CABINET

19 September 2023

Title: Development of Land at Beam Park, Dagenham – Revised Proposals	
Report of the Cabinet Member for Regeneration and Economic Development	
Open Report with Exempt Appendix 1 (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	**For Decision**
Wards Affected: Beam	**Key Decision:** Yes
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Accountable Director: David Harley, Interim Development Director, Be First	
Accountable Strategic Leadership Director: James Coulstock, Interim Strategic Director, Inclusive Growth	

Summary

Beam Park is the strategic development by Countryside Properties (CPUK) straddling former Ford land in both Barking and Dagenham and Havering proposing 3,900 homes and a wide range of other facilities. It lies adjacent to Dagenham Green – the former Ford Stamping Plant coming forward for a further 3,502 homes. Beam Park is one of the Borough's Transformation Areas set out in the draft Local Plan, moving away from low density industrial space to new communities with significant open space and green links, community and commercial facilities and new schools.

By Minute 34 (20 October 2020), Cabinet approved the purchase of up to 936 homes over three phases (then known as phases 3, 4 and 5 - now known as phases 6, 7 and 8) on the western side of Beam Park (adjacent to Dagenham Green) for a mixed tenure scheme. This was based on a fixed price for the homes but with indexation added for construction inflation. The total development cost without indexation was £309,354,140. The Development Agreement was subsequently entered into with CPUK which provided flexibility over the units per phase given it was acknowledged CPUK were going to seek to increase unit numbers as part of detailed planning.

CPUK are now intending to provide 520 units in Phase 6 and 335 units in Phase 7. There will be a Phase 8 but if the Council wanted to purchase units in that phase it would be subject to a further, separate Cabinet report.

As of October 2020, the financial metrics for scheme viability were very positive. The assessment at the time considered a range of sensitivities. Unfortunately, the dire economic conditions since that time, especially related to construction inflation and interest rate rises, have combined to substantially worsen the scheme viability. Whilst remaining with a positive Net Present Value (NPV) the particular issue is cashflow in the early years following completion. Be First has been working with the Council and CPUK to consider a range of options to address the cashflow issue. These changes are set out

in the report and, if adopted, significantly address cashflow issues for Phase 6. Phase 6 would move to a completely affordable tenure scheme to benefit from grant and use of Right to Buy receipts.

With limited Right to Buy receipts and ongoing construction inflation, it is not possible to achieve a positive cashflow for the early years for Phase 7 unless additional grant or loan funding was secured from elsewhere. As the Council does not have available funding from mainstream public sector funding sources which are viable and reasonably satisfactory for the purposes of that phase of development, it is recommended the Council confirms that it is not able to meet the Funding Condition and, therefore, is not able to proceed with the acquisition of Phase 7 properties.

This paper sets out the implications of various changes to the viability. All the changes recommended in section 2 of the report relating to Phase 6 need to be agreed as a whole in order to achieve the metrics set out in Appendix 1. Be First and the Council will continue to have conversations with the GLA and CPUK to improve viability further.

Recommendation(s)

The Cabinet is recommended to revise the previous decision taken under Minute 34 (20 October 2020) as follows:

(i) Agree the viability improvement measures set out in the report to enable the acquisition of 520 units within Phase 6 of the Beam Park development (excluding commercial units) from CPUK on a turnkey basis for an estimated total price of £166.4m and total scheme cost (including interest) of £183.5m;

(ii) Allocate up to £36.4m of Right to Buy receipts to ensure positive cashflows for Phase 6 of the Beam Park development;

(iii) Approve a handover loan to Reside of £114,356,401 to develop, own, let, sell, manage and maintain the Phase 6 properties in accordance with the funding terms set out in the report;

(iv) Note that the revised proposal for Phase 6 of the Beam Park development meet the IAS return metrics, producing a Net Present value of £38,943,950;

(v) Agree to confirm to CPUK that as the Council was unable to meet the Funding Condition within the Development Agreement in respect of Phase 7 of the Beam Park development, the Council was not able to proceed with the acquisition of properties within that phase; and

(vi) Note that should additional grant or loan funding be secured which provided a positive cashflow for Phase 7 of the Beam Park development, a further report would be submitted to Cabinet.

