



Report to Council

24 OCTOBER 2012

LEADER

*Councillor Nicholas
Botterill*

EARLS COURT REDEVELOPMENT - APPLICATION FOR CONSENT FOR DISPOSAL OF HRA LAND

**Wards
North End
Fulham
Broadway**

This report addresses the need to apply for consent from the Secretary of State for the Department for Communities and Local Government for the proposed disposal of parts of the West Kensington and Gibbs Green Estates (the Estates). The Cabinet has authorised the Council to enter into a Conditional Land Sale Agreement which would grant a conditional option to EC Properties LP, part of the Capital and Counties Properties plc group of Companies (Capco), to include Council owned land including the Estates in a comprehensive redevelopment of the Earls Court area.

CONTRIBUTORS

EDFCG
DoL

RECOMMENDATIONS:

Council is asked to authorise the Executive Director of Housing and Regeneration to submit an application for the Secretary of State's consent for the necessary disposal of Housing Revenue Account (HRA) land situated in the Estates to facilitate a comprehensive redevelopment of the Earl's Court and West Kensington area, following the completion and signing of the Conditional Land Sale Agreement with EC Properties LP, part of the Capital and Counties Properties plc group of companies (referred to as CapCo within this report).

1.0 INTRODUCTION

- 1.1 This report sets out the background to and rationale for the comprehensive redevelopment scheme, and explains the need for the full Council to authorise an application to the Secretary of State for consent to dispose of land included within the Estates.
- 1.2 On 3 September 2012, the Cabinet authorised the Council to enter into a Conditional Land Sale Agreement (CLSA) with EC Properties LP, a subsidiary of Capital and Counties (Capco). The CLSA grants EC Properties LP a conditional option to purchase the Estates so that they may be included in the comprehensive redevelopment scheme. In return for its land the Council will receive 760 new replacement homes and £105m.¹
- 1.3 The Cabinet Report of 3 September 2012 is attached, as Appendix 1.
- 1.4 The Secretary of State's consent is required by the Housing Act 1985, since the Estates contain HRA land.
- 1.5 Officers have prepared the application to the Secretary of State and are now seeking the full Council's approval to submit the application.
- 1.6 Whilst the site of the former Gibbs Green school is within the Estates, it is not housing land and is therefore subject to different consents as was explained in the 3 September 2012 Cabinet Report.

2.0 BACKGROUND AND HISTORY

- 2.1 For three years the Council has been in discussions with other relevant landowners and has been considering the possibility of a redevelopment scheme across three principal land holdings (please see Appendix 1 of the Cabinet Report). The principal landowners are:
 - Capco - leaseholders of Earls Court 1 and 2 and freehold owners of various sites in the area including 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 owner of the Estates, and the site of the former Gibbs Green School.
- 2.2 The proposed comprehensive redevelopment scheme covers an area of approximately 73 acres² and sits across the boundary of the Boroughs of Hammersmith and Fulham (LBHF) and Kensington and Chelsea (RBKC).
- 2.3 The masterplan prepared on behalf of Capco proposes approximately 7,583³ new homes including 760 replacement homes and an estimated further 740 additional

¹ Including £0.5m for the Seagrave Road and Ricketts Street properties, and consideration for the Farm Lane and Gibbs Green School sites (which are not HRA land).

² Including the Seagrave Road Car Park Site but excluding Farm Lane.

³ The current planning application is for 5,845 homes in LBHF and 930 homes in RBKC (i.e. 6,775 homes), plus a separate planning application for 808 homes on the Seagrave Road Car Park site (i.e. 7,583 in total).

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.

2.4 The West Kensington and Gibbs Green Estates

2.5 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, two tenant halls, an empty nursery building, the former Gibbs Green School and the highway at Mund Street.

2.6 531 of the homes on the Estates are occupied by Council tenants 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 Estates, which have been developed piecemeal over the past 30 years, with the sites sold by the Council to the three HAs on long leases. The three HAs are Family Mosaic HA, London and Quadrant HA and Shepherds Bush HA.

