

## CABINET

12 November 2019

<b>Title:</b> Development of Land at Rectory Road, Dagenham	
<b>Report of the Cabinet Member for Regeneration and Social Housing</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Village	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Ed Skeates, Development Director, Be First	
<b>Accountable Strategic Leadership Directors:</b> Claire Symonds, Chief Operating Officer, and Graeme Cooke, Director of Inclusive Growth	
<b>Summary</b> <p>At its meeting in April 2019, Cabinet approved in principle the redevelopment of this site to deliver c.56 affordable homes, together with c.468m<sup>2</sup> of new community space, subject to the outcome of consultation with the existing residents in 1-18 Jervis Court, who would be affected by the proposals.</p> <p>There are currently 13 tenants and 3 leaseholders in Jervis Court. Resident consultation has now been undertaken, and this report seeks Cabinet approval to progress with the redevelopment proposals in light of the consultation findings.</p> <p>12 of the 13 tenants in Jervis Court responded. 9 of the 12 (75%) tenants who responded were in favour of comprehensive redevelopment. A more detailed breakdown of the consultation responses is provided in section 2 and Appendix 3.</p> <p>Based on the feedback, a clear majority of tenants are in favour of comprehensive redevelopment. However, the relocation process will need to be sensitively managed, particularly in relation to trying to enable existing residents to maintain their local ties.</p> <p>The redevelopment proposals will provide a 100% affordable housing scheme with a significant increase in the number of affordable homes provided on the site. There are currently 13 tenanted properties, while the proposals will provide 56 affordable homes. There will also be an increase in the number of homes on the site available to households on the housing waiting list.</p> <p>Based on the results of the resident engagement, as well as the wider benefits the proposals would bring, this report seeks Cabinet approval to progress with the redevelopment.</p>	

## **Recommendation(s)**

The Cabinet is recommended to:

- (i) Approve the proposed redevelopment of the former Royal British Legion site and Jervis Court, as shown edged red in the plan at Appendix 1;
- (ii) Agree the service of Initial Demolition Notices on all secure tenants at the affected properties at the appropriate time, in order to suspend the requirement for the Council to complete Right to Buy applications for as long as the notices remain in force, and delegate approval and timing of final notices to the Director of Inclusive Growth, in consultation with the Director of Law and Governance;
- (iii) Approve to the use by the Council of its Compulsory Purchase Order (CPO) making powers, should they prove necessary to facilitate the future redevelopment of the site
- (iv) Agree that, subject to the grant of an acceptable planning permission and receipt of satisfactory construction tender prices, the project be financed and held within the residential asset class of the Investment and Acquisition Strategy;
- (v) Agree the inclusion of the project in the Council's Capital Programme in the total sum of £19,700,000, subject to securing planning permission and procurement of a contractor in accordance with the project outputs and budget;
- (vi) Agree the Funding Strategy set out in section 5.10 of the report, including borrowing up to £13,402,000 within the General Fund from the Public Works Loan Board, to finance the development and ownership of the affordable rent homes via a loan agreement made between the Council and any suitable vehicle that the new units may be held in (e.g. a new B&D Reside Registered Provider or other vehicle); and
- (vii) Approve the appropriation of the land, as shown edged red in the plan at Appendix 2 to the report, under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund;

## **Reason(s)**

- The recommendations are designed to increase the amount of affordable homes in the borough and ensure that these new homes benefit local residents, including those already living on the estate. As such they are aligned to the Council's strategy for Inclusive Growth.

## **1. Introduction and Background**

- 1.1 Jervis Court was not included in the 2015-21 Estate Renewal Programme. Therefore, Cabinet was requested in April 2019 to make an in-principle decision concerning the preferred option to deliver a comprehensive development of the site, including 1-18 Jervis Court, and to authorise consultation with existing residents in Jervis Court under the Housing Act 1985.

- 1.2 In accordance with the Council's standard practice for securing vacant possession to deliver estate renewal projects Cabinet approval was also requested to serve Initial Demolition Notices at the appropriate time, having regard to the outcome of consultation with existing residents.
- 1.3 Engagement with the residents in 1-18 Jervis Court has been undertaken, seeking their views on the Council's proposals to redevelop the site, and understanding their housing needs, including the potential impact of finding alternative housing should redevelopment proceed. This is explained in further detail in the following section.

