

## CABINET

18 October 2016

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| <b>Title:</b> Sebastian Court – Redevelopment and Delivery Proposals   |   |
| <b>Report of the Cabinet Member for Finance, Growth and Investment and the Cabinet Member for Economic and Social Development</b>  |   |
| <b>Open Report</b>   | <b>For Decision</b>   |
| <b>Wards Affected:</b> Eastbury  | <b>Key Decision:</b> Yes  |
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| <b>Accountable Director:</b> David Harley, Acting Head of Regeneration & Planning (Regeneration)   |   |
| <b>Accountable Strategic Director:</b> John East, Strategic Director of Growth and Homes   |   |
| <b>Summary</b>   |   |
| <p>By Minute 84 (27 January 2015), Cabinet approved the inclusion of Sebastian Court in the extended Estate Renewal Programme to run from 2015 to 2021. Due to a number of urgent maintenance issues including the need for a full roof replacement and following consultation with the Lead Member for Housing, Sebastian Court was prioritised within this programme.</p>  |   |
| <p>The tenants decant and leasehold buyback programme commenced in mid 2015 and has been progressing well to date. The block now has approx 20 tenants remaining in occupation and one leaseholder from an original 54 tenants and 8 leaseholders. This rate of progress means that we are confident that the block will be clear to commence demolition at the end of the 2016.</p>   |   |
| <p>A number of options for redevelopment of this site have been explored including the provision of a sheltered scheme with a mixture of Shared Ownership and Affordable rent homes. A high level massing and layout study has been completed by PRP Architects, one of the Council's Framework Architects (at no cost), to show how the site could be developed taking into account the existing infill development to the rear of the site and proposing appropriate block heights and density for the area.</p> |   |
| <p>The site is well situated for public transport connections and would be attractive for sale, shared ownership or rent on the open market; whilst the options included in the study were developed for a predominantly sheltered scheme the massing and layout arrangements suggested would also be applicable for general needs apartments. For the purposes of modelling to inform this report we have used a 90 unit apartment scheme set out in 3 blocks across the site.</p>                                |   |
| <p>This report proposes using these high level massing and layout options to prepare a brief and tender to appoint a Contractor via the Council's existing Housing New Build Contractor Framework. They will be required to appoint high quality Architects with a</p>   |   |

proven residential development track record to prepare the detailed design to planning.

The financial modelling completed for the indicative development is also set out showing the viability and key financial results for a number of tenure scenarios. The proposal is to take forward a scheme of 57 Affordable Rent units (half at 50% of market rent and half at 80% of market rent) and 33 Shared Ownership homes.

The report proposes that the Affordable Rent units will be delivered within the current Reside (Charity Structure) to utilise one-for-one Right to Buy receipts and take advantage of current available capital funding arrangements and that the Shared ownership units are also delivered within the Councils Reside Housing company model which can also draw in Grant funding or First Steps Loan via the GLA.

### **Recommendation(s)**

The Cabinet is recommended to:

- (i) Agree the indicative tenure and unit mix for the Sebastian Court site, as set out in section 4 of the report and the site area shown edged in red in Appendix 1;
- (ii) Agree to use an existing entity within the Barking & Dagenham Reside structure (or the establishment, if required, of a new Special Purpose Vehicle within that structure) to develop / sell / own properties and procure the construction, management and maintenance of common parts and structure for the Affordable Rent units and the borrowing of approximately £13.1m within the General Fund to finance the construction and on costs;
- (iii) Delegate authority to the Strategic Director of Growth and Homes to sign off the final Procurement Strategy for the appointment of a main contractor and associated consultants for the project following its endorsement by the Procurement Board, in accordance with the Council's Contract Rules, the European Tendering Regime and Public Contract Regulations;
- (iv) Delegate authority to the Strategic Director of Growth and Homes, in consultation with the Cabinet Members for Finance, Growth and Investment and Economic and Social Development, the Strategic Director of Finance and Investment and the Director of Law and Governance, to negotiate terms and agree the contract documents to fully implement and effect the Sebastian Court redevelopment project;
- (v) Agree to use an existing entity within the Barking & Dagenham Reside structure (or the establishment, if required, of a new Special Purpose Vehicle within that structure) to develop, sell, own and procure the construction, management and maintenance of common parts and structure of the shared ownership units on the Sebastian Court site;
- (vi) Agree to the principle of borrowing up to £5.8m within the General Fund to finance the development and ownership of the shared ownership homes unsold equity via a loan agreement made between the Council and the shared ownership Special Purpose Vehicle; and
- (vii) Authorise the Director of Law and Governance, or an authorised delegate on her

behalf, to execute all of the legal agreements, contracts and other documents on behalf of the Council.

