



Cabinet
22 May 2023

**Report from the Corporate Director
of Residents Services**

Community Led Housing in Brent

Wards Affected:	Stonebridge
Key or Non-Key Decision:	Key
Part Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One: Appendix 1 – Site plan of Brentfield Road
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Emily- Rae Baines - Head of Affordable Housing & Partnerships 020 8937 1131 Emily-Rae.Maxwell@brent.gov.uk Hakeem Osinaike – Director, Housing 020 8937 2023 Hakeem.Osinaike@brent.gov.uk

1. Purpose of the Report

- 1.1. Delivering affordable housing remains a high priority for the Council. With growing housing demand and the impact of the cost of living increasing pressure on Brent Residents, it is imperative the Council considers all possible avenues for the delivery of affordable housing. In 2018, a Scrutiny Report on affordable housing was produced by members and made a recommendation that the Council explore Community Led Housing (CLH) as an avenue of delivery, specifically as it favoured co-production with residents.

- 1.2. The purpose of this report is to update Cabinet with progress achieved since the Scrutiny recommendation and seeks approval to ring-fence a site on Brentfield Road for the purpose of CLH through established group, Brent Community Land Trust (BCLT).

2. Recommendations

- 2.1. That Cabinet agree to ring-fence the Brentfield Road site set out in Appendix 1 for Brent Community Land Trust for the purpose of Community Led Housing and commit to issuing a letter of intent confirming this arrangement.
- 2.2. That Cabinet agree to the principal of the Council entering into a lease agreement for nil value for the land at the Brentfield Road Site outlined in Appendix 1 subject to the following criteria being met;
 - That Brent Community Land Trust have been granted planning permission for the proposed development on the site
 - That Brent Community Land Trust have secured funding for the proposed development
 - That Brent Community Land Trust can evidence the scheme's financial viability
 - That Brent Community Land Trust produce and deliver a plan for Co-production with residents living on the existing estate and ensure residents are represented throughout their decision making process, including presence on their Board.

Cabinet approval will be sought ahead of the lease being entered into.

- 2.3. That Cabinet agree the Brentfield Road Site will be ring-fenced for 12-months only from the date of the letter of intent being issued to allow the Brent Community Land Trust to seek planning and carry out a viability assessment and if the above criteria in point 2.2 have not been achieved a follow up report will be brought to Cabinet to determine whether the site will continue to be ring-fenced for CLH with Brent Community Land Trust.

3. Background

- 3.1. In 2016, the Government launched a Community Housing Fund which set out to enable communities to organise themselves and form the required structures to unlock their capacity to deliver CLH. Brent received £53K in grant funding and the Harlesden Neighbourhood Forum, in partnership with Crisis committed to utilising the grant and went on to form the BCLT. As a group, the BCLT communicated a clear ambition to unlock and deliver a CLH project within Brent. It should be noted that whilst this group was formed from Harlesden Neighbourhood Forum, the commitment is for the group to deliver CLH for Brent residents not just residents in Harlesden.
- 3.2. In 2018, a member led scrutiny of affordable housing in Brent was undertaken, this scrutiny included CLH. The report made the following recommendations:

- Brent should investigate and promote opportunities for community led housing projects, such as “Community Land Trusts” and “Self-Build” projects, which will protect homes and assets at affordable levels in line with local incomes for future generations.
- Brent should explore setting up of a CLT model on publically owned land and encourage developers to do the same.

As the BCLT had already formed and expressed a commitment to the Council to deliver this form of housing, the Council took the opportunity to progress exploration of CLH. BCLT at this point and remain today the only group within the borough set up to deliver CLH.

- 3.3. In 2019, the Greater London Authority (GLA) launched a £38m fund to enable CLH so that Londoners including Brent residents could play a leading role in delivering genuinely affordable homes in their community. The group successfully secured a further £40k from the GLA’s fund and this was match funded by the Council. The purpose of this money was to increase the BCLT’s capacity to specifically deliver CLH including scoping potential sites and carry out the initial community engagement required to understand the local housing need. Alongside the match funding, the Council committed to reviewing sites that were undesirable under the New Council Homes programme (likely due to size) but could be utilised for the purpose of CLH. BCLT’s membership at the time included an experienced development consultant, who worked with the Council to review all options and identify the best possible opportunity. Out of the sites reviewed, the site at Brentfield Road Appendix 1) was agreed as the most appropriate for BCLT to take forward.
- 3.4. Once the site at Brentfield Road was identified as an indicative opportunity, BCLT hosted a series of workshops with their Board Members and the community to consider the type of housing they wished to build and any other objectives they wanted to achieve through the development. Development viability and technical design were also considered. These workshops were held in May and June 2021.