## **2. Resident Engagement**

### **Methodology**

- 2.1 Successful visits were undertaken with 13 of the 16 residents, including 12 of the 13 tenants. The residents were asked their preference from the following options:
- Do nothing
  - Infill development
  - Comprehensive redevelopment
- 2.2 The following information was also gathered during the visits:
- What they liked/disliked about their current housing and the local area.
  - Whether their current housing needs were being met.
  - What impact moving home would have on them.
  - Specific support they would need in order to relocate.
  - Whether they would like to return.
- 2.3 Demographic information was also gathered in relation to Gender, Age, Ethnicity, Religion, and Disability.
- 2.4 Of the 16 remaining properties, 13 are occupied by tenants, and 3 by leaseholders.
- 2.5 Feedback has been received from 13 of the 16 residents, with the results summarised as follows:
- 9 were in favour of comprehensive development (all tenants)
  - 3 were opposed to comprehensive development (all tenants)
  - 1 was in favour of infill development (leaseholder renting the flat out)
  - 3 have not provided any feedback to date (1 tenant, 2 leaseholders)
- 2.6 Key points that were made were:
- It's a good location, close to local amenities and public transport
  - Would like the green space and community centre improved
  - Concerned about safety/security

2.7 In terms of the impact on residents, key points were:

- Would need support on the removal process in terms of logistics and financially
- Some residents need a wet room to accommodate wheelchair users
- Concerned about stress of moving, and maintaining close local ties

2.8 Further detail on the consultation feedback is provided in Appendix 3.

### **3. Proposals**

3.1 It is proposed that the Royal British Legion building and 1-18 Jervis Court are redeveloped to deliver c.56 affordable homes (35 Affordable Rent and 21 London Affordable Rent) and 468m<sup>2</sup> of community space, which would provide the following benefits

- Increase in the number of affordable homes
- Better quality affordable homes, with improved environmental and sustainability standards (including lower energy bills)
- Improve the public and private external space (including private balconies)
- New community facilities in a modern flexible building
- Improve the urban fabric along Rectory Road
- Provide more active frontage onto Church Elm Lane

3.2 The proposals achieve the Council's financial metrics for redevelopment schemes, which is explained in the following section.

### **4. Financial Summary**

4.1 The proposal represents a viable investment proposition and achieves the Council's financial return targets.

4.2 The investment metrics are summarised as follows:

1 <sup>st</sup> year surplus	£177,000
Internal Rate of Return	6.7%
Net Present Value (3.5% discount rate)	£16,371,000
Yield on Cost	4.6%

4.3 Funding will be required to purchase the 4 leasehold interests, and fund the decant costs for the 14 tenancies, estimated at £978,000.

4.4 Total development costs are estimated at £19,700,000.

### **5. Delivery Arrangements**

#### **Decant and Leaseholder buyback offer**

5.1 Be First's portfolio of council-owned estate renewal schemes includes a large number that require the demolition and replacement of tenanted blocks. There is therefore a need to manage the development of these extremely sensitively with the

early engagement of the affected residents and communities. In June Cabinet agreed an estate renewal resident offer, and also agreed that this is the offer that will apply to the residents of Jervis Court if Cabinet agrees to proceed with the proposed redevelopment. The offer is summarised as follows:

Council tenants:

- Tenants will have top priority to bid for an alternative Council home in the borough
- Tenants will have a Right to Return to one of the new homes within Reside – at a Council target rent and on an Assured tenancy
- A home loss payment of £6,300 (updated annually) and disturbance payments to cover the cost of moving
- Help to move out of the borough, if they want to

Resident leaseholders:

- Resident leaseholders will get market value for their home plus a 10% home loss payment
- No resident leaseholder will need to move away from the local area if they don't want to – the Council will give assistance if they can't afford a suitable property on their own
- Resident leaseholders will have a Right to Return to one of the new homes – with assistance if they can't afford on their own

Non-resident leaseholders:

- Non-resident leaseholders will get market value for their property plus a statutory basic loss payment of 7.5%.

- 5.2 The proposal set out in this report requires the leaseholder buyback of 3 properties, and the rehousing of 13 tenanted households.
- 5.3 Should the development be approved, Be First and Council staff will work with the existing residents to enable them to find a new home that meets their housing needs. Council tenants will be given high priority to bid for alternative accommodation through the Choice Homes scheme. This will give them access to alternative council homes as well as housing association properties that become available to let through the scheme. They will also be offered the opportunity to return to live in one of the new homes on similar rents to those they are currently paying should they wish to do so. The new homes will be offered at rents set using the Target Formula to align with the policy for HRA re-lets, meaning a move to an alternative Council home or a Reside new home in this development would be on the same rental terms.
- 5.4 For leaseholders, the Council will buy back their home at market value. The Council may also give financial assistance to leaseholders to buy an alternative home.
- 5.5 In the event that the leaseholders' interests cannot be purchased by agreement, the Council may need to use its Compulsory Purchase powers in order to secure vacant possession of the site. The Council recognises that its Compulsory Purchase Order powers are among the strongest powers enabling delivery of development

proposals, and that their potential to impact on the human rights of the individuals affected by the proposals. The Council will make every effort to pursue redevelopment in consultation with tenants and through voluntary agreement with owners of individual interests. Negotiations will continue in parallel with the preparation and making of a CPO which will be a final resort.

- 5.6 Tenants and leaseholders who need to move as result of the regeneration proposals will be eligible for a home-loss payment if they have been living in their home for 12 months or more. Tenants and leaseholders will also receive payments towards the cost of moving fixtures and fittings and have their removals organised by the Decant Team.
- 5.7 Approval for Initial Demolition Notices is requested subject to a delegation to do so at the appropriate time and having regard to consultation responses. The ground for possession for the tenanted household will be under Housing Act 1985, Sch 2 Ground 10, i.e.

*The landlord intends, within a reasonable time of obtaining possession of the dwelling- to demolish or reconstruct the building or part of the building comprising the dwelling-house.*

Ground 10 requires that alternative accommodation is offered to the secure tenant.

### **Programme**

- 5.8 Subject to approval of the recommendations in this report, it is proposed the scheme is delivered by Be First, who will progress the project through the planning process, manage site preparation, the delivery of the works and management of the completed scheme. It is proposed that a contractor for the works is procured through the new Be First development framework.
- 5.9 An indicative timetable is set out below:

<b>Milestone</b>	<b>Date</b>
Planning submission	April 2019
Planning approval	July 2020
Contract Award	July 2021
Start on Site	September 2021
Practical Completion	September 2023

### **Funding**

- 5.10 The estimated development costs are c.£19,700,000 to be funded through a combination of HRA funding, GLA Grant funding and/or Right to Buy receipts and borrowing, broken down as follows:

HRA	£978,000
GLA Grant/RtB	£5,320,000
Council borrowing	<u>£13,402,000</u>
Total	£19,700,000

- 5.11 HRA funding is required to purchase the 4 leasehold interests and fund the decant costs for the 14 tenants (estimated at £978,000). The remaining funding covers land acquisition, professional fees and construction costs.
- 5.12 It is proposed that the development and ownership of the new affordable homes is financed through borrowing up to £13,402,000 within the General Fund from the Public Works Loan Board. The funding is proposed to be provided through a loan agreement between the Council and the Reside Registered Provider (or an existing appropriate entity within the Barking & Dagenham Reside structure) established to develop and manage the new Affordable Housing units.

## **6. Consultation**

- 6.1 If the scheme progresses, tenants, leaseholders and the wider local community will be involved in the design and planning process, working closely with the design team as the design develops prior to the planning application submission timetabled for December. This will include public consultation events, and a dedicated website where people can view and comment on the proposals.

