be easily accessible from across the redevelopment, as well as from the wider catchment area that it will be intended to serve. The health facility should provide, among other things, consulting/examination/treatment space, district nursing, health visiting, diagnostic services, dental surgery, optometry and a pharmacy.</li> </ul> <p><b>(6c)</b> Some elderly residents and residents with young children may be adversely affected by a move to Seagrave Road, as they may be moved further from bus routes.</p> <p><b>(7)</b> The need to move home may have an impact on families with school-age children in that the distance from their home to their local school may change. However, the furthest distance that a family should have to move from their current home is approximately 800m.</p> <p><b>(8)</b> There are approximately 190 houses on the estates, all of which have gardens. Should the estates be included within the redevelopment proposals the council will receive 75 houses with gardens and 66 maisonettes with gardens, resulting in a total of only 141 properties with gardens (equating to a loss of approximately 49 private gardens). The loss of a garden may well have a particular impact on families with children. 5 residents with children (and one resident with grandchildren who visited) raised this issue.</p> <ul style="list-style-type: none"> <li>The Current planning application proposes to deliver 2.97 hectares of publicly accessible green space (including a park and 3 garden squares), 2.43 hectares of publicly accessible civic space (in the form of additional squares) and 2.175 hectares of play space.</li> </ul>
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			+	H	<p>(9) Increased employment opportunities (as predicted by the Economic Appraisal) will have a positive impact for residents of working age. If the CLSA is signed, a skills audit of all residents on the Estates will be carried out in order to any identify barriers to work, and skills needs. On the basis of this information, a targeted training and employment plan will be produced by the council to assist residents to gain or regain employment.</p> <p>During the consultation a number of consultees appeared to be concerned about whether the need to move home would mean that they would not be able to send their younger children to the same school as their other (older) children, or that their children would have to move school. Officers have investigated this, and consider that there would be no such impact as none of the local community schools that the majority of children attend has a specific catchment area, and, for the purposes of admissions, the 'sibling' criterion is considered before the 'distance' criterion. Further, a child would not cease to be eligible to attend their current school simply because of the move.</p>
	<b>Disability</b>	+/-	L/M/H	<b>Assessment</b>	<p><i>A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</i></p> <p>(1) The impact of residents having to leave their current homes on the estates is likely to be greater for disabled residents than for other residents in general. Packing, moving and unpacking is likely to be particularly difficult for such people. Disabled residents may also suffer greater psychological effects, including stress and uncertainty. Further, disabled residents may rely more on neighbours and nearby family for support, and moving home may affect these support networks. Approximately 54 consultees raised impacts of this sort in relation to their own personal circumstances, or other people's circumstances.</p> <ul style="list-style-type: none"> <li>The Re-housing Officers mentioned under 'age' above will take into account the different needs of disabled residents when providing</li> </ul>



				<p>support to them in relation to the move.</p> <ul style="list-style-type: none"> <li>▪ The Re-housing Officers will be able to allocate additional support and services to assist disabled residents when moving home. This may be support with the physical move process and will - if requested - take the form of allocating a packing and unpacking service to help residents, organising all of the connections and disconnections of appliances and/or arranging a removal service. The Re-housing officer will also be able to allocate more time to work with the resident and/or the resident's family / carer / support network to address any psychological concerns that the resident may have.</li> <li>▪ Where disabled residents need additional support the Re-housing Officer can refer residents to other council services, including Adult Services and the Floating Support Services, as set out under 'age' above.</li> <li>▪ Where it would assist, the Re-housing Officer will also put disabled residents in touch with other local disability support organisations.</li> <li>▪ The council will also ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a disabled resident is having adjustment problems the Re-housing Officer will work to allocate additional support for them, including from Adult Services or the Floating Support Services.</li> <li>▪ It is a condition of the CLSA, and it will be a part of the Earl's Court Redevelopment Project's Local Lettings Policy that, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. A needs assessment will help the Council to know what support networks and which neighbours each resident wants to move with. This should help ensure that disabled residents move with local support networks, and familiar neighbours.</li> </ul> <p><b>(2) Having to move home is likely to be particularly difficult for blind or</b></p>
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			<b>H</b>	<p>partially-sighted residents who will, at least initially, be unfamiliar with their new homes and the immediate vicinity around their new homes. Two blind residents raised concerns of this type during the consultation process.</p> <ul style="list-style-type: none"> <li>▪ The Dedicated Re-housing Officer will work with any blind residents to ensure that they are fully supported throughout the move. This will include ensuring the necessary documents are produced in Braille, and that the resident's new home has the necessary adaptations. The Re-housing Officer will also include work with the resident to ensure that they are comfortable in their new home and its immediate vicinity, for instance by accompanying the resident to their new home and taking them to the local facilities and amenities, before the move takes place.</li> </ul> <p><b>(3)</b> Having to move home may well be particularly difficult for residents who suffer from mental illness. Many residents raised the issue of stress and the psychological impacts of moving, but only three consultees referred specifically to mental illnesses. Two of these consultees mentioned this on behalf of family members and one raised this as their own issue.</p> <ul style="list-style-type: none"> <li>▪ Where residents have mental health difficulties the Re-housing Officer will work with the residents' existing support network / carers / GPs to ensure that the necessary support and care is provided. Where appropriate, the Council will brief local health providers and any third sector support services.</li> <li>▪ Where additional support is needed the council will be able to allocate additional support from Adult Services or the Floating Support Services.</li> </ul> <p><b>(4)</b> During the consultation a concern was raised about residents with disabilities having to move from ground floor homes to upper floor homes. New homes will be allocated on the basis of need, and so residents who most need ground floor homes due to their disability will be allocated them. However, it is possible that some disabled residents will move to upper floor homes from ground floor homes if, for instance, their disability</p>
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			<b>M</b>	<p>is not mobility-related, or does not otherwise require a ground floor home. To this extent, there may be a negative impact for some disabled residents.</p> <p><b>(5)</b> The impact on private tenants of not being offered a replacement home in the redevelopment may be greater for disabled private tenants than for other private tenants. Disabled private tenants may find this more stressful, and may lose local support networks if they are unable to find a new home in the local area. Two private tenant consultees mentioned physical disability in relation to family members, and two other consultees raised it as a general concern.</p> <ul style="list-style-type: none"> <li>▪ Private tenants will be offered housing advice by the Re-housing Officers. This will include information on their housing options and where they can receive additional re-housing advice and support. Where residents can demonstrate a clear connection to the local area the council will help them to find alternative accommodation within the area. However, beyond this, officers do not consider that it will be possible to further mitigate the disability-related negative impacts on private tenants.</li> </ul> <p><b>(6)</b> During the consultation the impact of the move and construction on residents with asthma or other respiratory problems was raised. Lung disease was mentioned by two consultees directly, and by one consultee on behalf of her husband, and asthma was mentioned three times directly and once on behalf of a consultee's son. The Environmental Impact Assessment which accompanied the outline planning applications included an air quality assessment. Whilst this did not specifically address impact on asthma sufferers and those with specific respiratory problems, it did assess the impact of construction dust on local people in general, and concluded that it will only represent a 'nuisance' which would be 'controlled through the application of a series of best practice measures', a number of which were proposed. It is thus difficult to be sure about the extent of any negative impact on residents with asthma or other respiratory problems, but officers accept that there may be an adverse impact.</p>
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				<ul style="list-style-type: none"> <li>▪ If construction does in fact have an adverse affect on any particular resident as a result asthma or other respiratory problems, then the Council will ensure that the resident in question is prioritised for an early move as a way of mitigating the effects of this impact.</li> </ul> <p><b>(7)</b> The provision of new homes as part of the redevelopment provides the opportunity for better access (as regards common areas, lifts, level access, and access routes to homes from the wider area), which would positively impact on disabled residents with mobility problems. As discussed above under ‘age’, the new homes will be built to improved accessibility standards. The proposals will also (as discussed above) include provision for 10% of wheelchair accessible housing across the entire development. This should include provision of wheelchair accessible housing for all existing West Kensington and Gibbs Green estate residents who require it. This will be informed by individual needs assessments conducted by the council.</p> <p><b>(8)</b> 4 residents mentioned that they had adaptations in their current property, or that they would need adaptations in their new property. A number of other consultees indicated that they may have or need adaptations but they did not directly state this. Adaptations will be made to the new homes in accordance with the Occupational Therapist’s assessment of the individual resident’s needs. Those disabled residents who currently have homes to which adaptations have been made, and who continue to need those adaptations, will have adaptations made to their new homes. Those disabled residents who are assessed to need adaptations by the Occupational Therapist, but who are not currently living in homes with those adaptations, will have them completed for their new home. So, overall, this aspect of the redevelopment is likely to be either a neutral or a positive impact on disabled residents who need adapted homes.</p> <p><b>(9)</b> As has been noted above under ‘age’, the planning process will require a new health facility to be provided as part of the redevelopment. This is likely to result in a positive impact for disabled residents.</p>
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		<b>/ or +</b>	<b>H</b>	
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			<p style="text-align: center;"><b>+ and -</b></p>	<p style="text-align: center;"><b>M</b></p>	<p><b>(10)</b> During consultation, the issue was raised of proximity to existing social / community / retail facilities, bus routes, and health facilities (including local hospitals). It is not possible to be precise about how far each resident who will be being offered a new home will have to move. However:</p> <p><b>(10a)</b> If the resident's new home is on the main site then the resident may end up being closer to or further away from existing facilities (the maximum additional distance being approximately 250m), depending on precisely where their new home is located. The impact of this may well be greater for disabled residents.</p> <p><b>(10b)</b> Approximately 200 new homes will be re-provided for qualifying residents at the Seagrave Road site. The furthest distance between the furthest edge of the main site and the Seagrave Road site is approximately 800m and the nearest distance is approximately 320m. According to the plans, re-provided houses will be in a block at the rear of the Seagrave Road site. Amongst those re-housed on the Seagrave site, the increased distance from shops and other facilities is likely to be felt more by disabled residents.</p> <ul style="list-style-type: none"> <li>▪ These impacts will be to an extent mitigated by the new health facility (see (9) above). The proposed redevelopment will also give rise to a range of new facilities which can be accessed by residents, such as the proposed Sports and Leisure Hub. This should also help to mitigate the impact for those disabled residents who end up moving further away from existing facilities.</li> </ul> <p><b>(10c)</b> Some disabled residents may be adversely affected by a move to Seagrave Road, as they may be moved further from bus routes.</p> <p><b>(11)</b> Disabled residents are likely to be more affected by the closure of</p>
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			-	<p>pedestrian and vehicular routes during building work than other residents.</p> <ul style="list-style-type: none"> <li>▪ The phasing arrangements will help to mitigate this impact. Before a phase can be agreed for redevelopment the developer must be able to demonstrate and the council must agree how safe, commodious and adequately lit public road and footpath access and egress will be maintained for vehicles, cycles and pedestrians. This will allow access issues for disabled residents to be specifically considered and addressed.</li> </ul> <p><b>(12)</b> Three residents stated that they did not want to lose their car parking space because of their disabilities. The total number of parking spaces within the new development will be determined by planning policies. Although this cannot be precisely predicted at the present time, the overall number is likely to be approximately 456 parking spaces (as compared with is 540 at present). It is therefore likely that there will be a reduction in the number of spaces available for estate residents.</p> <ul style="list-style-type: none"> <li>▪ The council's Housing and Regeneration Team will develop a parking allocation policy to ensure that the parking spaces that are provided to the council are allocated to those residents who have the greatest need for them (in particular, the policy will prioritise blue badge holders, and residents who need a parking space for disability or health reasons). On this basis, officers do not anticipate that the reduction in parking spaces will have a significant negative impact on residents who need a parking space as a result of their disability.</li> </ul> <p><b>(13)</b> One disabled resident specifically mentioned the fact that she needed her garden for her disability. Officers have not been able to discover whether this is in fact the case.</p> <ul style="list-style-type: none"> <li>▪ The Council will allocate properties based on need, and should it be established that a resident has a need for a garden, this will be taken into consideration during allocation.</li> </ul> <p><b>(14)</b> Two residents mentioned the impact on the move on resident with</p>
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				<p>learning disabilities. Residents with learning disabilities may well find it harder to understand the implications of the redevelopment, and organise their move to new homes.</p> <ul style="list-style-type: none"> <li>The dedicated Re-housing Officer will work closely with any resident with learning disabilities to ensure that they are fully supported and fully understand the move process. They will ensure that information is related to the resident in a way that they can understand. The Re-housing Officer will also be able to organise aspects of the move for the resident including arranging household registration, disconnection of utilities and the packing and move arrangements.</li> <li>The Re-housing Officer will also be able to sign up residents with learning difficulties to the council's 'advocate scheme', as noted under 'age' above.</li> <li>Where residents need additional support the Re-housing Officer can refer residents to other council services, such as Adult Services or the Floating Support Services.</li> </ul>
	<p><b>Protected Characteristic</b> <b>Gender reassignment</b></p>	<p><b>+/-</b></p> <p>-</p>	<p><b>L/M/H</b></p> <p>L</p>	<p><b>Assessment</b></p> <p><i>Gender reassignment is the process of transitioning from one gender to another.</i></p> <p>(1) In their response, the TRAs noted the possibility that moving home may generate more anxiety related to acceptance by new neighbours in relation to persons with this protected characteristic. In the event, none of the individual consultees made any reference to this protected characteristic.</p> <ul style="list-style-type: none"> <li>Insofar as this negative impact arose, the council would propose to mitigate it by ensuring that a dedicated Re-housing Officer will be able to allocate additional support and services to any residents with this protected characteristic.</li> </ul>



				<ul style="list-style-type: none"> <li>Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact.</li> </ul>	
<p><b>Protected Characteristic</b> Marriage and Civil Partnership</p>	<p><b>Protected Characteristic</b></p>	<p>+/-</p>	<p>L/M/H</p>	<p><b>Assessment</b></p> <p><i>Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.</i></p> <p>It is not anticipated that Recommendation 1 would have any particular impact on residents with this protected characteristic as compared with other residents. Officers note that none of the consultees disagreed with this assessment.</p>	
<p><b>Protected Characteristic</b> Pregnancy and maternity</p>	<p><b>Protected Characteristic</b></p>	<p>+/-</p>	<p>L/M/H</p>	<p><b>Assessment</b></p> <p><i>Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.</i></p> <p>(1) The impact of residents having to leave their current homes on the estates would be likely to be greater for pregnant women, and women on maternity leave, than for other residents in general. Packing, moving and unpacking is likely to be difficult for pregnant women, and women on maternity leave. During consultation this issue was raised by one pregnant consultee, one consultee who was concerned about their pregnant mother and 3 consultees who raised it in relation to residents in general.</p> <ul style="list-style-type: none"> <li>The dedicated Re-housing Officer will record all pregnancies at the earliest opportunity so that the associated housing issues can be taken into account by the council.</li> <li>The Re-housing Policy will ensure that pregnant women who might otherwise need to move at or shortly after their due date will be</li> </ul>	

				<p>prioritised for an earlier move, with the result that they can settle into their new home before their child is born.</p> <ul style="list-style-type: none"> <li>▪ In addition, the council will provide pregnant women and woman on maternity leave, a full support package, under the management of the Re-housing Officer. The Re-housing Officer will be able to organise and pay for moving arrangements, and will be able to help the resident with the paperwork associated with the move. The Re-housing Officer will also be able to liaise as appropriate with the relevant health professionals, for instance so as to notify them of the resident's new address.</li> <li>▪ Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. This should help ensure that pregnant women, and women on maternity leave, move with local support networks, and familiar neighbours.</li> </ul> <p><b>(2)</b> The provision of new homes as part of the redevelopment provides the opportunity for better access, which would positively impact on pregnant women and women on maternity leave. As discussed above, the new homes will be built to improved accessibility standards.</p> <p><b>(3)</b> Pregnant women, and women on maternity leave, are likely to be more affected by the closure of pedestrian and vehicular routes during building work than other residents.</p> <ul style="list-style-type: none"> <li>▪ The phasing arrangements will help to mitigate this impact. Before a phase can be agreed for redevelopment the developer must be able to demonstrate and the council must agree how safe, commodious and adequately lit public road and footpath access and egress will be maintained for vehicles, cycles and pedestrians. This will allow access issues for pregnant women, and women on maternity leave, to be specifically considered and addressed.</li> </ul> <p><b>(4)</b> During the consultation the TRAs questioned whether pregnant women will be safe in substantially decanted blocks. The council will ensure that</p>
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		-	H	

				<p>partially decanted blocks remain safe for any existing residents. Should a pregnant woman feel unsafe, the Council will ensure that she is prioritised for an earlier move.</p> <p>One consultee referred to a childminding business. Officers have spoken to the consultee to identify their concerns. The consultee was concerned that they would have to move out of the area and away from the schools and local residents who use their business. As the consultee is a secure council tenant and will be offered a new home in the area there should be no impact on the child minding business, or the families with young children who use it.</p>	<p><b>Assessment</b></p> <p><i>Race refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.</i></p> <p>2001 Census data is the most recent data available regarding ethnicity on the Estates. According to the 2001 Census, the predominant ethnicity of residents on the Estates is White British, accounting for 42%. This figure is considerably lower than the Borough (58%) and London (60%) averages, and particularly the national average (87%). Residents from minority (non-white) backgrounds account for 43% of the resident population of the estates. This figure is considerably higher than the Borough average (22%), London average (29%) and national average (9%).</p> <p>Accordingly, and to this extent, <b>(1)</b> the impact of having to leave homes on the estates, and any other disadvantages associated with the redevelopment, will be felt by an above-average number of residents from minority backgrounds, when compared with the ethnic profile of the Borough, London, or nationally.</p> <ul style="list-style-type: none"> <li>Officers do not consider that this impact, which is itself a statistical consequences of the ethnic profile of the estates, can be mitigated in</li> </ul>
<b>Protected Characteristic</b>	<b>+/-</b>	<b>L/M/H</b>	<b>Assessment</b>		
Race	-	H			