4. The proposed site and arrangement

- 4.1. The site at Brentfield Road (two parcels edged in red in Appendix 1) includes a small area of parking on the forecourt of 8 disused garages, which have fallen out of use and now require significant major works. The adjacent parcel is behind hoardings and contains a smaller number of garages.
- 4.2. The size and shape of the site lends itself to a block of flats being developed, mostly smaller homes e.g. 1 and 2 bedroom properties. Currently, an indicative scheme of 20 one-bedroom flats comprising a mix of one-bedroom 1 person and 1 bedroom 2 person’s properties has been designed. It is proposed that these flats will be a mixture of 40sqm and 50sqm which will meet the current minimum space standard of 37sqm for one-bedroom one person and 50sqm for a one-bedroom two person. This will be subject to feasibility, daylight, sunlight and other reports that will inform height, bulk and

massing.

- 4.3. Due to the time that has lapsed since the workshops with the community and Board Members were held, a review meeting of the CLH proposal was held in March 2023. In this meeting it was acknowledged the economic environment has changed considerably and so next steps would be for BCLT to review the type of affordable housing the housing they wished to develop, the rent levels and how these homes would be allocated.
- 4.4. As the current rent level is not defined it is not yet confirmed if a viable scheme can be delivered. Viability assessments however will be based on the assumption that the land will be available at nil consideration and borrowing from social and ethical lenders is used to finance the scheme. No further direct Council funding is being sought at present but there is potential for future funding requirements. The GLA's Community Housing Fund can provide revenue funding to take forward detailed designs and submitting a planning application and other legal costs. It is however a requirement that the BCLT can evidence the Council's commitment to supplying the land to the GLA in order to access capital funding and progress the project.
- 4.5. The proposal therefore is that the Council agrees to ring-fence the site on Brentfield Road outlined in Appendix 1 and issue BCLT with a letter of intent outlining this commitment. It is proposed, this commitment is for 12 months, at which point the progress and viability of the scheme will be reviewed by the Council and BCLT and a further recommendation made to the Council on whether to continue holding the site should planning permission for a proposed scheme have not been granted by this point.
- 4.6. During this period, BCLT will be seeking to design and submit a scheme to planning as well as obtain Capital funding from the GLA. If achieved the three criteria; of planning permission, capital funding and a viable scheme will act as the threshold for the Council to then enter into a 250 year lease with BCLT for the Brentfield site. This contract structure can allow the Council to retain a proportionate degree of control through restrictive use covenants and step-in to the project if required.

5. Resident Engagement and Community Led Housing

- 5.1. CLH is defined by the London Housing Strategy and London Local Plan using the following principles:
 - Meaningful community engagement and consent occurs throughout the development process;
 - There is a presumption that the community group or organisation will take a long-term formal role in the ownership, stewardship, or management of the homes; and
 - The benefits of the scheme to the local area and/or specified community group are clearly defined and legally protected in perpetuity.

- 5.2. To ensure that these principles are not only upheld but improved upon, the Council will require BCLT to produce an engagement plan which specifically sets out how BCLT will co-produce the design of the homes with the local community and those living on the estate.
- 5.3. This plan will be monitored by the Affordable Housing and Partnerships service at monthly progress meetings.
- 5.4. The BCLT operate as a Board which is where decisions on progressing the development and the design are made. To ensure this Board is representative, a condition of this arrangement is for the Board to proactively recruit residents from the estate surrounding the site to ensure the local communities' voices are represented. It is also essential the journey to delivery CLH represents the views of all communities, particularly those in the Stonebridge ward. The Affordable Housing and Partnerships service will support the BCLT to make reasonable efforts to ensure any engagement associated with this scheme is accessible and encouraging to all residents.
- 5.5. In supporting this pilot, the Council is demonstrating its ambition for communities to play a leading role in addressing the housing crisis. There are many routes into CLH and whilst BCLT is currently the only group that has approached the Council with this ambition, it creates an opportunity to inspire other community groups within the borough. Any future proposals received by the Council will be considered for the same opportunities and support provided to the BCLT.

6. Financial Implications

- 6.1. The leasing of the land at £1 consideration amounts to a subsidy by the Council. A more detailed review will be required in line with the new Subsidy Control Act 2022 (section 7.5 below refers) to confirm the impact on this scheme. The proposed award of a long lease to BCLT to the value of £1 will be made conditional upon planning approval and appropriate project financing of which the Council will review.

7. Legal Implications

- 7.1. A Local Authority must dispose of Housing Land at market value The General Housing Consent 2013 applies to land held under Part II of the Housing Act 1985 (HA 85) i.e. housing accommodation held within the housing revenue account (HRA). If the Council holds any such land then it can only be disposed under section 32, HA 85 which requires Secretary of State consent. A number of general consents have been issued that can potentially be relied on by the Council. One of the consents commonly used allows the transfer of vacant land at less than market value if certain conditions are met.
- 7.2. If property is to be provided at below market value and to be used for the purposes of privately let housing then restrictions contained in s.24 and s.25 Local Government Act 1988 (88 Act) would need to be considered for both

HRA and general fund land. These provisions provide that whilst an authority has the power to provide a financial assistance or a gratuitous benefit to any person, which includes the transfer of land at an undervalue, it must first have Secretary of State consent to do either. 13 Consent would therefore be needed to transfer land at an undervalue or provide a loan or equity finance if the Vehicle will provide privately let accommodation.

7.3. There are two documents in which the Secretary of State has granted general consents under section 25, Local Government Act 1988: 2010 and 2014 (2014 Consent). Consent AA1 of the 2014 Consent allows an authority to give to any person financial assistance or a gratuitous benefit consisting of the disposal of HRA land for development as housing accommodation (including facilities to benefit the occupiers). This is subject to conditions:

- any housing accommodation already on the land must be vacant;
- there must be freehold transfer, assignment of a lease with an unexpired term of at least
- 99 years or the grant of a lease of at least 99 years;
- the disposal must require the development to take place within three years;
- the accommodation must be let privately as housing accommodation;
- the authority cannot manage or maintain any of the housing accommodation after the disposal.

7.4. The last condition may be a problem where the Council is forced to exercise any step in rights and deliver the scheme itself and in view of this the Council should consider obtaining SOS consent to the scheme rather than relying on the 2014 Consent.

7.5. The Council must also consider Subsidy Control:

The new rules on Subsidy Control are contained in the UK-EU Trade and Cooperation Agreement (TCA), which require public authorities to consider on a case-by-case basis whether financial support could fall within the definition of “*subsidy*” and if so whether it would comply with six key principles. Support may be considered lawful if it satisfies the principles and does not fall within a prohibited category. Unlawful subsidy can be challenged in the courts by judicial review,

7.6. The TCA² defines “subsidy” as financial assistance which meets the following conditions:

- arises from the resources of the Parties [i.e. the UK and EU], including:

7.6.1 a direct or contingent transfer of funds such as direct grants, loans or loan guarantees;

7.6.2 the forgoing of revenue that is otherwise due; or

- 7.6.3 the provision of goods or services, or the purchase of goods or services (Condition 1);
- 7.6.4 confers an economic advantage on one or more economic actors (Condition 2);
- 7.6.5 is specific insofar as it benefits, as a matter of law or fact, certain economic actors over others in relation to the production of certain goods or services (Condition 3); and
- 7.6.6 has, or could have, an effect on trade or investment between the Parties [the UK and EU] (Condition 4)

- the government published a new subsidy control bill on 30 June 2021, which is intended to come into force this year and accordingly further specialist advice will be needed in relation to how the provisions of the new Bill will impact this scheme.

7.7. A Development Agreement/Agreement for Lease will need to be entered into conditional upon planning. Various provisions and warranties will need to be entered into with various contractors direct with the Council to ensure that the Council is able to proceed with the development should the BCLT fail to deliver. The Development Agreement would need to cover standard of construction and a prohibition against assignment.

8. Equality Implications

8.1. The Council will ensure BCLT carry out an Equality Impact Assessment to support engagement activity within the community for the design of the scheme. Additionally, allocations of the housing will be in keeping with relevant legislation and policy including the Council's Allocations scheme to ensure decisions are compliant.

9. Consultation with Ward Members

9.1. Ward members have expressed the need for Stonebridge residents, specifically those who live close to the site to have a direct input and benefit from the site being developed.

9.2. The BCLT will be required to formally engage and co-produce plans with local residents for this scheme. Additionally the Council's Allocation's Scheme means any residents who have an existing housing need will be prioritised for properties subject to confirmation of their tenure type.

Related Documents:

[Scrutiny report – Affordable Housing in Brent](#)

Report sign off:

Peter Gadsdon

Corporate Director Resident
Services