## Reason(s)

To assist the Council to achieve its priorities of "Growing the borough".

## 1. Introduction and Background

- 1.1 Sebastian Court is a Bison system built medium rise block consisting of 65 flats / maisonettes located on the corner of Upney Lane and Meadow Road in Barking. It has limited car parking at the rear and garages/storage sheds under the block. There is no communal garden attached to this block or any private balcony and limited outdoor space.

### Current unit breakdown

| Unit type    | No        |
|--------------|-----------|
| 1 bed        | 34        |
| 3 bed        | 31        |
| <b>Total</b> | <b>65</b> |

### Tenure breakdown (at the start of the programme)

| Tenure/occupation | No        |
|-------------------|-----------|
| Tenants           | 54        |
| Leaseholders      | 8         |
| Void              | 3         |
| <b>Total</b>      | <b>65</b> |

- 1.2 In January 2015 Cabinet approved the inclusion of Sebastian Court in the extended Estate Renewal Programme to run from 2015 to 2021. Following consultation with the Lead Member for Housing, Sebastian Court was prioritised within this programme due to a number pressing maintenance issues, including the urgent need for a full roof replacement. The cost of decants, leasehold buybacks and demolition are approved as part of the Estate Renewal expenditure.
- 1.3 The block is well situated for Upney underground station, about a five minute walk from the block and is also convenient for bus and road connections. Before the decanting programme begun there were a number of ASB issues within the block but the main reason for the blocks inclusion and prioritisation within the programme were the ongoing repair and environmental issues.

## 2. Current Decant and Leasehold buyback programme

- 2.1 The tenants decant and leasehold buyback programme started in mid 2015 and has been progressing well to date. The block now has approx 20 tenants remaining and one leaseholder yet to reach terms from an original 54 tenants and 8 leaseholders. This rate of progress means that we are confident that the block will be clear to commence demolition at the end of the 2016.

### **3. Site information and ground conditions**

- 3.1 The site area is approximately 0.33 hectares and is bounded by Upney Lane and Meadow Road, Barking. It is within a five minute walk of Upney Lane underground station. There is limited amenity space associated with the block and limited car parking can be found at the rear of the block. The Council sold the garages to the rear of the block around 12 – 15 years ago to a Housing Association who completed an infill development.
- 3.2 Full Topographical and Ground Conditions Surveys have been completed for the site and whilst some service diversion work will be necessary they do not highlight any issues that would have a major impact on cost or programme.
- 3.3 A variety of options have been drawn up for the site based on a very broad brief given to PRP Architects. All the options offer limited parking on site which we may want to consider further as it is likely to be an area of concern for local residents during consultation. The configuration of different options in separate blocks could allow for different tenure configurations including a separate block/s for sale.
- 3.4 A high level review of these options has been completed with Development Management who are broadly happy with the massing arrangements and height of blocks.

### **4. Development, massing and layout options considered**

- 4.1 The PRP analysis provided five options in terms of massing from the site, ranging between delivering 73 homes and 107 homes:
- Option A – 73 Homes
  - Option B – 85 Homes (90 including the ground floor)
  - Option C – 101 Homes
  - Option D – 107 Homes
  - Option E – 91 Homes
- 4.2 These options have been considered from a planning perspective. For the purposes of modelling, Option B which delivers 90 homes (with the ground floor) has been selected as a basis for modelling different tenure options, as options delivering higher number of homes were not favoured by planning. Furthermore, the configuration of Option B over 3 blocks allows different tenures to be easily explored and defined within the scheme from a management perspective. The massing drawing showing option B is attached as Appendix 2.

### **5. Financial Modelling assumptions and option analysis**

- 5.1 The following assumptions have been assumed within modelling.
- A net to gross ratio of 80/20 was applied – essentially 20% of the gross area is circulation space of corridors, hallways, etc. This is in line with what has been achieved at Gascoigne East.
  - Room sizes have been set to London Housing Design Guide standards, as 50m<sup>2</sup> for a 1bed 2 person flat, and 70m<sup>2</sup> for a 2 bed 4 person flat.