## **7. Financial Implications**

Implications completed by: David Dickinson, Investment Fund Manager

- 7.1 This scheme was not on the original list of 44 Investment Schemes and will require additional PWLB borrowing of £13,402,000. If the scheme proceeds it is forecast to be operational by 2023/24.
- 7.2 Be First have confirmed that they have sufficient resources to manage the development of RBL in addition to the other schemes that have already been agreed or are in the pipeline. It is essential that this remains the case and that other schemes are not delayed as a result. If there are insufficient resources then it is essential that Be First, where possible, prioritise the development of the more profitable schemes, which may include prioritising RBL.
- 7.3 The proposals will provide 38 additional residential units and provides both a positive return over year one (£177k) and year six (£47k) and is therefore an investable scheme. The scheme will provide 21 London Affordable Rent (LAR) units and 35 affordable rent units.
- 7.4 The scheme requires £5.32m of GLA grant and/or RtB receipts.

## **8. Commissioning Implications**

Implications completed by: Graeme Cooke, Director of Inclusive Growth

- 8.1 The redevelopment proposals would provide a significant increase in the number of affordable homes provided on this site, including an increase in the number of homes available for homes on the Council's housing register.
- 8.2 The consultation has found significant support for the proposals among the residents who would be affected if Cabinet approves the scheme. This consultation also helped to understand the needs of residents, and if the redevelopment

proposals are approved then this work will need to continue to support residents through the rehousing process.

- 8.3 As set out in the report, residents of Jervis Court will benefit from the estate renewal commitments approved by Cabinet in June 2019. This includes a right to return for tenants on an equivalent rent and tenancy.

## **9. Legal Implications**

Implications completed by Dr Paul Feild, Senior Governance Lawyer, Legal

### **Outline**

- 9.1 The proposals include within the development land Jervis Court and the British Legion site. The Jervis Court land is currently occupied by tenants and leaseholders of the Council. They are entitled under Section 105(1) and (2) of the Housing Act 1985 to be consulted on matters of housing management which include any development proposal resulting in potential displacement of tenants or relocation of demolition. This consultation has now been carried out. The ultimate decision to pursue the proposal needs to be by the Cabinet having due regard to the consultation responses.
- 9.2 The proposal contemplates that that the housing development comprising 56 affordable units will be delivered by Be First (as development manager) and will ultimately be held by a suitable Reside vehicle (being either a new Registered Provider which may be registered by the Council/Reside or an existing entity within the Reside structure). The Jervis Court land will in due course need to be appropriated from the Housing Revenue Account, which is considered further below.

### **Council Powers**

- 9.3 The Council has power to deliver the development by virtue of the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose.
- 9.4 Whilst the general power of competence in section 1 of the Localism Act 2011 provides sufficient power for the Council to participate in the transaction and enter into the relevant project documents further support is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.



- 9.5 In exercising the power of general competence and in making any investment decisions, the Council must also have regard to the following:
- i. Compliance with the Statutory Guidance on Local Government Investments;
  - ii. Fulfilling its fiduciary duty to tax payers;
  - iii. Obtaining best consideration for any disposal;
  - iv. Compliance with Section 24 of the Local Government Act 1988 in relation to giving financial assistance to any person (which either benefits from a general consent or requires express consent by the Secretary of State);
  - v. Compliance with any other relevant considerations such as state aid and procurement;

### **Consultation with tenants**

- 9.6 Section 105 of the Housing Act 1985 requires the Council to consult with all secure (and demoted) tenants who are likely to be substantially affected by a matter of housing management, which includes development proposals and demolition of dwellings by the housing authority. The consultation must inform the tenants of the proposals, provide an opportunity to make their views known to the Council within a specified period and then the Council shall consider their representations to inform their decision making. The courts have determined that to be effective consultation must be carried out at a formative stage of any proposals; sufficient reasons must be given for the proposals, together with adequate time, to allow intelligent consideration and response and any responses must be taken into account when making a final decision.
- 9.7 This report states that section 105 consultation has been carried out and the responses are reported for the Cabinets consideration. It should be added that while a section 105 consultation has been carried out this is not a single stage matter because as a statutory Housing Act landlord, the Council will continue to have meaningful engagement with the tenants and those affected by the decision to proceed with the development.
- 9.8 In taking into account the consultation responses the Cabinet needs to weigh up the concerns and interests of those people including their human rights and balance it against the public interest of proceeding with the development to achieve, the regeneration and development of the borough, its housing Estate regeneration, provision of affordable housing, community and social benefits and the development of an asset (Royal British Legion building) acquired for the purpose of redevelopment.