		-	<b>H</b>	<p>any practical way.</p> <p><b>(2)</b> The impact of having to leave homes on the estates and move elsewhere may be greater for certain residents from minority backgrounds, for instance because of language difficulties, or because of a lack of familiarity with the functions of local government and/or local authority decision making more generally. Language problems were raised as an issue by 3 consultees directly. One consultee identified language problems as an issue for their mother.</p> <ul style="list-style-type: none"> <li>▪ The Re-housing Officer will be able to allocate additional support and services to assist residents from different racial groups who may have language difficulties in order that they know what is happening and can interact with the council.</li> <li>▪ The Re-housing Officer will also be able to sign up residents to the council's 'advocate scheme' (described above) if for instance a resident has a son or daughter who is more fluent in English than they are.</li> <li>▪ The council will ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a resident is having adjustment problems the Housing Advisor will work to allocate additional support for them, including from Adult Services or the Floating Support Services.</li> <li>▪ As noted above, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact.</li> </ul> <p><b>(3)</b> Increased employment opportunities (as predicted by the Economic Appraisal) and the council's targeted training and employment plan (as described under 'age' above) is likely to be of particular relevance to those racial groups that in general have lower rates of economic activity than others, including Black Caribbean (62.5%), Pakistani (62.5%), White and Black Caribbean (60.7%) and the Other Asian (54.8%) groups (the</p>
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			+	H	<p>borough average is 65%). The low economic activity rate among Irish residents (60.2%) partly reflects the older age structure of the population and the higher proportion who are over pensionable age (2001 Census Report 2: Ethnic Groups in Hammersmith and Fulham, p. 38).</p>
	<p><b>Protected Characteristic</b> <b>Religion/belief (including non-belief)</b></p>	+/-	L/M/H	<b>Assessment</b>	<p><i>Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</i></p> <p>2001 Census data is the most recent data available regarding ethnicity on the Estates. According to the 2001 Census, the predominant religion of residents on the Estates is Christianity (60%), which is consistent with the Borough average (64%). The proportion of Muslim residents on the estates (13%) exceeds the Borough average (7%), London average (8%) and national average (2%), while other religions appear in very small proportions. Persons stating they have no religion account for 16% of residents on the estates, which is similar to the borough average (18%), London average (16%) and national average (15%).</p> <p>Accordingly, and to this extent, <b>(1)</b> the impact of having to leave homes on the estates, and any other disadvantages associated with the redevelopment, will be felt by an above-average number of Muslim residents, when compared with the religious make-up of the Borough, London, or nationally.</p> <ul style="list-style-type: none"> <li>▪ Officers do not consider that this impact, which is itself a statistical consequence of the religious profile of the Estates, can be mitigated in any practical way.</li> </ul> <p><b>(2)</b> One consultee raised the importance of being able to practise their culture and religion in the local area. There is a risk that the new homes</p>
		- and +	H	M	

					<p>for religious residents will be further from their current place of worship than their current homes on the estates. Equally, it is possible that re-housing religious residents would bring them closer to their place of worship. If the resident's new home is on the main site then the potential maximum additional distance from their current home would be approximately 250m. If the resident's new home was on Seagrave Road, the maximum distance a resident would have to move would be 800m.</p>
<b>Protected Characteristic</b>		<b>+/-</b>	<b>L/M/H</b>	<b>Assessment</b>	
<b>Sex</b>			<b>M</b>	<p><i>Sex means a man or a woman</i></p> <p>The 2001 Census indicates that 90% of lone parent households are headed by women. The 2001 Census further indicates that 14% of households on the West Kensington estate are lone parent households and 9% of households on the Gibbs Green estate are lone parent households (there is no more recent data). Further, lone parent households are likely to find moving home particularly challenging.</p> <p>Accordingly, and to this extent, <b>(1)</b> the impact of having to leave homes on the estates would be likely to be greater for female residents than male residents.</p> <ul style="list-style-type: none"> <li>Officers do not consider that this impact, which is itself a statistical consequence of the household composition profile of the Estates (as combined with the gender data on lone parent households), can be mitigated in any practical way.</li> </ul>	
<b>Protected Characteristic</b>		<b>+/-</b>	<b>L/M/H</b>	<b>Assessment</b>	
<b>Sexual Orientation</b>		<b>-</b>	<b>L</b>	<p><i>Sexual orientation means whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes</i></p> <p><b>(1)</b> In their response, the TRAs noted the possibility that moving home may generate anxiety for lesbian, gay and bisexual residents as regards acceptance by new neighbours. In the event, none of the individual consultees made any reference to this protected characteristic.</p>	



			<ul style="list-style-type: none"> <li>Insofar as this negative impact arose, the council would propose to mitigate it by ensuring that a dedicated Re-housing Officer will be able to allocate additional support and services to any residents with this protected characteristic.</li> <li>Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact.</li> </ul>
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**RECOMMENDATION 2**

- That the Council approve the early purchase by EC Properties of land formerly occupied by Gibbs Green School.

Protected characteristic	+/-	L/M/H	Assessment
<b>Age</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic (as read with the exceptions in Schedule 18 to the Equality Act 2010) as compared with other residents.
<b>Disability</b>	-	<b>M</b>	The temporarily secondary autistic school located at Queens Mill School will need to be moved. This will inevitably cause disruption, which will be a negative impact for disabled children.  The early purchase of the land will ensure that a secondary autistic school can be provided at a permanent and purpose-built facility in White City. This will be highly relevant to disabled children, and will in the long-term be positive for them.
<b>Gender reassignment</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
<b>Marriage and civil partnership</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.



		<b>Pregnancy and maternity</b>	/	<b>None</b>	other residents. It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
		<b>Race</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
		<b>Religion/belief (including non belief)</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
		<b>Sex</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
		<b>Sexual Orientation</b>	/	<b>None</b>	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
		<p><b>RECOMMENDATION 3</b></p> <ul style="list-style-type: none"> <li>That the Council approve the sale to EC Properties of land at 11 Farm Lane to support the redevelopment.</li> </ul> <p>In February 2011, The Council's Cabinet took the decision to close the supported Hostel located at Farm Lane. The under-occupied hostel was deemed surplus to requirements and has been closed. A full EIA was completed for the decision to close this hostel. The Cabinet gave authority for the site to be disposed of in accordance with section 123 Local Government Act 1972.</p> <p>If the site is sold to EC Properties, it is anticipated that EC Properties / Capital and Counties will build residential homes on it. It is not anticipated at this stage that Recommendation 3 would in itself have any particular impact on residents with any of the protected characteristics, as compared with other residents.</p>			

<p><b>Section 03</b></p>	<p><b>Analysis of relevant data</b></p>
<p><b>Documents and data reviewed</b></p>	<p>The following documents and data have been used to help inform this EIA:</p> <p><b>The council's Community Strategy</b></p> <p>The Community Strategy was produced in 2007 and sets the framework of objectives used for both the Core Strategy and the Single Equality scheme. The Strategy was developed with our local partners from across the public, private, voluntary and community sectors and was subject to public consultation. As partners in delivering local services the aim of the Council through the community strategy is to combine opportunity, with social responsibility and social justice to assist the vast majority of people in the borough to help themselves while supporting the most vulnerable in the community. The Community Strategy is therefore considered to be consistent with the equality duties from that time.</p> <p><b>The council's Single Equality Scheme</b></p> <p>The Single Equality Scheme contains our statutory and non-statutory equality schemes and simplifies how we meet our requirements for all, including groups protected by discrimination law. Officers gave careful consideration to the statutory codes in relation to race, gender, and disability at the time in preparing the scheme, as well as to the duties that were expected to arise from the Equality Act 2010, which received Royal Assent in April 2010, and most of the provisions of which came into force on 1 October 2010 (see below). The Single Equality Scheme was also devised with the new equality duty from April 2011 in mind.</p> <p>The Single Equality Scheme objectives are based on the same Community Strategy objectives as the Spatial vision of the Core Strategy in terms of creating a borough of opportunity for all, including promoting home ownership and regenerating the most deprived parts of the borough. A comprehensive Regeneration should work to those same objectives.</p> <p>The scheme aims to obtain the key outcomes for all groups as follows:</p> <ul style="list-style-type: none"> <li>• Greater home ownership and housing of adequate standard</li> <li>• High levels of participation in education and improved educational achievement</li> <li>• Better health and reduced inequalities in health</li> <li>• More people of working age working, greater access to sustainable employment opportunities and reduced unemployment</li> <li>• Regeneration of deprived areas and better physical environment to live, work and visit</li> <li>• Diverse cultural and ethnic identities are valued and celebrated</li> <li>• Greater community involvement, volunteering and cohesion, reduced social isolation</li> </ul>

- Positive parenting and reduced incidence of abuse and neglect
- Reduced criminal victimisation and violence
- Higher overall living standards and reduced poverty

### **Equalities Duties**

#### **Protected characteristics and the Public Sector Equality Duty**

The public sector equality duty (PSED) states that in the exercise of our functions, the council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited under the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The Equality Act 2010 states that meeting the needs of disabled people that are different from the needs of people who are not disabled includes taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the PSED may involve treating some people more favourably than others.

### **General Demographic Information**

#### **Property Information**

The West Kensington and Gibbs Green estates occupy an area of 22 acres and are primarily owned by the council. There are currently 531 council-owned social rented properties, 132 leasehold properties and 39 freehold properties. There is also a number of small Housing Association developments throughout the two estates.

The table below shows the ownership and property types of all of the housing across the West Kensington and Gibbs Green estates.

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/Freehold	21	0	85	0	24	29	2	10	171
RSL	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

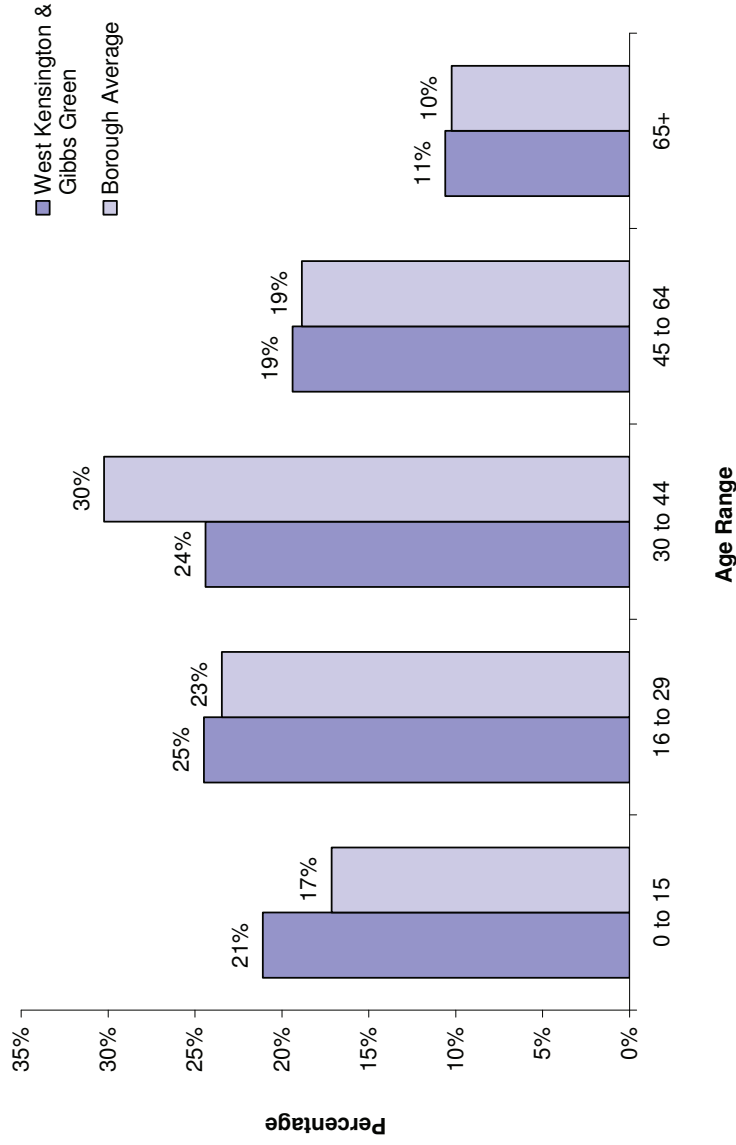
### Updated Age Profile

The age profile of West Kensington and Gibbs Green estates differs significantly from the Borough average, primarily on the basis of a lower concentration of adults aged between 30 and 44 years (24% of estate compared to 30% throughout the Borough) and higher concentration of children aged less than 16 years, accounting for 21% of residents of the estates compared to 17% throughout the Borough. 11% of adults are in their retirement age (the Borough average being 10%). (ONS SLOA Mid-Year Estimate 2010.)

The adult to child ratio on the estates is 3:1, which is consistent with the London and England averages (both 3:1) but differs from the Borough average (4:1). It is noted that the adult to child ratio in the Borough is artificially high, in terms of the number of adults, due to the prevalence of young, single professionals.

Within the 471 council-owned properties on West Kensington estate that are currently occupied (4 properties are void as at April 2012), 114 main tenants are aged in excess of 65 years, representing 24%. Of these, 57 tenants are aged between 65 and 74 years, 42 are between 75 and 84 years, and 15 are aged in excess of 85 years. On Gibbs Green estate, there are 9 main tenants aged in excess of 65 years, of which 7 are aged between 65 and 74 years, 2 are between 75 and 84 years.

### Age Profile



### Disability

It is estimated that there are more than 10 million disabled people in the UK (Source: LBHF Access for All 2006) and more than 800,000 disabled people in London (Source: London Plan SPD: Planning for Equality 2007). This presents a significant challenge to ensure that any new development makes provision for people with disabilities.

The proportion of working age residents of West Kensington and Gibbs Green estates who are permanently sick or disabled (6%) is similar to the Borough (5%) and London (5%) averages. On the estates, 17% of residents are reported as having a Limiting Long-Term Illness (LLTI), which is slightly higher than figures recorded throughout the Borough and across London (both 15%). These data are taken from the 2001 Census. There is no more up-to-date data.



### **Gender Reassignment**

Official statistics, such as census data, are not collected on gender reassignment.

### **Marriage and Civil partnership**

Half of the residents on the West Kensington and Gibbs Green estates are single and have never been married, which is slightly lower than the LBHF average (55%). A considerable proportion of residents are married (28%), although this figure is slightly lower than the Borough average (29%). The estates comprise a higher proportion of divorced /separated residents (14%) than the Borough (11%).

### **Pregnancy and Maternity**

The teenage pregnancy rate within North End ward is very slightly higher than in the Borough, with 52 conceptions per 1,000 teenagers compared to 50 conceptions per 1,000 teenagers throughout the Borough. (LBHF Children Services Department, 2009/10)

### **Race**

The predominant ethnicity of residents on West Kensington and Gibbs Green estates is White British, accounting for 42%, although this figure is considerably lower than the Borough (58%) and London (60%) averages, and particularly the national average (87%).

Residents from minority (non-white) backgrounds account for 43% of the resident population of the estates. This figure is considerably higher than the Borough (22%), London (29%) and national (9%) averages. Between 2001 and 2009, the proportion of residents from Black and Minority Ethnic (BME) backgrounds has remained relatively unchanged on the estates. (Source: LBHF iWorld.)

The proportion on residents of West Kensington and Gibbs Green estates who are from Black / Black British backgrounds (27%) greatly exceeds the Borough (11%), London (11%) and national (2%) averages. The predominant ethnic minority groups identified on the estates are Black African (13% of residents), particularly Somalian and Eritrean communities, and Black Caribbean (10%). These figures are considerably higher than those recorded across the Borough (both 5%), London (both 5%) and England (both 1%). Only a small proportion of residents on the estates are from Chinese backgrounds (3%).

The Census 2001 provides the most recent complete dataset on the ethnicity of the estates.

Information about the ethnicity of current Council tenants on the estates is incomplete, but nevertheless indicates that the Census 2001 figures for the estates remain broadly accurate. The information suggests that 44% of tenants on the Gibbs Green estate are from White Backgrounds, compared to 39% on the West Kensington

estate. 29% of tenants on the West Kensington estate are of Black / Black British backgrounds; this compares to 24% of tenants on the Gibbs Green estate.

### **Religion/belief (including non – belief)**

The predominant religion of residents of the West Kensington and Gibbs Green estates is Christianity (60%), which is consistent with the Borough average (64%). The proportion of Muslim residents on the estates (13%) exceeds the Borough (7%), London (8%) and national (2%) averages, while other religions appear in very small proportions. Persons stating they have no religion account for 16% of residents on the estates, which is similar to the Borough (18%), London (16%) and national (15%) averages.

There are no available datasets which update the religious make-up of the estates. Census 2001 data is the only available data.

### **Sex**

There are more women in the Borough than men, which is also the case in London and England. The Single Equalities Scheme (SES) indicates that there are more female headed households in the borough which represents a key equality gap for the council. 90% of lone parent households are headed by women (2001 Census).

### **Economic Activity**

Statistics for England and Wales show that women are less economically active than men. 65.4% of women and 80.5% of men are economically active in the borough. This is lower than the London wide figures of 66.8% for women and 83.0% for men (Source – Nomis APS, 12 months to June 2011).

The Borough has a marginally higher proportion of full time employed male residents of working age (87.9%) than the London average (87.0%), but the proportion is lower than the national average (88.4). The borough has a higher proportion of full time employed females (75.6%) than the London (67.0%) and national (57.6%) averages.

The proportion of working age population on out-of-work benefits in the area (for the lower layer super output areas that the two estates fall within) stands at 23.0% (as compared to borough and London figures of 13.3% and 12.7%, respectively). (Source: DWP, Aug 2011).

