



**Cabinet**  
14 August 2017

**Report from the Strategic Director for  
Regeneration and Environment**

Wards affected: Kilburn

**South Kilburn Regeneration Programme– Statutory  
Consultation with secure tenants in Neville House, 1-64  
Winterleys, 113-128 Carlton House (being part of ‘Phase 4’)  
and 1-72 Blake Court (being part of ‘Phase 5’)**

**1.0 Summary**

- 1.1 The regeneration of South Kilburn is a fifteen year programme that is approximately half way through. It aims to transform the area into a sustainable and mixed neighbourhood and create a real sense of place and belonging. The programme will deliver around 2,400 new homes of which 1,200 will be made available for social rent for existing South Kilburn, secure council tenants. To date 1073 new homes have been delivered with 60% (639) new homes having been made available for existing secure tenants of South Kilburn. Woodhouse Urban Park was opened to the public in May 2016 and South Kilburn residents are able to utilise St Augustine’s Sports Hall.
- 1.2 The Council’s objective is to provide high quality new homes with values driven from market sales in order to maintain the viability of the Regeneration Programme in the long-term, and to achieve a substantial improvement in the living conditions of existing South Kilburn secure Council tenants.
- 1.3 The South Kilburn Masterplan review took place in 2016, and the community are at the heart of our decision making process. We have taken an inclusive and participatory approach to consultation and engaged with residents and stakeholders of South Kilburn with extensive local consultation from July through to December, which directly fed into the drafting of a revised South Kilburn Supplementary Planning Document 2017 (SPD), which was adopted at the June 2017 Cabinet and will be an important document in determining how this area continues to transform over the next 10-15 years.
- 1.4 The South Kilburn Regeneration Programme also includes the delivery of a new larger high quality urban park and an improved public realm, a new local primary school, new health facilities, new retail facilities, an Enterprise Hub and Community Space,

improved environmental standards and a South Kilburn District Energy System. The South Kilburn Programme has been recognised for exemplar design for new build homes as well as landscape projects and has won a number of prestigious awards.

- 1.5 This report seeks Cabinet approval to develop a draft allocation policy for allocating homes to secure tenants living within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5').
- 1.6 This report seeks Cabinet approval to begin the statutory consultation process with secure tenants residing in blocks Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') on three proposals:
  - (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985
  - (ii) consultation in connection with the draft allocation policy for allocating homes to secure tenants in the blocks set out above
  - (iii) consultation on the Council's proposal to make a CPO on all properties and interests occupied by secure tenants within the blocks as set out above

## **2.0 Recommendation(s)**

- 2.1 That the Cabinet agree and authorise the Strategic Director of Regeneration and Environment to develop a draft allocation policy for allocating replacement homes to secure tenants living within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') .
- 2.2 That the Cabinet agree and authorise the Strategic Director of Regeneration and Environment to commence statutory consultation with secure tenants residing in blocks: Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**') on three proposals (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985 (ii) consultation on the Council's proposal to make a CPO on properties in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**') that are currently occupied by secure tenants (iii) consultation in connection with the draft allocation policy for allocating homes to secure tenants living within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**').
- 2.3 To note the intention to report to Cabinet on the outcome of the consultation and, if appropriate, to seek authority to proceed as set out in Paragraph 3.6 below.

### 3.0 Detail

#### 3.1 On 24 April 2017, Cabinet resolved:

Cabinet delegated authority to the Strategic Director of Regeneration and Environment in consultation with the Lead Member Regeneration, Growth, Employment and Skills to award and enter into a Development and Sale Agreement with a Delivery Partner, in line with the redevelopment as set out in paragraph 3.5 of the Cabinet report, procured from the GLA London Development Panel for the Gloucester House and Durham Court site (shown edged red at Appendix 1 to the Cabinet report). The delivery partner provisionally selected, subject to the standard caveats around agreeing final contract terms, is Telford Homes Plc

#### 3.2 As part of the Gloucester House and Durham Court development (see appendix 1 for site location) there will be 102 homes for affordable social rent through Notting Hill Housing Group. In line with the Masterplan Review 2016 and the adoption of the South Kilburn Supplementary Planning Document 2017 at the Cabinet 19 June 2017, it is anticipated that the properties at social rent within Gloucester House and Durham Court will be made available to secure tenants residing in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') as shown on appendix 1 in 2020 (plot 5) and 2021 (plot 4) thereby facilitating vacant possession of those sites for future redevelopment.