### **Achieving Vacant Possession**

- 9.9 The statutory legal framework recognises that displacing tenants requires that assistance be provided so there is provision to enable decanting and compensation payments to cover the impact of the move. In due course, negotiations will be necessary to acquire vacant possession through voluntary sale/buybacks if the proposed development is pursued.

- 9.10 As a last resort use of Compulsory Purchase Orders (CPO) can be considered under the Land Compensation Act. A decision to proceed with a Compulsory Purchase Order requires a formal resolution by Cabinet and future report will need to make a compelling case in the public interest and fully demonstrate the grounds for proceeding with a CPO are met. If there is not agreement, the Council can take possession proceedings under Schedule 2 of the Housing Act 1985. But a court will not order possession unless it is satisfied that there is an offer of suitable alternative accommodation.
- 9.11 To prevent the exercise of a right to buy of a build planned to be demolished, Demolition Notices, which are proposed to be utilised to enable delivery of the scheme. A Demolition Notice precludes Council tenants who are within the site boundary from exercising their right to buy within sites earmarked for regeneration under the provisions of the Housing Act 2004. At the time of a Demolition Notice there must be a clear and firm intention to redevelop, therefore, care needs to be taken about the timing and service of Demolition Notices (consideration of which has been delegated to the Director of Inclusive Growth). The Council is empowered to serve *Demolition Notices* where areas have been identified for estate renewal, regeneration and redevelopment. There is a prescribed notification process:
- firstly, the service of an Initial Demolition Notice which is valid for up to five years and can be extended to a maximum of seven years, an Initial Demolition Notice will prevent named properties from being acquired from the Council through Right-to-Buy as the Council is not obliged to sell the properties to the tenants. If, exceptionally, the proposals to redevelop or demolish or the relevant boundary change following the service of a Demolition Notice, the Council can withdraw a notice by service of a revocation notice;
  - followed by the Final Demolition Notice which is valid for up to two years (with possible extension subject to Government permission).
- 9.12 The Council is required to notify tenants affected by the decision to demolish, and to give reasons and the intended timetable for demolition. Furthermore, it must inform tenants of the right to compensation and publicise decisions by placing a notice in a newspaper local to the area in which the property is situated, in any newspaper published by the landlord, and on the Council's website.
- 9.13 Final Demolition Notices cannot be served until the arrangements for acquisition and demolition scheme are finalised (i.e. a date is set). Typically planning permission is also obtained before the service of a Final Notice. This means that Compulsory Purchase issues for leasehold premises must also have been resolved before a Final Demolition Notice can be served.
- 9.14 The Council can make an application to the Secretary of State during the 24-month period for that period to be extended, but if no application is made, it will be unable to serve any further demolition notice in respect of these properties for five years without the Secretary of State's consent. On receipt of an application, the Secretary of State can direct that the period be extended, but he may specify further notification requirements that the Council must comply with in order for the exception to the Right to Buy to continue.

- 9.15 Finally, If the Council subsequently decides not to demolish the property, it must serve a revocation notice upon affected tenants as soon as is reasonably practicable. If it appears to the Secretary of State that a landlord has no intention of demolishing properties subject to a Final Demolition Notice, he may serve a revocation notice on affected tenants.

### **Human Rights Act 1998 Considerations**

- 9.16 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions officers and members, therefore, need to have regard to the Convention.
- 9.17 The service of a Demolition Notice on existing secure tenants potentially engages certain human rights protected under the HRA 1998. The HRA 1998 prohibits unlawful interference by public bodies with European Convention rights. The term 'engage' simply means that human rights may be affected or relevant.
- 9.18 The Demolition Notices should contain specific information relating to the Right to Buy to clarify any compensation that may be payable for certain reasonable expenditure, if incurred in respect of pre-existing Right to Buy claims/applications, but also to protect the Council from unnecessary compensation claims in the event that tenants incur unnecessary costs once notices have been served.
- 9.19 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1<sup>st</sup> Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 9.20 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck.
- 9.21 Therefore, in reaching a decision, the Council needs to have regard to the extent to which the decision may impact upon the Human Rights of the residents who may have a demolition notice served upon them and to balance this against the overall benefits to the community, which the proposed redevelopment would bring. The committee will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

