

## **HOUSING REGENERATION**

### **LAND ACQUISITION STRATEGY**

#### **Strategy for the acquisition of land for estates undergoing redevelopment**

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## Executive Summary

Lambeth Council is planning to rebuild six housing estates in order to provide better homes for existing residents and more homes for those waiting on our housing lists.

The six estates that the council is planning to rebuild are:

- Central Hill
- Cressingham Gardens
- Fenwick
- Knight's Walk
- South Lambeth
- Westbury

In order to deliver these projects, the council will need to acquire certain land interests, including resident and non-resident homeowners (both leasehold and freehold), certain commercial interests that are particular to each estate and certain other interests such as rights of way.

The council has adopted the Key Guarantees, which give affordable options to allow resident homeowners to move to a new home on the rebuilt estate by allowing them to swap the value or equity of their existing home into to help them buy a new home or a share in a new home.

This Land Acquisition Strategy sets out how the council will actively attempt to acquire all interests by agreement on reasonable terms. The council's preference is to reach mutually beneficial agreements in line with the Key Guarantees, with compulsory purchase intended to be used as a measure of last resort.

This strategy represents an evolving document, which will be revised as and when further relevant information comes available. At this time, this strategy is tailored to support the leading estates, South Lambeth and Westbury. No compulsory purchase order (CPO) is required on Knight's Walk, as the council has already acquired all the interests required. This strategy will be revised to cater for each of the other estates as and when required.

## 1. Introduction

This report sets out the land acquisition strategy to be used in order to facilitate the rebuilding of the Westbury Estate and the South Lambeth Estate, within the London Borough of Lambeth.

Both sites are currently in multiple ownership, with land interests and rights needing to be acquired from third parties. The London Borough of Lambeth (“the council”) is seeking to assemble land needed for each redevelopment project and has been engaging with affected parties since early 2015, with negotiations ongoing since mid-2016 (residential negotiations since Autumn 2015). Although progress has been made in assembling ownership of the sites, it has not been possible to acquire all of the interests required to deliver the schemes.

This strategy sets out the various methods of land acquisition available to the council in order to facilitate the redevelopment projects, and it provides some advice as to available steps and the most appropriate method of acquisition in varying circumstances, ideally by agreement. **All reasonable steps outlined below will be taken in order to acquire the land and rights by mutually beneficial agreements in line with the Key Guarantees.**

Whilst the council will continue to work to acquire all necessary property interests on reasonable terms by agreement, the land acquisition strategy includes the potential use of compulsory purchase powers, if required, so as to provide certainty and enable the redevelopment projects to proceed within a reasonable timescale. The initiation of formal compulsory purchase procedures will be sensible as a contingency measure.

## 2. Approach to pursuing agreement

This section deals with the acquisition options available to the council to secure the commercial units required for the redevelopment of the Westbury and South Lambeth Estates. Negotiations are being carried out and are intended to continue, to comply with guidance to acquiring authorities set out in “Guidance on compulsory purchase and the Crichel Down Rules”, as updated in February 2018.

There are three options for acquisition available to the Council to ensure vacant possession of the redevelopment sites. These are:

- Acquisition by agreement;
- Use of Landlord & Tenant Act procedures where applicable for commercial leases;
- Compulsory purchase.

**The Council will actively pursue acquiring all interests by agreement on reasonable terms. The Council’s preference is to reach mutually beneficial agreement in line with the Key Guarantees, with compulsory purchase intended to be used as a measure of last resort.**

Determination of leasehold interests using Landlord & Tenant Act procedures is a possible acquisition option for commercial leases where the tenant is in breach of lease obligations. However, as Homes for Lambeth - rather than the council - will be the developer, the council cannot rely on development as a grounds for refusing to renew a secure lease.

### **3. Acquisition by Agreement**

The benefits of acquisition by agreement to the owner are that it allows for a greater level of flexibility between the parties on timing and consideration. Agreement for either relocation or total extinguishment, where appropriate, is likely to be the most cost-effective and commodious option to the Council.

