



Cabinet Member Report

Decision Maker	Cabinet Member for Finance, Property and Regeneration
Date	5 November 2020
Classification	General Release
Title	Church Street (Site A) Serving the Demolition Notices
Wards Affected	Church Street ward
City for All summary	The Church Street project builds upon the City for All commitment that everyone should have the opportunity to build their lives, careers and families here.
Key Decision	No
Financial Summary	There are no additional costs associated with the rehousing of secure tenants. All costs in relation to this report have already been budgeted for.
Report of	Serena Simon, Church Street Programme Director, Growth Planning and Housing Contact details: ssimon@westminster.gov.uk Sarah Crampton, Church Street Vacant Possession Programme Manager, Growth Planning and Housing Contact details: scrampton@westminster.gov.uk

1. Summary

- 1.1 Westminster City Council has embarked on a major estate regeneration programme at Church Street which plays an essential part in the wider commitment of delivering quality affordable housing, growth and tackling economic deprivation and social disadvantages in the Church Street area.
- 1.2 Following extensive consultation with Church Street residents and commercial tenants, Council's Cabinet Member considered the options summarised in the report dated 24 May 2019 including Option 3 (Partial Demolition) of the '*Preferred Option*' for sites A, B and C and the Church Street market. Option 3 was subsequently approved by the Cabinet Member on 6 June 2019 with a statement of decision issued on 13 June 2019.

- 1.3 When approval for the scheme was first granted, Site A (consisting of Blackwater House, Cray House, Ingrebourne House, Lambourne House and Pool House) occupied 98 secure tenants and 47 resident and non-resident leaseholder properties. The scheme is now underway, and the Council is currently in the process of proactively obtaining vacant possession through voluntary negotiations with leaseholders on the first site of the programme, Site A, with the aim of commencing demolition works in 2022. Due to the scheme's phasing timetable, current focus for vacant possession is restricted to Site A. The Council will turn its attention in due course to Sites B and C.
- 1.4 The use of Initial and Final Demolition Notices are required to reduce risk and cost to the Council. The serving of Initial and Final Demolition Notices on existing tenants to reduce risk and cost from the Right to Buy, is a common council practice for estate renewal projects.
- 1.5 This report seeks approval in principle to now serve Initial Demolition Notices on all residents currently occupying Site A, in order to suspend the legal requirement for the Council to complete Right to Buy applications for as long as the Notices remain in force. It also seeks approval in principle to serve Final Demolition Notices, once the actual demolition dates are known, in order to render all existing right to buy applications ineffective and prevent any further right to buy applications being made at the properties in Site A.
- 1.6 Not only would these notices protect the delivery of the programme and financial interests of the council, they are an important factor in building the momentum of the regeneration project. To date 16 secure tenants have moved away from Site A of which, the majority are expected to return to a new home once the redevelopment works on Site A are complete.
- 1.7 When consulting on the preferred Option, an Equalities Impact Assessment was carried out to support the delivery of the renewal programme. Further Equalities Impact Assessments will be carried out as the project progresses.
- 1.8 Once served, ongoing support and communication will be provided to all Site A residents, including from the estate-based regeneration office and the appointed independent advisory service, PPCR, with whom all Site A residents have free access to.
- 1.9 Church Street Ward Members have been informed and requested to direct any residents with concerns to the Church Street Regeneration team.

2. Recommendations

- 2.1 That the Cabinet Member for Finance, Property and Regeneration:
- (a) authorises the principle of serving of Demolition Notices (Initial and Final) in accordance with the Housing Act 1985, on Church Street Site A residents (being residents at Blackwater House, Cray House, Ingrebourne House, Lambourne House and Pool House such properties more particularly set out in section 5.5 of this report), and
 - (b) delegates approval of all related documentation and service of such Demolition Notices (Initial and Final) on Church Street Site A residents to the Executive Director of Growth Planning and Housing.

3. Reasons for Decision

- 3.1 The reason for this decision is that the Council anticipates demolition of properties in Site A within a period of seven years and therefore it is desirable to serve appropriate notices to reduce risk and cost for the Council.

4. Alternative Options Considered

- 4.1 The Council could delay serving demolition notices. But until the Council serves these notices tenants are still able to elect to purchase their homes under Right to Buy. Therefore, any delay in the serving of the notices could make the regeneration process more complicated and costly.
- 4.2 The Council could also not serve demolition notices. However, the Cabinet Member decision of 13 June 2019 to proceed with the scheme and to demolish and re develop the blocks within Site A means that it is desirable to serve such Demolition Notices on the secure tenants. By not proceeding with service, this option would render the Council's regeneration scheme more costly and invoke additional risk.