The Job Seekers Allowance (JSA) claimant rate is 7.8%, which is nearly double the borough average (4.3%) and London average (4.4%). Long-term unemployment is a key issue and accounts for 42.5% of all unemployed residents (the borough average is 45.6%). Youth unemployment has increased over the past year and the youth demographic now represents 27.0% of all JSA claimants (for the borough the figure is 20.7%). (Source: DWP,



	<p>Feb 2012).</p> <p><b>Sexual Orientation</b>  Official statistics, such as census data, are not collected on sexual orientation within the borough. However, the ONS's most recent research indicates that 1.5% of the adult population identify as lesbian, gay, or bisexual (LGB). This figure differs significantly from the figure from the Department of Trade and Industry which published a figure of approximately 6% LGBT (and transgender). The proportion in London is thought to be higher, perhaps up to 10%.</p> <p>Please note: The information on the West Kensington and Gibbs Green estates within this sections has been collated from various sources available to the council, including LBHF iWorld, DWP records, Source – Nomis APS, 2001 Census information, ONS SLOA Mid-Year Estimate 2010 and the West Kensington and Gibbs Green Estates Profile November 2009.</p>
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<b>Section 04</b>	<b>Agreement, publication and monitoring</b>
<b>Chief Officer sign-off</b>	<p>Name: Melbourne Barrett  Position: Executive Director Of Housing and Regeneration  Email: Melbourne.barrett@lbhf.gov.uk  Telephone No: 0208753 4228</p>
<b>Key Decision Report</b>	<p>Date of report to Cabinet/Cabinet Member: 3<sup>rd</sup> September 2012  Confirmation that key equalities issues found here have been included: Yes</p>
<b>Opportunities Manager for advice and guidance only</b>	<p>Name: Carly Fry  Position: Opportunities Manager  Date advice / guidance given: 12<sup>th</sup> July 2012  Email: PEIA@lbhf.gov.uk  Telephone No: 020 8753 3430</p>

Appendix 13 – Cost Range

Cost: Costs marked * are likely to be split between the HRA and the General Fund in the ratio 84.6% HRA: 15.4% General Fund. This is based on the area of land held within the general fund, that is the 39 freeholder properties, 70 Lillie Road, Gibbs Green School and Farm Lane	Illustrative costs at current values if all Leaseholders / Freeholders are bought back £	Illustrative costs at current values if only non resident leaseholders / Freeholders are bought back £	Potentially funded on an interim basis by CapCo if the Council took up their offer (section 12.10)	Indicative Capital <sup>1</sup> / Revenue split <sup>2</sup>	Period incurred over (estimated)
Buying back leaseholder and freeholder properties including homeloss and disturbance <sup>3</sup>	58,639,257	17,940,357	X	Capital	2012 through to date of last land transfer to CapCo, likely to be front loaded
Homeloss for tenants (includes 58 RSL tenants)	2,768,300	2,768,300		Capital	Trigger Date through to date of last land transfer
Disturbance for tenants	1,313,446	1,313,446		Capital	Trigger Date through to date of last land transfer
Interest Costs	19,977,156	3,507,410		Revenue	2012 to when net cash flow becomes positive
SDLT on leasehold properties (buybacks and new properties)	19,160,296	18,115,127		Capital	2012 through to date of last land transfer to CapCo, likely to be front loaded
Adaptations <sup>4</sup>	160,190	217,520		Capital	Trigger Date through to date of last land transfer
Tenants Improvements	265,500	324,000		Capital	Trigger Date through to date of last land transfer
Loss of Garden	510,000	510,000		Capital	Trigger Date through to date of last land transfer
Loss of Parking and garages <sup>5</sup>	370,000	545,000		Capital	Trigger Date through to date of last land transfer

<sup>1</sup> Capital includes items that can be offset as a cost of disposal, capital revenue split is subject to final review.

<sup>2</sup> The precise split will depend on the detailed nature of the expenditure and the detailed regulations in place at the time it is incurred

<sup>3</sup> Cash payments only, for leaseholders who opt to remain their homeloss payment is made via additional equity in their replacement property

<sup>4</sup> Net of £100k contribution from CapCo

<sup>5</sup> Net of £140k contribution from CapCo

Appendix 13 – Cost Range

Cost: Costs marked * are likely to be split between the HRA and the General Fund in the ratio 84.6% HRA: 15.4% General Fund. This is based on the area of land held within the general fund, that is the 39 freeholder properties, 70 Lillie Road, Gibbs Green School and Farm Lane	Illustrative costs at current values if all Leaseholders / Freeholders are bought back £	Illustrative costs at current values if only non resident leaseholders / Freeholders are bought back £	Potentially funded on an interim basis by CapCo if the Council took up their offer (section 12.10)	Indicative Capital <sup>1</sup> / Revenue split <sup>2</sup>	Period incurred over (estimated)
Security	3,510,000	3,510,000		Revenue	last land transfer
Early Redemption Costs	171,000	54,000	X	Capital	2012 through to date of last land transfer to CapCo.
Project Team Costs to 2030 as per section 9 of report (assumes half of the team for the last 4 years) *	10,042,368	10,042,368		Capital	2012 through to date of last land transfer to CapCo, likely to be front loaded
Estimated costs of cap on service charges for leaseholders	N/A, all bought out	368,900		Revenue	2012 through to date of last land transfer to CapCo, will be subject to a biannual review,
Estimated costs to signing the CLSA (excludes officer time) *	1,801,710	1,801,710		Capital: currently deferred cost of disposal (subject to auditor confirmation)	5 years from land transfer for Leaseholders, 2009-2012
Costs of project administration and offices for duration of project	2,698,290	2,698,290		Capital or Revenue depending on the nature of the work	2012 through to date of last land transfer to CapCo, will be subject to a biannual review,

Appendix 13 – Cost Range

Cost: Costs marked * are likely to be split between the HRA and the General Fund in the ratio 84.6% HRA: 15.4% General Fund. This is based on the area of land held within the general fund, that is the 39 freeholder properties, 70 Lillie Road, Gibbs Green School and Farm Lane	Illustrative costs at current values if all Leaseholders / Freeholders are bought back £	Illustrative costs at current values if only non resident leaseholders / Freeholders are bought back £	Potentially funded on an interim basis by CapCo if the Council took up their offer (section 12.10)	Indicative Capital <sup>1</sup> / Revenue split <sup>2</sup>	Period incurred over (estimated)
Ongoing Legal work on managing CLSA	2,123,222	2,123,222		Capital or Revenue depending on the nature of the work	2012-2030
Legal challenges	4,000,000	4,000,000		Capital or revenue depending on nature of challenge	2012-2015
CPO Inquiries	500,000	500,000		Capital	2012-2015
CPO Referencer	150,000	150,000		Capital	2012-2015
CPO Lawyer	100,000	100,000		Capital	2012-2015
Third Party Rights	2,000,000	2,000,000		Capital	2012-2015
Consents Legal advice	50,000	50,000		Capital	2012-2015
Stopping Up Inquiries	200,000	200,000		Capital	2012-2015
Damages	10,000,000	10,000,000		Revenue	2015-2030
Certifying assets in Guarantor	250,000	250,000		Capital	2012 through to date of last land transfer to CapCo.
Decent Homes Compensation (all leaseholder buybacks)	238,896	238,896		Capital or revenue depending on nature of challenge	2012-2030

Appendix 13 – Cost Range

Cost: Costs marked * are likely to be split between the HRA and the General Fund in the ratio 84.6% HRA: 15.4% General Fund. This is based on the area of land held within the general fund, that is the 39 freeholder properties, 70 Lillie Road, Gibbs Green School and Farm Lane	Illustrative costs at current values if all Leaseholders / Freeholders are bought back £	Illustrative costs at current values if only non resident leaseholders / Freeholders are bought back £	Potentially funded on an interim basis by CapCo if the Council took up their offer (section 12.10)	Indicative Capital <sup>1</sup> / Revenue split <sup>2</sup>	Period incurred over (estimated)
School Re-provision	12,000,000	12,000,000		Capital	2012-2014
Contingency	9,183,176	9,025,958		Capital or Revenue depending on the nature of the work	2012-2035
<b>Total</b>	162,182,807	104,354,504			

Note the income to fund these costs comes from both the £105m received and from the sale of properties that replace the buy backs. If all leaseholders were bought back the Council would have 171 new higher value properties available to sell, if only the non residents were bought back the Council would have 54 new higher value properties available to sell. None of these sales would reduce the number of social for rent properties on the estates. The sensitivity of cash flows to house price inflation is shown in paragraph 12.11 of the main report.

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# *London Borough of Hammersmith & Fulham*

Earls Court

Redevelopment –

Tax implications

August 2012

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# *Executive summary*

The Council's direct exposure to SDLT is potentially limited provided:

- s106 obligations are put in place in respect of the Replacement Homes and car parking CapCo provide to the Council and the land transactions take place in the 5 years following the creation of the planning obligation (*If this process is not managed correctly a very large liability could arise.*);
- land acquisitions from the public are carried out in a manner which fulfils the criteria for CPO relief; and
- the Council is not required to repurchase Gibbs Green School or Farm Lane following a termination of the CLSA.

However the Council will have indirect SDLT liabilities (which we currently have insufficient information to quantify) in respect of:

- land acquired directly by CapCo from the tenants and freeholders, and
- land re-acquired by tenants/freeholders.

We understand there is a “blight” agreement that we have not seen. SDLT costs may result from any land acquisitions under these provisions, or any other acquisitions made outside of the CLSA as a result of this project. We would recommend that any such acquisitions are reviewed from a SDLT perspective, especially where the value of the land acquired is significant.

The Council will need to carefully monitor the VAT incurred in relation to the project.

VAT attributable to exempt supplies will need to be included in the partial exemption calculation. Preliminary calculations suggest that this VAT can be managed within the Council's partial exemption de minimis limit so that no VAT will need to be repaid to HMRC. However, costs will need to be monitored carefully.

The Council will not incur any corporation tax as local authorities in the UK are not liable to corporation tax or income tax.

# *Background and scope*

Capital and Counties Limited (“CapCo”), the leasehold owners of the Earl’s Court 1 and 2 exhibition centres and Transport for London (“TfL”), freehold owners of Lillie Bridge Depot want to develop their land. The London Borough of Hammersmith & Fulham (“the Council”), together with 39 freeholders who have exercised their right to buy (“Freeholders”), own the freehold to two housing estates, at West Kensington and Gibbs Green that sit adjacent to this potential development site. The Council and homeowner land represents approximately one third of the total sixty six acre site at Earl’s Court.

CapCo have put forward an offer for the Council’s share of the land which comprises of:

- cash consideration of £105m,
- overage, and
- replacement social homes.

This report;

- outlines the direct tax, VAT and Stamp Duty Land Tax (“SDLT”) implications and liabilities for the Council of the proposed Conditional Land Sale Agreement (“CLSA”); and
- includes the SDLT implications on the transfer of new properties to leaseholders / freeholders and also on stair casing payments associated with the shared equity homes.

We have reviewed the following documentation:

- The draft CLSA, entitled version 5 and dated 27 January 2012, followed by
- the draft CLSA, entitled version 31 July 2012.

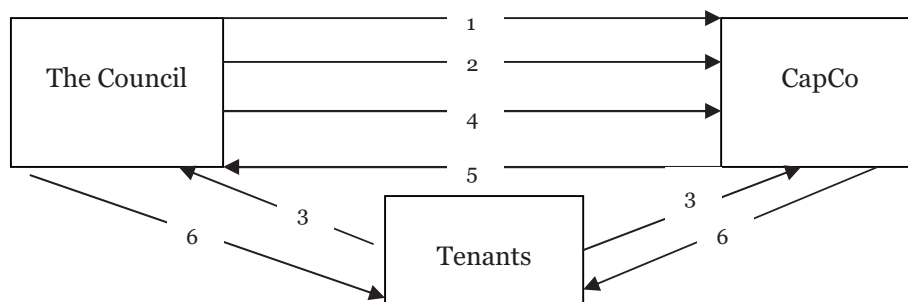
Certain terms of reference that have been defined in the CLSA have been used in our advice.

# Summary of the arrangements

We have summarised our understanding of the key elements of the arrangements below, based on the CLSA and the information provided at meetings held with the Council and its representatives.

If our understanding of the arrangements is incorrect, or if any key aspects of the transaction are missing, please let us know as this may affect our analysis.

The CLSA is a conditional contract for the sale of land dealing with a number of movements of land between CapCo and the Council.



The simple diagram above shows the movements of land:

1. Sale of Gibbs Green School
2. Sale of Farm Lane
3. Securing vacant possession of Council land
4. Sale of Council's land
5. Replacement Homes transferred to the Council
6. Replacement Homes transferred to tenants

## 1. Sale of Gibbs Green School

The Council currently own the freehold of Gibbs Green School which will be transferred to CapCo. The consideration paid will be:

- cash of £9.3m,
- overage (if the CLSA is terminated).

Gibbs Green School is currently being used by the Council to temporarily house its secondary autistic provision. The Council intends to relocate the school to a new facility in White City, following its construction. The cash consideration will become payable by CapCo when the CLSA is entered into. Completion of the transfer is scheduled for 31 August 2014 or such earlier time stipulated by the Council i.e. if the Council is able to vacate the property earlier.

In the event that the CLSA is terminated, the Council will acquire an option to repurchase Gibbs Green School under the Repurchase and Overage Provisions.

## *2. Sale of Farm Lane*

The Council also owns the freehold of 11 Farm Lane, which is to be sold to CapCo. The consideration paid will be:

- £5.7m on completion of the sale, AND
- Overage (if the CLSA is terminated).

The property will be used to assist in the provision of Replacement Homes.

In the event that the CLSA is terminated, the Council will acquire an option to repurchase Farm Lane under the Repurchase and Overage Provisions.

## *3. Securing vacant possession on Council land*

The Council will be responsible for securing vacant possession of its land prior to the transfer to CapCo. This will involve the acquisition of a number of interests from residents and occupying RSLs. The consideration paid will be either in;

- cash, or
- the provision of alternative accommodation.

We understand:

- Following the signing of the CLSA, CapCo will make £7.5m available under a loan facility to fund the Council's acquisitions, and any other costs related with the securing of vacant possession. Following the Council obtaining secure SOS Consent, this loan facility will increase to £15m. The Council does not currently plan to use this loan facility. If the loan facility is used, any payments will in effect be an advance on the cash consideration payable for transaction 4.
- The Council may require CapCo to acquire some of the units directly. Qualifying capital and revenue costs incurred by CapCo in relation to these acquisitions will be refunded, net of any rents CapCo may receive. These costs (including SDLT payable by CapCo) will be accrued and netted off the Advance Payments.

Please note, we are yet to see details of any arrangements that the Council or CapCo has entered into with the RSLs outside of the CLSA. It is understood that the RSLs own long leases in 58 properties within the two Council estates. Negotiations will be taking place with these RSLs in terms of purchasing back their interests and this may include providing sites elsewhere. These arrangements are beyond the scope of this report but will need to be considered from a tax perspective.

## *4. Sale of Council's Land*

The sale of the Council's land to CapCo will take place in Phases. The total cash consideration payable by CapCo will be a combination of:

- £105,000,000 in cash (this includes the consideration paid for Gibbs Green School and Farm Lane);
- overage (its currently anticipated no overage will arise); and
- CapCo will also provide the Replacement Homes to the Council (see below).

The CLSA will become unconditional upon satisfaction of the Conditions Precedent i.e. the SOS Consent Condition (the satisfaction of certain consents under Local Government and Housing legislation) and the Trigger Condition (the service of the Trigger Notice by CapCo following satisfaction of the SOS Consent Condition).

#### **Transfer of each Phase**

The obligation on the Council to transfer each Phase of land is currently conditional on the satisfaction of the Vacant Possession Condition for that Phase and the grant, by CapCo, of the necessary Replacement Home Lease(s) or Replacement Accommodation Lease(s).

#### **Advance Payments**

Following the satisfaction of the Trigger Condition the balance of the consideration will be paid in five equal annual instalments beginning on:

- 31 December 2015, if the Trigger Condition is satisfied before that date, or
- the date the Trigger Condition is satisfied, if later.

### ***5. Replacement Homes transferred to the Council***

It is anticipated that the majority of tenants and occupiers will want to relocate within the immediate locality. CapCo is required to make a number of Replacement Homes available to the Council to facilitate agreement of terms with occupiers and to secure vacant possession.

The Replacement Homes will be made available to the Council, as required, throughout the course of the development, so that they can re-house tenants and Freeholders/leaseholders.

A total of 765 Replacement Homes will be provided by CapCo to the Council under 995 year leases. 171 of the replacement homes are required to house existing resident Freeholders/leaseholders, who have acquired their homes under the Right to Buy. The remaining 594 homes are for existing tenants.

### ***6. Replacement Homes transferred to tenants***

Freeholders/leaseholders from whom the Council acquire houses from will be able to take up their new homes at no extra cost. Where Freeholders/leaseholders are to acquire a more valuable house than they gave up we understand equity may be retained by the Council to create a shared ownership structure.

# *Tax Implications*

Local authorities are not liable to corporation tax or income tax. However, the project will have a number of VAT and SDLT issues, which will need to be managed throughout the course of the development.

## *SDLT*

### *Overview*

#### *i) The Councils liabilities*

The Council is likely to have a SDLT liability in respect of:

- The acquisition of freehold interests from the public, and of leasehold interests where a new lease is not granted, where CPO relief is not available.
- Reimbursement of tenants/freeholders for SDLT on Replacement Homes transferred to tenants and owners. While this charge is prima facie a cost to the tenants we understand the Council are underwriting it. Further information is required for us to quantify this charge.
- The reimbursement of CapCo for SDLT it suffers when acquiring land directly from tenants or freeholders.

Care needs to be taken that:

- S106 obligations are put in place in respect of the Replacement Homes and car parking CapCo return to the Council and the land transactions take place in 5 years following the creation of the planning obligation. (If this process is not managed correctly a very large liability could arise);
- land acquisitions from the public are carried out in a manner which fulfils the criteria for CPO relief; and
- the Council is not required to repurchase Gibbs Green School or Farm Lane following a termination of the CLSA.

As a separate point, we understand there is a “blight” agreement that we have not seen. SDLT costs may result from any land acquisitions under these provisions, or any other acquisitions made outside of the CLSA as a result of this project. We would recommend that any such acquisitions are reviewed from a SDLT perspective, especially where the value of the land acquired is significant.

#### *ii) CapCo’s liabilities*

CapCo will pay SDLT on land it acquires from the Council. We have not been asked to provide detailed advice in this area.

We understand that CapCo will be able to recover SDLT it suffers on land acquired directly from tenants or Freeholders from the Council.

When the CLSA is entered into, the £15m paid by CapCo under the Exclusivity Agreement will be held under the terms of the CLSA. £10m will remain refundable. It will initially become payment for the option under the CLSA. SDLT become due by CapCo on the full £15m when the Exclusivity Agreement was entered into. If the £10m is eventually refunded under the CLSA, a refund of the associated SDLT paid will become due.

We have set out below the SDLT implications for the Council of each step in the CLSA.

## 1. Securing vacant possession of Council land

The land will be secured by either the Council or CapCo:

### i) The Council acquires the subordinate land interests

Unless property is acquired as part of a Compulsory Purchase Order “CPO” (see Appendix 1.4 for details) SDLT will be payable by the Council. Depending on the chargeable consideration, and the type of property acquired, SDLT could be payable at a rate between 1% and 4% (on the basis no single property is valued in excess of £1m, see Appendix 1.1 for further details).

The chargeable consideration could be different depending upon the nature of the interest the Council acquires and the consideration it provides:

- If a freehold is acquired it is likely to be an exchange with chargeable consideration being the higher of market value or consideration paid.
- If leasehold is surrendered in return for the grant of a new lease to the same tenant, the surrender and grant will not be seen as consideration for each other.
- If the only consideration provided for a leasehold or a freehold is cash, this would form the consideration potentially chargeable to SDLT.

SDLT will need to be considered carefully when each land interest is acquired.

CPO Relief (see Appendix 1.8) should be used to mitigate any charge.