The fact that affected parties have sufficient time to identify, secure and relocate to alternative premises will allow for the mitigation of potential disturbance compensation. Other benefits include certainty in terms of both timing and cost.

The limitation of this method is that it will only be effective where there is a willing seller. Where an owner of a property interest does not wish to sell, or will only reach agreement on unrealistic terms, acquisition by agreement cannot be achieved. The council is nonetheless committed to making reasonable efforts to acquire land by agreement on market terms and within a reasonable timescale.

#### **4. Compulsory Purchase**

Under s226 of the Town and Country Planning Act 1990, the council can use compulsory purchase powers to acquire land where it thinks that this will benefit the environmental, social or economic well-being of their area. Alternatively, the council can use s17 Housing Act 1985 where there will be a quantitative or qualitative housing gain. If the Council decides to use either of these powers, they must follow the statutory process in the Acquisition of Land Act 1981.

The main benefit of the use of compulsory purchase powers for the council is the certainty of being able to obtain vacant possession, the fixing of a price either by negotiations or via the Upper Tribunal (Lands Chamber), and securing clean title (quicker if using a General Vesting Declaration). Once a CPO is confirmed, notices can be served, and a date for vacant possession can be fixed. Despite the relatively long process for making and confirming an Order, use of an Order may also have benefits in terms of securing a site within a shorter amount of time than may be possible by negotiation. The availability of compulsory purchase powers is also, in many cases, of substantial assistance in negotiating the purchase of land by agreement.

The benefits for the owners of property interests is that there is a clearly-defined statutory system for their objections to be heard prior to confirmation, and a statutory framework for compensation for their losses once the Order is confirmed and land is taken under it.

The potential difficulties in the use of compulsory purchase powers include the time taken to use the statutory process, the expense in the making and confirmation of an order, and the uncertainty which exists until the order is confirmed. However, there is a place for its use as part of an overall land acquisition strategy.

The use of compulsory purchase powers can be regarded as controversial and adversarial. Recent legal challenges have created negative press coverage in other London Boroughs and Council officers will no doubt be aware of this. However, a clear strategy of early engagement can do much to mitigate against this.

## **5. Utilisation of Options**

As has been discussed above, a combination of both methods is likely to be appropriate for the acquisition of property on the two housing estates, Westbury and South Lambeth.

Prior to acquiring any land required, it is vital to have a comprehensive list of all property interests within the development site, as well as a property cost estimate. It is also imperative the council understands the requirements and intentions of each landowner.

### **5.1 Acquisition by Agreement**

The council will need to investigate whether any of the relevant property interests are on the market. If so, and if they can be acquired at a reasonable cost, then they should be acquired. It may be possible to enter into conditional contracts or take options in order to secure the property interest, rather than an outright purchase at an early stage. However, the council cannot rely on offering conditional contracts or option agreements as the only methods of acquisition by agreement for all property interests.

The council would need to assess the remainder of the interests within the sites in order to initiate its attempts to acquire by agreement. This process can be prioritised depending on the type of interest held. It should be recognised that there will be more than one property interest in most properties, and that the acquisition by agreement of a superior interest may allow for the determination of an inferior interest using Landlord and Tenant powers.

The council must achieve best value and the requirement to make reasonable efforts to acquire does not require payment of a sum in excess of market value.

The council must also consider relocating their commercial leaseholders within the new estate or outside of it, if the leases cannot be terminated. In order to understand requirements and intentions, meetings ought to be held with the landowners prior to making a CPO. This will significantly reduce the risk of businesses having to be extinguished due to an inability to find relocation premises, and assist in achieving continuous trading for such businesses. It will also help prove mitigation of loss (or non-mitigation), which could affect the size of compensation claims.

The council should work with the affected occupiers to identify appropriate relocation opportunities and be prepared to indemnify occupiers for the reasonable costs of acquiring

and holding relocation properties, such as agents or legal fees. Some of these costs may be offset in the temporary re-letting of the acquired premises, which would also provide natural security from vandalism and squatting. The council will keep a list of available relocation options up to date throughout the process of negotiation until the Order is confirmed. If they are an owner-occupier, they are likely to reserve their right to disturbance costs.