## **Funding and Borrowing**

- 9.22 Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3<sup>rd</sup> Edition, issued on 1 April 2018). The Guidance is relevant to the extent that a loan may be necessary to the Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in order to facilitate delivery of the development. In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:
- i. The total financial exposure to such loans is proportionate;
  - ii. An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
  - iii. Appropriate credit controls are in place to recover overdue re-payments; and
  - iv. The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

## **Loan and Grant Agreements**

- 9.23 As observed in the body of the report is an intention to access loans and grants from the GLA. The power to do so has been identified above. Such arrangements will need to be examined to ensure that the terms are compliant with the aims of this project and as mentioned the terms will need to reflect commercial market terms to ensure that there are no State Aid implications.

## **State Aid**

- 9.24 As local government is an emanation of the state the Council must comply with European law regarding State Aid. Therefore, local authorities cannot subsidise commercial transactions such as for example low cost finance or financial assistance to its own companies if such transactions are capable of distorting competition in the EU. In this transaction, State Aid law is relevant in the context of the funding being provided and the price at which the Council's land interest is disposed of to the Reside Registered Provider (see below). For the loan not to amount to State Aid, it must be made on 'market terms' in order to satisfy the "Market Economy Investor Principle" which means a proper valuation of the land must be

## **Appropriation of HRA Land & Use of RTB Receipts**

- 9.25 It is envisaged in the report that ownership of the completed development / units will be within the Reside structure which is outside the Housing Act. There will need to be an appropriation of the land under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.

- 9.26 In addition, in deciding whether a Reside vehicle is suitable, consideration must be given to the impact of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) which from April 2013 placed restrictions on the use of Right to Buy receipts in conjunction with other funding provided by the GLA for the purposes of building affordable housing. In other words, Right to Buy receipts cannot be combined with funds provided by the GLA to build the required replacement unit/s if those funds have come from the GLA to build affordable housing. Officers and decision makers must be satisfied that combining funds in the manner envisaged is acceptable and within the rules. Although, consideration is given to relaxing the rules around use of RTBs this has not yet taken place.
- 9.27 Any disposal of the land to a Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) must comply with the requirement for best consideration and/or within the parameters of any general consents available from the Secretary of State. This is likely to necessitate a loan on market facing terms and interest from the Council to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) to facilitate such a transaction. Where the Council provides financial assistance to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) by:
- (a) granting or loaning it money,
  - (b) acquiring share or loan capital in the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure),
  - (c) guaranteeing the performance of any obligations owed to or by the Registered Provider (or an existing entity within the B&D Reside structure), or
  - (d) indemnifying the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in relation to any liabilities, losses or damages and the financial assistance is in connection with the provision of housing accommodation to be let by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) , the Council must use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so.
- 9.28 The exercise of this power is subject to consent by the Secretary of State. The details of such consents will need to be carefully considered to ensure any transactions and mechanism needed to facilitate delivery of the scheme are within those parameters.

### **Other Matters**

- 9.29 As set out in the Risk Management section of the report there may be displacement of utilities and services such as an electricity substation, gas and water mains plus changes to highways and facilities, which may necessitate leases and licenses. These will be familiar matters in a development context, and should not, if managed, raise legal issues. Early planning and ensuring any Cabinet approvals pick up the need for any leases will minimise costs and risks of delays.

