

Cabinet Member delegated decision: 18 January 2018

Report title: Estate Regeneration Programme – Voids Strategy

Wards: All

Report Authorised by: Strategic Director for Neighbourhoods and Growth: Sue Foster

Portfolio: Deputy Leader of the Council (Investment and Partnerships): Councillor Paul McGlone

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Report summary

Under the Key Guarantees, the council has committed to enable those tenants and homeowners, who are directly affected by estate regeneration, to move away from their current estate, where they do not wish to take up the offer of a newly built home on their estate. Movement of both tenants away from their estate and the acquisition of properties from resident and non-resident homeowners is giving rise to voids on the estates. It is not desirable for such void properties to be left empty for any long period of time.

This Report sets out the proposed policy regarding the use of the voids that arise as part of the estate regeneration programme.

In the case of early buy backs, where the council acquires properties under the Key Guarantees in advance to the need for vacant possession (early buy backs), a strategy has been developed to create an income stream to pay for the interest costs associated with such acquisitions. The council will need to borrow to fund these buy backs, where Homes for Lambeth will in due course reimburse these acquisition costs as part of the redevelopment of an estate. In the period before the demolition of these properties is required, these homes will be let out for temporary accommodation purposes or at market rents, where the income generated will cover the interest costs associated with the capital borrowing. This will allow the council to hold these properties at no further cost until such time as they are required for demolition; this will also enable these homes to remain in use providing much needed residential accommodation for the community in Lambeth.

Finance summary

The use of voids as outlined within this report is not expected to lead to any additional costs to the Council and may help reduce pressures on the Temporary Accommodations budgets.

Recommendations

- (1) To adopt the policy arrangements as set out in Section 2, to ensure where possible and practicable that properties that become void during the course of estate regeneration projects continue to provide useful housing accommodation.

1. Context

- 1.1 Decisions have been taken by cabinet to pursue regeneration schemes at 6 estates as follows:
- Cressingham Gardens 13 July 2015 and 21 March 2016
 - South Lambeth 12 October 2015
 - Knight's Walk 9 November 2015
 - Westbury 9 November 2015
 - Fenwick 11 July 2016
 - Central Hill 23 March 2017.
- 1.2 The decisions followed the adoption of the council's approach to estate regeneration, which was agreed by Cabinet in December 2014 and the subsequent processes of feasibility, option appraisal and consultation work for the individual estates.
- 1.3 When the cabinet has made decisions that estates should be redeveloped, part of the decision has been that the Key Guarantees (see Cabinet Report of March 2017) come into operation and are made available to all affected residents of the estate. The Key Guarantees represent a set of commitments that the council has made to those residents directly affected by estate regeneration to give them as much certainty as is possible regarding regeneration of their estate and the ability to choose to stay living on their estate or to move away.
- 1.4 The Key Guarantees allow both tenants and leaseholders/freeholders to move away from their estate in advance of any demolition taking place as part of redevelopment of an estate. This gives rise to increasing numbers of voids in the lead up to redevelopment taking place.
- 1.5 It is not desirable for voids to be left empty for three main reasons:
- leaving properties empty reduces activity on the estate thereby reduces security for remaining residents and their homes;
 - in the context of such high housing demand, it is desirable to make sure that no homes are left unused; and
 - it would represent an unnecessary loss in income – rather leaving properties empty costs money.
- 1.6 Where voids arise during estate regeneration projects, then, critically any strategy to keep them occupied in the lead up to redevelopment works, must not prejudice redevelopment of the estate. This means that any such strategy must involve easy achievement of vacant possession of properties at 9 months notice prior to demolition.
- 1.7 Achieving vacant possession at short notice must be considered in a broader context than just on the estate. When a phase of an estate needs to be demolished, a significant number of households may need to be in a relatively short time frame of 6 to 9 months. If they are not being re-housed on the estate as part of the regeneration, then, in the context of a severe shortage of housing, the Council will find it difficult to re-house those households all at once.
- 1.8 There are four main options available for re-use of any voids, whether from previously tenanted or leasehold properties. These include:
- using the properties for Temporary Accommodation (TA) for homeless households
 - leasing the properties to a company (such as Homes for Lambeth), so that they can be let out at Local Housing Allowance rents, as a means to enable the council to discharge its duty to prevent homelessness;