- A build cost rate of £2,500 psm has been applied, also in line with modelling on Gascoigne East for consistency.
- A 24 month programme is assumed.

5.2 A full analysis of the variations under Option B (90 homes) is contained in Appendix 3 showing the key results for NPV and first year surplus. Whilst this has been modelled using the assumption of a current bank interest rate the more preferential rate nearer to Council borrowing rates has also been modelled for comparison.

### **Proposed Preferred Option**

5.3 Based on the analysis in Appendix 3, taking forward Option B1c generates the best financial return for the Council with a balance weighted to Affordable rent, should the Right to buy receipts be applied to the general needs rented element of the scheme, and through a delivery model that allows the Council to access low interest rates on long term funding to achieve maximum beneficial impact. Option B1c provides 57 Affordable Rent units and 33 Shared Ownership.

## **6. Delivery Structure – Affordable Rent - Shared Ownership**

6.1 A delivery structure for these homes is proposed that enables the Council to utilise Right to buy receipts to meet it's one for one replacement requirements for the affordable rent and mirrors the previously agreed delivery structure for the Shared Ownership homes at the Gascoigne and Kingsbridge schemes.

6.2 The Affordable rent homes could either be delivered within the HRA or within the existing Reside Structure and on completion would be let at between 50% and 80% of market rent. If the units were delivered by Reside, the units would be exempt from Right to Buy (RTB), however if they are owned with the HRA the risk of Right to buy will be only be mitigated by the cost floor rules for the first 15 years – meaning that no home can be sold for less than it cost to build including an apportioned land cost for this period. Whilst this will deter purchasers in the short term, it will not protect these homes from RTB as prices rise. The Council also has access to Capital funding arrangements at attractive rates to support the viability of the scheme via Reside and this delivery structure is recommended to ensure that the affordable rent homes stay affordable in perpetuity and offer the best long term return to the Council.

6.3 It is proposed that, subject to tax and structuring advice, the delivery mechanism for the Shared Ownership Sebastian Court will be similar to the arrangements for the shared ownership units within Gascoigne Phase 1 and Kingsbridge. This will require that either the existing Barking & Dagenham Reside entity is used or a new Special Purpose Vehicle be established and held within the Barking & Dagenham Reside structure; the relevant entity would then develop, hold and manage the shared ownership units. The SPV would be financed by means of a loan agreement between the Council and SPV.

6.4 The proposed SPV would be a body corporate (either an English limited company of an English limited liability partnership) and would be the landlord of the dwellings once constructed. The SPV would be responsible for the development, sales, management and maintenance of the shared ownership units and for compliance with all loan terms. These loan terms and their related security provisions will in turn

limit the freedom of the SPV to materially change any of these arrangements without lender consent; the lender for these purposes is effectively the Council. The SPV would need to be governed by a board. The role of the board would be to undertake all activities required to fulfil the SPVs contractual obligations particularly with respect to:

- Effective sales and management of the homes and estate management;
- Discharge the contractual obligations of the SPV to the Council and/or to the funder in respect of sales lettings, maintenance and rent payment guarantees if these are required;
- Effective risk management.

6.5 The Council would act as funder to the Special Purpose Vehicle. The SPV would therefore be subject to contractual funding terms set out within the loan agreement between the Council and SPV for this project. It is important that the loan agreement is on arms-length terms and the Council maintains all of the rights that a normal lender would have. The loan agreement would therefore provide exactly how the units would be sold, managed and maintained and would prevent the SPV from being refinanced or having their assets charged in any way, other than with the consent of the Council as lender. If the SPV defaulted on its obligations to the Council as funder then the Council would be able to exercise security overtake the assets i.e. potentially either take possession or at the end of the funding term the Council will have the ability to collapse the structure with full ownership reverting back to the Council subject to shared ownership leases.