### ii) Acquisitions by CapCo

SDLT will be payable by CapCo in respect of each interest it acquires directly. Depending on the cash consideration paid, and the type of property acquired, SDLT will be payable at a rate between 1% and 4% (on the basis no single property is valued in excess of £1m, see Appendix 1.1 for further details on rates).

It is worth noting here that SDLT incurred by CapCo on these acquisitions is included in the Allowable Capital Expenditure, which is deducted from the total consideration paid to the Council.

We understand that the facility for CapCo to utilise sub-buyers is intended to allow them to substitute the purchasing entity. Please note, any additional transfers of land (e.g. from a sub-buyer to CapCo or vice versa) could create additional SDLT charges. However, we understand that any subsequent SDLT charges will not be met by the Council.

## 2. Sale of Gibbs Green School

The acquisition of the freehold of Gibbs Green School by CapCo may be captured by the exchange provisions. If so, CapCo’s SDLT liability will be based on the market value of the freehold transferred or, if higher, the consideration actually given (i.e. a £9.3m payment by CapCo and any overage paid will also be subject to SDLT).

If the Council chooses to repurchase Gibbs Green School following the termination of the CLSA, the acquisition will be subject to SDLT.

It appears that the Council acquire an option to repurchase the property following the termination of the CLSA. If that option were to have a value, its acquisition may trigger an SDLT charge. However, we understand that the option will have little, if any, value.

## 3. Sale of Farm Lane

The acquisition of the freehold of Farm Lane by CapCo may also be captured by the exchange provisions. Again, if so, SDLT suffered by CapCo will be payable on the market value or, if higher, the consideration actually given (i.e. the £5.7m payment and any overage payment).



If the Council chooses to repurchase Farm Lane following the termination of the CLSA, the acquisition will be subject to SDLT.

It appears that the Council acquire an option to repurchase the property following the termination of the CLSA. If that option were to have a value, its acquisition may trigger an SDLT charge. However, we understand that the option will have little, if any, value.

#### 4. Sale of Council's Land

SDLT will be payable by CapCo on this transaction. As with the other acquisitions, this may be captured by the exchange provisions. If so, the SDLT payable by CapCo will be calculated on the higher of:

- the market value of the interests acquired from the Council, which has been estimated to be between £182m and £246m (*there is subjectivity over if the land valuation and the amount it is depressed by the s106 requirements*) or;
- if higher, the consideration (directly or indirectly) given (*likewise there is subjectivity over the value of the total consideration paid by CapCo i.e. should this include the Replacement Homes?*).

A significant SDLT saving could be achieved if an exchange can be avoided and the Replacement Homes can be excluded from the calculation of the consideration given so that SDLT becomes due on the cash consideration alone.

The rate at which CapCo would pay SDLT would be between 1% and 4% (on the basis no single property is valued in excess of £1m, see Appendix 1.1 for further details), depending upon the split between residential and commercial land and if it could be argued that Multiple Dwellings Relief is available (see Appendix 1.9 for further details).

#### 5. Replacement Homes transferred to the Council

If the transaction is seen as an exchange for SDLT purposes the chargeable consideration for the acquisitions by the Council will be based on the market value or, if higher, the consideration actually paid. The CLSA ascribes a value of approximately £105m to £169m to the Replacement Homes. It should be confirmed if this reflects market value and is thus the potential chargeable consideration for SDLT purposes.

##### Reliefs

There is a relief for land transactions undertaken to fulfil a section 106 requirement. The duplication of the obligation for CapCo to provide the Replacement Homes in the CLSA as well as in a section 106 agreement does not necessarily preclude the possibility of this relief being claimed, however the position would be cleaner if the obligation only existed in the s106 agreement. Appendix 1.4 provides the criteria for this relief.

If section 106 relief is not available, Multiple Dwellings Relief may be available (see Appendix 1.9 for further details).

#### 6. Replacement Homes transferred to tenants

It is understood that the Council has agreed to meet any SDLT costs of the Freeholders/tenants on their re-acquisition of Replacement Homes.

##### i) Surrender and re-grant of a lease

The charge to SDLT in respect of any leases exchanged with tenants could be minimal as:

- there is a specific provision for the surrender of an existing lease in return for a grant of a new lease deemed not to be consideration (see Appendix 1.5); and
- the net present value of rental payment may not breach the threshold for SDLT on the rents (see Appendix 1.1).

The position will however need to be considered on a case by case basis. In particular if a leasehold interest is surrendered for a new shared equity leasehold interest further staircasing payments (see Appendix 1.9) could be subject to SDLT.

#### ii) Sale of a freehold in return for shared equity long lease or freehold

Where there is an exchange of a freehold in return for a freehold or leasehold interest, the exchange is potentially chargeable to SDLT. When someone acquires a share in a property through an approved shared ownership scheme they may have to pay SDLT. The purchaser can either:

- make a one-off payment based on the total market value of the property, or
- pay any SDLT due in stages.

If the buyer opts to make a one-off payment up front this is known as making a 'market value election'.

If the buyer opts to pay SDLT in stages they are required to pay any amount due on the initial purchase amount but will not have to make any further payments until they own more than an 80 per cent share of the property. This is often referred to as staircasing. Given that we understand that the value of the properties in the development will be in the region of £500k, staircasing may be the most attractive option.

Appendix 1.9 gives further details on the market value election and staircasing.

Further information will be required in respect of the interests that will be granted of the Replacement Homes to calculate the total exposure.

## VAT

The key issue for the Council in respect of VAT will be managing its partial exemption position (see technical notes). If the Council breaches its partial exemption de minimis limit in any given financial year, the cost is likely to be in excess of £2m.

Therefore, it is important that the VAT on costs attributable to any exempt supplies is captured for the purpose of the partial exemption calculation so that any issues are highlighted at an early stage and planning opportunities can be considered.

The Council will make a number of supplies of land under the CLSA, followed by supplies of new homes to new tenants and leaseholders. The supplies are considered in more detail below.

It will be important to consider the precise nature of the costs incurred in relation to the project to determine if they are correctly attributable to the supplies of land under the CLSA, or the supplies of the new homes.

### *Supplies of land under the CLSA*

The interests in land supplied by the Council under the CLSA will be exempt from VAT, subject to the Council's option to tax.

*Please note, it is important that the Council checks to see if any options to tax have been made over any of the land that will be sold to CapCo. If they have, those supplies will be subject to VAT (see notes on value of supplies below). For the purpose of the note, we will assume there are no current options to tax in place.*

Therefore, the Council will not be required to charge VAT on the supplies. However, VAT on costs attributable to the supplies will be exempt input tax and will need to be included in the Council's partial exemption calculation.

Although the attributable VAT incurred to date in relation to the project may be minimal (perhaps limited to the VAT incurred on professional fees) securing vacant possession of land and rehousing tenants can often be costly.

Preliminary calculations show that the attributable VAT that will be incurred (based on the forecasted costs) can be managed within the Council's partial exemption de minimis limit. This position could change if any significant, unforeseen VATable costs for the project emerge or if exempt input tax generated from other sources of income were to increase (following our detailed review of the Council's calculations, for example). One of the clauses recently added to the CLSA (clause 36.4) includes a warranty that the Council will not opt to tax. The Council may want to consider removing/altering this clause if it feels that there is a risk that significant additional VATable costs relating to the project could emerge, or the current partial exemption calculations are not accurate, so that the option to tax is available as a last resort should the partial exemption position be put at risk.

It is understood that CapCo's intended use of the land will allow for CapCo to recover VAT charged by the Council. However, since SDLT is payable on the VAT inclusive amount, an option to tax may result in additional SDLT costs for CapCo so it will need to be considered carefully.

There may be scope to consider whether the supplies by the Council will qualify for zero rating (see technical notes). Zero rating would allow for full VAT recovery on costs, with no partial exemption implications, and will not lead to any additional SDLT costs for CapCo. This will only be applicable where the Council originally constructed the dwellings and are yet to grant a major interest in them. The zero rate will therefore not apply to any dwellings that have been sold under the Right to Buy, where the Council will have already granted a major interest.

#### Value of supplies

In the event that the Council is required to opt to tax to protect its partial exemption position (or an option to tax is already in place) then, to the extent that this will apply, the Council will need to ensure that it charges and accounts for VAT on all of the associated consideration received from CapCo. The Council will need to value any non monetary consideration associated with the standard rated supply.

#### Time of supplies

It will be important to carefully consider the time of supply for each Phase of land. If an option to tax is required to protect the Council's partial exemption position, it will need to be made before the time of supply.

The freehold interests supplied by the Council will be supplies of goods for VAT purposes. The time of supply for goods is the date that they are made available or, if earlier, the date that payment is made or an invoice is issued.

With the payment schedule as it stands, and with additional consideration being provided in the form of the Replacement Homes, the date that the payment is made in respect of each supply of land is not currently clear. Therefore, it is all the more important to consider what VATable costs will be incurred in relation to each supply to ensure options to tax are made, where required.

### *The supplies of new homes*

The supply of housing to (short term) Council tenants is a non business activity for the Council. As such, no VAT will need to be charged on the rents and the VAT on any attributable costs will be fully recoverable under section 33 of the VAT Act (see technical notes).

However, prima facie, the grant of the shared ownership leasehold interests in the Replacement Homes to the current leaseholders/freeholders will be exempt from VAT. Therefore, VAT attributable to these supplies will be exempt input tax and will need to be included in the Council's partial exemption calculation.

The option to tax does not have effect in relation to dwellings. Therefore, if the VAT attributable to the new leases will present a partial exemption issue, the option to tax will not be an effective solution.

The supply of the leases will not qualify for zero rating since the Council will not be constructing the new homes.

If the VAT attributable to the shared ownership leases will present a partial exemption issue, there may be scope to consider if these supplies can also be treated as non business i.e. where the Council is operating under a special legal regime and, in not charging VAT, there will be no significant distortion of competition. This would allow for full VAT recovery on attributable costs, removing the partial exemption issue.

Nevertheless, since the supply of the Replacement Homes by CapCo should be zero rated, the VAT incurred by the Council that will be attributable to the new leases should be minimal.

### ***Corporation Tax***

The Council will not incur any corporation tax as local authorities in the UK are not liable to corporation tax or income tax.

# Appendix 1: SDLT Technical Notes

## 1.1 Rates and thresholds – residential property Freehold purchases and lease premiums

The rates below apply for freehold residential acquisitions and the premium paid for a new lease.

Chargeable consideration	SDLT rate	SDLT rate for first-time buyers
Up to £125,000	Zero	Zero
Over £125,000 to £250,000	1%	Zero
Over £250,000 to £500,000	3%	3%
Over £500,000 to £1 million	4%	4%
Over £1 million	5%	5%
Over £2 million from 22 March 2012	7%	7%
Over £2 million (purchased by certain persons, including corporate bodies) from 21 March 2012	15%	15%

### £1 million threshold for wholly residential property

From 6 April 2011 SDLT on residential properties over £1 million is charged at 5%.

### Purchasing six or more residential properties as part of a single transaction

If six or more properties form part of a single transaction the rules, rates and thresholds for non-residential properties apply. The amounts paid for all the properties in the transaction must be added together in order to establish the rate of tax payable. This is subject to the availability of Multiple Dwellings Relief.

## SDLT on rent - new residential leasehold purchases

Where a new residential lease has a substantial annual rent, SDLT is payable on both of the following, which are calculated separately and then added together:

- the lease premium - see the table above
- the 'net present value' ("NPV") of the rent payable

The NPV is based on the value of the total rent over the life of the lease. The formula to calculate NPV is complicated. It can be worked out using HMRC's online calculator, available on the website.

In practice SDLT only becomes payable on a fairly high rent - starting at around £4,500 a year for a 99-year lease, for example, however the exact amount depends on the length of the lease.

NPV	SDLT rate (includes first-time buyers)
£0 - £125,000	Zero
Over £125,000	1% of the value that exceeds £125,000

## 1.2 Rates and thresholds – non residential property Freehold purchases and lease premiums

The rates below apply for freehold non residential acquisitions and the premium paid for a new lease.

Chargeable consideration	SDLT rate(includes first time buyers)
Up to £150,000 - annual rent is under £1,000	Zero
Up to £150,000 - annual rent is £1,000 or more	1%
Over £150,000 to £250,000	1%
Over £250,000 to £500,000	3%
Over £500,000	4%

### SDLT on rent - new non-residential leasehold purchases

When a new non-residential or mixed use lease has a substantial annual rent, SDLT is payable on both of the following which are calculated separately and then added together:

- the lease premium or purchase price - see the table above
- the NPV

NPV	SDLT rate (includes first time buyers)
£0 - £150,000	Zero
Over £150,000	1% of the value that exceeds £150,000

## 1.3 Exchanges

Where a land transaction is entered into wholly or partly by the purchaser in consideration of another land transaction being entered into by him as vendor, this is known as an “exchange” for SDLT purposes.

Each transaction is treated as a separate transaction and the chargeable consideration for both is deemed to be the market value of the interest acquired or, if higher, the consideration actually given.

For completeness, although the term "exchange" is normally understood to be a transaction between two people, the definition for SDLT purposes is widened to tri-partite transactions. This was clarified by HMRC in the second SDLT Practitioners' Newsletter. It uses an example (which is very relevant to this transaction) to illustrate this principle, which I reproduce below:

*“A purchase and onward lease (B purchases from A and onward leases to C) may be an exchange in the meaning of the legislation if the onward lease is taken in consideration of the purchase. This will frequently occur where A and C are connected persons.”*

It goes on to state *“If there is an exchange of land...there are two transactions and two ‘purchasers’.”*

A sale and leaseback, by its nature is always an exchange.

## **1.4 Section 106 relief - Compliance with planning obligations**

Where a land transaction is undertaken to comply with a planning obligation or a modification of a planning obligation, the purchaser may claim relief from SDLT on that transaction, if the following conditions are fulfilled.

1. The planning obligation or modification is enforceable against vendor

This means that there must be a planning obligation in place against the vendor before the transaction is effected. Additionally that planning obligation must be capable of being enforced, whether through the courts or by other means. It does not matter that no action has been taken to enforce the planning order, it must just be capable of being enforced.

2. The purchaser is a public authority
3. The transaction takes place within a period of five years beginning with the date on which the planning obligation was entered into or modified

It is the latest of these dates from which the time period runs.

## **1.5 Schedule 17A, Paragraph 16: Surrender of existing lease in return for new lease**

Where a lease (or more than one lease) is granted in consideration of the surrender of one or more existing lease(s) (whether of the same or different premises) between the same parties, then:

- the grant of the new lease does not count as chargeable consideration for the surrender and
- the surrender does not count as chargeable consideration for the grant of the new lease.

under Finance Act 2003, Schedule 17A, Paragraph 16.

This applies even if other consideration is given for the surrender of the lease (such as a payment by the landlord to the tenant to procure the surrender which is itself chargeable to stamp duty land tax). However the release of any tenant's obligation is not chargeable consideration in relation to the surrender of the lease.

Where part only of the subject-matter of a lease is surrendered, this is treated as the surrender of a lease for these purposes.

## **1.6 Sale and leaseback relief**

A sale and leaseback is an exchange. Therefore, both parts of the transaction are chargeable to SDLT on the market value of the interest acquired or, if higher, the consideration actually given. However, the leaseback element is exempt from the charge to SDLT if the following conditions are met:

1. The sale transaction is entered into wholly or partly in consideration of the leaseback transaction being entered into.
2. The only other consideration (if any) for the sale is the payment of money (or the assumption of debt).
3. The transaction does not involve the transfer of certain rights (generally for assignment, subsale or other transaction involving the subject matter) involved in the transaction.
4. Where the two parties are both bodies corporate, they are not part of the same corporate group.



## ***1.7 CPO Relief: Compulsory purchase facilitating development***

A compulsory purchase facilitating development is exempt from charge i.e. a purchase made under a Compulsory Purchase Order for the purpose of facilitating a development by another person.

On occasion, a local authority will make a Compulsory Purchase Order on a property so that a development by another party - typically a property developer - can proceed. Following the order, the owner of the property sells it to the local authority and the local authority then sells it to the property developer. As there are two purchases, there would normally be two lots of SDLT to pay. However, provided the development is being carried out by the property developer, the local authority can get relief from SDLT on its acquisition of the property. Any subsequent transfer of the chargeable interest to the third party is subject to SDLT in the normal way.

This relief is only available where a party other than a local authority develops the land.

As long as the other conditions are fulfilled, it does not matter if the purchase is part of an agreement between the vendor and a third party (i.e. the developer). So, if the vendor agrees to sell the land, and agrees a price with the third party (i.e. the developer), as long as the subsequent sale, to the maker of the compulsory purchase order, is the subject of a compulsory purchase order the fact that there is an agreement as to terms is not a bar to obtaining the relief.

## ***1.8 Multiple Dwellings Relief***

Multiple dwellings relief was introduced in the 2011 Budget. It is a relief for transactions which include the acquisition of interests in more than one dwelling.

Where the relief is claimed, the rate of SDLT which applies to the consideration attributable to interests in dwellings is determined by reference to the amount of this consideration, divided by the number of dwellings (i.e. the mean consideration attributable to the dwellings). This is subject to a minimum rate of 1%.

The rate of SDLT which applies to the consideration attributable to interests in land other than dwellings (if any) is the rate which would apply in the absence of the relief. The consideration allocated to non-dwellings has to be determined in a just and reasonable manner.

Superior freehold or leasehold interests in dwellings subject to leases granted for an initial period of 21 years or more are not eligible for relief.

The relief includes provision for “off-plan” purchases where construction may not have commenced by the effective date of the transaction. It also provides for the tax calculation to be adjusted if the number of dwellings involved is reduced within three years of the effective date of the transaction.

## ***1.9 Shared ownership / Staircasing***

There are different options for paying SDLT when a shared ownership lease is granted by an approved qualifying body (which includes a local authority).

These schemes are often known as New Build HomeBuy or Social Homebuy.

### ***Market value election - one-off SDLT payment***

If the buyer makes a market value election, a one-off SDLT payment becomes due in the same way as if they had bought a freehold or leasehold property outright. The SDLT will be based on the market value of the property at the time of the transaction, which will be stated in the lease.

No further SDLT will become due. It makes no difference if the buyer 'staircase' their ownership by buying a bigger share in the property later on.

It can be beneficial to make an election when the total market value of the property is no more than the threshold for paying SDLT. The threshold is currently £250,000 for first-time buyers (applies for purchases made on or after 25 March 2010 and before 25 March 2012) and £125,000 for all other purchasers.

#### Right to acquire the freehold?

Where the lease allows the buyer to acquire the freehold to the property SDLT is charged on the market value of the freehold. This is its value at the time of the initial purchase, as stated in the lease. This most commonly applies to houses.

