



City of Westminster

Cabinet Member Report

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| Decision Makers: | Cabinet Member for Climate Action Regeneration and Renters Cabinet Member for Finance and Council Reform |
| Date: | 16 January 2023 |
| Classification: | General Release |
| Title: | Ebury Bridge Estate Renewal – Delivery Strategy & Viability Position |
| Wards Affected: | Knightsbridge & Belgravia |
| Key Decision: | Key decision, due to significant expenditure. |
| Financial Summary: | Updated scheme viability presented for future phases as a result of construction and market pressures, amended delivery strategy and the tenures changes proposed in this paper. |
| Report of: | Debbie Jackson, Executive Director of Growth, Planning and Housing and Gerald Almeroth Executive Director of Finance and Resources |

1 Executive Summary

- 1.1** Following the local election in May of this year and in-line with manifesto promises, the new administration has implemented a cross-council plan to deliver more truly affordable homes. This means that wherever the City Council is undertaking housing development schemes the emphasis will be on delivering new social rent homes to tackle the acute shortage in the borough.
- 1.2** The wholesale regeneration of the Ebury Bridge Estate provides an opportunity for the Council to significantly increase the number of new council homes for social rent and bring about the long-term physical, economic and social sustainability of the neighbourhood.
- 1.3** In July 2020 the scheme received approval for a hybrid planning application from the Local Planning Authority. This provided a detailed approval for buildings 7 & 8 (to be built in Phase 1) and outline consent for the remaining elements of the projects including the remaining seven buildings (reference: 20/04366/COOUT). Phase 1 of the scheme is now underway with residents set to return to new homes in 2024.
- 1.4** The consented scheme for the Ebury Bridge Estate provided 781 homes with over 50% affordable provision split between a mix of social rent and intermediate tenures. This report sets out a revised tenure mix for the scheme with an emphasis on social rent homes and an updated tenure distribution in order to deliver more affordable housing.
- 1.5** The Council has outlined its intention to seek external funding in order to deliver the revised tenure mix at the Ebury Bridge Estate. The Ebury Bridge Estate project presents an opportunity to bid for Greater London Authority (GLA) funding for affordable homes. To receive GLA funding, estate regeneration projects that involve the demolition of any social homes and the construction of 150 or more homes (of any tenure) must be supported by residents in a ballot. This report sets out the details and programme for this to take place.
- 1.6** The construction price for Phase 2 and Phase 3 of the development is yet to be fixed and confirmed. Due to construction costs and inflation, the viability position for the scheme has become more challenging and a key area of consideration is ongoing affordability for returning residents (in terms of service charges, energy bills and rents).
- 1.7** Over the past year the Ebury Bridge Estate regeneration team has worked with residents to identify ways of mitigating the cost-of-living increases. This has included working on tenure distribution options, the specification of estate management services and the 'Landlord Offer' to returning residents and those who will move into the new neighbourhood.

1.8 This work has informed the recommendations in this paper and the updated viability position which has set revised financial parameters for the project.

1.9 This report seeks approval of:

- The updated tenure mix and distribution for the scheme which will be formalised through a Section 73 Application of the Town & Country Planning Act 1990 (Section 73 Application) to the Local Planning Authority. A Section 73 Application is an application for permission to develop without complying with a condition(s) previously imposed in an existing planning permission. This includes the removal of intermediate rent housing and an increase in social rent homes. It also proposes to concentrate affordable tenures in individual buildings.
- A recommendation to enter into a deed of termination (or other document as appropriate) to terminate an Agreement for Lease between The Lord Mayor & Citizens of the City of Westminster (1) and Westminster Housing Investments Limited (WHIL) (2) (Agreement for Lease). The Agreement for Lease relates to the proposed grant of leases to WHIL to enable the letting of units within Phase 1 on intermediate rent and intermediate ownership terms. These tenure types no longer form part of the updated tenure mix.
- This report also outlines the process for obtaining the relevant GLA funding to support the revised mix, including the resident ballot.

1.10 Whilst the recommendations of this report focus on the updated tenure mix and distribution, Section 73 application and deed of termination, the following points are also of note:

- A contract variation to the Phase 1 building contract with the main contractor is likely to be required in light of the impact of the revised tenure mix in terms of cost and programme. It is anticipated that a further Cabinet Member Report will be required to approve this given the anticipated cost of the change.
- No further approval to spend is required at this point in time on the project as the necessary approvals were obtained in March and November 2021 which have not yet been exceeded. It is anticipated that further approvals to spend will be required in 2023 which will be included in the next Cabinet Member Report and associated business case.
- As a result of the revised phasing programme, a review of the consultant contracts on Phase 2 is taking place. This will involve splitting the contract in to two to reflect both Phase 2 & 3 and agreeing an apportioned fee for each phase which is reflective of the revised programme.

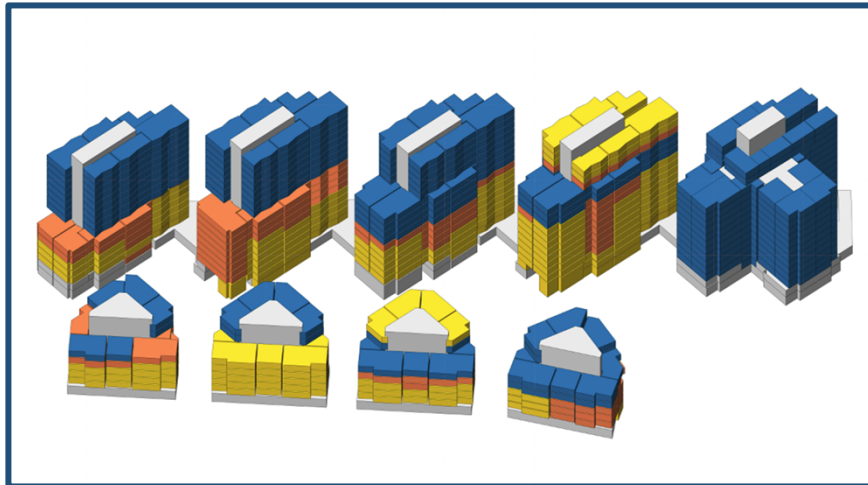
2 Recommendations

2.1 The Cabinet Member for Climate Action Regeneration and Renters and Cabinet Member for Finance and Council Reform are recommended to:

- 2.1.1 Approve the revised tenure mix and distribution for the scheme as set out in section 3 of this report;
- 2.1.2 Approve in principle the submission of a Section 73 Application in respect of the updated tenure mix and distribution and the Council entering into the related planning obligation as required;
- 2.1.3 Approve the termination of the Agreement for Lease as the letting of intermediate rent and intermediate ownership units within Phase 1 do not form part of the revised tenure mix;
- 2.1.4 Note the intention to hold an independent resident in ballot in line with the GLA's Affordable Housing Capital Funding Guide (section 8.6)
- 2.1.5 Delegate authority to the Executive Director of Growth Planning & Housing to approve any necessary steps and to approve deeds or documents to put these matters into effect.

3 Reasons for Decision

3.1 Current Scheme (Planning Consent)

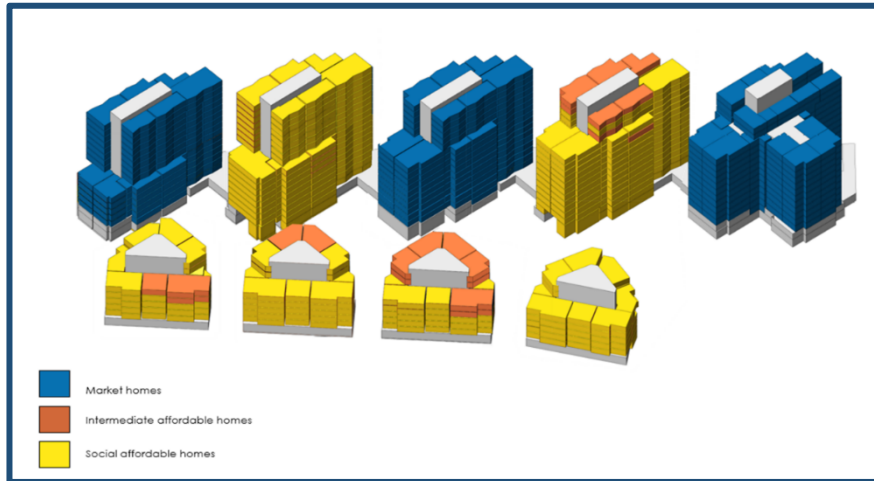


3.1.1 The current scheme that has received planning consent includes:

- Mixed tenure blocks on the drawing above blue showing the market homes, orange the intermediate homes and yellow the social homes.
- A 51% affordable housing uplift across the masterplan.
- Affordable housing comprised of 60% intermediate tenure and 40% social rent tenure.

- In terms of the social rent units, the current scheme provides 198 social rent replacement units and 41 new social rent units.

3.2 New Proposal



3.2.1 The new proposal includes:

- Separation of the market units into single tenure units in Blocks 5, 7 and 9.
- A 56% affordable housing uplift across the masterplan.
- An affordable housing split to comprise 91% social rent tenure and 9% intermediate tenure. The intermediate tenure will be limited to the returning leaseholders from the Ebury Bridge Estate.
- In terms of social rent the new proposal provides 198 social rent replacement units and 172 new social rent units.
- The below table demonstrates the updates made to the scheme in respect of each tenure. The final unit numbers and mix are subject to design development and further reserved matters applications.

| Entire Scheme | Total | |
|---|------------------|--------------|
| | Consented Scheme | New Proposal |
| Social Rent (affordable) | 41 | 172 |
| Social Rent Replacement (affordable) | 198 | 198 |
| Intermediate Affordable Rent (affordable) | 86 | 0 |
| Intermediate Ownership (affordable) | 21 | 21 |
| Discounted Market Rent (affordable) | 19 | 0 |
| Market Rent (Market) | 178 | 178 |
| Market Sale (Market) | 238 | 212 |
| Total | 781 | 781 |

(A full breakdown of the comparison between the consented scheme and the new proposal can be found in Appendix A).

3.3 There are a number of factors influencing the decision to update the tenure mix and distribution as follows:

- Due to the rise in construction costs and inflation, the viability position of the scheme has become more challenging. The updated tenure distribution allows the market values to be optimised, which in turn helps viability and the provision of more social rent homes.
- Ongoing affordability for returning residents - service charges, energy bills and rents become a lot more reasonable for returning residents with the updated tenure distribution.
- Opportunity to maximise the number of new social homes being delivered to align with the manifesto. The new proposal provides 131 more social rent homes than the current scheme.
- Retention of management for Council.
- There are opportunities to access funding via the GLA in the region of £40M due to the increased amount of social homes on the scheme.

3.4 The implications of the above changes include:

- A variation to the Phase 1 contract with the main contractor with cost and programme implications yet to be confirmed.
- A Section 73 Application will be required to amend the existing planning consent with regards to the affordable housing tenure mix within Phase 1.
- Following the changes proposed to the affordable housing tenure mix within Phase 1, there would be a decrease to 51% in the total number of affordable homes provided in Phase 1 (compared to 63% in the approved application). However, this change will enable an overall increase in the number of affordable homes delivered as part of the outline application, and subsequently, across the masterplan as a whole.
- Updates are also required, therefore, to the section 106 Unilateral Undertaking which relates to the hybrid planning permission so that it will also apply to development brought forward under the section 73 planning permission and to update the number of affordable housing units and redistribution of tenure locations. More detail on the Section 73 can be found in Appendix 2.
- To obtain the relevant GLA funding to deliver the new proposal, a resident ballot is required. More information on the ballot is outlined below.

3.5 Resident Ballot

- 3.5.1 The Council has outlined its intention to seek external funding to maximise the number of truly affordable homes (council homes for social rent). The Ebury Bridge Estate project presents an opportunity to

bid for Greater London Authority (GLA) funding for affordable homes. To receive GLA funding, estate regeneration projects that involve the demolition of any social homes and the construction of 150 or more homes (of any tenure) must be supported by residents in a ballot.

- 3.5.2 Although the construction of Phase 1 started on site in Autumn 2021 the GLA have confirmed that a ballot on the Landlord Offer which contains the current proposals for the scheme can take place. Following consistent and meaningful engagement with residents throughout the delivery of the project to date, the binding resident ballot will give both residents still living at the Ebury Bridge Estate and those who have temporarily moved away to provide their views on the proposals outlined in this paper.
- 3.5.3 The Council submitted a funding bid to the GLA for circa £40m in November 2022.
- 3.5.4 Residents will soon be asked to vote on the current regeneration proposals. Civica Election Services (CES) will manage the resident vote and have written to all eligible voters.
- 3.5.5 The Council's engagement team will contact every eligible voter to discuss the scheme and the voting process.

4 Background, including Policy Context

- 4.1 The Council's Renewal Strategy in 2010 identified the Ebury Bridge Estate as a strategic opportunity for renewal and growth. Since then the Council has been committed to bringing forward a wholesale renewal proposition in collaboration with residents. The regeneration will deliver physical, economic and sustainable change that will create a new, vibrant neighbourhood and place in the south of the borough and, importantly, the growth and new homes opportunity that was identified.
- 4.2 A hybrid planning application was approved in 2021 and the Council is well advanced in the delivery of the first phase of the development. This will deliver 226 new homes and the first public open square. The Council has also successfully delivered Ebury Edge, the meanwhile use facility that sits at the heart of the development offering local community facilities and enterprise space. The Council has the contractual arrangements in place to deliver future phases of demolition and new build required, subject to performance and financial viability.
- 4.3 Being a Council-led and phased renewal project, the opportunity to review what is delivered and how is within the gift of the Council. The opportunity to review and implement a revised tenure mix and deliver more social housing within the development has been possible, albeit with some planning, contractual and financial implications that are outlined within this paper and manageable from an operational perspective.

5 Financial Implications

- 5.1** Projected scheme costs and income have recently been updated following the significant rise in construction costs and a backdrop of general inflationary pressures. This increases the capital deficit for the scheme by circa £55m to £184m as shown in the table below. This is against the last reported financial position for the scheme when the Phase 1 Full Business Case was agreed by Cabinet members in August 2021.
- 5.2** In addition to refreshing for inflationary pressures, the updated position also takes account of increased sales values, changes related to design development, a revised CIL payment and an increase in the level of scheme contingency. The updated position also includes the financial impact of changes made to the delivery programme resulting in an expanded phase 2 and accelerated delivery plan as approved by Cabinet Member in August 2022.
- 5.3** The latest proposed tenure mix changes recommended as part of this paper increase the level of new social homes being delivered through the scheme at a cost of £17m. A successful ballot result and the opportunity to secure GLA funding of £38m would bring the overall capital deficit back down to £147m, an increase of £34m on the previous FBC position. This increase in deficit shall be funded through increased borrowing within the Housing Revenue Account (HRA) and this movement has been taken into account as part of budget planning for the HRA Business Plan for 23/24.

| | Capital Deficit | | Affordability Gap | |
|---|-----------------|--------------|-------------------|--------------|
| FBC (August 2021) | | £113m | | £40m |
| <i>Construction inflation & market pressure</i> | <i>£41m</i> | | | |
| <i>Design development</i> | <i>£13m</i> | | | |
| <i>Contingency, finance and service costs</i> | <i>£17m</i> | | | |
| | | £184m | | £112m |
| <i>Expanded Phase 2</i> | <i>(£16m)</i> | | | |
| | | £168m | | £94m |
| <i>Tenure arrangement & 100% social provision</i> | <i>£17m</i> | | | |
| | | £185m | | £97m |
| <i>GLA grant</i> | <i>(£38m)</i> | | | |
| Revised Position | | £147m | | £59m |
| Movement against FBC | | £34m | | £19m |

6 Legal Implications

- 6.1** The Council has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness - the best value duty.
- 6.2** The Council has a general power of competence under section 1 of the Localism Act 2011; this is the power to do anything an individual can do, provided it is not prohibited by other legislation.
- 6.3** Section 8 of the Housing Act 1985 provides the Council with a duty to consider housing needs in respect of its district. Section 9 of the Housing Act 1985 provides the Council with the power to provide housing accommodation. Under Section 111 of the Local Government Act 1972 the Council has the power to do anything incidental to the exercising of any of its functions.
- 6.4** In determining a Council own planning application or amendments to any planning consents 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.
- 6.5** Subject to approval of the Local Planning Authority to the Section 73 Application, contract variations to the Phase 1 building contract with the main contractor will need to be considered. If a contract variation(s) is required in light of the impact on the works programme for the development and any associated contract sum increase, further approvals will be required with regard to the development changes and related financial, legal and procurement implications.

7 Carbon Impact

- 7.1** The Ebury Bridge Estate development is a high performing sustainable development that utilises ground and air source heat pumps for the generation of all heating and cooling in the development. In addition, it provides infrastructure for electric car charging across all car parking provision in accordance with statutory requirements. Save for this, the development it is a low car development due to its proximity to public transport links and connectivity. Although the development pays a small carbon offset payment, the development is far more carbon efficient than the current estate and sees this benefit materialise in Year 12.

8 Equalities Impact

- 8.1 The updated tenure mix and distribution for the scheme means that mixed tenure blocks will no longer be delivered in the manner originally envisaged but this update means an overall uplift in the affordable housing provision across the masterplan can be achieved with a focus on delivering more social rent homes.
- 8.2 The Council reviews and updates the relevant sections of the independent Equality Impact Assessment (EQIA) at key milestones during the project and a copy of the current EQIA is at Appendix 3). The EQIA will be updated in support of the next reserved matters application for the scheme.
- 8.3 The Council requires all partners, professional advisers and contractors to align with the Council's equality duties and also the requirements stipulated in the Considerate Constructors Scheme. The Considerate Constructors Scheme has made inclusivity a key objective and is actively requiring participants to recruit from under-represented groups.

9 Consultation

- 9.1 The consultation with Ebury Bridge Estate residents continues to be delivered consistently by the on-site community engagement team who have been based at the estate since July 2017. The commitment of the Council to work with residents on key decisions throughout the project led to the establishment of the Ebury Bridge Community Futures Group (**CFG**). The CFG is the resident let steering group and the top tier of the Ebury Bridge engagement structure. This means that the residents have continued to play a key role in all strategic decisions and were consulted on the proposed tenure distribution options. In addition, over the past two and a half years the CFG have been regularly consulted on estimated service charges and the specification of the future management provision.
- 9.2 In Autumn of 2022, all resident leaseholders and secure tenants (both still living on the estate or temporarily rehoused) were invited to engagement session to provide feedback on which block they wish to return to. Residents indicated that whatever measures could be implemented to mitigate the cost of service charges would be preferred over fully mixed tenure buildings. The move towards a separation of tenures which reduces the overall service charge levels for tenants and leaseholders was broadly welcomed.
- 9.3 On 15 November 2022, the Knightsbridge and Belgravia ward councillors were consulted on the proposals set out in this report. The councillors requested further details on the changes proposed to be made to the scheme which had already been granted planning consent. The request included a breakdown on bedroom sizes and numbers and tenure changes which has now been provided.
- 9.4 Ward members were supportive of the progress made on the construction of Phase 1 of the scheme and resident liaison carried out by the main contractor.

It was noted that there have been no resident concerns raised with ward councillors in relation to construction work.

If you have any queries about this Report or wish to discuss further, please contact:

Vikki Everett, Head of Development at veverett@westminster.gov.uk or 07971 017583; or

Lyndsey Gamble, Strategic Finance Manager at lgamble@westminster.gov.uk or 07739 413577

BACKGROUND PAPERS

None

APPENDICES

Appendix A - Comparison of Consented Scheme and New Proposal

Appendix B – Further Details of Section 73

Appendix C - Equalities Impact Assessment

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member for Climate Action, Regeneration and Renters**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:  Date: 16/01/2023
NAME: **Councillor Matt Noble**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Ebury Bridge Estate Renewal – Delivery Strategy & Viability Position** and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for Climate Action, Regeneration & Renters

16/01/2023

Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2)

your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

For completion by the **Cabinet Member for Finance and Council Reform**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report



Signed:

Date: 11/01/2023

NAME: **Councillor David Boothroyd**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Ebury Bridge Estate Renewal – Delivery Strategy & Viability Position** and reject any alternative options which are referred to but not recommended.

Signed:



11/01/2023

Date:

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

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