#### 3.3 To this end, Cabinet approval is being sought to develop a draft allocation policy for allocating homes to secure tenants living within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') ] and to undertake statutory consultation with secure tenants residing in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') on three proposals (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985 (ii) consultation on the Council's proposal to make a CPO on properties in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') that are currently occupied by secure tenants (iii) consultation in connection with the draft allocation policy for allocating homes to secure tenants living within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5'), which is anticipated to be similar to the existing allocation policy for Secure Tenants with homes in Hereford House, Exeter Court & 4 to 26 Stuart Road (Even Numbers Only) South Kilburn (copy attached at appendix 2)

#### 3.4 Statutory consultation is required by Section 105 of the Housing Act 1985 on certain changes in practice and/or policy in relation to the proposal to make a CPO and the draft Allocation Policy for Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5'). Once completed, a consultation report will be produced for the Cabinet to consider. The consultation report will include a summary of the feedback received from secure tenants occupying properties in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') in response to the three consultation proposals and the Council's responses to the feedback received. Depending on the outcome of the consultation, Cabinet approval

may be sought to authorise the Strategic Director of Regeneration and Environment to seek the Secretary of State's consent to the disposal and development of Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**') for the purpose of Ground 10A of Schedule 2 to the Housing Act 1985 and authorise the final Phase Allocation Policy.

- 3.5 There are currently the following units within each block which are occupied by secure tenants. As part of the allocation process the housing team will carry out a housing needs assessment to assess the current circumstances and potential changes to circumstance of secure tenants and identify their medical and other needs, including actual property size required for secure tenants. As shown on the tables (1 and 2) below there likely to be more properties required for our decanted secure tenants than will be available at Gloucester House and Durham Court. If this proves to be the case then the draft allocation policy will also allocate replacement properties at the following sites which are also coming forward for redevelopment – "Land North of Chippenham Gardens", "Queens Park/Cullen House" and the "Peel" site see appendix 1. As can be seen from the details provided within the two tables below this will ensure a raw surplus of homes will be eventually available for this decant, which subject to matching specific tenant requirements, will be sufficient to re-house all secure tenants in the subject blocks.

| Block                 | No of secure tenants units |
|-----------------------|----------------------------|
| Neville House         | 7                          |
| 1-64 Winterleys       | 40                         |
| 113-128 Carlton House | 8                          |
| 1-72 Blake Court      | 59                         |

Table 1 – Existing number of secure tenant properties

| Scheme                           | Number of Affordable Homes for Existing Secure Tenants |
|----------------------------------|--|
| Gloucester & Durham              | 102  |
| Peel                             | 42   |
| Queens Park/Cullen House         | 39   |
| Land North of Chippenham Gardens | 22   |

*\*Please note that these could be subject to change through redevelopment within the construction phase*

Table 2 – Secure tenant properties to be built out. (Note not all of the Peel properties will be available for this allocation as 23 of the 42 units have already been reserved for social tenants currently residing in the Peel development area

- 3.6 Officers will report back to the Cabinet on the outcome of the statutory consultation and may, depending on the outcome of the consultation seek Cabinet approval to (i) authorise the Strategic Director of Regeneration and Environment to seek the Secretary of State's consent to the disposal and development of Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**') for the purpose of Ground 10A of the Housing Act 1985, (ii) authorise the final Allocation Policy for Neville House, 1-64 Winterleys, 113-128

Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**'), and (iii) proceed with securing vacant possession of properties within Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of '**Phase 4**') and 1-72 Blake Court (being part of '**Phase 5**') occupied by secure tenants through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A and CPO.

## **4.0 Financial Implications**

- 4.1 All costs are expected to be covered within existing budgets. In 2017/18, the only costs are in relation to consultation.
- 4.2 If approved, this will lead to additional costs in relation to occupational therapy adaptations, moving costs (including compensation costs) for secure tenants and associated professional fees such as legal. This is hard to quantify but it is expected to be in the order of £5-7m, in specific relation to leaseholder buyback. However they are intended to be covered by the capital receipts generated by the schemes. South Kilburn operates on a self-financing model and while an individual scheme may need support, others are intended to cross-subsidize them.

## **5.0 Legal Implications**

### **Ground 10A of Schedule 2 to the Housing Act 1985 (Legal)**

- 5.1 The Council is required to obtain the approval of the redevelopment scheme from the Secretary of State when seeking to re-house secure tenants who will not leave the properties that are due to be demolished in furtherance of the redevelopment scheme. Before seeking such approval, the Council is required to consult with affected tenants. Approval from the Secretary of State will enable the Council to use Ground 10A of Schedule 2 to the Housing Act 1985.

Ground 10A is a ground for possession for the purposes of S84 Housing Act 1985. S84 Housing Act 1985 provides, in so far as relevant, that the court shall not make an order for the possession of a secure tenancy except on one or more grounds set out in Schedule 2. Ground 10A provides as follows: The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State...in accordance with Part V of Schedule 2 and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

The court shall not make an order for possession on ground 10A, unless it is satisfied that suitable accommodation will be available for the tenant when the order takes effect.

Suitable Alternative Accommodation. For the purposes of section 84(2)(b) and (c) Housing Act 1985 (cases in which the court is not to make an order for possession unless satisfied that suitable accommodation will be available), Part IV of Schedule 2 of the Housing Act 1985 states that accommodation is suitable if it consists of premises which are to be let as a separate dwelling under a secure tenancy, or which are to be let as a separate dwelling under an assured tenancy which is neither an

assured shorthold tenancy, within the meaning of Part 1 of the Housing Act 1988, nor a tenancy under which the landlord might recover possession under any of Grounds 1 to 5 in Schedule 2 to that Act and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family. In addition, Paragraph 2 of Part IV of Schedule 2 sets out factors that should be had regard to when determining whether accommodation is reasonably suitable to the needs of the tenant.

Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation, Paragraph 2 of Part V to Schedule 2 of the Housing Act 1985 states that the landlord must first:

- a. serve a notice in writing on all secure tenants whose dwellings are affected by the scheme, stating: the main features of the scheme (or the scheme as it will be after a proposed variation to it); that the Secretary of State's approval is to be sought; and the effect of such approval in relation to proceedings for possession of the dwellings;
- b. inform the tenants that they have a specified period (which must be at least 28 days) in which to make representations to the landlord; and
- c. consider any representations during that period.

5.2 Unlike a tenanted transfer, however, no formal ballot is required to be carried out. However, pursuant to Paragraph 3 of Part V to Schedule 2 of the Housing Act 1985, the Secretary of State, before giving his consent, will consider the following:

- a. the effect of the scheme on the extent and character of housing accommodation in the neighbourhood;
- b. over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme;
- c. to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord;
- d. any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.

5.3. The landlord, in this case, the Council, must not apply to the Secretary of State for approval of a scheme unless the statutory consultation procedure has been carried out.

### ***Section 105 of the Housing Act (Legal)***

- 5.4. Under section 105 of the Housing Act 1985, the Council as a local authority landlord has a duty to consult with those of its secure tenants who are likely to be substantially affected by a change in practice or policy relating to matters of housing management, which includes the management, maintenance and improvement of dwelling houses let by the Council under secure tenancies and the provision of services or amenities in connection with such dwelling houses. The consultation requirements under section 105 of the Housing Act 1985 must enable the secure tenants likely to be affected to be informed of the Council's proposals and to make their views known to the Council within a specified period. The Council, before making any decision on the matter, must consider any representations received during the specified consultation period.

Pursuant to Paragraph 2(3) of Part V to Schedule 2 Housing Act 1985, where section 105 applies, there is no requirement to undertake both a s105 consultation and a Ground 10A consultation, the Ground 10A consultation operates as both.

## **6.0 Equality Implications**

- 6.1 There is a need to ensure that the Council's Equality Analysis in relation to the different projects comprising the South Kilburn regeneration programme and their impact on residents (including leaseholders) with protected characteristics is kept up to date, and that reports to Members provide sufficient information to demonstrate adequate consideration of the impacts on all protected groups.
- 6.2 As with all other schemes that are part of the South Kilburn regeneration programme, full consideration must be given to residents and leaseholder with protected characteristics, particularly people with disabilities and / or other types of vulnerabilities due to older age, children and young people, residents with childcare and/or caring responsibilities, socio-economic status (lone parents and large families). Due regard must also be paid to black, Asian and minority ethnic and religious groups (e.g. community ties and wider community infrastructure, needs of large families, etc).
- 6.4 If approved by the Cabinet, officers will undertake consultation to seek views from secure tenants with homes in Neville House, 1-64 Winterleys, 113-128 Carlton House (being part of 'Phase 4') and 1-72 Blake Court (being part of 'Phase 5') on the Council's proposals to apply to the Secretary of State for use of Ground 10A of the Housing Act 1985, to make a CPO on properties in these redevelopment sites that are currently occupied by secure tenants and consultation in connection with the development of bespoke allocation policy to enable their current homes to be brought forward for development as part of the South Kilburn regeneration programme. The consultation process should be accessible and inclusive so that everyone affected by the proposals is able to take part in it, including people with different types of disabilities, residents whose first language is not English, young and older people. The Council will consider the comments it receives as part of this consultation process and will report back detailing the outcome of these statutory consultations in due course.
- 6.5 As part of the allocation process officers review occupational therapy (OT) requirements for secure tenants so that their physical needs can be pre-built into the scheme and their individual homes are tailored to take account of any identified OT needs.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 There are no specific staffing or accommodation implications associated with the proposals contained within this report.

## **8 Public Services (Social Value) Act 2012**

- 8.1 Not applicable

## **9 Background Papers**

### **Cabinet reports:**

24 April 2017 Gloucester and Durham Development Site – South Kilburn (for Delivery Partner award of contract)

19 June 2017 South Kilburn Supplementary Planning Document

### **Appendices:**

Appendix 1 – Masterplan Sites and Phasing Plan

Appendix 2 – Formal Consultation with Secure Tenants with homes in Hereford House, Exeter Court and 4 to 26 Stuart Road (even numbers only)

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