- leasing the properties to a company (such as Homes for Lambeth), so that they can then be let out on the open market; and
 - using guardians.
- 1.9 If none of the above are available, then the only options available are to leave the properties empty either by stringing up curtains and making them look occupied or fully sitex-ing them to prevent any potential squatting.
- 1.10 Given the demand for housing then it is recognised that the preferred use of any voids (whether tenant or leasehold) is either for TA or to help the council discharge its duties to seek to prevent homelessness. However decisions around using any individual void for TA have to be taken in the context of a series of constraints. These are as follows:
- whether the property is a suitable size for the TA demand;
 - how many other homes on an estate under regeneration are occupied by TA (this is discussed in more detail below); and
 - the cost of the property to the Council and whether rents accrued from TA can cover those costs.
- 1.11 A key concern when allocating voids on estate regeneration estates for TA is what will happen at the time when these properties are demolished. Unlike private tenants or guardians, the council is in most circumstances obliged to provide alternative TA. Given the severe housing shortage, the Council is limited in its capacity to re-house any significant number of TA in any short period of time. If there are too many TA households in any particular phase of redevelopment of an estate, then at the time of demolition of homes in a phase, the Council could create problems for itself in terms of seeking to re-house those TA households.
- 1.12 It is therefore important to ensure that no estate and certainly no individual phase on an estate has too many voids occupied for TA. This also has to be tempered and considered in the context of the wider programme, so as to be able to cater for scenarios where two phases across different estates coincide in timing. If this were to happen, this will be known through programming and can be planned ahead, if necessary beginning to move out TA households before this might normally be done.
- 1.13 At this time, it has been agreed to limit the number of TA across the whole programme to a maximum of 100 TA households. Furthermore, the current strategy seeks to ensure that TA households are distributed evenly across any estate, so as not to overload any particular potential phase of development. As masterplanning across estates proceeds and phasing of redevelopment of each estate becomes clearer, then it may be possible to be more sophisticated in this planning and allow more voids to be used for TA purposes. These are managed by housing services.
- 1.14 This limit of 100 TA households could be reviewed if additional resources were to be allocated to the team within the council that manages TA in order to increase the supply of available move on accommodation. This additional cost may need to be borne by the estate regeneration programme.
- 1.15 The council also has obligations to seek to help households that are in private rented accommodation, but who find themselves having to leave such accommodation without any new home to move to, to find new private rented accommodation; this is in order to proactively prevent such households becoming homeless. Where properties are unsuitable for TA purposes, which may be for a variety of reasons, then such homes could be considered for re-housing households that approach the council looking for assistance to find a new local home. These properties cannot be directly let from the HRA; this needs to be done through an intermediary company, such as Homes for Lambeth.

- 1.16 Therefore, where existing secure tenanted properties become void and cannot be used for TA purposes, then they can be let to Homes for Lambeth. The company can then provide these properties to households that need re-housing on Assured Shorthold Tenancies, let at Local Housing Allowance rents. These households and properties could be managed by the existing TA team or (as per below) managed by the procured lettings agents.
- 1.17 Homes for Lambeth has now been incorporated and funding is being secured to enable purchase of properties, which can be let on a business lease to Homes for Lambeth, which will in turn let these properties on the open market to generate an income, which will in turn pay the financing costs associated with the purchase and holding of these properties until they are required for demolition. With these properties being on estates that are due to be demolished, the rents secured will be at the cheaper end of the rental market and thereby be relatively affordable (effectively discounted) compared to wider market rents across Lambeth.
- 1.18 These properties will be let as Assured Shorthold Tenancies (ASTs), which must be for a minimum of six months and can be brought to end by two months' notice. Like TA, this therefore requires careful planning to ensure that the vacant possession is obtained at the right time when it is needed to demolish the properties. However, unlike TA, there is no automatic requirement for the council to rehouse tenants at the end of their tenancy, so the number of ASTs is not limited by the supply of alternative housing.
- 1.19 It should be noted that many of the freehold/leasehold properties that are acquired as early buy backs have historically been themselves let out on the open market by their non-resident homeowners. Where Homes for Lambeth, by means of private lettings agents, markets and lets out these properties, there will be no change in the tenure composition on the estate.