5. Project Background

- 5.1 Church Street is a vibrant, diverse council estate in the north of the Borough, close to the Edgware Road stations. Site A comprises of 5 residential blocks (Blackwater, Cray, Ingrebourne, Lambourne and Pool House) which combined includes 98 council homes, used to occupy Westminster secure tenants.
- 5.2 A preferred scenario (in terms of bringing forward Site A for development) was worked up as part of an initial Outline Business Case in January 2020 and a final Outline Business Case in May 2020. There was a subsequent Cabinet Member

decision on the preferred approach for delivery, implemented on 4 September 2020 which was followed by a range of market testing activities. It is hoped delivery of the first site in the masterplan, Site A, will lead the programme, delivering new homes, public open spaces, jobs, employment and investment into the area.

5.3

A decant cost plan for Site A has been prepared, which projects acquisition costs based on the current numbers of leaseholders at Site A. Whilst contingency has been allowed for within the cost estimate, even a very small increase in the number of leaseholders, would significantly impact this budget.

5.4

The implementation of a vacant possession strategy for Site A is ongoing and demolition works are currently expected to start in mid-end 2022.

5.5

Subject to authority and approval of this report, it is proposed that the properties at Site A to be now served with Initial Demolition Notices are:

- a) Flats 1 to 29 Blackwater House, Church Street, London NW8 8HL
- b) Flats 1 to 6 Cray House, Penfold Street, London NW8 8DR
- c) Flats 1 to 24 Pool House, Penfold Street, London NW8 8DP
- d) Flats 1 to 62 Lambourne House, Broadley Street, London NW8 8DN
- e) Flats 1 to 24 Ingrebourne House, Broadley Street, London NW8 8DL

A plan showing the extent of Site A is attached to this report at Appendix 1.

6. Financial Implications

6.1

There are no additional costs associated with this report and the service of the Initial or Final Demolition Notices.

6.2

A further report will be brought as part of the Procurement Gate Process or a Cabinet Member report to appoint and commence future demolitions works.

7. Demolition Notices

7.1

The renewal proposals for Church Street Site A include provision for the Council to purchase the 47 leasehold properties on the site that were previously sold under the Right to Buy and that are now required for demolition.

7.2

This represents a significant capital outlay for the renewal scheme and the financial burden to the Council will only increase if further properties are purchased through the Right to Buy prior to demolition. Under current Right to Buy rules a residents can purchase their property with the benefit of a discount of £100k in the full knowledge that the Council will then have to buy back the property at full market value plus 10%. The 10% represents the statutory home

loss payment that the Council would be obliged to pay, subject to a resident leaseholder meeting the statutory criteria. The compensation payment is 7.5% statutory home loss for non-resident landlords.

- 7.3 Subject to the approvals and authority sought in this report, the Council intends to now serve Initial Demolition Notices on all Site A residents within the Church Street estate, in order to suspend any current or future Right to Buy applications from completing.
- 7.4 There is no specific duty on the part of officers to consult residents on this matter, however officers will notify residents that this step is being taken and the implications of and reasons for the Initial and Final Demolition Notices, as part of the on-going community engagement on the Church Street estate.
- 7.5 Leasehold services have confirmed, there are currently no pending for Right to Buy applications by any Site A secure tenants. The impact of the service of Initial Demolition Notices on residents is therefore thought to be low, however it is still necessary to prevent the possible risk of increased costs for the Scheme if a Site A tenant was to submit a Right to Buy application in the near future.
- 7.6 Further, with the recent UK legislative changes to the Stamp Duty threshold, which effectively removes stamp duty charges for most buyers acquiring a property under £500,000, this is likely to improve the affordability of purchasing a property at this time and thereby raises the possibility of a secure tenant from Site A deciding to submit a Right to Buy application now. As a public body, the Council has a fiduciary duty to protect and spend its funds wisely and balance the interests of the tenants and leaseholders against the viability of the programme, particularly given the delivery this redevelopment is intended to improve the futures of Westminster residents.

8. Resident Consultation and Notification

- 8.1 Consultation with Church Street residents and local community groups regarding the renewal programme has been promoted from the outset, as the new homes and neighbourhoods are being created to benefit the existing residents and will continue throughout the process.
- 8.2 Once Initial Demolition Notices are served, the Church Street Communications and Engagement team will provide clear contact information for residents to phone or email should they have any queries or concerns. In addition to writing to each Site A secure tenant, communal notices will be placed in each block and information on the Notices will be included in local newspapers, on the Council's regeneration website and in the Church Street Newsletter.
- 8.3 Due to the recent national Covid-19 pandemic, it was agreed the Council should wait until it received national government guidance on social distancing

restrictions before considering this decision. As the Council has re-opened its Church Street regeneration base to the public, staff will again be able to offer onsite support to any residents who feel any concern or have any questions in relation to Demolition Notices.