## **5.2 Compulsory Purchase**

Compulsory purchase is the second process by which land or rights in land can be acquired in order to facilitate the development. It provides certainty that land can be delivered for the schemes within a reasonably well-defined timescale and at a reasonable cost.

Government Guidance supports the use of compulsory purchase to secure redevelopment. It recognises that, due to the time taken to make and confirm a compulsory purchase order, it may be appropriate to run the compulsory purchase process in parallel with other efforts to acquire interests in property. This also demonstrates the seriousness of the council, and can help to move negotiations forward.

The council has already resolved that, if required, it is prepared to use its compulsory purchase powers to facilitate the redevelopments. The development sites are large, and there are a considerable number of property interests within each. We consider it unlikely that all necessary property interests could be secured within a reasonable time-scale and at a reasonable cost without the use of compulsory purchase powers.

Therefore, whilst the council should explore all reasonable options for acquiring the necessary land as set out above, the council also ought to make preparations to make a CPO to facilitate the redevelopments.

When compulsory purchase powers are used, all those affected will be entitled to compensation under the Compensation code.

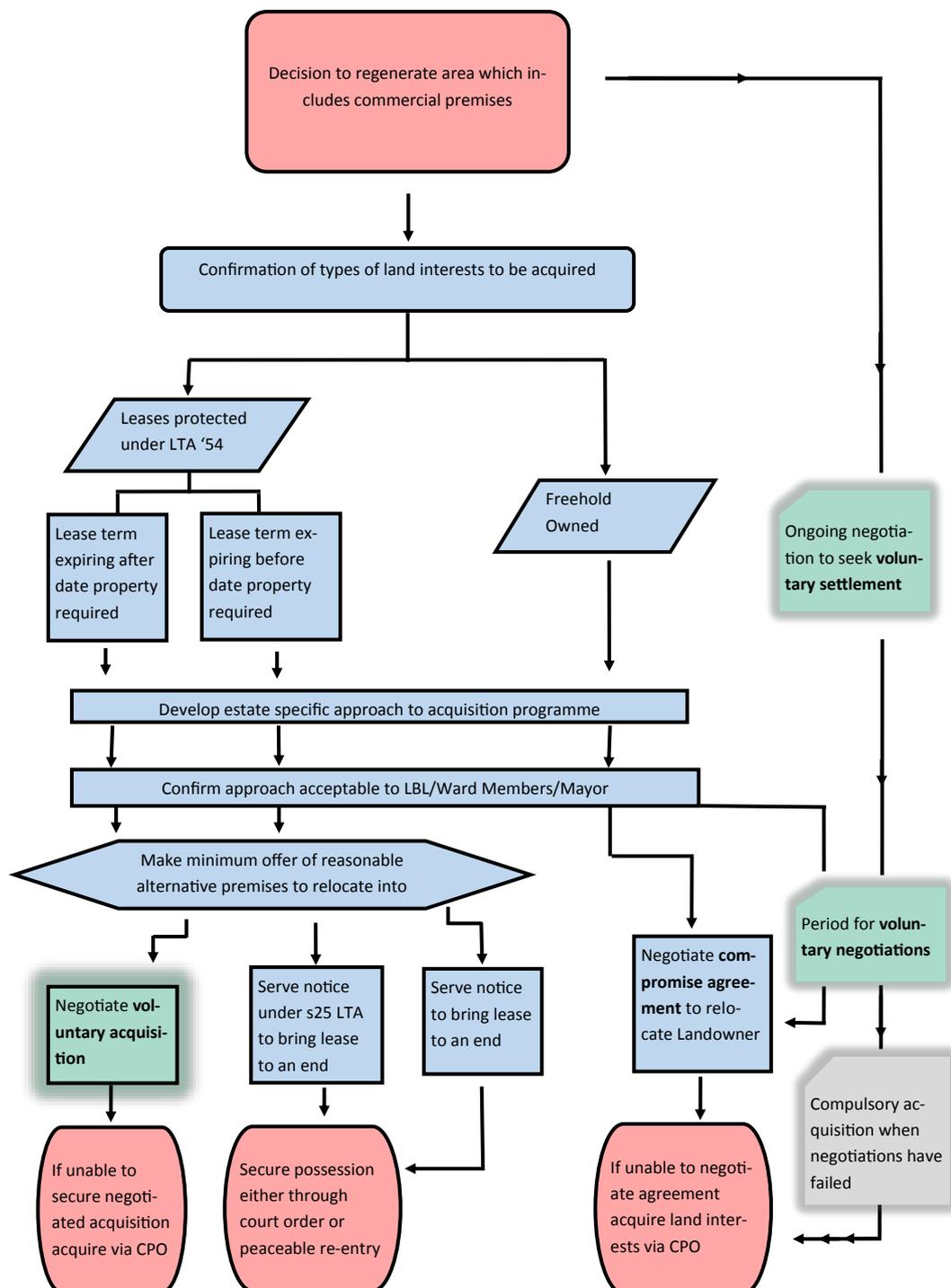
## **6. Recommendation**

There are two freehold commercial units to consider: one on the South Lambeth Estate; the other on Westbury Estate. There is also a leasehold parade of shops on the South Lambeth Estate, which is required by the council for the proposed redevelopment. To proceed with acquiring the commercial properties, valuations of the interests need to be carried out and an estimate made of the compensation likely to be payable.

The council's representatives will then need to continue to make contact with all interested parties to engage and offer to purchase the property. They should meet with the interested parties to understand the requirements for relocation (if applicable). Regular contact will continued with each interest.

**Appendix A – Flow Chart Illustrating Commercial Strategy Steps**

Flow Chart Illustrating Commercial Acquisition Process



## Appendix B

### Indicative programme for promoting a Compulsory Purchase Order Assuming November 2018 Cabinet Decision

Action No.	Action	Timescale