#### No right to acquire the freehold?

Where the lease doesn't allow the buyer to acquire the freehold to the property then SDLT is charged on the 'open market premium' - that is, the premium that would be payable at the time of purchase for the maximum share of the property that can be acquired under the terms of the lease.

SDLT will also be due on the 'net present value' of the rent that would be payable under the lease if the maximum share was purchased. This is based on the total amount of rent that would be payable over the term of the lease. In practice, tax will only be due on the rent when it is a significant amount.

#### The deadline for making a market value election

A market value election should be made on the associated SDLT return but it can be made up to 12 months after the deadline for sending in a return by amending the return.

#### Acquisition of the freehold

Following a market value election, and an initial payment of SDLT, no further SDLT will become due. However, if the buyer acquires 100 per cent of the property by acquiring the freehold, a further SDLT return must be submitted to inform HMRC of the acquisition.

## *Paying SDLT in stages – Staircasing*

If a buyer opts to pay SDLT in stages the initial charge will be less but further payments will become due if they later increase their share of the property. There are two ways of documenting such a transaction.

#### i) Staircasing payment as contingent consideration?

The basic rule is that SDLT is payable on the consideration paid (i.e. the discounted price).

If the staircasing payments amount to 'contingent consideration' for the initial lease, they will be included as chargeable consideration. However, the leaseholder may apply to HMRC to defer the SDLT payment on the contingent consideration (i.e. the staircasing payments potentially payable in the future) (s51 and 90 FA 2003).

If and when the staircasing payments are made, SDLT will be payable on those payments (without accruing interest). However, the aggregate payments would be taken into account in deciding on the rate of SDLT.

The term 'contingent' is defined in s51 FA 2003 to mean payment on some 'future event' occurring. If the lease were to state that the additional payment is due in the event of an assignment then this will look like contingent consideration and the leaseholder will need to apply for postponement of SDLT. If on the other hand, these arrangements were to be expressed as a restriction on assignment, then we think this should not be seen as contingent consideration and the analysis in the next section should apply.

#### ii) Staircasing as a land transaction in its own right?

This analysis applies if the staircasing arrangements were to be expressed as a restriction on assignment, with the option (contained in the lease itself) of permitting assignment on payment of the remaining equity. This would be seen as a restriction embedded in the lease.

The term 'chargeable interest' for SDLT purposes includes 'the benefit of an obligation, restriction or condition affecting the value of any ... estate, interest, right or power in or over land in the United Kingdom' (s48(1)FA2003).

The release of such a restriction is an acquisition of that interest by the person whose interest is benefitted or enlarged by the release (i.e. the leaseholder) and a disposal by the person ceasing to be entitled to that interest (i.e. the council). Under this analysis, staircasing would amount to a land transaction as it would be a release of a restriction on assigning the lease and the leaseholders, being the acquirers of this interest, would be liable to pay SDLT the staircasing payments.

While the restriction will only be release when the last staircasing payment is made (i.e. when the leaseholder acquires 100% of the equity), the payment of 80% of the total consideration would trigger the remaining SDLT liability.

Because the initial lease the subsequent staircasing payments would be linked, the rate of SDLT should be payable based on the cumulative consideration. However, in theory, SDLT would only be payable when the final staircasing payment is made (apart from the payment on grant of the lease) because it is only at that stage that the restriction is 'released'.

Assuming we are correct in anticipating that these arrangements will be expressed as a restriction in the lease then we think this analysis should apply and the benefit over the preceding 'contingent consideration' analysis is that:

- The leaseholder does not need to apply for postponement of SDLT; and
- Additional SDLT would only be due when the final staircasing payment is made and the restriction is release (but this might only be a theoretical advantage).
- The rents' net present value is also taken into account when working how much SDLT is initial payable.

#### Lease Variations

For completeness, there are special rules for lease variations. Where any consideration is given by the lessee for a variation of a lease that is deemed to be an acquisition of a chargeable interest by the lessee (Para 15A(1A), Sch 17A, FA 2003). This should achieve the same result but we do not think this is relevant as the staircasing arrangements should not be seen as lease variations.

#### Exchanges

The exchanges rules would apply if the contract to purchase the new lease is entered into by the leaseholder wholly or partly in consideration of the sale by the Freeholder of his existing house to the council. (Note if a leasehold was being surrendered the rules would differ). This is so even if the two transactions are completed by 2 contracts. The key issue is whether one would not be entered into without the other and the favourable conditions in the new lease (discounting and staircasing) are economic compensation for the other.

If the exchanges provision applies, SDLT will be chargeable on the market value of the new lease.

If the exchanges rule were to apply the market value of the new lease should reflect the staircasing restriction so if only 50% of the value has been paid, the market value should only be 50% of the full market value of the property

# ***Appendix 2:*** ***VAT Technical Notes***

## ***2.1 Non business activities / Section 33 refund***

A lot of the activities undertaken by local authorities are outside the scope of VAT. Generally speaking, goods and services provided free of charge, or those provided by the authority under a special legal regime (applicable to public authorities) where the exclusion from the charge to VAT will not significantly distort competition with the private sector, are outside the scope of VAT.

This covers many of the activities undertaken by local authorities. In the UK, these activities are referred to as “non business” activities.

Under normal rules, taxpayers cannot recover VAT incurred in relation to non business activities. However, section 33 of the VAT Act provides a mechanism for local authorities to recover this VAT.

## ***2.2 Partial exemption***

Most of the VAT incurred by local authorities will be recoverable as either section 33 VAT, or normal business input tax (VAT attributable to taxable supplies). In practice, a local authority will recover all of the VAT it incurs, subject to its partial exemption position.

In principle, taxpayers cannot recover any VAT they incur that relates to its exempt supplies. This is known as exempt input tax. However, subject to certain thresholds, local authorities can recover exempt input tax.

Each financial year, the Council undertakes a partial exemption calculation to compare its exempt input tax to its total input tax i.e. all of the VAT incurred in the financial year. If the exempt input tax represents any more than 5% of the total input tax, the Council must repay all of its exempt input tax back to HMRC. The 5% threshold is known as the partial exemption de minimis limit.

Therefore, it is important for the Council to monitor any VAT it incurs in relation to exempt supplies each year to ensure that this does not breach the limit.

## ***2.3 Supplies of land***

Subject to a number of exceptions, and the option to tax, the supply of land is exempt from VAT.

## ***2.4 Option to tax***

The VAT legislation allows taxpayers to opt to tax land. Following an option to tax, supplies of that land will be liable to VAT at the standard rate. However, VAT incurred on attributable costs by the vendor is recoverable in full, with no partial exemption implications. Also, purchasers are often in a position to recover any VAT charged by the vendor.

Therefore, an option to tax is a tool that is often employed by local authorities when a supply of land will result in its partial exemption de minimis limit being breached, or, when the purchaser can recover its VAT, if it simply wants to reduce its exempt input tax and, therefore, reduce the risk that the de minimis limit will be breached in future.

### ***Dwellings***

An option to tax has no effect in relation to the supply of a building, or part of a building, designed or adapted, and intended for use as a dwelling or a number of dwellings.

In a situation where dwellings are sold to a purchaser who will demolish them, the purchaser's intended use of the buildings is not use as a dwelling. So, even if following the demolition the purchaser will construct new dwellings, the vendor's option to tax should normally have effect.

## ***2.5 Zero rating of supplies dwellings***

The first grant of a major interest in a building, or part of a building, designed as a dwelling, by the person who constructed that building, is zero rated.

A major interest for these purposes is a freehold interest or a leasehold interest exceeding 21 years.

The vendor will be the person responsible for determining the correct VAT liability of the supply.

This document has been prepared only for London Borough of Hammersmith & Fulham and solely for the purpose and on the terms agreed with them. We accept no liability (including for negligence) to anyone else in connection with this document, and it may not be provided to anyone else.

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**Earls Court Regeneration Project – Executive Risk Register –  
Conditional Land Sale Agreement**

Cabinet 3<sup>rd</sup> September 2012

<b>No</b>	<b>Risk</b>	<b>Category</b>	<b>Consequence</b>	<b>Monitor</b>
<b>1</b>	Developer does not sign the CLSA	Economic	Project Cancellation	Monitor
<b>2</b>	Developer unable to proceed	Economic	Project Cancellation	Monitor
<b>3</b>	Cabinet Approval is subject to successful legal challenge	Economic	Project Delay and/or redefined scheme	Monitor
<b>4</b>	Developer does not exercise option in CLSA	Economic	Project Cancellation	Monitor
<b>5</b>	Termination arises after Phase One has been completed	Economic	Project Delay or Cancellation after partial completion	Monitor
<b>6</b>	One or more phases are developed but then progress stops leaving part of the option land vesting with the Council	Economic	Disruption for the tenants, reputational issues for the Council	Monitor
<b>7</b>	Non Performance of the Council of identified obligations in the CLSA leading to damages	Economic	Damages (Capped at £10m) paid by the Council	Monitor
<b>8</b>	Developer sells interest in the CLSA	Reputational	Potential Project Delay	Monitor
<b>9</b>	Cabinet do not approve CLSA	Reputational	Project Delay or Cancellation	Monitor
<b>10</b>	Cabinet Approval is subject to legal challenge	Legal	Project Delay or Cancellation	Monitor
<b>11</b>	Blight Indemnity claim successfully brought against the Council	Legal	Council liable to damages	Monitor
<b>12</b>	Successful legal challenge to Council Powers to enter into the CLSA	Legal	Project Delay or Cancellation	Monitor
<b>13</b>	Secretary of State Consent not granted or unsatisfactory	Legal	Project Delay or Cancellation	Monitor
<b>13</b>	Scheme is not granted outline	Planning	Project delay or cancellation	Monitor

	planning consent			
<b>14</b>	Planning consent is subject to successful legal challenge	Planning	Project Delay and/or Cancellation	Monitor
<b>15</b>	Capco sells part of its interest in the CLSA	Programme	Delays in dealing with Multiple Entities	Monitor
<b>16</b>	Disputes over actual location on Individual Replacement Home Accommodation	Programme	Disruption for Tenants, reputational issues for the Council	Monitor
<b>17</b>	Defective Works	Programme	Disruption for the Tenants. Reputational issues for Council	Monitor
<b>18</b>	Delays arise in the process of securing vacant possession	Programme	Delays and cost to the Council	Monitor
<b>19</b>	Successful Sec 34A application is made by estates residents	Programme	Project Delay, cancellation and/or Partial completion	Monitor
<b>20</b>	Noise and disruption caused by Construction	Social	Reputational for Council	Monitor
<b>21</b>	Downturn in market causes the Developer to delay exercising option in the CLSA	Programme	Project Delay, disruption for tenants, Reputational for Council	Monitor
<b>22</b>	Needs of Residents exceed the Councils Entitlement to Replacement Homes	Economic	No of Re-provided homes falls below 760 as floor cap reached	Monitor



# Agenda Item 7



London Borough of Hammersmith & Fulham

## Cabinet

3 SEPTEMBER 2012

**CABINET MEMBER  
FOR TRANSPORT  
AND TECHNICAL  
SERVICES**

*Councillor Victoria  
Brocklebank-Fowler*

**MAYOR OF LONDON'S CYCLE HIRE  
SCHEME**

**Wards: All**

This report seeks authorisation to enter into an agreement with Transport for London (TfL) to extend the Mayor of London's Cycle Hire Scheme into the borough and to make a contribution of £2 million to the extension as detailed in section 4 of the report

**CONTRIBUTORS**

Director for Transport  
and Highways

**Recommendations:**

- 1. That authority be delegated to the Cabinet Member for Transport and Technical Services, in conjunction with the Executive Director for Transport and Technical Services, to enter into an agreement with Transport for London to extend the Mayor of London's Cycle Hire Scheme into the borough**
- 2. That the Council makes a contribution of up to £2 million to the extension, to be recovered by developer contributions, as detailed in Section 4 of the report.**

**HAS THE REPORT  
CONTENT BEEN RISK  
ASSESSED?  
YES**

**HAS A EIA BEEN  
COMPLETED?  
YES**

## **1. BACKGROUND**

- 1.1. In July 2010, the Mayor of London, Boris Johnson, introduced his automated cycle hire scheme to central London. Some 6000 bicycles have been provided at 400 docking stations. The bicycles are popularly known as “Borisbikes” and the scheme is sponsored by Barclays. The bikes are already an iconic addition to London’s streetscene.
- 1.2. Following on from the success of the scheme, in the spring of 2012 the scheme was extended into its second phase. This consisted mainly of an eastwards extension to Tower Hamlets, but also included the provision of four docking stations around the Westfield Shopping Centre at White City. These were paid for by Westfield as part of an agreement with the Mayor. There are now 8333 bicycles at 587 stations and at June 2012 there had been 13 million hires, of which 95% were new cycling trips. There are currently 160,000 registered members of the scheme.
- 1.3 TfL now plan to extend the scheme to the northern part of LB Wandsworth, the whole of Fulham, and Hammersmith eastwards from the town centre up to Shepherds Bush (see Fig 1). This is known as Phase 3 of the scheme. TfL require a contribution of £2 million from both LBHF and LB Wandsworth (together with a smaller contribution from the Royal Borough of Kensington and Chelsea, where some additional stations are being provided) TfL believe that the scheme will attract large numbers of users from LBHF, firstly because a large number (some 3,900) of registered users of the existing scheme live in LBHF and secondly because TfL’s market research suggests that there is a large potential market in the borough.
- 1.4 Safety concerns are a key barrier to cycling take up. Rates of accidents resulting in deaths and serious injuries are generally higher than for public transport. In the first year of the scheme’s operation, there were 50% fewer serious accidents on the hire bikes than would have been expected if they had continued to walk or use public transport. A code of conduct has been developed to mitigate risks and the number of serious accidents between July 2010 and March 2011 was 5, out of a total number of hires in the order of 4 million.

## **2. POLICY CONTEXT**

- 2.1 The Mayor of London aims to effect a “Cycling Revolution” in the city, increasing cycling in London by 400% by 2026 compared with 2001. The Cycle Hire Scheme is one of the main elements of his strategy. Increasing cycling is also a key part of Hammersmith & Fulham’s transport Local Implementation Plan (LIP), which has a target of increasing the cycling share of 4% (one of the highest in London) to 7% by 2031 . A large proportion of the respondents to the “Get H&F Moving” campaign last year asked for improved facilities for cycling and there were some 200 positive responses from residents to our request for suggestions for locations for cycle hire docking stations.

### **3. LOCATION OF DOCKING STATIONS**

- 3.1. TfL aim to provide a docking station every 300-400 metres, and are looking to provide 60-70 stations in the borough. In order to facilitate efficient servicing, they stipulate that each station should have spaces for a minimum of 25 bicycles. Possible sites suggested by the public (see para 2.1 above), TfL officers and Council officers have been evaluated against a range of criteria, including the effects on car parking, trees, crime prevention, waste, highways, parks, heritage and conservation and planning, with several sites eliminated where there are fundamental objections on one or more of these grounds. Sites which have survived this process are being designed in detail to TfL, who intend to hold a series of public exhibitions in the borough in the autumn to get the views of the public on them. They will then apply to the Council for planning permission for each site. Subject to the agreement of their board in September, TfL intend to implement Phase 3 of the scheme in May 2013. The extent of Phase 3 and provisional location of docking stations in LBHF are shown in the attached diagrams

### **4. FUNDING**

- 4.1 TfL have stipulated that they require a funding contribution of £2 million from the London Borough of Hammersmith and Fulham in order to extend the cycle hire scheme into the borough. TfL require the £2million contribution to be paid by May/June 2015. TfL have stated that officer time spent on the project cannot be counted towards the Council's contribution (even though this contribution is likely to be substantial). Other in-kind contribution, such as the provision of land, is acceptable in principle, but as a depot is not required in LBHF, opportunities for such provision are limited.
- 4.2 Therefore the most appropriate source of funding is contributions from developers, either through Section 106 agreements or the Community Infrastructure Levy (CIL). High levels of cycling are necessary to enable large scale developments to take place without putting undue strain on the highway and public transport networks, and the Cycle Hire Scheme is an appropriate way of encouraging and facilitating cycling.
- 4.3 Officers have been negotiating with developers on the provision of funding for the cycle hire scheme since the extension was mooted by TfL in the summer of 2011 . A list of the developments from which contributions can be expected is provided in the exempt section of the report. There is a risk that not all the Section 106 and CIL funding will be in place by TfL's deadline of January 2015. We will therefore seek to extend TfL's deadline for payment until at least March 2016, while paying TfL instalments of what funds we have in advance of the deadline.

- 4.4 TfL will require the Council to enter into an agreement to permit them to undertake works on the Council's highways (Section 8 agreement). The Director for Transport and Technical Services has delegated authority to enter into such an agreement.

## **5. RISK MANAGEMENT**

- 5.1 The risks are included in the Transport and Technical Services Department risk register. The main risk is that some or all of the £2 million contribution from the Section 106 funding is not delivered in time to meet TfL's deadline of January 2015. In this eventuality, the Council will have to cover any shortfall from its reserves until the funding is received, or find an alternative source for the funding. Officers consider that this risk is small to medium, and it can be significantly mitigated by an extension of the deadline to March 2016 as noted in para 4.3 above.
- 5.2 There is also a risk that the scheme may not be delivered, e.g. if TfL decide it is no longer viable for whatever reason. We should therefore incorporate into any agreement with TfL that any moneys paid by the Council to TfL will be refunded in these circumstances.
- 5.3 Each docking station requires planning permission. It is possible that a large number of stations will be refused permission, so there are insufficient stations for a viable scheme. Given experience in Central London and the fact that the station sites will have been through a rigorous pre-planning application appraisal and public exhibitions, this risk is considered to be small.

## **6. EQUALITY IMPLICATIONS**

- 6.1 The EIA for this project is available electronically. A barrier to many residents of the borough taking up cycling is the lack of cycle parking space at their homes. The Mayor's Cycle Hire Scheme is one means of overcoming this problem.

## **7. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

- 7.1 The Head of Development Management states that sufficient funds have been identified from existing S106 contributions currently held and those due, which have been identified for transportation/highways purposes, and which would be appropriate to be used for the London Cycle Hire Scheme. Some contributions are anticipated explicitly for this purpose. Although the precise timing of receipt of the contributions due cannot be known, officers are confident that the amount required will be available within the timeframe set out by TfL. Clearance for this spend against specific S106 funds will be sought from Cabinet in due course.

- 8.1 Should funds not be available in time there is some possibility that a call will be made on the Capital Reserve until such time as the funds have been received, although ultimately the project will be fully funded.