Reason(s)

The proposal delivers new homes contributing to the following priorities set out within the Corporate Plan:

- Residents benefit from inclusive growth and regeneration.

- Residents live in, and play their part in creating, safer, cleaner and greener neighbourhoods.
- Residents live in good housing and avoid becoming homeless.

The scheme accelerates the delivery of new homes adding to the Council's residential portfolio with new energy efficient stock.

1. Introduction and Background

1.1 The Greater London Authority own the freehold of the former Ford Paint, Trim and Assembly (PTA) site and selected Countryside (CPUK) and L&Q as Development Partners in 2016. CPUK secured outline planning permission in 2019 for 3,000 homes with 50% affordable across eight phases. Substantial progress has been made on the Havering side of the development and the first phases in Dagenham with work also commencing on a new park alongside the River Beam (the borough boundary).

1.2 In October 2020 Cabinet agreed to purchase up to 936 homes on the western most part of the site. This would bring forward homes quicker than CPUK had planned and would contribute significant new stock across a range of tenures for Reside. The Development Agreement entered into with CPUK recognised they would seek to increase the number of units through planning. Over 3,900 homes are now proposed in total however instead of three phases of 936 units the offer is two phases totalling 855 with the potential for a future decision on the third phase.

1.3 The agreement with CPUK set a fixed price for each unit of different tenures but as delivery would take a number of years, the agreement added BCIS construction index inflation rates (indexation) to the cost up to a fixed date for each phase. Building Cost Information Service's construction inflation index is a well-used index as it compiles data from a wide range of sources to give a well sourced construction inflation rate. Such an index was utilised to prevent extended debates over specific scheme pricing. Unfortunately, with the war in Ukraine, Brexit/labour and supply chain issues and the energy crisis – the cost of both labour and materials has resulted in construction inflation being substantially above the standard assumptions that were used widely across the development sector. As part of the appraisal informing the 2020 Cabinet decision, construction inflation of £25,111 per unit was assumed (this followed industry standards at the time) – unfortunately the figure has been £69,856. The Delegated Authority assumed 3.2% inflation when the figure has been 23.2%. No further construction inflation can be applied to the works price of Phase 6 however for Phase 7 indexation would continue until December 2025.

1.4 Alongside this there has been a significant increase in interest rates – this does not change the proposed payments to CPUK but the higher interest costs challenge the overall scheme viability and particularly cashflow. Higher inflation has also impacted the operational costs (Opex costs) of managing and maintaining completed housing units which has similarly impacted on overall viability and cashflow.

1.5 Rents have increased since 2020 however nowhere near enough to counteract the changes in construction inflation, interest rates and operational costs. This has moved the scheme from far exceeding the Investment and Acquisition Strategy metrics to having negative cashflows in the early years.

1.6 The Council has paid the first payment for Phase 6 covering design work and surcharging the land but has yet to confirm the 'funding condition' for Phase 7. This means if CPUK continue to meet their obligations in the agreement if the Council pulled out of Phase 6 it would as a minimum lose the amount paid to date (£25,621,299). Given the funding condition for Phase 7 there would not be any significant costs associated with not proceeding if the Council shows it cannot access the funding.

1.7 The scheme remains the same in terms of design quality and materials. The scheme will have second staircases.

1.8 Be First will continue to have discussions with the GLA on the potential for additional grant, replacing right to buy receipts with grant at the same level or interest free loans to support viability.

1.9 Whilst there is ongoing discussion about the proposed Beam Park station, phases 6 and 7 are considerably nearer the existing Dagenham Dock station and Peabody are required to provide an early walking route through to the station avoiding the need to go via Chequers Corner.

1.10 Beam Park is within close proximity to two other Be First 'turnkey' schemes – the former Job Centre Plus site on Chequers Lane (now operational and known as Kerwin House) and the former Transport House, which is under construction.

