


<p align="center"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p align="center"><b>CABINET</b></p> <p align="center"><b>4 DECEMBER 2017</b></p>	
<p align="center"><b>ACQUISITION OF FREEHOLD AND LEASEHOLD PROPERTIES IN THE WEST KENSINGTON AND GIBBS GREEN ESTATES</b></p>	
<p><b>Report of the Cabinet Member for Economic Development and Regeneration: Councillor Andrew Jones</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification: For decision</b> <b>Key Decision: Yes</b></p>	
<p><b>Consultation:</b> <i>Finance &amp; Resources</i></p>	
<p><b>Wards Affected:</b> North End Ward</p>	
<p><b>Accountable Director:</b> Jo Rowlands – Lead Director of Regeneration, Planning &amp; Housing Services</p>	
<p><b>Report Author:</b> Matt Rumble – Head of Area Regeneration (Earl's Court)</p>	<p><b>Contact Details:</b> Tel: 07786 747 488 E-mail: Matt.Rumble@lbhf.gov.uk</p>

## **1. EXECUTIVE SUMMARY**

- 1.1. The Conditional Land Sale Agreement (CLSA) requires the Council to deliver properties within the West Kensington and Gibbs Green Estates with vacant possession, subject to the CLSA provisions being met.
- 1.2. A Cabinet report dated 3<sup>rd</sup> September 2012, authorised the Council to commence acquisitions of leasehold and freehold interests within the two Estates where homeowners wished to sell before their phase to allow the Council to acquire properties from leaseholders and freeholders of properties in West Kensington and Gibbs Green Estate with an urgent or demonstrable need to sell.
- 1.3. Officers were given a Delegated Authority to commence voluntary acquisition of private interests within the Estates and had an initial budget of £15m.

- 1.4. In February 2017, under a Leader's Urgent Decision a further £2.28m was committed to four further acquisitions with the two estates.
- 1.5. This funding has mostly been committed or spent on the acquisition of 29 properties, 26 of which have been acquired.
- 1.6. This report requests an additional delegated authority of £6m to purchase the leasehold or freehold interest in properties from owners on the two Estates.
- 1.7. The council wrote to residents on the 7<sup>th</sup> November informing them that Capco was pursuing a new masterplan for Earls Court site and that approval of the new masterplan and other consents would see the return of the estates to council control.
- 1.8. While the masterplan process continues it is important that the council maintains the offer to purchase the homes of homeowners who have an urgent need to sell and therefore this budget is required,
- 1.9. Homes purchased under this buyback scheme will be used as temporary accommodation until the the masterplanning process has concluded and future arrangements for the estates are known. Property acquisitions will help alleviate General Fund pressures by increasing the supply of affordable, in-borough Temporary Accommodation.

## **2. RECOMMENDATIONS**

- 2.1. To authorise the Lead Director of Regeneration, Planning & Housing Services in consultation with the Director of Finance and Resources (Regeneration, Planning & Housing Services) and the Cabinet Member for Economic Development and Regeneration to complete voluntary acquisitions of properties within the two Estates (West Kensington and Gibbs Green Estates) up to a combined value of £6m including settlement of Service Charge and Major Works costs as required.
- 2.2. To approve the use of external professional consultants with specialist knowledge of this locality, such as, but not limited to: valuation, legal and or conveyancing professionals to support those acquisitions. Appointment of external advisors will be in accordance with the Council's procurement standing orders and/or contractual agreements relating to the CLSA land, and such arrangements will be continuously reviewed to reflect the needs of the project throughout the project lifetime to ensure they are fit for purpose.
- 2.3. To note that that each individual purchase will required a delegated authority report approved by the Lead Director of Regeneration, Planning & Housing Services in consultation with the Director of Finance and Resource (Regeneration, Planning & Housing Services).

### **3. REASONS FOR DECISION**

- 3.1. The budget for these purchases was approved in February 2017 by Full Council as part of the four-year capital programme 2017-21 and was also part of the revised four year capital programme 2017-21 approved by Full Council on 18<sup>th</sup> October 2017
- 3.2. This report now seeks approval to allow the Lead Director of Regeneration, Planning & Housing Services in consultation with the Director of Finance and Resources (Regeneration, Planning & Housing Services) to voluntarily acquire properties within the two Estates (West Kensington and Gibbs Green Estates) where home owners wish to sell and to enable appropriate external professional consultants to be appointed to support the acquisitions, such as, but not limited to: valuation, legal and or conveyancing professionals.