## **7. Consultation**

- 7.1 Prior to the inclusion of Sebastian Court into the Estate Renewal programme the residents, with support from the Housing Team, had formed an Action Group that met regularly to discuss issues affecting the block including the concierge unit and the ongoing roof repair issues. This group was updated on the process to include the block in the Estate Renewal Scheme and was supportive of this proposal. Following the report to Cabinet in January 2015 a full residents meeting was held and confirmation given to residents that the decanting and leasehold buybacks at Sebastian Court would be prioritised due to the ongoing roof repair issues.
- 7.2 Meetings have been held during the decanting and buyback process to keep residents fully informed. The next stage for consultation will be with Ward Members, residents and the wider community once the design development process commences. This will be arranged at key stages in the process prior to the full planning application being submitted to ensure that all stakeholders have the opportunity to comment.
- 7.3 The proposals in this report were considered and endorsed by the Assets and Capital Board at its meeting on 28 September 2016.

## **8. Financial Issues**

Implications completed by: Andrew Sivess, Group Manager: Investment & Funding

### **8.1. Impact on the HRA**

8.1.1 The overall impact of the stock loss, and therefore the rent loss, on the HRA was modelled as part of the HRA business plan reported to cabinet in June 2012. The Council received its HRA self-financing settlement in April 2012 which took into account and excluded the number of properties excluded in the estate renewal programme. Further additional estate renewal sites approved by Cabinet in January 2015 have also been deducted from rental, repairs and maintenance forecasts within the current HRA business plan. The current HRA business plan is being reviewed to reflect the reduction in rental income as a result of the Government's decision to reduce rents by 1% per annum over the next four years.

### **8.2. Funding options**

8.2.1 The SPV's could be funded by the Council borrowing from the Public Works Loan Board and/or the European Investment Bank.

8.2.2 The recommended funding route, subject to monitoring of current funding rates, is to borrow the maximum amount from the European Investment Bank which offers funding at approximately 0.5% below prevailing PWLB rates and is also significantly lower than indicative private institutional rates based on soft market testing exercises. In order to access further EIB funding the Council will need to agree a new urban regeneration programme with the EIB; this is being formulated by officers. However, the decision to exit the EU may adversely impact this proposal and it may be necessary to fund the scheme using borrowing from the PWLB.

8.2.3 In addition, the Council is in discussions with the GLA to develop a funding model under the GLA's First Steps Funding initiative to support the delivery of a wider programme of shared ownership units. Under this arrangement the GLA would provide returnable grant at a rate of £45k for every additional unit of shared ownership constructed. The returnable grant would be repaid by year 15 at a rate of interest preserving the real value of the GLA's investment. This model is likely to replace the current model whereby the GLA provides non-returnable grant to support project viability; only in exceptional circumstances will grant be provided in the future.

8.2.4 The Council was invited to work-up detailed proposals with the GLA. Initial terms have been agreed and detailed negotiations are underway to develop a final funding proposal.

8.2.5 Under the First Steps proposal delivery of the shared ownership programme would be through an SPV held within Barking & Dagenham Reside. This would be responsible for development, procuring sales and marketing and for long-term asset management; it would be funded jointly by the Council, the GLA and an institutional investor.

### **8.3. Ownership structure**

- 8.3.1 The funding and ownership structures set out in this report involve the establishment of a Special Purpose Vehicle(s) owned by the Council's Barking and Dagenham Reside housing companies. The SPVs would own and be responsible for the management and maintenance of all the rented and shared ownership tenures that it developed in Phase 2. This would ensure that the Council retains control of the units in the long-term (including any rental surplus and stair-casing receipts generated by sale of the SO units) which would flow to the Council as a variable lease payment.
- 8.3.2 Under these options all management, maintenance and life cycle costs are included in the financial appraisal.
- 8.3.3 The SPV delivery structure would be established by the General Fund to provide housing which is in the general economic interest. This provides the Council with greater flexibility to help meet wider housing need and to assist generally in the regeneration and economic well-being of the area.

### **8.4. Right to Buy**

- 8.4.1 To support financial viability £2.9m of RTB receipts can be allocated to support development of the affordable rent units.

### **8.5. Treasury management**

- 8.5.1 It is proposed to fund this development on bullet financing terms, whether borrowing is from the PWLB, EIB or combination of both. This means that all the money borrowed will be paid at the end of the funding term as a single payment. It is considered that this will provide greater Treasury Management flexibility to the Council and will also maximise net rent in the early years of the project.
- 8.5.2 If monies are borrowed from EIB they can be drawn down in up to ten tranches where each tranche shall be a minimum of £10m or in a single tranche at the end of the development period. All tranches (or the whole facility) must be drawn down with 36 months from signature of contracts. The interest rate for the borrowing can either be set when each tranche is drawn or alternatively can be fixed at the completion of the loan contract.
- 8.5.3 Interest is payable on each tranche from the date of drawdown. If EIB borrowing is used to fund development costs, the interest will be a cost to the Council before any income is receivable from the units. To minimise interest carry-costs, officers would seek to negotiate a drawdown schedule that minimises development period interest costs. Alternatively, development costs could be funded from cash balances or short-term borrowing from PWLB where this would reduce development period interest costs. In assessing the options, consideration will be given to ensuring that development period interest savings are not off-set by the risk of higher interest rates that might be charged on later tranches.