2. Proposal and Issues

2.1 Proposals for improving cashflow – Phase 6

2.1.1 Over recent months Be First has been working with the Council and CPUK to look at what factors can improve scheme viability, especially addressing the issue of negative cashflow in the early years. Some measures which improve the early years cashflow actually worsen the total scheme viability. The measures set out below all contribute towards improving viability and achieving the metrics set out in Appendix 1. These are a package of measures and would all need to be agreed for Phase 6 to be considered viable in the context of the financial metrics set out in the Council's Investment and Acquisition Strategy (IAS):

2.2 Phase 6 proposed tenure / unit mix and Removal of Commercial space from LBBD purchase

2.2.1 The proposal is to acquire of 520 units within Phase 6 of the Beam Park development (excluding commercial units) from CPUK on a turnkey basis. The tenure and unit mix is shown in the table below:

	1b1p	1b2p	2b3p	2b4p	3b4p	3b5p	4b5p	Total
Affordable Rent	15	102	69	44	15	20	0	265
Shared Ownership	5	64	3	2	32	17	11	134
London Living Rent	1	35	2	8	13	0	0	59
London Affordable Rent	0	18	10	11	21	2	0	62
Total	21	219	84	65	81	39	11	520

2.2.2 The ground floor spaces of both Phases 6 and 7 includes some commercial and community space. Whilst in time and with the significant growth in population in the area these units would probably attract good tenants and good rents, the challenge is the early years and the implications on cashflow. Excluding them from the purchase from CPUK means the commercial and community units would still be delivered but the Council would not have control over them (other than through planning) or gain income from them. Given the main viability challenge is early years cashflow, excluding them reduces the total cost paid by £1.9m and improves cashflow by c. £650,000 cumulatively over the first 10 years.

2.3 **Apply Service Charge to LAR homes**

2.3.1 Currently service charges apply to all Reside tenures except for London Affordable Rent (LAR) units. Applying service charges to LAR units is the standard across Boroughs and Housing Associations. Applying service charge to the 121 LAR units will improve the first 20 years' cashflow by £6.2m. In reality for many tenants the service charge costs would be covered by benefits however not applying service charges where there clearly are service charge costs means the scheme viability and cashflow is significantly worsened. New tenants will be made aware of this change.

2.3.2 The LAR rent and service charge cost combined generally total less than Local Housing Allowance and therefore should be covered by benefits as required by the residents, noting service charge has been applied equally to all units in the appraisal whilst in reality this should be apportioned by floor area such that the smaller 1B1P units are charged appropriately less than the 3B5P units. The current Reside service charge costs are higher than the benchmark rates which equate to £29.90 per week.

As at 2023	1B1P	1B2P	2B3P	2B4P	3B4P	3B5P
Market Rent	£290.00	£325.00	£370.00	£410.00	£420.00	£460.00
LHA	£207.12	£207.12	£264.66	£264.66	£316.44	£316.44
LAR Rent	£180.12	£180.12	£190.72	£190.72	£201.30	£201.30
Service Charge	£36.03	£36.03	£36.03	£36.03	£36.03	£36.03
Combined cost to tenant	£216.15	£216.15	£226.75	£226.75	£237.33	£237.33
£ variation to LHA	+£9.03	+£9.03	-£37.91	-£37.91	-£79.11	-£79.11
% of market rent	74.5%	66.5%	61.3%	55.3%	56.5%	51.6%

2.4 **Tenure Switch of all market rent units to affordable rent and utilising Right to buy receipts**

2.4.1 The Council is able to utilise its Right to Buy receipts to cover 40% of the construction cost of affordable housing units (but not market rent). Given this, cashflow is substantially improved by switching all the market rent units to affordable rent (at 80% of market rent) and utilising £36.4m of Right to buy receipts. Whilst this phase of the scheme would move from being mixed to all affordable, there are a mix of affordable tenure types and the wider Beam Park development will have a diverse mix of tenure types. Marketing and securing tenants for the 80% units will be easier and help support very early occupation of units post completion.