### **4. PROPOSAL AND ISSUES**

#### **4.1. Background**

- 4.2. The Conditional Land Sale Agreement (CLSA) requires the Council to deliver properties within the West Kensington and Gibbs Green Estates with vacant possession, on a phased basis, subject to the CLSA provisions being met
  - 4.3. A Cabinet report dated 3<sup>rd</sup> September 2012, authorised the Council to commence acquisitions of leasehold and freehold interests within the two Estates
  - 4.4. The report also outlined the criteria under the CLSA by which the Council may commence acquisitions of private properties within the two Estates
  - 4.5. Officers were given Delegated Authority to commence acquisition of private interests within the Estates and had an initial budget of £15m.
  - 4.6. In February 2017, under a Leader's Urgent Decision a further £2.28m was committed to four further acquisitions with the two estates.
  - 4.7. This funding has now been spent on 26 with the balance being fully committed on the acquisition of 3 additional properties.
- #### **4.8. Recent developments**
- 4.9. The council wrote to residents on the 7<sup>th</sup> November informing them that the developer, Capco, was pursuing a new masterplan for the Earls Court site. The plan, with consent for a new masterplan, would see the return of the West Kensington and Gibbs Green Estates to council control.
  - 4.10. The letter also informed residents that both the masterplanning process and detailed negotiation over the terms of the return of the estates were at an early stage and would take some time to conclude.

- 4.11. To meet the council's ongoing commitment to leaseholders and freeholders on the estate, this report seeks a budget and further delegated authority to purchase the leasehold or freehold interest in properties from residents who have approached the council with an urgent need to sell.
- 4.12. The Council will continue with voluntary acquisitions of leasehold and freehold properties at their open market value only. To date, the council and Capco have not treated the 'effective date', as defined in the CLSA, as having crystallised and have not agreed the terms of the standard purchase contract or made these available to residents.
- 4.13. The homes purchased can then be used for Temporary Accommodation and will help alleviate General Fund pressures by increasing the supply of affordable, in-borough Temporary Accommodation.
- 4.14. This approach remains an interim measure until the on-going negotiations with the developer are concluded and the necessity for a long-term strategy and budget for acquisitions of private interests within the two Estates is confirmed.
- 4.15. An external property valuation report will be sought for each potential acquisition as commissioned by the Council. This will be an independent valuation and will determine the market value of properties to be acquired under this authority. The valuation report will be shared with the owner of the subject property. The valuation consultant will be required to inspect properties and provide a valuation report supported with comparable evidence of similar types of property. The Council will undertake due diligence to ensure the asset is acquired with vacant possession. The valuation basis for these acquisitions is governed by RICS Red Book 2017 and the valuation reports will need to contain core information. Therefore, the Market Value, on which the Council will acquire properties on, will be:

*the estimated amount for an asset should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.*

*Please note: The valuation will disregard any negative impact arising from the regeneration project as well as the possibility of any compensation and will be purely on market term where each party covers its costs.*

## **5. OPTIONS AND ANALYSIS OF OPTIONS**

- 5.1. This section sets out the main options available to the Council before concisely outlining the consequences of each option.
- 5.2. **Option 1: Do nothing, indefinitely suspend acquisitions**
  - 5.2.1. This option would result in a suspension of acquisitions indefinitely until further notice. A suspension at this stage carries the following risks:

- Reputational damage with residents
- May cause additional financial hardship to residents who have approached the council with a need to sell
- May result in a blight notice being served on the Council
- Under the existing CLSA, Capco could still be asked by the Council to step in to acquire properties or Capco could choose to step in and agree deals with residents. Both options would result in additional cost to the Council, with the Council either having to reimburse Capco at a later date or Capco's cost being deducted from future land payments
- If Capco buy individual properties on the estate they could have some ownership interests on the estate.

**5.3. Option 2 (recommended option): Authorise this limited fund for acquisitions as an interim measure until the future direction of the development scheme is resolved.**

5.3.1. This option, which is the one proposed by this report, would allow for a continuation of acquisitions of private interests within the two Estates for a limited time until the future direction of the development scheme is resolved. This option would also ensure homeowners experiencing financial hardship are not further impacted by the time taken to conclude the masterplanning process.

**5.4. Option 3: Require a case by case Cabinet approval of each acquisition**

5.5. This option could severely restrict the Council's ability to respond promptly to urgent cases and would increase the risk of Blight Notices due to the timeframe required for each Cabinet Decision.

5.6. Further, taking a case by case approach requiring Cabinet approval would increase the required officer time on each case and may compete with other Council business.

**6. CONSULTATION**

6.1. No further consultation beyond the one stated in Cabinet Report dated 3<sup>rd</sup> of September 2012 is deemed to be required for this report.