## **10. Other Implications**

### **Corporate Policy and Equality Impact**

- 10.1 An Equalities Impact Assessment (EIA) Screening Report has been carried out, which concluded that a full EIA is not required at this stage. Should subsequent engagement with affected residents bring to light any further equality issues, this position will be reviewed, and a full EIA will be carried out prior to the submission of the planning application if required.
- 10.2 The Equality and Diversity Strategy identifies the need to provide new housing and sustainable growth by improving the physical environment and widening the choice of housing. In order to achieve this, it highlights that the future planning of homes, infrastructure, and business is done holistically balancing physical regeneration and social regeneration.
- 10.3 The Borough Manifesto, which sets out the long-term vision for the borough, identifies Housing as a top priority with an aspiration to be a place with sufficient, accessible and varied housing.
- 10.4 The RBL project seeks to respond to these priorities by diversifying and improving the quality of the housing offer on the site, supported by improvements to the public realm and provision of new modern community space in order to provide a sustainable community.
- 10.5 The recommended development will provide a range of housing types and tenures, that will provide an opportunity local people to own their own property, as well as provide rented products that will be affordable to local people.
- 10.6 The development will also contribute towards the Councils' health and wellbeing priorities for example by:
  - Improving the quality of housing.
  - Improving the quality and safety of open spaces, encouraging people to make more use of outside spaces for recreational purposes, and discouraging antisocial behaviour.
  - Achieving higher sustainability standards, for example through renewable energy and green roofs.
- 10.7 If the preferred option is approved, the existing residents in Jervis Court will experience some disturbance, as they will need to be relocated to facilitate the new development. These impacts will be sought to be mitigated through a thorough engagement process, with an opportunity being provided to these residents to return to the site once the development is complete, should they wish to do so.
- 10.8 It is therefore considered that the overall impact of the project is positive, with the benefits of the new development outweighing the impact on existing residents.

## **11. Risk Management**

### **Ground Conditions**

- 11.1 As the Royal British Legion land has formerly been used for non-residential uses and is now earmarked for residential development and use, the risk of land contamination needs to be identified and managed. An environmental survey of the site will be undertaken to establish the level of ground contamination and remediation required to enable the RBL site to be redeveloped for residential use.

### **Existing Services**

- 11.2 Due to the current and historic uses of the site, there are likely to be underground services that will require relocation. In addition, there is an existing substation on the site that will need to be relocated, which could delay the construction programme and increase costs. Early engagement with the utilities company will be carried out in order to agree a programme and cost for relocating the substation and carrying out service diversions.

### **Securing Vacant Possession**

- 11.3 The requirement to acquire the Leasehold interests required to bring forward the clearance of these sites will be delivered in accordance with the Boroughs agreed Leaseholder Buyback procedure. This procedure sets out the level of compensation in accordance with the Land and Compensation Act. It centres on buy back by negotiation with use of CPO powers if necessary, to ensure that programmes are not delayed if agreement cannot be reached. A package of measures to assist Leaseholders who are unable to acquire alternative accommodation on the open market are included in the agreed procedures and on a scheme by scheme basis we would look to provide other alternatives such as equity sharing arrangements for new homes within the developments.
- 11.4 Early engagement with residents will be carried out in order to coordinate the development and decant processes and allow sufficient time to conclude negotiations on the purchase of the leasehold interests.
- 11.5 There is a risk that the secure tenants will submit Right to Buy applications. We are not aware of any live Right to Buy applications at this time. In order to mitigate the risk of future applications being made, it is proposed that an Initial Demolition Notice is served on the existing tenants.

### **Securing Planning Permission**

- 11.6 This is a sensitive site, that is currently occupied by residents and a community organisation. However, there is planning policy justification to support intensifying the use of the site through a residentially led mixed use development, including community space. A thorough consultation process will be carried out with the existing residents in Jervis Court, and the wider community, to ensure that the final design optimises benefits for local residents, and the scheme is delivered in a sympathetic way, responding to the needs of the existing residents on site.

## **Programme delays**

- 11.7 Due to the site constraints and issues that will need to be overcome in order to secure planning permission enable development, there is a risk of programme delays. The programme will be continuously monitored throughout the various stages of the project, as discussions progress to resolve the risks highlighted in this report.

## **Cost overruns**

- 11.8 An initial cost plan has been prepared based on the feasibility study. Whilst contingency has been allowed for site remediation, service diversion and other external works costs, the cost plan will be continuously reviewed as further information is gathered through site surveys and discussions with utilities companies.

## **Public Background Papers Used in the Preparation of the Report:**

- Cabinet Report, 23 April 2019:  
<https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MId=10025&Ver=4>

## **List of Appendices:**

- Appendix 1 - Site Plan
- Appendix 2 - HRA Land Appropriation Plan
- Appendix 3 - Consultation Feedback