2.4.2 Whilst the use of Right to buy receipts radically improves scheme viability, a key issue is that right to buy receipts are finite and this scheme alongside Gascoigne 3B and other commitments would utilise the whole existing amount and the predicted sums for the next few years. Given the current viability challenge with schemes, the argument is to utilise Right to Buy receipts for Beam Park Phase 6 and Gascoigne 3B to enable schemes to proceed and avoid substantial abortive costs whilst focussing on improving scheme viability for the future pipeline.

2.4.3 The tenure for Phase 6 would be 265 affordable rent units (at 80% of market rent), 134 Shared ownership units, 59 London Living Rent units and 62 London Affordable Rent units.

2.5 **Negotiate GLA grant for LAR and LLR units**

2.5.1 The Council/Be First had secured GLA grant for 126 LAR homes at Phase 6, which involved the conversion of units acquired as LLR units instead delivered as LAR. The proposal to the GLA is to apply the same grant rate per unit on the 59 LLR units acquired but with their delivery tenure remaining as LLR, thereby remaining GLA funded units but improving the scheme viability.

2.6 **Adjusting rental assumptions**

2.6.1 Adjusting the assumption for rental growth rate for affordable rent units (80% of Market Rent values) up from 2% to 2.5% is seen as a realistic long-term assumption which improves viability. This does not account for a ‘regeneration premium’ whereby as Beam Park/Dagenham Green are developed out with parks, opens spaces, facilities and new schools then there is strong evidence that there would be an additional premium on the rents over and above market growth. Any ‘regeneration premium’ would improve viability further.

2.7 **Reducing Operational Costs**

2.7.1 Operational (opex) costs for looking after the properties post completion that are used in the latest financial model are significantly higher than the assessment made at the time of entering into the Development Agreement. This reflects inflation as well however they are significantly above benchmark levels for Opex costs elsewhere but do reflect current expenditure on similar Reside schemes. It is proposed to model Opex costs at this higher level until 2028 but then move to benchmark rates plus 20%. This gives time to achieve operational efficiencies. This also helps Reside’s business plan. Given this issue is critical across the portfolio, it will need to be a key focus for the Council, Reside and Be First in the coming months.

2.8 **Interest rate at 4.5%**

2.8.1 The significant increase in the national base rate over the last 18 months has obviously fed through into the Public Works Loan Board rate. Utilising an interest rate of 4.0% for LAR, LLR and SO tenures and 5% for affordable rent achieves the metrics in Appendix 1.

2.9 **Options Rejected**

2.9.1 Be First/LBBD has also considered CPUK's offer to exclude one or more cores in each Phase for them to retain as market sale housing. Whilst this reduces the total amount of borrowing required it produces a more complicated scheme in terms of ownership and management and does not overall address the cashflow issue.

2.10 **Phase 7**

2.10.1 All the above options have been considered for Phase 7 however there are not enough available Right to Buy receipts to enable Phase 7 to be anywhere near cashflow positive. In addition, under the Development Agreement the construction inflation indexation continues for Phase 7, therefore uncertainty over the final price remains.

2.10.2 The Funding Condition in the Development Agreement requires that the Council has sufficient 'Financial Resource' for the construction costs of a Phase. Financial Resource is defined as: *funding from mainstream public sector funding sources available to LBBD (or other sources where the same are viable for the purposes of the Development) on terms which are reasonably satisfactory to LBBD for the purposes of LBBD funding the acquisition of the proposed Sections within a Phase Proposal.* The Council will only borrow from PWLB if it is confident it can meet the borrowing requirements and the significant early years negative cumulative cashflow means the project is not in that position.

2.11 **Termination**

2.11.1 Gowlings WLG have provided legal advice for LBBD and Be First. There is no route to termination of the acquisition of Phase 6 under the Development Agreement providing CPUK are meeting their obligations as on signing the Development Agreement the Phase Plan and Funding Condition were approved for Phase 6. £25,621,299 has already been paid to CPUK for them to commence surcharging and design work. There is no mechanism for this money to be returned to LBBD if we do not proceed with the acquisition. CPUK are not in breach of the Development Agreement and although there are long stop dates so far these have not been reached or have been reasonably extended by 'Delay Events' under the Development Agreement. If CPUK were to fail to satisfy the conditions under the Development Agreement, they are contractually obliged to return the money with interest.

2.11.2 Other abortive costs include £1,387,598 of spent costs and the £359,279 of interest accrued to date and separately the £15,170,400 of grant received from the GLA (held by Council but not spent) would need to be returned. In addition, further legal costs would likely be incurred especially if litigation is required as CPUK could seek specific performance under the contract.

2.11.3 Phase 7 is different as the Council now has the option to respond to the 'Funding Condition' in the Development Agreement saying finance cannot be secured on terms reasonably satisfactory to LBBD to proceed. Under the Development Agreement further timeframes to negotiate would be triggered but ultimately if a solution cannot be reached the acquisition of Phase 7 can be terminated. There would be minimal abortive costs with no money yet paid to CPUK for the Phase.

3. Options Appraisal

3.1 The report sets out the Council's options in terms of proceeding or not proceeding with Phases 6 and 7. In order to reduce negative cashflow in the early years, all the elements set out in section 2 need to be adopted to collectively address the cumulative negative cashflow of Phase 6. Do nothing is not an option – the Council needs to confirm whether it wishes to proceed with Phase 6 and Phase 7 with the implications of termination set out in paragraph 2.11.

4. Consultation

4.1 The Beam Park development proposal itself has been through extensive pre-planning and planning consultation.

4.2 Investment Panel have been engaged throughout the summer and at its meeting on 16 August 2023 agreed for the report to come to September Cabinet.

5. Commissioning Implications

Implications completed by: Rebecca Ellsmore, Strategic Head of Place and Development

5.1 The Beam Park turnkey schemes were set to provide 936 new homes. However, if approved, the recommendations in this report will reduce this to 520 new homes. Whilst this reduction is disappointing, the viability position for the units in phase 7 as set out in the report cannot be supported and there is therefore little option but to withdraw from this phase.

5.2 The viability on phase 6 remains challenging and the recommended steps set out in the report will all need to be pursued in order for the scheme to meet the required IAS metrics. These steps do have implications for the future pipeline of schemes, in particular through the use of the substantial levels of Right to Buy receipts. However, given the amount of money already committed to phase 6 the use of Right to Buy receipts on this phase is recommended.

5.3 The proposed steps to improve viability also have implications for Reside in terms of reduced operating costs and accelerated lettings. The need for improvements in both these areas is recognised and plans are already in place to pursue this improvement. This will be monitored by the commissioning leads but remains a risk until it is achieved.

5.4 The phase is now proposed to provide 100% affordable housing. The Council does not have any interest in further phases but it is anticipated that other owners/developers will provide alternative tenures ensuring that the wider development accommodates a mixed tenure community.

6. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager and Jo Moore, Interim Strategic Director (S151 Officer)

6.1 The changes put forward in this report have resulted in Phase 6 of the Beam Park development being marginally viable, compared to the significantly viable proposal agreed by Cabinet in October 2020. The key reasons for the reduced viability are the build costs. To resolve these issues, options have been put forward to improve the viability of this scheme and all of these options need to be agreed.

6.2 Even with applying the same options to Phase 7 of the Beam Park development, that phase remains unviable according to the metrics within the Council's Investment and Acquisition Strategy (IAS). It is therefore proposed that CPUK are advised that the Council will not proceed with the acquisition of properties within Phase 7.

6.3 Beam Park Phase 6 can proceed with a significant number of risks and concerns. The expected positive cashflows that were originally forecast for this scheme are now relatively small but remain positive, albeit that a significant amount of grant and Right to Buy receipts are required to retain the viability of this turnkey scheme. These measures will impact significantly on the Council's ability to agree future pipeline schemes.