2.7 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 23rd 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

2.8 Planning Applications

2.9 Three planning applications were submitted by EC Properties LP in June 2011.

- 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 car park 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 the Planning Application Committee on 16 February 2012, subject to finalising the terms of the Section 106 Agreement and there being no contrary direction from the Mayor of London. The Section 106 agreement was completed on 30 March 2012 and planning permission was issued on the same day.
- On 12 September 2012, the Council's Planning Applications Committee resolved to grant planning permission for the 'Earls Court 2 Exhibition Centre, Lillie Bridge Rail Depot, West Kensington and Gibbs Green housing estates

and adjoining land' (subject again to there being no contrary direction by the Mayor, and to an appropriate Section 106 Agreement being finalised).

- In the coming weeks RBKC's Planning Application Committee is due to consider the Earls Court 1 planning application from EC properties LP.

2.10 Consultation with Residents

2.11 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 a comprehensive redevelopment scheme.

2.12 From 6 January 2012 to 12 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.

2.13 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).

2.14 Officers completed a full analysis of the consultation responses in a report which the Cabinet was asked to consider as part of the 3 September 2012 Cabinet decision. The analysis is not summarised here rather it is included at Appendix 5 of the Cabinet Report. Councillors should carefully read this report.

3.0 RATIONALE FOR SCHEME

3.1 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).

3.2 The Economic Appraisal (Appendix 2 of the Cabinet Report) considered four options for the Estates. These are set out in the table below.

Table 2 – Options explored in the Economic Appraisal

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 Estates would be demolished and replaced with new housing and other supporting uses.
Option 4	Inclusion of the Estates within the comprehensive redevelopment scheme.

- 3.3 The Economic Appraisal concludes that the inclusion of the Estates within the comprehensive 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 jobs⁴
 - 9,528 permanent jobs⁵
 - £99.5m per annum of additional local expenditure.
- 3.4 In addition to the significant benefits identified in the Economic Appraisal, the consideration paid by Capco (£105m) will provide much-needed funds to be reinvested into the Borough. The current economic climate makes the receipt of such additional public funds particularly valuable. These funds will be apportioned between the general fund and the housing revenue account based on the land encompassed by the CLSA. 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.
- 3.5 Not least given the above benefits, the Council considers 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.
- 3.6 The Mayor's London Plan (2011) identifies the Earls Court and West Kensington Opportunity Area 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 this Opportunity Area.
- 3.7 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.
- 3.8 Officers also believe that the comprehensive redevelopment of the Opportunity Area significantly contributes towards meeting the vision and objectives detailed in the Housing Strategy 2012 (due to be considered by the Cabinet on 15 October 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.

⁴ Defined as person years of construction employment.

⁵ Defined as new gross direct jobs Appraisal.

4.0 THE CONDITIONAL LAND SALE AGREEMENT (CLSA)

4.1 The CLSA sets out the terms and arrangements between Capco and the Council. It details the steps that need to be undertaken in order for the land at issue to be transferred to Capco. The Council is to receive a 995 year head lease, a virtual freehold, in the properties provided as replacement homes.

4.2 The terms of the CLSA have been negotiated by officers, supported by expert professional advice. Legal advice has been obtained from SNR Denton 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 (PWC).

4.3 Payment for Council Land

4.4 There are two elements to the Council's consideration for the land. These are new replacement housing⁶ for the housing currently on the Estates and a monetary consideration of £105m. 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 CLSA currently represents best consideration.

4.5 Re-provision of existing homes

4.6 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. Under the CLSA all homes currently within the Estates will be re-provided to the Council, as part of the comprehensive redevelopment scheme. This enables the Council to promise that existing residents of the Estates will be offered new accommodation within the new development.

4.7 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 should only have to move once. 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.

4.8 The Seagrave Road Car Park site is the only realistic option for achieving this '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.

4.9 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 This is anticipated to form part of the planning obligations to be contained within the Section 106 agreement.

4.10 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.

4.11 Benefits for Tenants

4.12 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.⁷
- 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 central 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.
- 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.

4.13 Benefits for Leaseholders and Freeholders

4.14 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.

⁷ If a resident's need exceeds 5 bedrooms then other re-housing options will be considered.

- 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 can be bought out for the market value under the Early Purchase arrangement.

5.0 APPLICATION TO SECRETARY OF STATE FOR DISPOSAL

- 5.1 On 3 September 2012, the Cabinet authorised the Council to enter into the CLSA. However, under the Housing Act 1985, the Council also has to obtain the Secretary of State's consent in order to include the Estates within the comprehensive redevelopment scheme. Without this consent, the comprehensive redevelopment scheme cannot go forward under the CLSA.
- 5.2 Under Article 4 of the Council's constitution only the full Council can approve an application to the Secretary of State in respect of any HRA land transfer of 500 or more properties. The total number of properties on the Estates is above this level, and therefore this report is being presented to the full Council to seek its approval.
- 5.3 If and when an application is made then the Secretary of State will consider matters such as whether the land has been disposed at market value, the value to the local community, the replacement affordable housing and any nomination rights the Council would have.
- 5.5 The proposed application to the Secretary of State is attached as Appendix 2.
- 5.6 In particular, the Secretary of State will require the following information:
- a committee report (see the 3 September 2012 Cabinet Report at Appendix 1 of this report)
 - a valuation (no more than three months old) produced by an independent qualified valuer (MRICS, FRICS); (see Appendix 10 of the Cabinet Report – JLL Best Consideration Letter)
 - a site plan (see Appendix 1 of the Cabinet Report).
 - A copy of the Council's Housing Strategy (see Annex A of the "Building a Housing Ladder of Opportunity, Incorporating Housing Strategy, Housing Allocation Scheme, Tenancy Strategy, Homelessness Strategy" report that went to Cabinet on 15 October 2012, please see the following link to the report (item 16a Annex A) - http://www.lbhf.gov.uk/Directory/Council_and_Democracy/Committee_reports

[_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=mgAi.aspx%26amp%3BDID%3D9714%23mgDocuments](http://www.lbhf.gov.uk/Directory/Council_and_Democracy/Committee_reports/_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=mgAi.aspx%26amp%3BDID%3D9714%23mgDocuments))

- The Council has also included a copy of the Borough Investment Plan (see the “Borough Investment Plan” report that went to Cabinet on 5 December 2011, please see the following link to report (item 130) - http://www.lbhf.gov.uk/Directory/Council_and_Democracy/Committee_reports/_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=ieListDocuments.aspx%26amp%3BCId%3D116%26amp%3BMId%3D1851) approved by the London Housing Board, chaired by the Mayor of London, at its meeting in December 2011.

6.0 RISK MANAGEMENT IMPLICATIONS

- 6.1 As part of the 3 September 2012 Cabinet Report officers considered the risks of the comprehensive redevelopment scheme (see Appendix 15 of the Cabinet Report). 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.

7.0 EQUALITIES STATEMENT

- 7.1 Officers have carried out an Equalities Impact Assessment (EqIA) of the CLSA, which includes (under the heading “Recommendation 1”) an analysis of the consequences / potential consequences of including the Estates within the comprehensive redevelopment scheme. The EqIA is attached in Appendix 12 of the Cabinet Report and for ease of reference is attached as Appendix 3 of this report. The Cabinet carefully considered this EqIA before it reached its decision on 3 September 2012 to authorise the Council to enter into the CLSA. However, the Secretary of State’s consent is required to enable the Estates to be included, under the CLSA, within the comprehensive redevelopment scheme. As a result this same EqIA needs to be considered with equal care by the full Council⁸ before it decides whether or not to authorise the Executive Director of Housing and Regeneration to submit an application for consent.
- 7.2 The EqIA 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.
- 7.3 To the extent that it is not possible for negative impacts on the protected groups to be mitigated, Councillors 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 applying to the Secretary of State for consent to include the Estates within the comprehensive redevelopment scheme under the CLSA. Subject to the decision

⁸ Although Councillors need not consider the analysis of Recommendations 2 and 3 on pages 23 and 24 of the EqIA, which do not concern the inclusion of the Estates within the comprehensive redevelopment scheme.

being rational and lawful overall, it is for Councillors to decide what weight should be given to the countervailing factors.

7.4 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 including the Estates within the comprehensive redevelopment scheme on those with the protected characteristics under the Equality Act 2010.

7.5 The countervailing factors which members will need to weigh in the balance against the negative impacts identified in the EqIA are those summarised in this report and addressed in greater detail in the 3 September 2012 Cabinet Report, namely the anticipated beneficial effects on the community as a whole of proceeding with the CLSA and including the Estates within the comprehensive redevelopment scheme: the creation of new jobs, the benefit to the local economy, the construction of better quality housing with lower maintenance costs, and so forth.

8.0 CONCLUSION

8.1 The Full Council is recommended to authorise the Executive Director of Housing and Regeneration to submit an application for the Secretary of State for consent to dispose of HRA land on the Estates. The reasons for this recommendation are summarised above. A full summary of the reasons why officers consider that the Estates should be included within the comprehensive redevelopment scheme is contained in section 11 of the 3 September 2012 Cabinet Report, which Councillors should read and consider carefully.

9.0 COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

9.1 JLL and PWC have been involved, as the Council's advisors, in considering and negotiating the terms of the CLSA. Signed letters from the Council's advisors are attached in Appendixes 12 and 13⁹ of the Cabinet Report. 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 number of caveats / issues, the key ones are listed below in table 6 in paragraph 12.1.1 of the 3 September 2012 Cabinet Report, together with the actions that have been taken in response.

9.2 Further commentary on the valuation and on the financial implications of the CLSA and the apportionment of consideration between the Housing Revenue Account and the General Fund can be found in section 12 of the 3 September 2012 Cabinet Report.

10.0 COMMENTS OF THE DIRECTOR OF LAW

10.1. The Council holds the Estates (excluding the school site) under Part II of the Housing Act 1985. The Council has the power to dispose of such land under the

⁹ The JLL letter is a "final draft", a further final letter will be issued when the CLSA is actually signed.

provisions of section 32, Housing Act 1985 with the consent of the Secretary of State.

- 10.2 The Secretary of State will place a variety of conditions on the disposal of the land which will include the re-provision of the existing units. It will not be possible to complete any sale of land until such time as vacant possession has been achieved.

11. SCHEDULE OF APPENDICES

Appendix 1	3 September 2012, Cabinet Report, "Earl's Court Redevelopment and statutory and wider consultation."
Appendix 2	<p>Application to the Secretary of State's consent to dispose of land under section 32 of the Housing Act 1985.</p> <ul style="list-style-type: none"> - Annex 1 - 3 September 2012, Cabinet Report, "Earl's Court Redevelopment and statutory and wider consultation." (Please see Appendix 1 above). - Annex 2 - Draft LBHF Housing Strategy (please see earlier link to Cabinet report on 15 October 2012). - Annex 3 – LBHF Borough Investment Plan (please see earlier link to Cabinet report on 5 December 2011).
Appendix 3	West Kensington and Gibbs Green/Earl's Court Potential Redevelopment Project- Equalities Impact Assessment.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
	None		
Responsible officer: Tomasz Kozlowski, Housing & Regeneration Department, 3 rd Floor, Town Hall Extension, ext 4532, tomasz.kozlowski@lbhf.gov.uk			