1	Instruction and desktop referencing commence	March 2018
2	Review and prepare property cost estimate and land acquisition strategy	April/May 2018
3	Negotiations and queries	May/June 2018
4	Statement of reasons	August 2018
5	Legal review meeting on CPO documents	September 2018
6	Cabinet approval	November 2018
7	Full land referencing	November 2018 /February 2019
8	Make CPO	March/April 2019
9	Serve all necessary notices inc newspapers and site adverts and notify NPCU	March/April 2019
10	Receive objections and seek to reach agreements to secure withdrawal of objections ASAP	April/May 2019
11	Confirmation of need for Inquiry and date	May 2019
<b>Assume Public Inquiry</b>		
12	Continue negotiations with objectors with a view to objections being withdrawn	May 2019- Inquiry Date
13	Employ Programme Officer to manage Inquiry and book Inquiry venue	May 2019
14	Arrange regular meetings with Counsel in lead-up to Inquiry	May 2019
15	Choose witnesses who will need to be called at Inquiry	May 2019
16	Prepare Statement of Case and witness statements	May/July 2019
17	Serve notices informing objectors of Inquiry date and venue	July 2019
18	CPO Inquiry (assumed earliest date, may well be later than this) Assume Inquiry sits for 1-2 weeks.	September 2019
<b>Awaiting SoS decision</b>		
19	Agree process for achieving vacant possession of the land (i.e. Notice to Treat / Enter or General Vesting Declaration)	September 2019/ March 2020
20	Receipt of decision (estimate of date, this may be later, and then subsequent action dates would be pushed on also)	March 2020
<p><b>ASSUME CPO CONFIRMED.</b>  <b>PREVIOUS EXPERIENCE SHOWS THAT IT CAN TAKE AS LONG AS 12 MONTHS FROM MAKING AN ORDER TO INQUIRY DATE, HOWEVER WE HAVE ASSUMED 6 MONTHS AND THEN 6 MONTHS AFTER THE INQUIRY FOR A DECISION.</b>  <b>ALL FOLLOWING DATES WILL THEN BE PUSHED BACK, INCLUDING DATE OF TAKING POSSESSION OF LAND AND STARTING WORK ON SITE.</b></p>		
<b>Post confirmation of CPO</b>		
21	Serve notices of confirmation of order	March 2020
22	Serve General Vesting Declaration	April 2020 (6 weeks after NoC)
23	Expiry of legal challenge period (six weeks after publication of confirmation)	April 2020
24	Vesting Date- 3 months after GVD served	July 2020
25	Hand vacant possession to developer	July 2020
<b>Start construction on site</b>		
26	Negotiate and agree compensation	July 2020 - On-going
27	Refer any necessary cases to Upper Tribunal (Lands Chamber)	As necessary
28	Manage any necessary cases through Lands Tribunal process	As necessary

