

Item No. 15.	Classification: Open	Date: 19 January 2021	Meeting Name: Cabinet
Report title:		Acquisition of land for the purpose of building new council homes at Roberts Close, Canada Water	
Ward:		Surrey Docks	
Cabinet Member:		Councillor Leo Pollak, Housing	

FOREWORD – COUNCILLOR LEO POLLAK, CABINET MEMBER FOR HOUSING

I am very pleased, after a series of lengthy and regrettable delays, that the Council will now be pursuing our option to build 79 brand new affordable homes, including at least 60 social rent council homes at Roberts Close in Surrey Docks.

These homes are not only beautifully and sensitively designed, reflecting our aspiration to restore the prestige of council housing, but found in a prized location only a few minutes walk from Canada Water station and beside the Russia Docks Woodland. I am also pleased to see 39 3-bed homes for local families who are overcrowded or close to being priced out of the area.

With over 14,000 households now on housing waiting list - including several hundred in Surrey Docks ward alone - many overcrowded, homeless, and priced out of private market housing, it is imperative to be building these homes at the earliest opportunity. With a concerted effort to achieve a strong chain of benefit from these new lettings, these homes will likely rehouse over 300 people into the secure, spacious, energy efficient and genuinely affordable housing that they need.

RECOMMENDATIONS

That Cabinet:

1. confirms the Council will exercise its option to acquire the affordable housing to be built at Roberts Close Canada Water.
2. pursuant to s17 of the Housing Act 1985, agrees that the Council acquires a long leasehold interest in the land edged red on the plan at Appendix A in accordance with the principal terms set out substantially in paragraph 16 of this report and fully in paragraph 4 of the closed version of the report
3. delegates to the Director of Regeneration authority to agree detailed terms of the transaction.

BACKGROUND

4. On 13 March 2018 Cabinet resolved to enter a Master Development Agreement (“MDA”) with British Land (“BL”) to bring about the transformation of the Canada Water area to fulfil its locational potential. The MDA was subsequently completed in accordance with the principles set out in the report received by the Cabinet. The MDA covers an extensive area of land that will evolve over many years and consequently is both a long and complex document. It provides for options in the Council’s favour to invest in phases of transformation and to acquire the affordable housing that will be built.
5. On 30 September 2019 Planning Committee resolved to approve a hybrid application giving detailed consent for the initial phases of the transformation and outline consent for the later phases. This application was in effect an approval of the Canada Water Masterplan that was prepared in accordance with the principles of the Canada Water Area Action Plan. Following completion of a s106 agreement on 29 May 2020, the application was given planning consent. Some local residents pursued a judicial review of the decision to grant consent but this was dismissed and it is understood the dismissal will not be subject to an appeal.
6. Now the planning process is resolved, BL is proceeding to take the project forward and its first phase will be the development of a vacant site fronting Roberts Close and adjoining Russia Walk (“the subject site”) that is shown edged red on the plan at Appendix A to this report. It is known in the planning application as plot K1.
7. On 1 December 2020 BL served notice on the Council requiring it to exercise its option to acquire the housing that will be constructed on the subject site. Should the Council decline to exercise the option BL will seek another purchaser.

The option machinery

8. They are:
 - The Council has 45 working days from the date BL served notice of the offer to exercise the option
 - The option offer sets out details of the properties included and other relevant legal and planning documentation as well as the offer price.
 - The offer sets out the specification for the housing
 - The purchase price is set by formula based on the value of the housing included in the viability appraisal submitted as part of the planning application process adjusted in line with movement in construction costs

- To accept the offer, the Council must serve a binding notice of acceptance together with Cabinet authority confirming the option is to be exercised.
9. On 28 November 2018, Council Assembly approved the current Council Plan. This sets a number of commitments to our community including *A Place to Belong*; one of the undertakings to meet this commitment is to *Build at least 1,000 more council homes.....by 2022*. The option to acquire the homes to be provided on the subject site needs to be considered against that commitment. On 10 November 2020 the Housing Delivery Board recommended to Cabinet that the option should be taken up.

KEY ISSUES FOR CONSIDERATION

10. The May 2020 planning permission referred to in paragraph 5 gave detailed consent for the construction of seventy-nine dwellings on the subject site. These will comprise:
- 14 one bedroom flats
 - 26 two bedroom flat
 - 39 three bedroom flats
11. The permission provides for a tenure split of 60 homes for social rent and the remaining nineteen homes for intermediate housing. This entirely affordable housing development will be used in calculating the affordable housing provision across the Masterplan area.
12. The building will be brick clad of six and seven stories in height and as can be seen from the plan it will adjoin Russia Dock Woodland which is metropolitan open space. The subject site is approximately a ten minute walk from Canada Water Station. This makes it a highly desirable location for new housing. In recognition of climate change the building will include ground source heat pumps to achieve carbon reduction targets.
13. The base specification for the new housing has been agreed by BL and the Housing Department and satisfies relevant Council policies. Provision exists for the specification at the Council's request to be enhanced but at additional cost to the Council.
14. Surrey Docks ward like others in Southwark has a significant shortage homes for social rent housing and the new homes to be built at Roberts Close will go a small way to addressing this deficit. Should the recommended purchase proceed, fifty percent of the new homes will be made available to local people on the waiting list under a local lettings scheme to be agreed by the cabinet member for Housing no later than 10 weeks after construction works commence

15. It is unlikely that BL will commence construction on the subject site without a contracted purchaser so if the Council does not exercise its option there will be a delay which in the light of the current pandemic could be substantial. The early commencement of construction work will be a step towards post-pandemic recovery.

PRINCIPAL TERMS FOR PROPOSED HOUSING ACQUISITION

16. (a) The Council and BL enter an agreement for lease that will provide for the construction of the new homes. On practical completion of the development BL grants the Council a lease that the Council is obliged to take, of the area edged red on the plan at Appendix A that will include the completed new homes
- (b) The lease of the new housing to be on the following terms:
- (i) A duration of 200 years.
 - (ii) A fixed rent of one peppercorn per annum if demanded
 - (iii) The Council to be responsible for external repairs and repairs to common parts including communal infrastructure.
 - (iv) The Council to be responsible for maintenance and decoration of external and common parts.
 - (v) The Council to insure the building against all normal buildings risks.
 - (vi) The lease to restrict the use of the demised area to housing purposes only. The Council is to be permitted to change the use of intermediate housing to social housing but not vice-versa. Change of use of any accommodation to market sale is strictly prohibited save where provided for by statute e.g. where a secure tenant exercises the right to buy.
 - (vii) The Council with the freeholder's consent (such consent not to be unreasonably withheld) to be able to transfer the lease but in the first ten years the freeholder will have the option to acquire the lease (take a surrender) at the lower of the premium paid for the lease or the premium agreed with the prospective assignee .
 - (viii) The premium for the grant of the lease to be payable as follows:
 - 5% deposit on completion of agreement for lease

- 35% on golden brick (one brick course above damp proof course level)
 - 40% during construction billed monthly in arrears against the certified value of work carried out
 - 15% on practical completion and lease grant
 - 5% at end of defects liability period.
- (c) The overall consideration in monetary terms is set out in the closed version of this report.

Commentary on Principal Terms

17. The numbering used follows that used in paragraph 16 above.
- (a) This is a mechanism that enables BL to proceed with construction but protects the Council as it will only take the lease when the new housing is finished.
 - (b)
 - (i) This is a substantial term of years
 - (ii) This is a nominal rental
 - (iii)-(v) These are unusual provisions for a long lease of this nature. Usually the freeholder carries out these functions and recovers its costs from the leaseholder by way of a service charge. However in this case, the proposed building and its grounds will stand independently from the remaining proposed regeneration without shared parts and services. In these particular circumstances, BL has agreed the Council can be responsible for these obligations and the Council will not be levied a service charge. The Council will still have to meet the cost of the obligations but for matters such as repairs it will control their commissioning and timing rather than BL.
 - (vi) To enable the buildings to be used for the purpose they are to be acquired for. Since the dwellings are being acquired on the basis they can only be used for affordable housing the acquisition price reflects this and is lower than if they were for market sale and BL understandably requires a restriction to ensure they can't be sold on save where the Council is obliged to sell by statute e.g. under right to buy provisions.
 - (vii) This protects the Council's position in the extremely unlikely event of it wanting to transfer the properties to

other ownership whilst also in the first ten years giving BL first opportunity to purchase.