2. Proposal and Reasons

- 2.1 When each void, whether tenanted or leasehold, arises, a decision will be taken on how to use that void. Such decision will take into consideration the following factors:
- 1) the size of the property and whether it matches the housing need for TA;
 - 2) the cost of refurbishing the property to make it habitable;
 - 3) the total number of voids being used for TA across the estate regeneration programme;
 - 4) the distribution of voids being used for TA across the estate on which it is located and, where phasing of development is known, the number of voids being used for TA in that phase; and
 - 5) the cost to the Council of acquisition of the property and whether or not the rental income (TA or market rent) will cover the financing costs of acquiring and holding the property.
- 2.2 The approach taken for voids that arise from properties owned by the council that were previously tenanted will be as follows:
- Voids from secure tenanted properties will generally be used for TA, unless:
 - a) the size of the property is unsuitable for TA;
 - b) there are too many TA households within a known phase on an estate;
 - c) the number of TA households across the estate regeneration programme exceeds a threshold agreed (at any one time) with the Council's TA team;
 - d) the timespan to demolition is less than 12 months; or
 - e) the property is in an unfit state to be re-let and/or the cost to refurbish the property is prohibitive and not value for money at TA rents.

- If any of (a), (b), (c) or (e) above apply, then the property will be leased to Homes for Lambeth for letting out to private tenants at LHA rents, where those private tenants will be those households who have approached the council for help to find new private housing.
- If any voids are either not suitable for letting at all or the timespan to demolition is less than 12 months, then consideration will be given to using guardians
- If no other solution is available, then properties will be kept empty or sitex'd.
- Exceptions may be made on a case by case basis.

2.3 For voids arising from leasehold/freehold buy backs, they will all need to be leased to Homes for Lambeth in order to be able to generate an income stream that can pay for the interest costs arising from the borrowing required to acquire the property and refurbish to an appropriate standard for onward letting. However, once leased to Homes for Lambeth, there are various options in terms of how they are rented out. If the rental income that could be generated from Local Housing Allowance rents is sufficient to pay the interest costs, then consideration will be given to use of those properties either for TA at LHA rents (noting the conditions around allocating such properties for TA purposes set out in paragraph 2.2) or to low income households under threat of becoming homeless. If LHA rents are not sufficient to pay the interest costs, then these properties will need to be let out on the open market to private tenants on assured shorthold tenancies at full market rents.

2.4 When each property becomes void, a record will be kept of the reasons for the decision on its use up until demolition.

2.5 This policy will be kept under review by the Strategic Director for Neighbourhoods and Growth.

2.6 The reason for this decision is simply to make sure that there is a clear and transparent process for deciding what to do with void properties, when these arise on estate regeneration estates. While there is a significant demand for use of properties for TA purposes, this report provides a clear rationale for not using all void properties on estate regeneration estates for TA purposes.

2.7 The rationale for defaulting to using void leasehold/freehold buy backs for market rent purposes is:

- so that estates and the programme as a whole do not become overloaded with TA households, which could cause wider problems for the Council in the lead up to demolition of phases of development; and
- so that the Council is better able to recoup the costs associated with acquisition of such properties and be certain of paying the finance costs associated with acquiring and retaining such properties until they are needed for demolition.

3. Finance

3.1 There are no direct financial implications as a result of the recommendations within this report. It is expected that the savings on avoided Temporary Accommodation costs will exceed the borrowing costs related to purchase of properties, therefore there are no additional costs related to the purchases. The capital cost of the purchases has previously been budgeted for within the wider capital investment programme.

4. Legal and Democracy

4.1 Section 9 of the Housing Act 1985 enables local housing authorities to provide housing accommodation by acquiring housing.

- 4.2 Section 120 of the Local Government Act 1972 empowers local authorities to acquire land by agreement for the purposes of any of their functions under that act or any other enactment or the benefit, improvement or development of their area.
- 4.3 Section 226 of the Town and Country Planning Act 1990 empowers the council to acquire land by agreement where the Council considers the acquisition of land will facilitate the carrying out of development, re-development or improvement in relation to the land.
- 4.4 Section 1 of the Localism Act enables the council to do anything an individual may do.
- 4.5 Schedule 1 of the Housing Act 1985 sets out those tenancies that are not to be regarded as secure tenancies even though the criteria for secure tenants set out in section s79 to 81 of that Act is met. Paragraph 3 of schedule 1 sets out an exception where the dwelling-house is on land which has been acquired for development and the dwelling-house is used by the landlord, pending development of the land, as temporary accommodation.
- 4.6 Section 32 of the Housing Act 1985 enables the council to dispose of property held under Part 2 of that Act in any manner it wishes, subject to first obtaining the consent of the secretary of state to do so.
- 4.7 The secretary of state has issued a general consent for the disposal of land. General consent A3.1.1 permits a local authority to dispose of land for consideration equal to its market value. However, this consent does not apply where such a disposal is to a body in which the local authority owns an interest save for the first 5 disposals in a financial year.
- 4.8 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and,
 - to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.
- 4.9 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and,
 - encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.10 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.11 This proposed key decision was entered in the Forward Plan on 8 September 2017 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the

decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. Consultation and co-production

5.1 Resident Engagement Panels on each estate regeneration estate will be kept up-to-date with information regarding numbers of voids and their use on their estate.