**7. EQUALITY IMPLICATIONS**

7.1. An Equality Impact Assessment has been undertaken as part of the 3<sup>rd</sup> September Cabinet report 2012. It is considered that this decision is within the ambit of the 2012 decision and, as such, that there is no requirement for an EqlA to be carried out. It is also considered that in making this decision, the Council would be acting in accordance with the Public Sector equality duty under section 149 of the Equality Act 2010.

## **8. LEGAL IMPLICATIONS**

- 8.1. Local Authorities have many general powers to purchase land but section s17 of the Housing Act 1985 applies. These powers would be the most appropriate for purchases in the HRA.
- 8.2. As there is no CPO, purchases will be at market value only. The Council have to bear in mind it's fiduciary duty to Council tax payers and it's best value duty.
- 8.3. A blight notice could only be served on the council in specified circumstances eg usually where there is a scheme and generally a CPO in the pipeline and property owners can only sell at a loss.
- 8.4. *Implications verified/completed by: (Diana Barrett Principal Solicitor, 020 7641 2734).*

## **9. FINANCIAL IMPLICATIONS**

- 9.1. Each individual purchase will require a delegated authority report signed off by the Lead Director of Regeneration, Planning & Housing Services in consultation with the Director of Finance and Resources (Regeneration, Planning & Housing Services) and will need to be entered on the Officer decision list before funds are released. A final valuation report will be attached to the delegated authority sign off report.
- 9.2. The £6m cost of the buybacks can be accommodated the revised HRA and Decent Neighbourhood Programme Capital Budget approved by Full Council on 18<sup>th</sup> October 2017. Current forecasts assume that these homes will remain as affordable rented homes in perpetuity, and 30% of the cost of each buyback is financed by Right to Buy one for one receipts (RTB 1-4-1). So, buying back these homes is important to ensure the Council fully utilises its RTB 1-4-1 receipts before the three-year deadline for using them expires. Current forecasts assume the majority of these purchases happen before 31<sup>st</sup> March 2018.
- 9.3. Finance officers will provide comments for each delegated authority report that addresses the availability of both the delegated authority fund and the project budget.
- 9.4. The balance of the delegated authority fund will be monitored by finance officers and the project team will be formally informed when the balance falls below £1m.
- 9.5. The phasing of the project remains to be finalised and therefore it is uncertain as to the extent and location of the lease/freehold properties that would need to be purchased to secure vacant possession ahead of a first phase. As the receipts from Capco can only be recognised as income once the land transfers, the buyback budget and financial modelling is regularly monitored, reviewed, and reported with the aim of ensuring that there is sufficient resource to

fund the acquisition of private owners ahead of a first phase should one come forward.

- 9.6. The use of the properties in the short term for Temporary Accommodation alleviate General Fund pressures by increasing the supply of affordable, in-borough Temporary Accommodation

Implications verified/completed by: Firas Al-Sheikh, *Head of Financial Investment and Strategy*. [Tel:020 8753 4790](tel:02087534790)

## **10. IMPLICATIONS FOR BUSINESS**

- 10.1. The acquisitions are for residential leasehold or freehold properties on the West Kensington and Gibbs Green Estates, therefore there are no specific business implications relating to this report.

- 10.2. *Implications verified/completed by David Burns Head of Housing Strategy*  
[Tel:020 8753 6090](tel:02087536090)

## **11. RISK MANAGEMENT**

11.1. The recommended option to set a limited buyback budget addresses the following risks:

- Additional financial hardship to residents who have approached the council with a need to sell
- Reputational damage with residents
- Potential for a blight notice being served on the Council
- Under the CLSA Capco could be asked by the Council to step in to acquire properties or Capco could choose to step in and agree deals with residents with both options resulting in additional cost to the Council, with the Council either having to reimburse Capco at a later date or Capco's cost being deducted from future land payments (including additional interest as set out in 3.3).
- If Capco buy individual properties on the estate they could have some ownership interests on the estate before land is transferred as part of a phase under the CLSA

11.2 **Implications verified/completed by:** *Michael Sloniowski, Principal Consultant (Risk Management)*. Telephone, 020 8753 2587

## **12. PROCUREMENT IMPLICATIONS**

- 12.1. There are no procurement implications contained in this report. It relates to property transactions on the West Kensington & Gibbs Green Estates. Reference to the independent valuers will be appointed using the Council's existing framework arrangements.

- 12.2. Implications completed by: Alan Parry, Procurement Consultant. Telephone 020 8753 2581

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
	None		

**LIST OF APPENDICES**

None