(viii) Standard payment regime in respect of social housing that is to be built by a third party.

(c) Refer to the closed version of the report.

Rationale for Recommendations

18. The rationale for recommendations are:

- To deliver a Council Plan commitment.
- To assist in providing new homes for person's on the Housing Waiting List.
- To enhance the Council's asset base.
- To contribute to the Borough's post Covid 19 recovery.

Community impact statement

19. The Council Plan was the subject of extensive community consultation. The recommendations herein further the delivery of the *A Place to Belong* commitment set out in the Plan.

20. The Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:

- a) eliminate discrimination
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

21. Relevant protected characteristics for the purposes of the Equality Act are:

- Age
- Civil partnership
- Disability
- Gender reassignment

- Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex and sexual orientation.
22. In considering the recommendations herein the cabinet must have due regard to the possible effects of them on any groups sharing a protected characteristic in order to discharge its public sector equality duty. This is an ongoing obligation.
23. If the recommendations set out are approved, the Council will secure seventy-nine units of new housing accommodation. It is not considered there are any particular groups sharing a protected characteristic that will be adversely impacted by the proposals. Indeed, the new housing especially the homes for Council lettings should be beneficial across the range of protected characteristics.

Financial implications

24. The acquisition of the new housing, the supervision of its construction and possible variations to the building specification will cause the Council to incur significant capital costs for which budgetary provision will have to be made. This, together with the Value Added Tax and Stamp Duty Land Tax implications is addressed in the closed version of this report. The cost of acquisition will be met from resources supporting the Council's Housing Investment Programme, which may include borrowing where appropriate.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

25. Section 17(1)(b) of the Housing Act 1985 states that a local housing authority may acquire houses, or buildings which may be suitable as houses, together with any land occupied with the houses or buildings.
26. There are adequate powers available to the Council to acquire the property for housing.

Strategic Director of Finance and Governance (H&M 20/114)

27. This report is seeking Cabinet approval for the Council to exercise its option to acquire the affordable housing to be built at Roberts Close Canada Water and to delegate authority to the Director of Regeneration to negotiate the terms of the transactions. Should the acquisition proceed to a successful conclusion the Council will acquire 79 new council homes at an estimated cost as disclosed in the closed version of

this report, with the costs being met from resources supporting the Council's Housing Investment Programme. The report assumes Stamp Duty Land Tax is fully payable but the Council is currently investigating whether any reliefs or exemption may apply.

Strategic Director of Housing and Modernisation

28. The 79 new homes will assist towards meeting the target of 2,500 new council homes by 2022. In addition, at least 50% of the new homes will be offered to existing council tenants in the local area.
- 29 As noted in Paragraph 13, work has been undertaken to align the specification, where possible, with the Council's Employers Requirements for the new build programme.

BACKGROUND DOCUMENTS

Background Papers	Weblink
Master Development Agreement report to Cabinet 13 March 2018	Link: (please copy and paste into browser) http://moderngov.southwark.gov.uk/documents/s/74525/Canada%20water%20Report.pdf
Council Plan 2018/9 – 2021/22	Link: (please copy and paste into browser) http://moderngov.southwark.gov.uk/documents/s/78763/Report%20Council%20Plan.pdf
Report to Planning Committee on 25 and 30 September 2019	Link: (please copy and paste into browser) http://moderngov.southwark.gov.uk/documents/s/84680/Report%20Land%20bounded%20by%20Lower%20Road%20Redriff%20Road%20Quebec%20Way%20and%20Surrey.pdf

APPENDICES

Appendix	Title
Appendix A	Land at Roberts Close, Canada Water

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Housing	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Patrick McGreal, Regeneration North	
Version	Final	
Dated	8 January 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Strategic Director of Housing and Modernisation	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	8 January 2021	