**9. COMMENTS OF THE DIRECTOR FOR LEGAL AND DEMOCRATIC SERVICES**

- 9.1 The details of the contribution for TFL would need to be set out in the agreement to extend the Mayor of London’s Cycle Hire Scheme. Amongst other things, the agreement should set out:
1. how the contribution to TFL has been calculated;
  2. what is to happen in the event of a dispute between the parties;
  3. whether the contribution to TFL will include indexation which TFL are likely to request especially if the funds are not to be paid until 2015 (in which case the final sum may exceed £2 million); and
  4. a time period for repayment of the funds to the council if the TFL scheme is not delivered as the Council would not wish for the funds to be held indefinitely by TFL without being used.
- 9.2 If the Council intends to use contributions from a variety of Section 106 agreements, it is necessary to consider that from the earlier of the date that the Council adopts the charging schedule for CIL or 6 April 2014, there will be a limit of 5 contributions which can be pooled together for a particular development, which in this case is the London Cycle Hire Scheme. The Council will therefore need to consider which developments contributions will be used to fund the payment to TFL
- 9.3 When the contribution towards CIL is received, it will need to be used for different types of infrastructure in the borough and not just for transport. Depending on when the CIL charging schedule is adopted there may be a shortfall between the sums received and the sums which need to be paid to TFL.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Mayor of London’s Second Transport Strategy (MTS2) 2010	Chris Bainbridge, 3354	TTS
2.	Hammersmith & Fulham Second Local Implementation Plan for Transport, 2011	Chris Bainbridge 3354	TTS
<b>CONTACT OFFICER:</b>		<b>NAME: Chris Bainbridge EXT. 3354</b>	



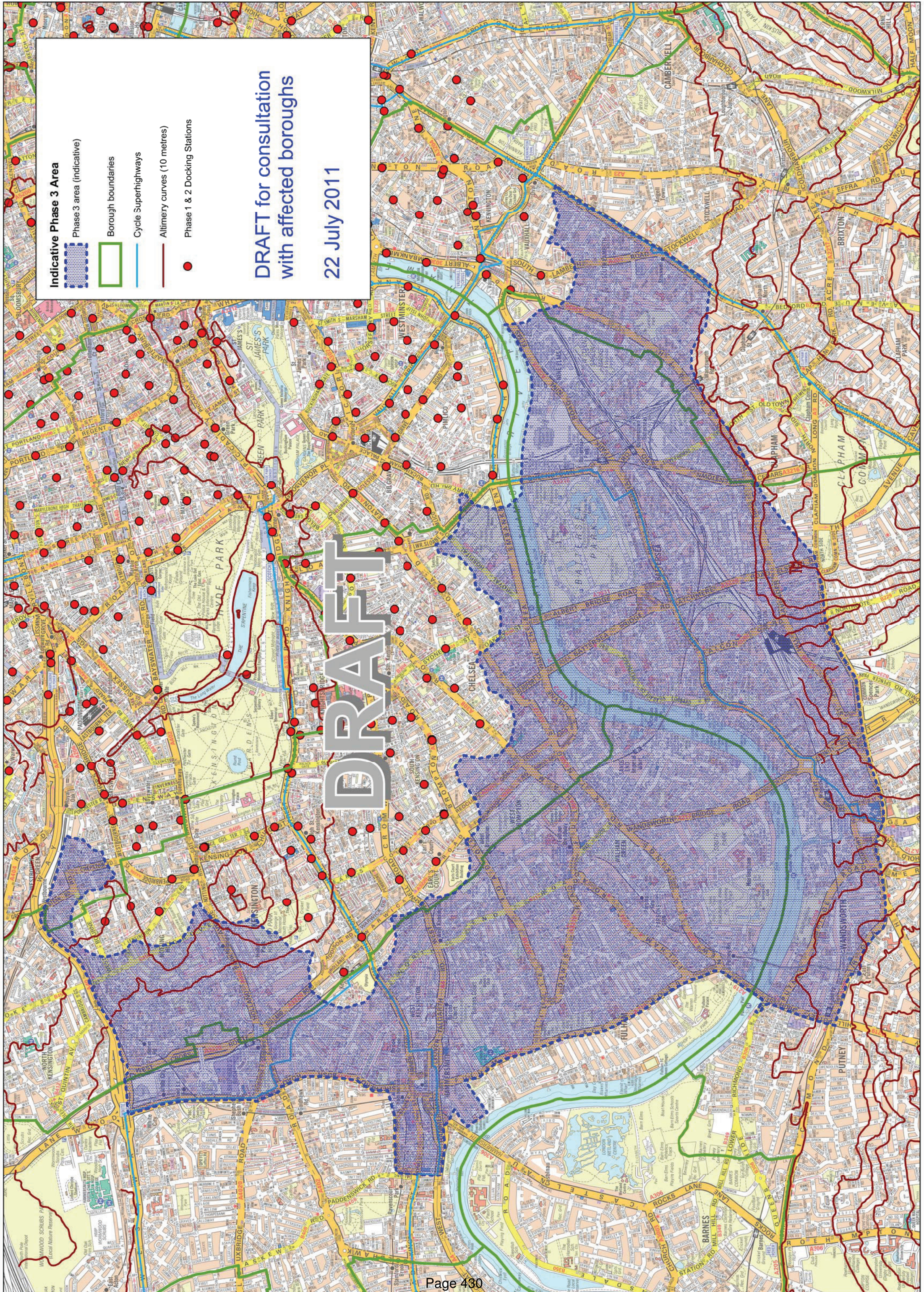
**Indicative Phase 3 Area**

- Phase 3 area (indicative)
- Borough boundaries
- Cycle Superhighways
- Altimery curves (10 metres)
- Phase 1 & 2 Docking Stations

**DRAFT for consultation  
with affected boroughs**

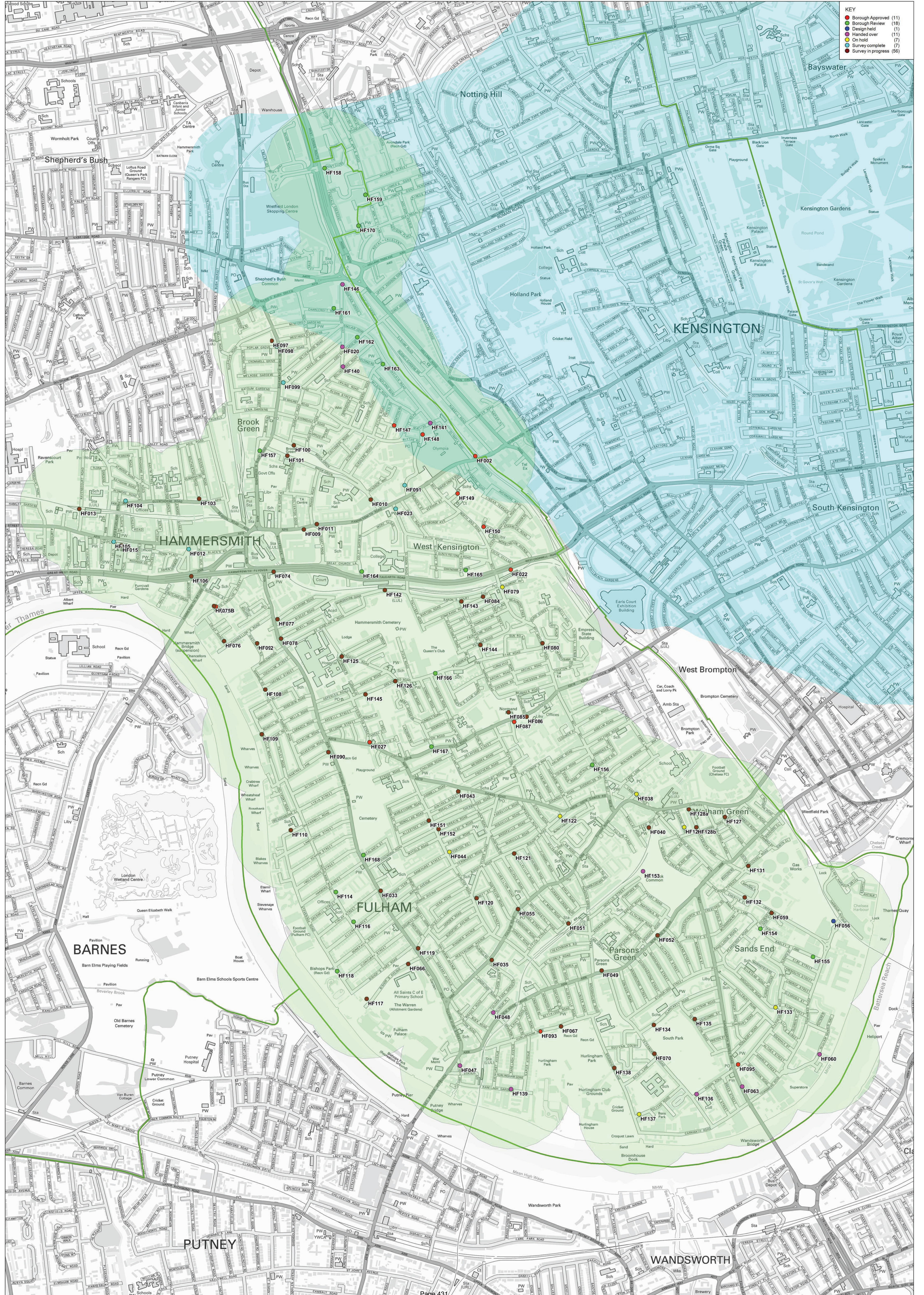
**22 July 2011**

**DRAFT**








- KEY**
- Borough Approved (11)
  - Borough Review (18)
  - Design held (1)
  - Handled over (11)
  - On hold (7)
  - Survey complete (7)
  - Survey in progress (56)





## Tri-Borough Executive Decision Report

<b>Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken</b>	Full Cabinet  <i>Date of decision: 3 September 2012</i>	
	Cabinet Member for Family and Children's Services – Cllr Elizabeth Campbell	
	Cabinet Member for Adult Services - Cllr Rachael Robathan  Cabinet Member for Children, Young People and Community Protection – Cllr Nickie Aitken  Date of decision: TBC  Forward Plan reference: TBC	
<b>Report title (decision subject)</b>	<b>STRATEGY REPORT FOR THE PROVISION OF CARER SERVICES ACROSS THE CITY OF WESTMINSTER, THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM, AND THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA</b>	
<b>Reporting officer</b>	Andrew Webster, Tri-borough Executive Director, Adult Social Care	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public with exempt Appendix B. This Appendix is the subject of a separate report on the exempt Hammersmith and Fulham Cabinet agenda	
<b>Cabinet Member or senior officer sign-off details</b>	<i>The Cabinet Members for Community Care and Children's Services have approved this report.</i>  <i>Date: 23 July 2012</i>	

## **1. EXECUTIVE SUMMARY**

- 1.1 The proposal is to re-let the contract for provision of carer services across the City of Westminster, the London Borough of Hammersmith and Fulham, and the Royal Borough of Kensington and Chelsea.
- 1.2 The tender will be comprised of three lots:
- Lot 1: Carers' Hub - Advice, Information, Advocacy and Support Service  
Lot 2: Young Carers' Support Service  
Lot 3: Home support and short break service for adults, children with disabilities, and their carers
- 1.3 The total budget for this is £4,865,518 and the focus will be on building local, high quality services for carers that are coherent and comprehensive.
- 1.4 Westminster City Council (WCC) will lead the procurement of a new Tri-Borough Carers' Services Contract and award the contract, which will come into effect in October 2012 in replacement of the current carers' services.

## **2. RECOMMENDATIONS**

- 2.1 That approval be given to the re-let strategy for the contract for provision of carer services across the three boroughs as set out in this report.
- 2.3 That the tender be comprised of the following lots:
- Lot 1 – A Carers' Hub - Advice, Information, Advocacy and Support Service
  - Lot 2 – A Young Carers' Support Service
  - Lot 3 - A Home Support and Short Breaks Service for Adults, and Children with Disabilities
- 2.4 That Westminster City Council (WCC) lead the procurement of a new Tri-Borough Carers' Services Contract and award the contract, which will come into effect in October 2012 in replacement of the current carers' services.

## **3. REASONS FOR DECISION**

- 3.1 To seek approval for the proposals set out in the report and to proceed to the Pre-Qualification Stage of the tender process.

#### **4. BACKGROUND, INCLUDING POLICY CONTEXT, AND ANALYSIS OF OPTIONS**

- 4.1 Carers undertake a significant amount of support to adults with social care needs. It is estimated that supporting carers to continue in their caring role reduces the cost of support for those they care for which would otherwise fall on health and social care services (CarersUK, 2011).
- 4.2 According to the 2001 Census, 7% of Westminster residents provided one or more hours of unpaid care per week, equivalent now to around 17,700 people, including about 540 people under 18 years of age. Many of these carers are not in touch with services. Applying findings from the 2001 Census to the current population we estimate that there are about 5,200 adults in Westminster who are providing 20 or more hours care per week. This was the second lowest proportion in London and one of the lowest in England, reflecting in part Westminster's atypical population in particular its younger than average age profile, high proportion of single person households, and high levels of geographical mobility.
- 4.3 In Hammersmith and Fulham, according to the 2001 Census, there are 11,500 carers. This represents 7% of the population, the third lowest percentage in Greater London and nationally. But, as a recent review has highlighted, only a small minority of the total carers in the Borough are being identified and receiving services. The Borough has the fourth highest percentage of older people living alone in the Greater London area which means that we have a relatively low "supply" of carers. Based on the outcomes of the 2001 Census, an estimate of the number of young carers in the Borough between the ages of 5 and 18, who provide between 1 and 50, or more hours of care, is about 425.
- 4.4 In Kensington and Chelsea, according to the 2001 Census, there are 11,199 carers or 9,400 households with at least one carer. This represents 7.1% of the local population and the Borough is ranked fifth lowest in both London and England. The Borough has the lowest proportion of residents providing 50 or more hours of unpaid care of any borough in England and the second lowest for 20 to 49 hours. In relation to young carers, the 2001 Census identified 303 carers under the age of 18.
- 4.5 The role of carers has been increasingly recognised in legislation. The Carers (Recognition and Services) Act 1995 established the right of carers who provided substantial care on a regular basis to request an assessment of their ability to care. The Carers (Equal Opportunities) Act 2004, which came into effect in April 2005, builds on legislation by placing a duty on Councils to inform carers of their right to request an assessment and to take into account their wishes regarding employment, leisure and life-long learning.
- 4.6 The Government's revised National Carers Strategy, *Recognised, valued and supported; next steps for the Carers Strategy (HM Government, 2010)*, supports this and sets out how the Government will prioritise actions over the next four

years to ensure the best possible outcomes for carers and those they support. It is the Government's ambition that by 2014:

- Carers will be supported to identify themselves at an early stage, and that the value of their contribution will be recognised by involving them from the outset both in designing local service provision and in planning individual care packages.
- Carers and those they support will receive personalised support, enabling them to have a community and family life.
- Carers will be supported to stay mentally and physically well and treated with dignity.
- Carers will be enabled to fulfil their educational and employment potential.

4.7 Carers are also recognised as requiring particular attention in the Department of Health's *Operating Framework for the NHS in England 2012/13*. It acknowledges that carers play a vital role in the health system and that they must receive help and support from local organisations. Following a joint assessment of local needs, which should be published with plans, PCT clusters will need to agree policies, plans and budgets with local authorities and voluntary groups to support carers, where possible using direct payments or personal budgets. For 2012/13 this means plans should be in line with the National Carers Strategy and:

- be explicitly agreed and signed off by both local authorities and PCT clusters;
- identify the financial contribution made to support carers by both local authorities and PCT clusters and that any transfer of funds from the NHS to local authorities is through a section 256 agreement;
- identify how much of the total is being spent on carers' breaks;
- identify an indicative number of breaks that should be available within that funding; and
- be published on the PCT or PCT cluster's website by 30 September 2012 at the latest.

4.8 Locally, each borough has a Carers Partnership Group which comprises of Council and INWL PCT representatives, and key stakeholders. These groups are responsible for overseeing the implementation of locally agreed joint commissioning strategies that set out the joint vision and action plan, between the INWL PCT and each council, to improve the lives of carers, and reduce the health, social and financial inequalities that they experience.

4.9 Most recently, the three Councils have each developed a mandate for the provision and practice of Adult Social Services. These mandates acknowledge that many people with social care needs will have these met mainly through natural support networks, including the carers with whom they live. Each borough is committed to supporting carers and sharing the responsibility for delivering the care a person needs.

## **Current service provision and opportunities arising from tri-borough working arrangements**

- 4.10 Support to carers living in Westminster is currently provided by two longstanding, local providers.
- 4.11 Westminster Carers Service is a voluntary organisation (formed in 1988) that offers practical support to adult carers and vulnerable adults through a home support/domiciliary respite service. The organisation also runs an Arabic speakers support group and a number of specialist services for young people which include a:
- Young Carers' Service - providing advice, information and support to young people who have caring responsibilities.
  - Home support and short breaks services for carers (parents) of children with disabilities.
- 4.12 The second organisation, Carers Network Westminster, is a charitable organisation (affiliated to the Princess Royal Trust for Carers and formed in 1991) which provides advice, information, signposting and support to carers. In addition, they also run specialist support groups for carers of older people, people with mental health needs, learning disabilities, Bangladeshi Carers and end of life caring. Other services include an emergency card and short break grant scheme.
- 4.13 In February 2009, the WCC Contracts Review Board (CRB) considered a report from the Strategic Director of Adult and Community Services. Officers were of the view that the City Council needed to be more efficient and effective when commissioning services from organisations such as Westminster Carers Service. Alongside this and in recognition of services related to children also delivered by Westminster Carers Service (as outlined above), the CRB required discussions be held with Children's Services to seek to formalise the existing purchasing arrangements across Adult and Children's Services.
- 4.14 Collaboration has been underway since January 2011, with officers meeting regularly to explore potential opportunities to combine and develop carer services across Adult and Children's services with both Hammersmith and Fulham (LBH&F), and the Royal Borough of Kensington and Chelsea (RBKC).
- 4.15 Both boroughs equally recognise, and value, the crucial and demanding role that carers (both adult and young) take on to support vulnerable adults and children with social care needs. Each has its own local arrangements, either in-house or with local/national organisations, to deliver support to enable carers to continue in their caring role:
- H&F currently provides both its Adult, and Young Carer Support Service in-house. This interim arrangement was the outcome of an unsuccessful procurement exercise, which concluded in July 2010.



- RBKC successfully awarded a three year contract to CarersUK to deliver its Carers' Hub Service in 2010. It also awarded one year grants in the same year to third sector organisations to run specialist support groups and activities. In relation to young carers, the contract with the existing provider comes to an end on March 31<sup>st</sup> 2012.

4.16 In addition to the need for WCC to formalise existing purchasing arrangements across Adult and Children's Services, and for LBH&F to outsource its support services, a number of other factors have provided the impetus for officers responsible for carer services across the three boroughs to work together to jointly commission and procure carer support services. These include:

- The bringing together of commissioning functions on a tri-borough level.
- The need to develop outcome focused specialist services in line with the personalisation agenda.
- The need to achieve the best possible value from available public funds (best value means considering the *cost* and *quality* of services).
- The need to build local services for carers (including those whose cared-for are in transition) that are coherent and comprehensive.
- The need to develop services that support the principles outlined in the mandate for the provision and practice of Adult Social Services.

#### **Market testing/previous tenders**

4.17 Officers were aware that the market for carers' services would be specialised and had not been tested in Westminster. Also when LBHF had attempted to let its Carers' Hub contract for adult and young carers, there had been a poor response from the market.

4.18 In light of this, officers were of the view that carrying out a market warming exercise would be necessary in order to establish whether a developed market existed for carers' services, but also to seek feedback from providers in terms of how best contracts could be packaged to be attractive to providers in a competitive exercise.

4.19 Following an advertisement on Competefor in addition to existing providers being contacted direct, 15 organisations expressed an interest in participating in the exercise in May 2011. Of these, 7 organisations were invited to attend a meeting with officers to discuss services and packaging. These were as follows:

- Westminster Carers Services#
- Carers Network Westminster #
- Scope
- The Westminster Society for People with Learning Disabilities\*
- Family Action
- The Children's Society
- Crossroads Care

# Current Westminster carers' services provider.

\* Provides a small number of spot purchased personal care/short break services for individual children with disabilities.

- 4.20 Providers participating in the exercise gave a clear indication that contracts packaged along service delivery lines i.e. by specific service type, would be more attractive to the market generally and avoid providers having to seek collaborative arrangements with other providers in order to fulfil the specified requirements of a larger package.
- 4.21 At the market warming exercise the City Council was working on the basis that it would be procuring Advice, Information and Advocacy, Young Carers, and Domiciliary/ Respite services for adults and children. At this time, LBHF participated in the exercise on the basis that it was considering a partnership approach to the procurement of its Carers' Hub and Young Carer Service in-house.
- 4.22 There is an expectation of value for money and efficiency savings from this exercise. There are savings built into the savings plans for LBH&F Adults (Lot 1) and it is also anticipated that a better price (hourly rate) may be secured for WCC Adults and Children's Services, and LBH&F Children's Services (Lot 3). This information will be known following the submission of bids.

### **What is being proposed**

- 4.22 A range of support services will be available to specific groups, including children with disabilities and adult service users; adult carers (aged over 18); young carers (under the age of 18 years) and carers from black, minority and ethnic communities.
- 4.22 Lot 1: Carers' Hub - Advice, Information, Advocacy and Support Service

This service will be based on an outreach model and will provide support in the communities and facilities in which carers already spend their time. Support will be provided to a wide range of adult carers (including parent/carers of children with disabilities).

The three main strands of the service will be:

- Providing direct support to carers i.e. information, advice, signposting and peer support to improve health and wellbeing
- Facilitating access to carers' grants and statutory provision
- Facilitating networks and partnerships with other services for carers

This type of service will be required by:

- Westminster City Council – Adult Social Care Services
- Hammersmith and Fulham Council - Adult Social Care Services

- 4.23 While the tender exercise for this service will cover provision for both boroughs, the service has been apportioned as 2 separate packages. This is due to both Councils recognising the need for the service to have a local focus. It is possible that one contract may be awarded to an organisation to both services, or two separate contracts if it provides the best option following our evaluation of the bids received.
- 4.24 In addition, the successful provider(s) will also develop a hospital discharge link project to improve the experience of hospital discharge amongst carers. This project will cover the geographical areas of Hammersmith and Fulham, Kensington and Chelsea, and Westminster and will include Imperial NHS Healthcare Trust Hospitals (Charing Cross, Hammersmith and St Mary's) and Chelsea and Westminster Hospital.

The project will:

- Identify carers at an early point of contact.
- Involve carers in admission and discharge planning at the earliest stage possible.
- Signpost carers to appropriate and effective information, advice and support services.
- Support early discharge where appropriate.
- Assist carers to navigate the discharge process.
- Facilitate access to appropriate early intervention services.
- Reduce the instances of unnecessary hospital admission and readmission.

A total of £49,900 will be made available from the INWL PCTs to fund the project, in year 1 of the contract. The work of the project will then be embedded within admission and discharge processes across the trusts, and into the work of the successful provider(s) of those services packaged as Lot 1.

#### 4.25 Lot 2: Young Carers' Support Service

This service will be based on an outreach model and will provide support in the communities and facilities in which young carers already spend their time. Support will be provided to young carers aged 18 and under.

The three main strands of the service will be:

- Providing direct support to young carers to achieve with respect to all five 'Every Child Matters' outcomes.
- Facilitating access to other support services for young carers and those being cared for to minimise the caring responsibility on the child/young person.
- To facilitate a successful transition to adult carer services.

This type of service will be required by:

- Westminster City Council - Children's Services
- Hammersmith and Fulham Council - Children's Services
- Royal Borough of Kensington and Chelsea - Children's Services

4.26 Officers involved in the project are aware that as the relative size of the young carers' services is small there is scope for a single contract to be let across the tri-boroughs.

4.27 Lot 3: Home support and short break service for adults, children with disabilities, and their carers.

This person-centred and flexible service will improve the quality of life for adult carers and parent/carers by enabling them to access short breaks (sometimes known as 'respite') from their caring role. By providing a 'sitting service', the service will give them the opportunity to spend the time as they wish and pursue activities according to their own preference.

It will support vulnerable adults with essential personal and practical tasks of daily living that they are unable to manage on their own, such as getting up/going to bed, getting washed and dressed, preparing meals etc. It will also enable them to access short breaks, by supporting them to access activities and interests.

The service will also provide short breaks for children with disabilities (aged 0 - 18), enabling them to access activities and interests. This service will be one of a wide range of short breaks services available to children with disabilities and their families.

This type of service will be required by:

- Westminster City Council – Adult Social Care and Children's Services
- Hammersmith and Fulham - Children's Services

### **The proposed procurement process**

4.28 Carers services are defined as Part B services under EU Public Procurement Directives where only some of the EU procurement rules apply. There is no requirement for a Contract Notice to be published in the OJEU, but there is a requirement to send a Contract Award Notice to the Office of Publication of the OJEU. Additionally, the contracts will be advertised on Competefor and will be visible to all interested parties.

4.29 The contract will be let using the restricted procedure where potential providers are invited to express an interest in the contract and are then shortlisted to be invited to tender on the basis of the Pre-Qualification Questionnaires that they complete.

### **Proposals for the development of the contract documentation**

- 4.30 The specifications for each Lot have been drawn up by a tender project group. The group includes representatives from commissioning from each service, including Adult and Children's representatives, procurement and supplier relationship management. Carers and operational staff will also have input.
- 4.31 Procurement and commissioning representatives from each of the Tri-boroughs are also contributing to the service documents to ensure proposed services are able to meet needs.
- 4.32 Sharpe Pritchard are providing legal advice and drawing up the Tender pack.

### **Contract period**

- 4.33 Officers propose to award the contract(s) for 2 years; it is proposed that after 2 years there is an option to extend for a further 18 months. This ensures that options remain open should the situation change. In addition an annual break clause will be added throughout the life of the contract. The standard terms and conditions will be used as approved by the Head of Legal and Democratic Services or Sharpe Pritchard solicitors acting on the City Council's behalf.

### **Letting process**

- 4.34 Assuming the Restricted Procedure route is followed as proposed, the key tasks in the project plan would be as follows:

<b>Key Tasks</b>	<b>Date</b>
Tender Advertisement	Sept 12
Deadline for receipt of PQQs and short-listing	Oct 12
Invitation to tender	Oct 12
Deadline for receipt of bids	Dec 12
Completion of evaluation of bids	Jan 13
Approval by Cabinet Members	Feb 13
Contract Implementation	Mar 13
Contract Start Date	Apr 13

- 4.35 The Tri-borough Contracts Board will also be informed of actions and intentions.

### **Proposed tender evaluation**

- 4.36 An initial assessment of potential providers will take place at the expression of interest stage, using CompeteFor. Tenderers will be asked to complete a pre-qualification questionnaire which will be used to assess financial standing, experience, technical capacity and organisation capability.

## **5. EQUALITY IMPLICATIONS**

- 5.1 A Equality Impact Assessment has been undertaken in relation to the re-letting of carer support services. The impact assessments have been carried out with due regard to the Councils' general statutory duties under the Equality Act 2010. This paper is available as a background paper.
- 5.2 The proposal to re-let carer support services will on the whole have a positive impact on most of the protected groups. It is not anticipated that the services received by carers, children with disabilities, or vulnerable adults will vary significantly from what is currently received as part of this exercise. Eligibility for access to these services is not affected under this process; rather, it is hoped that by working collaboratively and focusing on outcomes across service areas and the three boroughs (whilst ensuring local needs continue to be met), residents will receive both better quality and value for money from the services procured. In addition, approved providers will be required to reach out and target more carers i.e. those currently not known to/or accessing services.

## **6. COMMENTS OF THE DIRECTOR FOR LEGAL AND DEMOCRATIC SERVICES**

- 6.1 Carer services are Part B services under the Public contracts Regulations 2006 and accordingly are not subject to the full requirements of EU procedures.
- 6.2 Sharpe Pritchard Solicitors, acting on behalf of the City Council, will provide the legal advice for the proposed contract documentation.
- 6.3 The Chief Solicitor comments that the legal implications associated with the procurement and the award of the contracts in relation to all three boroughs are as set out in the body of the report. Legal Services for each borough will remain on hand to provide ongoing contracts and procurement advice as required.

## **7. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

- 7.1 The Financial implications are contained in Appendix B which is exempt from publication. The Tri-borough Director of Finance for Adult Social Care confirms that there is an expectation of efficiency savings from this tender exercise. The budgets quoted in Appendix B include savings where they were already planned.

## **8. CONSULTATION**

- 8.1 There is no legal requirement to consult with the public as there is no significant change to service delivery, only a reduced budget and a possible new provider(s).



**Local Government Act 1972 (as amended) – Background papers used in the preparation of this report**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Joint Adult and Children's Peer Group Carers' Services Contract Let Discussion Paper - 26 January 2011	14 <sup>th</sup> Floor, City Hall	Steven Falvey, 0750 0953 918
Joint Adult and Children's Peer Group Carers' Services Contract Let Discussion Paper - 25 September 2011 (Version 2)	14 <sup>th</sup> Floor, City Hall	Steven Falvey, 0750 0953 918
Gate 1 Review Panel – Strategy report for the provision of carer services across WCC, LBHF, and RBKC	14 <sup>th</sup> Floor, City Hall	Steven Falvey, 0750 0953 918
Tri-Borough Carers' Services Re-let Equality Impact Assessment	14 <sup>th</sup> Floor, City Hall	Steven Falvey, 0750 0953 918

**Other Implications**

1. Risk Management

1.1 The following risks have been identified, they are summarised below with mitigating actions:

<b>Risk</b>	<b>Mitigating Actions</b>
The budget for the contract will be at risk of further reduction and the contract term contains a break clause, as such there may not be sufficient interest from the market.	There is a developed market for the provision of these services, identified following the market testing exercise, and providers will be informed of the uncertainty of ongoing funding in the current financial climate
There could be a risk that the LBH&F TUPE costs will push up the bid price.	The impact depends on the value of the current in-house staffing costs; whether there is a difference and what the difference is between the staffing costs for the in-house team and the market rates; the proportion of a provider's total costs that is made up of staffing costs; the size of the bidders and their ability to absorb the TUPE costs. TUPE costs will be apportioned to LBH&F.

2. Health and Wellbeing, including Health and Safety Implications

2.1 All known health and safety risks will be addressed in the specifications and where appropriate conditions of contact. Providers will be required at PQQ and Tender stage to demonstrate an understanding of health and safety issues related to providing carer services. Any provider unable to suitably meet the standards set will fail to pass the PQQ stage of the tender process.

3. Staffing

3.1 There are no direct staffing implications for Westminster City Council or the Royal Borough of Kensington and Chelsea related to the re-letting strategy for the contract.

3.2 There are direct staffing implications for Hammersmith and Fulham Council. Officers are of the view that TUPE will apply for two full time members of staff from Adult Services. Accordingly tenderers will be provided with the information to enable them to submit a TUPE based price.

- 3.3 The Director of HR agrees that this tender process will result in a TUPE transfer and that this will be carried out taking into account all relevant, current employment legislation. Tender documentation will instruct tenderers to take a view under the provisions of TUPE legislation. Information on existing posts and staff will be available to all tenderers.
4. Sustainability
- 4.1 Tenderers will be required to demonstrate in their proposals that they are committed to sustainable procurement, current practice and proposals for using eco-friendly products, machinery, transport and for cleaning and disposing of waste in an environmentally sound way.
5. Communications
- 5.1 Officers from both Adult and Children's Services have kept all existing providers informed of progress with the project and for the future commissioning of carers services as well as timescales. The Carers Partnership Board has been made of aware of plans and greater detail will follow as decisions are made.
- 5.2 A series of '*Service User Input*' events have been held with existing service users and carers across the three boroughs. The purpose of this exercise has been to inform them of the tender process, seek input into the draft specifications and to encourage them to join the carer involvement project.
- 5.3 A carer involvement project will be set up and carer representatives will be offered the chance to join an interview panel with the shortlisted providers. They will decide the questions to be asked based on their perception of important aspects of support and will feed findings back to the councils' panel as to their views on the providers interviewed. Their views and scores will help inform the decision of the group, but they are clear that the councils retain the right and responsibility to make the final decision.
6. Customer Services Initiative Implications
- 6.1 There are no CSI implications arising from the re-let of these contracts.
- 6.2 The contracts for carer services are specialised. There are no existing corporate contracts and/or framework agreements under the Customer Service Initiative appropriate to deliver the service.
7. Supporting Local Businesses (paragraph 21 of the Procurement Code)
- 7.1 Tender documents will stress the importance of supporting local businesses/area and local organisations and this will be evaluated as part of the tender. The existing providers will be encouraged to bid for the contracts.

## 7.2 Equalities and Diversity

Tenderers will be required to evidence that they comply with Equality Legislation and actively promote and monitor equality on their workforce. The specifications address expectations on service providers in terms of adhering to equalities legislation and promoting equalities working, as well as the need to consider a diverse workforce to meet the needs of a diverse service user group.

7.3 Monitoring of provision will ensure providers offer services to all client groups and that this is reflective of the community they serve.

## 8. ICT Implications (paragraph 14 of the Procurement Code)

8.1 There are no ICT implications arising from this proposal. The successful provider(s) will be expected to provide their own ICT and this will be made clear in the tender documentation.

## 9. Property Implications (paragraph 12 of the Procurement Code)

9.1 The providers will operate from their own premises. There are no property implications as a result of the tender. Tenderers submitting bids for Lot 1, the Carers' Hub Service, will be required to demonstrate a commitment to have a local base in both WCC and H&F, if they do not already have one. This has been shown to be essential in previous working relationships.

# Agenda Item 9



## **FORWARD PLAN OF KEY DECISIONS**

*Proposed to be made in the period September 2012 to December 2012*

The following is a list of Key Decisions, as far as is known at this stage, which the Authority proposes to take in the period from September 2012 to December 2012.

**KEY DECISIONS** are those which are likely to result in one or more of the following:

- Any expenditure or savings which are significant, regarding the Council's budget for the service function to which the decision relates in excess of £100,000;
- Anything affecting communities living or working in an area comprising of two or more wards in the borough;
- Anything significantly affecting communities within one ward (where practicable);
- Anything affecting the budget and policy framework set by the Council.

The Forward Plan will be updated and published on the Council's website on a monthly basis. (New entries are highlighted in yellow).

**NB:** Key Decisions will generally be taken by the Executive at the Cabinet. The items on this Forward Plan are listed according to the date of the relevant decision-making meeting.

*If you have any queries on this Forward Plan, please contact  
Katia Richardson on 020 8753 2368 or by e-mail to [katia.richardson@lbhf.gov.uk](mailto:katia.richardson@lbhf.gov.uk)*

### **Consultation**

Each report carries a brief summary explaining its purpose, shows when the decision is expected to be made, background documents used to prepare the report, and the member of the executive responsible. Every effort has been made to identify target groups for consultation in each case. Any person/organisation not listed who would like to be consulted, or who would like more information on the proposed decision, is encouraged to get in touch with the relevant Councillor and contact details are provided at the end of this document.

### **Reports**

Reports will be available on the Council's website ([www.lbhf.org.uk](http://www.lbhf.org.uk)) a minimum of 5 working days before the relevant meeting.

### **Decisions**

All decisions taken by Cabinet may be implemented 5 working days after the relevant Cabinet meeting, unless called in by Councillors.

### **Making your Views Heard**

You can comment on any of the items in this Forward Plan by contacting the officer shown in column 6. You can also submit a deputation to the Cabinet. Full details of how to do this (and the date by which a deputation must be submitted) are on the front sheet of each Cabinet agenda.

#### **LONDON BOROUGH OF HAMMERSMITH & FULHAM: CABINET 2012/13**

<b>Leader (+ Regeneration, Asset Management and IT):</b>	<b>Councillor Nicholas Botterill</b>
<b>Deputy Leader (+ Residents Services):</b>	<b>Councillor Greg Smith</b>
<b>Cabinet Member for Children's Services:</b>	<b>Councillor Helen Binmore</b>
<b>Cabinet member for Communications:</b>	<b>Councillor Mark Loveday</b>
<b>Cabinet Member for Community Care:</b>	<b>Councillor Marcus Ginn</b>
<b>Cabinet Member for Housing:</b>	<b>Councillor Andrew Johnson</b>
<b>Cabinet Member for Transport and Technical Services:</b>	<b>Councillor Victoria Brocklebank-Fowler</b>

*Forward Plan No 124 (published 15 August 2012)*



## LIST OF KEY DECISIONS PROPOSED SEPTEMBER 2012 TO DECEMBER 2012

*Where the title bears the suffix (Exempt), the report for this proposed decision is likely to be exempt and full details cannot be published.*

**New entries are highlighted in yellow.**

\* All these decisions may be called in by Councillors; If a decision is called in, it will not be capable of implementation until a final decision is made.