9. Human Rights Act 1998 Considerations

- 9.1 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions the Council, therefore, need to have regard to human rights considerations.
- 9.2 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 9.3 In determining the level of acceptable interference on these rights, the courts have ruled that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of an individual. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck.
- 9.4 Currently, as no Right to Buy applications have been received by the Council, the Council is likely to be able to prove that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified and that a fair balance has been struck in the present case between the protection of the rights of individuals and the public interest. It is considered that there shall be a minimal impact on human rights as the secure tenants shall have continuing rights in terms of housing within the Borough and in addition, the benefits in the Council's policy for Tenants in Housing Renewal Areas.
- 9.5 At this stage, based on the overall positive impact of the development proposals and the feedback received from residents during the consultation process, it is not considered that a full Equalities Impact Assessment ('EQIA') assessment on this decision is required. However, should subsequent engagement with affected residents bring to light any further equality issues, this position will be reviewed, and if required, a full EIQA will be carried out prior to the submission of the planning application.

10. Legal Implications

10.1 The decisions being presented to the Cabinet Member in this report shall have these legal implications if taken:

- (a) The Council has the power to deliver the development scheme by virtue of the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property. Thus the serving of the serving of the Demolition Notices is required to facilitate the development.
- (b) The site is currently occupied by tenants and leaseholders of the Council. The secure tenants have a legal right under Section 105(1) and (2) of the Housing Act 1985 (as amended) (the 'HA 1985') to be consulted on matters of housing management which includes any development proposal resulting in potential displacement of tenants or demolition. This report confirms at section 1 that Section 105 consultation was duly carried out in the scheme. In respect of the leaseholders at Site A, negotiations are continuing as necessary to acquire vacant possession through voluntary sale/buybacks.
- (c) Demolition notices, which are proposed to be utilised to enable delivery of the scheme, would preclude Council tenants who are within the Site A boundary exercising their Right to Buy within sites earmarked for regeneration. At the time of a demolition notice there must be a clear and firm intention to redevelop, therefore, care needs to be taken about the timing and service of the Demolition Notices.

10.2 The Council may suspend the right to buy by serving the secure tenants with an Initial Demolition Notice under section 138A of the HA 1985. It must contain the information set out in Schedule 5A of the HA 1985 stating that the Council intends to demolish the dwelling-house or the building containing it and setting out the reasons why the Council intends to demolish the premises. The Initial Demolition Notice must specify a reasonable period being no more than 7 years after the date of service of the notice within which the Council intends to demolish the premises. An Initial Demolition Notice will prevent named properties from being acquired from the Council through Right to Buy as the Council is not obliged to sell the properties to the tenants.

10.3 If, exceptionally, the proposals to redevelop or demolish or a relevant boundary change following the service of an Initial Demolition Notice, the Council can withdraw a notice by service of a revocation notice; followed by the Final Demolition Notice which is valid for up to two years (with possible extension subject to the consent of the Secretary of State).

- 10.4 Once the Council subsequently serves a Final Demolition Notice under section 138B of the HA 1985, the Right to Buy will not arise while that notice is in force and any existing claim will cease to be effective. Secure tenants may claim compensation in respect of expenditure reasonably incurred before completing right to buy claims exercised before the landlord has either served an initial demolition notice or a Final Demolition Notice.
- 10.5 The Council's rehousing options, financial compensation and general processes in relation to council tenants relocating from renewal areas, are set out in the Council's policy for Tenants in Housing Renewal Areas.

11. Equalities Impact Assessment

- 11.1 The Equality Act 2010 requires the Council when taking decisions to have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation or other prohibited conduct
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those that do not share it
 - (c) foster good relations between those who share a relevant characteristic and those that do not share it.
- 11.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex sexual orientation
- 11.3 The Council's equalities impact assessment was last updated in May 2020 and further equalities impact assessments will be carried out when required as the programme progresses.

**If you have any queries about this Report please contact:
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BACKGROUND PAPERS: None

**Appendices:
Appendix A – Site A Plan**

For completion by the **Cabinet Member for Finance, Property and Regeneration**

Declaration of Interest

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

Signed: _____ Date: _____

NAME: Councillor Melvyn Caplan, Cabinet Member for Finance, Property and Regeneration

State nature of interest if any

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(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 recommendations in the report entitled **Demolition Notices for Church Street Site A** and reject any alternative options which are referred to but not recommended.

Signed

Councillor Melvyn Caplan, Cabinet Member for Cabinet Member for Finance, Property and Regeneration

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:

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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, the Executive Director of Finance and Resources, and, if there are staffing 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 and 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.