## 8.6. Key Financial Model Assumptions

8.6.1 The tables below set out the assumptions that have been used in the financial model which has been prepared by the Council's external advisors. The key appraisal assumptions are:

| Key assumptions                     | AR                | SO  | Market Rent       |
|-------------------------------------|-------------------|---|-------------------|
| Appraisal term                      | 50 years          | 50 years                                    | 50 years          |
| Inflation (RPI)                     | 2.5%              | 2.5%  | 2.5%              |
| Inflation (repairs & maintenance)   | 3.0%              | n/a   | 3.0%              |
| Rental indexation                   | CPI plus 1%       | 2.75% net initial indexed at RPI plus 1% pa | n/a               |
| Void and bad debts                  | 4.25% pa          | n/a   | n/a               |
| Tenancy Management                  | £1,557 pa         | n/a   | n/a               |
| Responsive and planned maintenance  | £1,191 pa         | n/a   | n/a               |
| Initial sales tranche               | n/a               | 35% initial sales average                   | n/a               |
| Stair casing                        | n/a               | 1.5% pa                                     | n/a               |
| Unsold equity end of appraisal term | n/a               | 20% assumed unsold equity at year 50        | n/a               |
| House Price Inflation               | n/a               | 3.5%  | n/a               |
| Profit erosion to 0%                | 6 months after PC | 6 months after PC                           | 6 months after PC |
| Capitalisation rate                 |                   |   |                   |
| Discount rate                       | 6.09%             | 6.09%                                       | 6.09%             |
| Development period finance          | 3.0%              | 3.0%  | n/a               |
| Operational period finance          | 3.0%              | 3.0%  | n/a               |
| Finance structure                   | Bullet            | Bullet                                      | Bullet            |

8.6.2 These assumptions will be kept under review and may be changed to reflect market fluctuations.

## 8.7 Construction costs

8.7.1 The cost estimates used for this modelling are based on the recent Gascoigne phase 1 tender return at £2,500 psm. The risk of construction cost increases will be mitigated by using a lump sum guaranteed maximum price contract to appoint the successful contractor following procurement exercise. In addition, a contingency of 5% will be built into the construction budget. To fully understand the impact of build cost inflation and deflation the table below models a number of scenarios.

|                                 | <b>90%</b>        | <b>95%</b>        | <b>As modelled</b> | <b>105%</b>       | <b>110%</b>   |
|---------------------------------|-------------------|-------------------|--------------------|-------------------|---------------|
|                                 | <i>£2,250 psm</i> | <i>£2,375 psm</i> | <i>£2,500 psm</i>  | <i>£2,625 psm</i> | <i>£2,750</i> |
| <b>IRR (%)</b>                  | 7.01              | 6.51              | 6.08               | 5.69              | 5.35          |
| <b>NPV @ 6.09%</b>              | £1,847,354        | £913,773          | £19,812            | -£953,464         | -£1,887,121   |
| <b>NPV @ 3.5%</b>               | £10,727,188       | £9,793,607        | £8,860,022         | £7,926,370        | £6,992,713    |
| <b>First Year Net Cash</b>      | £154,064          | £126,057          | £98,049            | £70,039           | £42,030       |
| <b>First Year Positive Cash</b> | 1                 | 1                 | 1                  | 1                 | 1             |
| <b>Cost to Value (%)</b>        | 78.71             | 83.07             | 87.43%             | 91.79             | 96.15         |

## 8.8 Tenure mix

8.8.1 For appraisal purposes an indicative mix of tenures has been assumed as shown in the table below. It may be necessary to adjust the tenure mix in the final scheme to meet planning requirements and ensure viability and investment returns.

| <b>Unit Type</b> | <b>S/O</b> | <b>A/F</b> | <b>Total</b> |
|------------------|------------|------------|--------------|
| 1 Bed 2 person   | 18         | 33         | 51           |
| 2 Bed 4 person   | 15         | 24         | 39           |
| Total            | 33         | 57         | 90           |

## 8.9 Financial model – results

8.9.1 A financial model has been produced to assess the viability and value for money of the proposals contained in this report. The table below set-out the key financial results for affordable rent, shared ownership tenures and the tenures combined that will be retained by B & D Reside and the Council

|                                 | <b>Combined</b> | <b>AR</b>                                 | <b>SO</b>  |
|---------------------------------|-----------------|---|------------|
|                                 |                 | <i>50% @ 80% MR &amp; 50% @ 50% of MR</i> |            |
| <b>IRR</b>                      | 6.08%           | 5.39%                                     | 8.26%      |
| <b>NPV @ 6.09%</b>              | -£19,812        | -£1,135,123                               | £1,115,311 |
| <b>NPV @ 3.5%</b>               | £8,860,022      | £4,618,089                                | £4,241,934 |
| <b>First Year Net Cash</b>      | £98,049         | £65,202                                   | £32,487    |
| <b>First Year Positive Cash</b> | 1               | 1   | 1          |
| <b>Cost to Value</b>            | 87.43%          | 86.21%                                    | 89.68%     |

## 9 Legal Issues

Implications completed by: Erol Islek, Senior Property Solicitor

### 9.1 Council Powers

9.1.1 The two principal sources of the Council's power to participate in the proposed transaction as set out above are section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972.

9.1.2 The general power of competence under section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do. There are limits to the power contained within sections 2, 3 and 4 of the Localism Act but these are not explored in this report as they are not relevant. 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 the general power. The use of this power in section 1 of the Localism Act 2011 is, like the use of any power, subject to Wednesbury reasonableness constraints and must be used for a proper purpose. Section 111 of the Local Government Act 1972 - 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 as per the steps in paragraph 2 and enter into the relevant project documents, additional power 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.

9.1.3 The general power of competence is a power of first resort.

## 9.2 **Provision of Units through a Special Purpose Vehicle (SPV)**

9.2.1 The general power of competence under Section 1 of the Localism Act 2011 (the 2011 Act) provides the Council with a power to both establish the Special Purpose Vehicle and to provide the units through it. Although this is a power of first resort and the fact that a specific housing power exists under Section 9 of the 1985 Act does not prevent the use of the general power. The Council would still be required to provide reasonable justification for using the general power of competence rather than other powers (such as Section 9 of the Housing Act 1985) which might seem more obvious and the report identifies the regeneration and economic benefits which the Council believes will be facilitated by acquiring the units through the shared ownership SPV

9.2.2 In exercising the power the Council must observe its fiduciary duty to tax payers of the Borough and must exercise the power for a proper purpose, for example, it would not be a proper purpose to acquire the units through an SPV if the motive was purely to avoid HRA borrowing controls. Members will need to be satisfied that the justifications for acquiring the units through the SPV are reasonable and appropriate.

9.2.3 Where the Council provides financial assistance to the SPV by (a) granting or loaning it money, (b) acquiring share or loan capital in the SPV, (c) guaranteeing the performance of any obligations owed to or by the SPV, or (d) indemnifying the SPV 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 SPV, the Council must use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so. The exercise of this power is subject to Secretary of State consent.

9.2.4 The Secretary of State (SoS) has issued some general consents in respect of Sections 24 and 25 of the 1988 Act (issued under Section 25 of that Act) – "The General Consent under Section 25 of the Local Government Act 1988 (Local

Authority Assistance for Privately Let Housing) 2010". In particular, General Consent C ("the General Consent under Section 25 of the Local Government Act 1988 for the Financial Assistance to any Person 2010") gives the Secretary of State's consent generally as follows:

- This General Consent could apply where the Council grants or loans money to the SPV, purchases shares in the SPV or guarantees the SPV's obligations where this financial assistance is to be provided in connection with the acquisition and construction of property which is intended to be privately let as housing accommodation by the SPV, in which case no specific consent of the Secretary of State would be required.
- 25(1) of the 1988 Act provides that a local authority should not exercise the power conferred in section 24 so as to provide financial assistance and gratuitous benefit except with the consent of the Secretary of State. Section 25 (5) of the 1988 Act defined gratuitous benefit to include a benefit consisting of a disposal of any land or other property and the benefit to be provided is either for no consideration or for a consideration which has a value in money or monies worth which is significantly less than the value in money or monies worth, of the benefit which is or is to be provided by the Authority. Section 25(6) of the 1988 Act provides that when determining the value of consideration being provided in return to the local authority there shall be disregarded amongst other things so much of the consideration as consists in the carrying out of any works by any person for the purposes of the construction or conversion, rehabilitation, improvement or maintenance of any such property or a promise that any works will be carried out by any person for any such purposes and the grant of a right to nominate persons or occupiers of any such properties to be disregarded.

9.2.5 The Council will need to obtain a valuation confirming that having disregarded those matters required to be disregarded under section 25(6) of the 1988 Act, the restrictive value of the Property exceeds the unrestricted value of the property and no gratuitous benefit is being provided by the Council in connection with the disposal based upon the content of the Valuation and therefore no specific consent of the Secretary of State under section 25 of the 1988 Act is required.

## **10. Other Issues**

10.1 **Risk Management** - The risks associated with the construction of the new development fully scoped and managed through the building contracts. The affordable housing elements of construction risk will be managed and minimised by a capped price build contract, the overall project risk register is jointly held by the Employers Agent and project partners and includes the financial, commercial and programme risks.

10.2 **Contractual Issues** - The carrying out of works would need to be compliant with the European Tendering Regime and in accordance with the Public Contract Regulations. The full procurement route options will be fully explored and mandated by a report to the Procurement Board for endorsement prior to any tenders being sent out.

- 10.3 **Corporate Policy and Customer Impact** – The development of this under utilised site will contribute to the Council Priorities of ‘Encouraging Civic Pride’ and ‘Growing the Borough’. With reference to the latter the proposals in this report are consistent with the objectives for building new housing and sustainable communities.
- 10.4 **Safeguarding Children** - The detailed designs for this scheme will take into consideration the needs of the local community and will focus on creating accessible and safe spaces that will benefit the local community including children. The design proposals will need to include active play for all ages as well as safe walking routes to the local school, shops and and public transport to satisfy planning requirements.
- 10.5 **Health Issues** - There is a large body of evidence that improvements to housing quality can improve health and wellbeing outcomes for its residents. The new homes will effect substantial improvement in the quality of the housing stock and include new high quality energy efficient homes and continue to reduce the overall number of poor quality high-rise homes in the Borough which will have a positive impact on health.

The link between poor housing and ill health has long been established and this is now clearly acknowledged by central government in their vision for the future of Public Health in England. This regeneration plan will help to improve health, safety and wellbeing of residents that are affected by poor housing standards, particularly if they are disadvantaged through social deprivation, disability, age, vulnerability or infirmity.

- 10.6 **Crime and Disorder Issues** - Section 17 of the Crime and Disorder Act 1998 places a responsibility on councils to consider the crime and disorder implications of any proposals. The redevelopment of Sebastian Court will help make the areas safer by improving the quality of the environment, creating safer more natural surveillance for public areas and pedestrian routes.

In decanting the site it is important that this is done in a measured and timely way, not creating the opportunity for small numbers of people to remain on site, which could increase vulnerability of those residents and also of the site itself. In demolition and rebuild, contractors must be sure to adequately secure the site so as to ensure that any asset of the Council is protected and that the site does not become ‘attractive’ to criminals, for example by the removal of all piping and boiler work/electrical cable as soon as possible, as this can often be attractive to thieves due to its resale value. Contractors should be required to ensure that all equipment and resources at the site should be sufficiently secured so as to not increase the opportunity for crime which would possibly impact on Council, Police and Fire services’ resources.

Design of family housing can impact positively on certain crime types, for example specific types of violence such as domestic violence can be reduced by social aspects of any development such as better quality housing, sufficient space for families to live and for children to learn and through better access to services based in local community facilities.

Improved facilities for young people within the new development will also provide new opportunities for education, recreation and employment directing them away from crime and disorder. Proposals for new recreational facilities are aimed at both very young children and also teenagers and new community facilities will be enhanced and designed to bring all the community

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices:**

- **Appendix 1:** Sebastian Court site layout and boundary plan
- **Appendix 2:** Preferred option massing and layout plan
- **Appendix 3:** Tenure mix – Option Appraisal