6. Risk management

6.1 Equalities – see below. This decision is aimed to reduce any equalities challenges.

7. Equalities impact assessment

7.1 Given the current demand for homes for TA purposes, a clear rationale is required to explain why not all voids becoming available on estate regeneration estates are automatically used for TA. This policy provides a rationale for using some properties for TA purposes, but only where this does not cause challenges elsewhere or where it can be afforded.

8. Community safety

8.1 It is desirable to maintain activity and residents living on estates regeneration estates throughout the redevelopment process. If too many properties at any one time lie empty, then this can contribute to reduced security and anti-social behaviour.

9. Organisational implications

9.1 Staffing and accommodation

The Housing Regeneration team will administer this activity in liaison with the Council's TA team.

9.2 Procurement

None

9.3 Health

None

10. Timetable for implementation

10.1 On-going.

Audit trail

Consultation				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
<i>Sue Foster</i>	Strategic Director for Regeneration & Neighbourhoods	30.08.17	20.12.17	
<i>Rachel Sharpe</i>	Director for Strategic Programmes, Neighbourhoods and Growth	30.08.17	15.12.17	
<i>Charlie Conyers</i>	Deliver Lead, Accommodation Services,	14.07.17	20.07.17	All.
<i>Matthew Gaynor, Finance</i>	Business Partnering	25.08.17	29.07.17	3
<i>Greg Carson, Legal Services</i>	Enabling: Integrated Support	25.08.17	01.09.17	4.1 - 10
<i>Alex Harris, Democratic Services</i>	Enabling: Corporate Affairs	25.08.17	30.08.17	4.11
Councillor Paul McGlone	Deputy Leader of the Council (Investment and Partnerships)	30.08.17	20.12.17	
Internal Officer Board	Date of meeting			
Procurement Board	N/A			
External	Date of meeting			
	N/A			

Report history

Original discussion with Cabinet Member	30.08.17
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	yes
Date first appeared on forward plan	08.09.17
Key decision reasons	Community Impact
Background information	
Cabinet Report (March 2017): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – Key Guarantees to residents affected by estate regeneration	https://moderngov.lambeth.gov.uk/documents/s87381/02b%20Cabinet%20report%20-%20Key%20Guarantees%20-%20March%202017%20-%20final%20clean.pdf
Cabinet Report (October 2015): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – South Lambeth	https://moderngov.lambeth.gov.uk/documents/s77349/South%20Lambeth%20Cabinet%20Report.pdf
Cabinet Report (November 2015): Investing in better neighbourhoods and building the homes we	https://moderngov.lambeth.gov.uk/documents/s77849/Knights%20Walk%20Estate%20Regeneration%20Cabinet%20Report%20v5.pdf

<p>need to house the people of Lambeth – Knight’s Walk</p> <p>Cabinet Report (November 2015): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – Westbury</p> <p>Cabinet Report (March 2016): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – Cressingham Gardens</p> <p>Cabinet Report (July 2016): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – Fenwick</p> <p>Cabinet Report (March 2017): Investing in better neighbourhoods and building the homes we need to house the people of Lambeth – Central Hill</p>	<p>https://moderngov.lambeth.gov.uk/documents/s77890/Westbury%20Cabinet%20Report.pdf</p> <p>https://moderngov.lambeth.gov.uk/documents/s80093/Cabinet%20Report%20-%20March%202016%20v8.pdf</p> <p>https://moderngov.lambeth.gov.uk/documents/s82595/Fenwick%20Cabinet%20Report%20-%20July%202016%20v10%20Final.pdf</p> <p>https://moderngov.lambeth.gov.uk/documents/s87425/Cabinet%20Report%20-%20Central%20Hill%20-%20March%202017%20-%20final%20clean%204%20RD.pdf</p>
<p>Appendices</p>	<p>None.</p>

APPROVAL BY CABINET MEMBER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Julian Hart, Estate Regeneration and Housing Delivery Consultant

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature: _____ **Date:** 18 January 2017

Post: Councillor Paul McGlone, Deputy Leader of the Council (Investment and Partnerships)

Any declarations of interest (or exemptions granted):

Any conflicts of interest:

Any dispensations: