

Key Decision Report

Decision maker and date of Leadership Team meeting or (in the case of individual Lead Member or Executive Director decisions) the earliest date the decision will be taken	Leadership Team 15 July Forward Plan reference: 05670/20/K/AB Portfolio: Cllr Kim Taylor-Smith Deputy Leader, Grenfell Recovery, Housing & Property	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
Report title	PROGRAMME APPROACH FOR THE DELIVERY OF NEW HOMES BY THE COUNCIL TO ALIGN WITH STATUTORY AND PLANNING REQUIREMENTS.	
Reporting officer	Anna Benbow, Director Social Investment and Property	
Key decision	Yes	
Access to information classification	Public	
Wards	All Wards	

1. EXECUTIVE SUMMARY

- 1.1. The Council within its New Homes Programme has undertaken to provide at least 300 of the proposed 600 units as social rent homes, across multiple sites in a phased programme. This exceeds the current RBKC planning requirement which states that residential development should - on public owned land - seek to deliver 50% affordable housing, with that 50% being split between 70% social rent and 30% intermediate rent as stated in the Community Housing SPD adopted on 3rd June 2020.
- 1.2. The Council seeks to deliver not only 50% of the programme as social rent units but additional intermediate rent and market rent units subject to viability, deliver the social rented homes earlier in the programme to meet the need and to claim the grant earlier in the programme.
- 1.3. The decision is to approve the strategy for a programme approach and link the different phases of the programme to maximise early delivery of social housing homes and be compliant with planning policy.

- 1.4. This decision also proposes that the Deputy Leader, Grenfell, Housing and Social Investment approves the entry into unilateral undertakings linked to the programme applications to confirm the linkage of sites and secure policy compliant planning permissions.
- 1.5. This approach supports the financial viability of the overall new build programme while ensuring we maximise the number of truly affordable homes.
- 1.6. In following this approach, the Council seeks to ensure transparency in how it intends to meet the policy requirements of its own Local Plan.
- 1.7. The decision supports the ability to draw down Greater London Authority grant at the earliest possible time by bringing forward the social homes earlier and this reduces the borrowing needed by the Council to support the wider programme financially.

2. RECOMMENDATIONS

- 2.1. The Leadership Team is recommended:
 - i. to approve the strategy of a programme approach to the delivery of social housing, linking the phases and sites to deliver new homes on Council owned land in order to maximise delivery of social homes and delivering schemes that comply with the Council's planning policy; and
 - ii. to note that decisions on entering the required legal arrangements and any other related requirements will be made by the Deputy Leader, Grenfell, Housing & Social Investment in accordance with existing delegated authority in the Council Constitution.

3. REASONS FOR DECISION

- 3.1. The delivery of the New Homes Programme is a key Council strategy supporting delivery of the Council priority to make the Borough *a great place to live, work and learn*. The Council has been successful in securing £33.6m of GLA grant funding for the new social rent homes and this is dependent on commencement of construction on site by March 2022. An initial planning application has been submitted for the first four sites and this is due to be determined July 2020.
- 3.2. Planning policy (including the Council's own Local Plan) and statutory planning process contain specific requirements for residential development to ensure that the maximum number of affordable homes are delivered. The affordable element is split between social rent and intermediate homes. Most developments are proposed on a site by site basis and the requirements of the split of tenure are applied, subject to the usual issues such as viability.
- 3.3. For the New Homes Programme, the Council wants to use the land in its ownership to maximise the delivery of new homes focused on those for social rent along with larger homes to meet the high levels of need. The Council wants to maximise these numbers and it is recommended that the sites within the overall programme are linked and so the planning targets can be met for the programme as a whole and not just on a site by site basis.

- 3.4. As the Council is both the developing landowner and the statutory planning authority certain safeguards need to be put in place to ensure that there is a transparent and legal process in the grant of planning consent for these homes.
- 3.5. It is essential that the necessary documentation and commitments are put in place to ensure the Council, in all its parts, has acted appropriately, within the law and without favour. This decision supports that requirement.

4. BACKGROUND

- 4.1. As a result of the pressing need for new homes, particularly social rent homes in the Borough, an assessment was undertaken in 2018 to examine the opportunities for new development on land owned by the Council, without the loss of any existing homes.
- 4.2. This assessment identified opportunities to deliver approximately 600 new homes of mixed tenures, adopting a strong place-making approach and incorporating the maximum possible number of affordable homes on Council owned sites, and the Council committed to delivering a minimum of 50% of these as social rent.
- 4.3. The development of the schemes by the Council ensures that we meet the needs of the communities by also delivering – where appropriate – community space and facilities on some of the developments alongside the increased social housing as the focus will be on positive impact and social investment rather than commercially driven for financial gain if it was delivered by a private developer.
- 4.4. Planning consent has been submitted for Stage 1 of the Programme which includes developments at Kensal Road, Acklam Road, Hewer Street and St Helens Gardens. In this phase 71% of the overall total of 97 units are proposed to be affordable and this includes 50% of them being social rent.
- 4.5. The Stage 1 sites are therefore delivering a higher proportion of affordable homes early in the programme. To ensure the overall financial viability it is recognised that other sites in later stages will need to provide an increased number of market-facing homes to balance the viability of the overall programme. By linking the sites in the programme, we can minimise this increase while still meeting the overall aim of at least 50% of the overall programme being social rent.

5. PROPOSAL AND ISSUES

- 5.1. In order to maximise the social rent homes delivered and ensure that the Council as statutory planning authority and developer landowner are transparent and compliant with planning law it is proposed that Leadership approve a multi-site phased development programme delivering a minimum of 50% social rent homes. This means that the proportion of affordable homes is calculated across the full set of sites taken together, rather than on a site by site basis.
- 5.2. As set out in the options analysis section below, this will ensure that a financially viable programme can be delivered, maximising the delivery of social rent homes which is planning compliant.

5.3. In summary, a number of documents and agreements will need to be prepared to ensure we meet the requirements of planning policy as well as setting out the broader intent to demonstrate the aims. These are listed below. Some of these are normal requirements on individual schemes but these documents will relate to the overall programme:

1. A Statement of intent for the Planning Committee, Greater London Authority and General Public setting out details of the New Homes Programme.
2. A viability statement, which is issued to the Planning Authority
3. A Unilateral Undertaking (or Unilateral Undertakings) which will also reflect the S106 obligations
4. An Environmental Impact Assessment

6. OPTIONS AND ANALYSIS

6.1. There are two options that have been considered. The first option is to deliver each development in isolation and obtain planning consent on an individual site by site compliant basis. The second option is to agree a programme approach linking numerous sites together to ensure early delivery of social rent homes. In the second option it is the programme that would be compliant rather than necessarily each site.

Option One – Individual Submissions

- 6.2. The first option is to treat each site in isolation and submit a planning compliant scheme in respect of tenure mix, size of units and other related matters.
- 6.3. Whilst this would remove the need for Leadership approval of a programme approach it would not support the strategy of delivering the maximum amount of new social rent homes that are able to be delivered from the land owned by the council as part of the New Homes programme. This is not the recommended option.
- 6.4. As an example of this approach the following table shows the Stage One sites as a single application approach with the split of tenure that could be achieved. 35% of homes would be social rent and 14% would be intermediate – equating to the 50% affordable required through planning.
- 6.5. The disadvantage to this approach is that it does not allow early delivery of affordable homes, furthermore there is a risk that future sites may not be able to achieve the correct tenure mix to be viable either financially or within the time constraints as set out by the GLA funding due to site complexities.

<u>Stage One - Site by Site</u>	TENURE			
	TOTAL	Open Market	Affordable	
Social Rent			Intermediate Rent	
ADDRESS				

175-177 KENSAL ROAD	37	18	13	6
ACKLAM RD (PLOTS 5 AND 6)	32	16	11	5
15 - 17 HEWER STREET	20	10	7	3
54 ST HELENS GARDENS	8	4	3	1
TOTALS	97	48	34	14
%age	100%	50%	35%	15%

Option Two – Programme Approach

- 6.6. The second option is that Leadership approve and commit to the programme approach and enter into the required documentation and arrangements. This will ensure that the Council, as the statutory planning authority and developer landowner, commits to a planning compliant programme delivering greater social rent and other affordable homes along with where appropriate social investment in community focused amenities and facilities is delivered. This is the recommended option.
- 6.7. The table below shows the stage one sites delivered in a programmed approach demonstrating that higher value sites within Council ownership can fund greater delivery of social rent homes. 74% of homes delivered would be affordable with 51% social rent.
- 6.8. This approach enables the council to achieve early delivery, however there is a risk of challenge if not agreed by Leadership and signed off by planning colleagues.

Stage One - Programme	TENURE			
			Affordable	
ADDRESS	TOTAL	Open Market	Social Rent	Intermediate Rent
175-177 KENSAL ROAD	37	0	27	10
ACKLAM RD (PLOTS 5 AND 6)	32	12	20	0
15 - 17 HEWER STREET	20	10	0	10
54 ST HELENS GARDENS	8	4	2	2
TOTALS	97	26	49	22
%age	100%	27%	51%	23%

- 6.9. The recommended option is to deliver the further phases using the programmed approach detailed earlier.

7. CONSULTATION AND COMMUNITY ENGAGEMENT

- 7.1. The Council undertook a successful consultation process with the community for the first stage sites of the programme and the feedback was to deliver a greater number of social rent homes

- 7.2. The Council will continue to consult on all schemes throughout the programme with the wider community and the stakeholders on each scheme throughout the programme confirming the commitment to deliver the maximum amount of new social rent homes.
- 7.3. Ward members will be consulted on the schemes within their Wards and the consultation approach is also being broadened to use different types of approaches including the traditional 'face to face' as well as use of technology to widen the people who are able to input into the process and also broaden the people who are contacted.
- 7.4. Housing Management has been consulted and concurs with the contents of this report.

8. HUMAN RESOURCES AND EQUALITIES IMPLICATIONS

- 8.1. As the New Homes Delivery programme takes shape, we are undertaking an Equalities Impact Assessment (EQIA) which will be reviewed on a regular basis and this will be finally completed and assigned off in September 2020.
- 8.2. The major equalities impacts are associated with those in housing need including homeless households and residents on the Housing Register, as we increase the supply of social and affordable accommodation in the Borough.
- 8.3. There are no direct human resources implications associated with this report.

9. LEGAL IMPLICATIONS

- 9.1. This report seeks endorsement of the approach proposed for the submission of the New Homes Programme planning applications, as a programme set of applications rather than as standalone applications. It seeks to secure a programme which maximises affordable housing delivery and to provide transparency on the key work and documents required to frame this approach for the purposes of the planning process. A unilateral undertaking or series of unilateral undertakings made under section 106 of the Town and Country Planning Act 1990 (as amended) can enable a planning application (and the planning obligations provided by that scheme) to be linked to other enabling/dependant applications under a legally binding agreement.
- 9.2. In determining a Council-own application for planning permission the Council (as Local Planning Authority) must assess the application as it would any other application in accordance with all statutory and policy requirements. In respect of all Council-own applications the law requires appropriate functional separation. It is therefore particularly important to ensure that throughout the process the "development/corporate landowner" function of the Council is kept separate from the "local planning authority" function. The constitution provides that any such application must be determined by the Council's Planning Committee (and not under delegated officer powers) to ensure maximum transparency.

10. FINANCIAL, PROPERTY, IT AND ANY OTHER RESOURCES IMPLICATIONS

- 10.1. Corporate Finance has been consulted and comments and agree to proceed with Option 2 of section 6.5 of this report.
- 10.2. Over the next 5 years, the Council has committed to deliver at least 600 new homes of which at least 300 will be social housing and will go part of the way to addressing the borough's housing issues. Potential sites have been identified and indicative modelling undertaken. The GLA grant of £33.6m has been secured through the 'Building Council Homes for Londoners' Programme and equates to £100k grant for each social home. The Grant will be used to part fund the construction of each social rent home with the remainder be funded through borrowing, but the Council will continue to explore other funding options, such as use of Section 106 balances and other contributions which would reduce the need to borrow.
- 10.3. The final cost will be dependent on the mix of tenures across the sites and final designs.
- 10.4. The £250m capital investment required for the programme is included within the Capital Programme that was agreed in March 2020.
- 10.5. In July 2019, a report was presented to Housing and Property Scrutiny Group to illustrate the financial impact of different combinations of social / open market sale/ private rented that could be considered across the sites. A copy of the report can be found on the Council's website at rbkc.gov.uk/Housing-committee-July-2019.
- 10.6. The programme will need to offer a mix of different tenures and house sizes to remain financially viable whilst delivering on the commitment of at least 50% of homes for social rent. As the tenure mixes are finalised, the precise financial implications for each stage will be confirmed.

Anna Benbow
Director Social Investment and Property

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report: none

Contact officer: Mark Grant, Head of Investment and Development, Mark.grant@rbkc.gov.uk 07739 317304

Mandatory clearance requirements for all Key and Executive Decision reports

Cleared by Finance TE

Cleared by Corporate Finance LS

Cleared by Director of Law CT

Cleared by Communications NT