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
<b>September</b>			
Cabinet	3 Sep 2012	<b>Tri-borough ICT strategy 2012-2015</b>  The Vision for Tri-borough ICT - A Tri-borough ICT Strategy for 2012-2015	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Affects more than 1 ward		Ward(s): All Wards
Cabinet  Full Council	3 Sep 2012	<b>Treasury Outturn Report</b>  This report provides information on the Council's debt, borrowing and investment activity for the financial year ending 31st March 2012	Leader of the Council (+Regeneration, Asset Management and IT)
	24 Oct 2012		Ward(s): All Wards
Cabinet	3 Sep 2012	<b>Earl's Court Regeneration Project</b>  The further report will outline progress to date on the discussions on the key issues around the Earls Court Regeneration project.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Significant in 1 ward		Ward(s): North End
Cabinet	3 Sep 2012	<b>Mayor of London's Cycle Hire Scheme</b>  Seeks authority to enter into an agreement with Transport for London to extend the Mayor of London's cycle hire scheme into the borough.	Cabinet Member for Transport and Technical Services
	Reason: Expenditure more than £100,000		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	3 Sep 2012	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 2 (May)</b>  Report seeks approval for changes to the Revenue Budget.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	3 Sep 2012	<b>Release of Restrictive Covenant at 70-72 Hammersmith Bridge Road</b>  The report seeks approval for the Council to release a restrictive covenant on this site for the benefit of the freeholder who has planning consent for a residential development on the site with a payment to the Council.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): Hammersmith Broadway
Cabinet	3 Sep 2012	<b>Strategy for the provision of carer services across the City of Westminster, the London Borough of Hammersmith and Fulham, and the Royal Borough of Kensington and Chelsea</b>  Strategy for the provision of carer services across the City of Westminster, the London Borough of Hammersmith and Fulham, and the Royal Borough of Kensington and Chelsea	Cabinet Member for Community Care
	Reason: Affects more than 1 ward		Ward(s): All Wards
<b>October</b>			
Cabinet	15 Oct 2012	<b>Shepherds Bush Market - Land Assembly</b>  Report setting out progress to date on land assembly to facilitate regeneration of the market and next steps.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Significant in 1 ward		Ward(s): Shepherds Bush Green

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	15 Oct 2012	<b>Looked After Children Social Care Report</b>	Cabinet Member for Children's Services
	Reason: Affects more than 1 ward	Looked After Children Social Care report.	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Child Protection Social Care Report</b>	Cabinet Member for Children's Services
	Reason: Affects more than 1 ward	Child Protection Social Care report.	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Local Safeguarding Children's Board (LSCB) Social Care Report</b>	Cabinet Member for Children's Services
	Reason: Affects more than 1 ward	Local Safeguarding Children's Board (LSCB) Social Care report.	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Measured Term Contract for Boroughwide Cyclical Planned Maintenance to Council-owned Housing Properties 2012 – 2015</b>	Cabinet Member for Housing
	Reason: Affects more than 1 ward	The term contract will include external and communal repairs and redecorations, plus works to communal services installations, to the borough's housing portfolio.	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Travel Assistance Policies</b>	Cabinet Member for Children's Services
	Reason: Affects more than 1 ward	Travel Assistance Policy – Special education needs (SEN)	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Building a Housing Ladder of Opportunity</b>	Cabinet Member for Housing
	Reason: Affects more than 1 ward	Seeks adoption as housing policy following public consultation for four housing documents: housing strategy; housing allocation scheme; tenancy strategy; and homelessness strategy	Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	15 Oct 2012	<b>Tri-borough ICT provision procurement - initiation</b>  This paper will seek approval for the H&F participation in the initiation of the procurement of key ICT services tri-borough; for the consequent re-organisation of the three Councils' client side into one tri-borough; for the funding for the next stages of procurement.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Corporate Revenue Monitoring 2012_13 : PERIODS 3 and 4 (June and July)</b>  Corporate Revenue Monitoring 2012_13 : PERIODS 3 (June) and 4 (July).	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Corporate Capital Budget Monitor - 1st Quarter 2012/13</b>  To seek approval for changes to the Capital Programme - 2012/13	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Economic Development priorities for S106 contributions</b>  This report details current economic development workstreams and seeks members' approval for the use of Section 106 funds to achieve key outcomes.	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000	 The report also signals work commencing to establish new high-level economic development priorities which respond to the borough's longer term regeneration vision and growth.	Ward(s): All Wards

Decision to be Made by: (ie Council or Cabinet)	Date of Decision-Making Meeting and Reason	Proposed Key Decision	Lead Executive Councillor(s) and Wards Affected
Cabinet	15 Oct 2012	<p><b>Troubled Families - Implementing a Tri-borough Approach</b></p> <p>In December 2011, the Government launched its programme to turn around the lives of the country's 120,000 most troubled families: those experiencing multiple problems and disadvantages such as unemployment, truancy and causing problems such as crime and anti-social behaviour at an annual estimated cost of £9 billion. The Government has estimated that there are 1720 troubled families in the Tri-borough at an estimated annual cost to the taxpayer of £150 million.</p> <p>The programme will run for three years funded by a combination of attachment fees and on a "payments by results" basis to incentivise local authorities and other partners to prioritise this work.</p> <p>This report:</p> <ul style="list-style-type: none"> <li>- Updates Members on the data and financial analysis of the Troubled Families cohort in the Tri-borough area</li> <li>- Proposes the 'wrap-around' service provision to deal with the complexity of issues faced by the Troubled Families cohort.</li> </ul>	Cabinet Member for Children's Services
	Reason: Affects more than 1 ward		Ward(s): All Wards
Cabinet	15 Oct 2012	<p><b>Redevelopment of intranet</b></p> <p>Provision of a new resilient platform for intranet, with improved ease of use</p>	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	15 Oct 2012	<b>Microsoft academic licence rationalisation</b>  Inclusion of academic licences within the Microsoft enterprise agreement to ensure consistency with upgrade to Office 2010	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Strategic review of sheltered housing stock and the provision of extra care - Phase 1</b>	Cabinet Member for Housing, Cabinet Member for Community Care
	Reason: Affects more than 1 ward	The vision is to ensure that LBHF HRA stock is managed efficiently and profiled to meet changing aspirations and need in the Borough.  A key driver is to provide sustainable, fit for purpose accommodation that meets the corporate objective of delivering high quality, value for money services.  Whilst the outcome of the review of the Sheltered Housing Stock cannot be predetermined, a primary objective is to deliver an additional 105 units of Extra Care accommodation within our existing Sheltered housing stock to support the operational requirements of Adult Social Care. Current stock will be assessed for potential conversion as part of the Review.	Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Acton Care Centre Contract Extension</b>	Cabinet Member for Community Care
	Reason: Expenditure more than £100,000	To request Cabinet approval for an extension to the contract between the London Borough of Hammersmith and Fulham and Catalyst Housing Group for the provision of nursing home beds at Acton Care Centre for a period of	Ward(s): All Wards



<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
		one year from 1 March 2013.	
Cabinet	15 Oct 2012	<b>Housing Development: Appointment of Building Contractor</b>  To appoint a building contractor for the next phase of the 'hidden homes' sites to build affordable housing through the Housing Development Company.	Cabinet Member for Housing
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Housing Development: Appointment of Development Management Services Agent</b>  Appointment of development management services agent to deliver affordable housing products built using innovative modern methods of construction through the Council's housing development company.	Cabinet Member for Housing
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Housing Development: Procurement of Joint Venture Development Partner</b>  Procurement of a development partner to establish a housing joint venture vehicle in relation to Watermeadow Court and Edith Summerskill House sites.	Cabinet Member for Housing
	Reason: Affects more than 1 ward		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Tri-Borough Integration of Health and Social Care Services</b>  Tri-Borough Integration of Health and Social Care Services	Cabinet Member for Community Care
	Reason: Affects more than 1 ward		Ward(s): All Wards
Cabinet	15 Oct 2012	<b>Funding Request for 2012/13 Tri-Borough Costs</b>  This report requests funding for the H&F share of the necessary additional staff costs, identified to date, that need to be incurred in order to	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
	more than £100,000	secure the delivery of the Tri-borough proposals and associated benefits. These include £17 million savings for H&F by 2015/16.	
Cabinet	15 Oct 2012	<b>Removal of Automatic Public Conveniences</b>  To remove all 6 Automated Public Conveniences (APCs) in the borough with customers utilising alternative toilets such as those in the Mayor for London's Toilet Scheme. Also to consider the future of the urinals at Shepherds Bush Green.	Deputy Leader (+ Residents Services)
	Reason: Affects more than 1 ward		Ward(s): All Wards
<b>November</b>			
Cabinet	12 Nov 2012	<b>Hammersmith Town Hall - Smart Accommodation Programme - Phase 1</b>  Tender acceptance report to appoint contractor to carry out remodelling works on 1st and 2nd floor offices at Hammersmith Town Hall to provide smart working, open plan accommodation to maximise occupancy.	Deputy Leader (+ Residents Services)
	Reason: Expenditure more than £100,000		Ward(s): Hammersmith Broadway
Cabinet	12 Nov 2012	<b>Reprocurement of frameworki Social Care IT system</b>  Confirmation of reprocurement of Frameworki social care system (or equivalent social care system) is requested for both Adult Social Care and Children's Services from January 2013.	Cabinet Member for Community Care, Cabinet Member for Children's Services
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	12 Nov 2012	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 5 (August)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
	£100,000		
Cabinet	12 Nov 2012	<b>SERCO Contract Review</b>  Description: Review and decision about whether to continue with SERCO Waste and Street Cleansing contract which expires in 2015.	Deputy Leader (+ Residents Services)
	Reason: Affects more than 1 ward		Ward(s): All Wards
<b>December</b>			
Cabinet	10 Dec 2012	<b>Corporate Revenue Monitoring 2012_13 PERIOD 6 (September)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	10 Dec 2012	<b>Council Housing Tenancy Agreement</b>  Cabinet will be asked to agree a new tenancy agreement following consultation, which will include reference to new flexible fixed term tenancies; basis for tenants to operate a business from home; clarify tenancy succession issues; highlight the consequences of tenancy fraud and attempts at tenancy fraud; general updating and presentational improvements to current document.	Cabinet Member for Housing
	Reason: Affects more than 1 ward		Ward(s): All Wards
Cabinet	10 Dec 2012	<b>Capital Budget Monitor - 2nd Quarter Amendments 2012/13</b>  To seek approval for changes to the Capital Programme - 2012/13	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet  Full Council	10 Dec 2012	<b>Treasury Management Mid Year Review</b>  This reports covers Quarter 1 and 2 for 2012/13 and provides information on the Council's debt, borrowing and investment activity up to the 30th September 2012	Leader of the Council (+Regeneration, Asset Management and IT)
	30 Jan 2013		Ward(s): All Wards
	Reason: Expenditure more than £100,000		
<b>January</b>			
Cabinet	14 Jan 2013	<b>Elevator Monitoring Unit Installation - Various Sites</b>  The works consist of the supply and installation of elevator Monitoring Units and Auto Diallers to be fitted to each lift in providing automatic reporting of lift breakdowns and two communication between each lift car and operators at a manned call centre in dealing with lift entrapment.	Cabinet Member for Housing
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	14 Jan 2013	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 7(October)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	14 Jan 2013	<b>Supply of tickets for pay and display machines</b>  This is a bi-borough framework agreement with RBKC for the supply of tickets for pay and display machines.	Cabinet Member for Transport and Technical Services
	Reason: Affects more than 1 ward		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	14 Jan 2013	<b>Provision of a blue badge investigation and enforcement service</b>  The Council has piloted a scheme to tackle the abuse of Disabled Parking Permits (blue badges). The pilot has proved to be successful and the Council now wants to enter into a long-term contractual arrangement for a minimum of 3 years and a maximum of 7.	Cabinet Member for Transport and Technical Services
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	14 Jan 2013	<b>Contract for the maintenance of pay and display machines</b>  This is a bi-borough contract with RBKC for the maintenance of pay and display machines.	Cabinet Member for Transport and Technical Services
	Reason: Expenditure more than £100,000		Ward(s): All Wards
<b>February</b>			
Cabinet	11 Feb 2013	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 8 (November)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
<b>March</b>			
Cabinet	4 Mar 2013	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 9 (December)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards

<b>Decision to be Made by:</b> (ie Council or Cabinet)	<b>Date of Decision-Making Meeting and Reason</b>	<b>Proposed Key Decision</b>	<b>Lead Executive Councillor(s) and Wards Affected</b>
Cabinet	4 Mar 2013	<b>Capital Budget Monitor - 3rd Quarter Amendments 2012/13</b>  To seek approval for changes to the Capital Programme 2012/13	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
<b>April</b>			
Cabinet	8 Apr 2013	<b>Corporate Revenue Monitoring 2012_13 : PERIOD 10 (January)</b>  Report seeks approval for changes to the Revenue Budget	Leader of the Council (+Regeneration, Asset Management and IT)
	Reason: Expenditure more than £100,000		Ward(s): All Wards
Cabinet	8 Apr 2013	<b>Letting of concession of Wi-Fi on lamp posts</b>  Letting of a concession to allow mobile data devices to be fitted to lamp posts.	Deputy Leader (+ Residents Services)
	Reason: Affects more than 1 ward		Ward(s): All Wards



# Agenda Item 10



London Borough of Hammersmith & Fulham

## Cabinet

3 SEPTEMBER 2012

### SUMMARY OF OPEN DECISIONS TAKEN BY THE LEADER AND CABINET MEMBERS REPORTED TO CABINET FOR INFORMATION

#### CABINET MEMBER

#### **CABINET MEMBER FOR TRANSPORT AND TECHNICAL SERVICES**

*Councillor Victoria Brocklebank-Fowler*

#### **10.1 THAMES TUNNEL EXAMINATION COSTS**

Thames Water's development consent application for the works associated with the Thames Tunnel will not be determined by the affected local authorities or by the Mayor of London. It has been designated a Nationally Significant Infrastructure Project and the application will be examined by the Major Infrastructure Planning Unit of the Planning Inspectorate. The final decision will be by the Secretaries of State for Environment, Food and Rural Affairs and for Communities and Local Government.

The Council has the opportunity to submit evidence to the Examination in the form of a Local Impact Report (LIR). The LIR and the documentation included in it will enable the council to bring evidence before the Inspector and finally the Secretaries of State of the impact of the proposed Thames Tunnel on this borough and particularly on the South Fulham area.

In order to draw together the required information and to assess the accuracy of the evidence submitted by TW, there will be a need for additional resources in a number of different work areas. There is also likely to be a requirement for legal advice and possibly legal representation at the Examination.

Approval is sought for additional expenditure of up to £35,000 to fund the additional staff resources and up to £50,000 to fund additional legal costs in 2012/13. The costs for 2013/14 will be estimated after TW has submitted the Development Consent Application.

#### **Decision made by Cabinet Member on: 11 July 2012**

**That approval is given to expenditure of up to £85,000 in 2012/13 to fund the costs associated with the examination into the application by Thames Water for Thames Tunnel works in this borough.**

**Ward: Sands End**

**CABINET MEMBER  
FOR TRANSPORT  
AND TECHNICAL  
SERVICES**

*Councillor Victoria  
Brocklebank-Fowler*

**10.2 SWMP & SFRA UPDATE COMMISSION**

This report presents a proposal to work jointly with the Royal Borough of Kensington and Chelsea (K&C) to commission a review and update our Surface Water Management Plan and the joint Strategic Flood Risk Assessment.

**Decision made by Cabinet Member on: 11 July 2012**

- 1. To approve joint working with RB Kensington and Chelsea to commission an update, as outlined in the report, to the Council's Surface Water Management Plan and the joint Strategic Flood Risk Assessment with Kensington and Chelsea acting as lead authority for the project.**
- 2. To delegate authority to the Executive Director for Transport and Technical Services to authorise access to the Kensington and Chelsea commission with a ceiling of £70,000 for this Council's share of the winning consultants costs.**

**Wards: All**

# Agenda Item 11

## **SUMMARY OF URGENT DECISIONS TAKEN BY THE LEADER REPORTED TO CABINET FOR INFORMATION**

The following reports were considered in accordance with paragraph 1.21 of the Leader's Portfolio.

### **ITEM**

#### **11.1 CONSULTATION ON THE COUNCIL'S COUNCIL TAX SUPPORT SCHEME**

From April 2013, and as part of its general Resource Review, the Government is abolishing the council tax benefit scheme and requiring each local authority to implement a local scheme which will receive 10% less funding than currently.

The new schemes will provide support for council tax by way of a discount rather than a benefit, but local authorities will have to protect pensioners and vulnerable groups.

It is the intention of the council to absorb this 10% reduction and implement a local scheme that mirrors the current council tax benefit scheme.

#### **Reasons for Urgency:**

We must have any scheme in place by 31 January 2013, but are also required to consult with the GLA (as precepting authority) and the public on this approach.

In order that we can meet the timescales (which includes the implementation of new IT systems) we seek approval to commence this consultation immediately.

#### **Decision taken by the Leader on: 9 August 2012**

#### **Recommendations:**

- 1. That approval is given to start public consultation on the Council's proposed scheme (to absorb the 10% reduction in grant) which will ensure no residents are worse off in 2013/14.**
- 2. That this approach is revisited for 2014/15 and a further report is submitted on future options.**

**Wards: All**

#### **11.2 EARL'S COURT REDEVELOPMENT**

This report seeks authority for the Council to enter into a supplemental agreement with Capital & Counties plc which extends the period of negotiations for a potential Land Sale Agreement for a further period of six months beyond 29 July 2012.

#### **Reasons for Urgency:**

The Exclusivity Agreement which was entered into on 29 July 2011 will expire at the end of July. It had been hoped that a final form of Agreement would have been settled by this stage which could be considered by the Cabinet before the end of July. However, whilst progress has been made with the negotiations, these have still to be finalised. It is anticipated that they will be completed within the next few weeks and therefore an additional six month

period for negotiations is required

**Decision taken by the Leader on: 10 July 2012**

**Recommendation:**

**That approval be given to enter into a Supplemental Agreement with Capital and Counties plc extending the period of the original Exclusivity Agreement dated 29 July 2011 by a further six months until 29 January 2013 to allow further negotiations between the parties concerning the terms of a possible Land Sale Agreement for the inclusion of the West Kensington and Gibbs Green estates in the proposed comprehensive redevelopment scheme.**