6.4 The proposals is that Cabinet agree the acquisition of the 520 units from CPUK on a turnkey basis for an estimated total price (excluding commercial) of £166.4m and total scheme cost (including interest) of £183.5m and allocate up to £36.4m of RTB receipts to ensure positive cashflows. The net borrowing position would be £114.4m but the full amount would need to be borrowed during the construction phase.

6.5 Potentially, rents could improve as a result of the other development in this area and interest rates could improve which would further benefit the overall viability of the scheme and this will be closely monitored.

6.6 Further details of the financial implications are set out in Appendix 1, which is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

7. Legal Implications

Implications completed by: Dr Paul Feild, Principal Standards and Governance Lawyer

7.1 The nature of this report is to set out how the circumstances have changed since the proposal to acquire properties at Beam Park was presented to the Cabinet in October 2020.

7.2 Essentially the formula agreed between the Council and the Developer Vender within the Development Agreement allows for the cost of construction rises due to inflation to be added to the contracted purchase price. Advice has been sought by Be First from Gowlings Solicitors with regard to the rise in costs and the Council's options with regard to its obligations regarding acquisition of homes from the phases 6,7 and 8 of the Beam Park development. It can be summarised as the Council's options are limited in that, while there is no legal binding obligation to proceed with phase 8, and potentially so too with phase 7 on current metrics, that is not the situation with phase 6. There will be a cost of £25.63m in the form of a non-refundable deposit if the Council decided not to proceed with phase 6 (see paragraph 2.11 above).

7.3 The Council finds itself with two difficult options. It can either lose a significant sum of money with no tangible benefit or continue with the purchase of phase 6 for the revised increased sum. As the cost rise is due to construction inflation, this cost impact is an economic externality universal to all builder developers and will affect all current housebuilders. Alternatively, to terminate the arrangement with the forfeit of the deposit would not appear to be a prudent use of public funds because while the expenditure of the purchase of homes from phase 6 would cease to be a commitment there will have been a significant exit cost for no return and which will need to be accounted for. While the 2020 decision had delegated decisions to officers, the circumstances have changed so significantly the advice to the Investment Panel that the right course was to return this matter to Cabinet so an informed decision can be made.

8. Other Implications

8.1 **Risk Management –** For Phase 6 there is no further construction inflation. The Construction risk lies with CPUK. Many of the measures set out in the body of this report (especially in relation of opex costs) require the Council, Reside and Be First to work closely together. This will be monitored via the Regeneration Delivery Working Group.

8.2 **Contractual Issues –** The Development Agreement between CPUK and LBBD has been entered into with advice from Gowlings. As set out in the report, contractually LBBD is committed to the Phase 6 purchase and would, as a minimum, lose the amount paid providing CPUK meet their obligations. For Phase 7, as the Funding Condition has not been met the Council has the ability to confirm it cannot provide the funding. The Council is to use reasonable endeavours to source Financial Resource for the proposed development of Phase 7 for the period of 40 Working days from receipt of the proposal.

8.3 **Property / Asset Issues –** Following completion the purchased units would be transferred to a Reside entity.

8.4 **Corporate Policy and Equality Impact -** The scheme addresses the following key Council priorities:

- Residents benefit from inclusive growth and regeneration.
- Residents live in, and play their part in creating, safer, cleaner and greener neighbourhoods.
- Residents live in good housing and avoid becoming homeless.

The delivery of high quality new affordable homes is a key Council priority which will improve residents' health and wellbeing. The project delivering 520 affordable homes meets a significant number of residents needs and will deliver a range of positive outcomes. Lettings/allocation will be in line with Council and Reside policies which has been assessed for equality impact. The design of the scheme has addressed equality through the planning process.

Public Background Papers Used in the Preparation of the Report:
"Development of Land at Beam Park, Dagenham" report to Cabinet, 20 October 2020 (Minute 34)
(https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MId=10816&Ver=4)

List of appendices:

- **Appendix 1:** Additional Financial Information (exempt document)