Other issues to consider

1. Timing of any notices to be served under any Development Agreement should be added into this timetable.
2. Timing of any notices under Landlord and Tenant powers should be added into this timetable.
3. Consider which solicitors will be responsible for work of preparation, making and process of confirmation of CPO. In the past, we have found that one firm of specialist solicitors (not usual firm of either developer or council) can make this process faster and less confrontational.
4. Timescales given for the process are generally the earliest reasonable estimate of dates, e.g. Inquiry dates or decision dates for the CPO. Neither council nor developer will have any control over these dates, and if they are later for any reason, the timetable will shift to reflect this. If an Inquiry is not required it is likely that the SoS decision will be earlier than identified.
5. Timing of making of CPO and any RCOs to enable con-joined Inquiry if required. Consider whether Committee / Executive / Full Council of council is required to resolve to use CPO powers, and the lead-in period, including submission of papers required for this.

## Appendix C

### Key Guarantees

The Council has produced the 'Key Guarantees', which provide commitments to residents living within the two estates that are being rebuilt. The Key Guarantees provide certainty for the residential homeowners on the estate, to be offered a new home on the developed estate. This is through a variety of methods of owning the leasehold, zero rent shared ownership or with rent shared ownership. If the homeowner cannot afford any of these options, the council will also explore other methods to try and accommodate homeowners as much as possible.

Where homeowners wish to move away from the estate, the council will make an offer to purchase the property at market value plus home-loss and disturbance compensation.

The council has been approaching homeowners on the estates to purchase properties in advance of making a CPO. The council needs to continue to make efforts to acquire the residential properties by voluntary agreement, offering the key guarantees.

The Key Guarantees do not apply to non-resident leaseholders and therefore engagement is required to acquire properties on both estates by voluntary agreement. It is recommended that the council sends letters to each of the non-resident leaseholders to attempt to acquire properties.

In the absence of a voluntary agreement, it is recommended the council makes a CPO to progress with vacant possession of all residential properties.

The Key Guarantees approved by Cabinet in March 2017 are as follows:-

#### **Key Guarantees for Tenants:**

- 1.1 Key Guarantee 1: If your home is going to be demolished as a consequence of estate regeneration, you will have the choice of either taking a newly-built home on your estate or taking 'Band A' status to enable you to move to another council or housing association home in Lambeth.
- 1.2 Key Guarantee 2: You will be able to move into a home that meets your housing needs. If applicable, your newly-built home will be designed to meet your disability requirements.

- 1.3 Key Guarantee 3: Your rent, as an assured lifetime tenant living in a newly-built Homes for Lambeth home, will be set in the same way as council rents. If you experience an increase in your rent as a result of moving to a newly built home, then your rent increase will be phased in over a five-year period.
- 1.4 Key Guarantee 4: You will be compensated for having to move. A home-loss payment will be paid to you, plus reasonable disturbance costs.
- 1.5 Key Guarantee 5: The council will provide you with help to enable your move, with additional support offered to you if you have special needs or a disability.
- 1.6 Key Guarantee 6: The council will provide you with advice and information to help you make informed decisions about your future housing.
- 1.7 Key Guarantee 7: If you choose to stay on your current estate, you will be able to get involved in the design of the new homes and the estate as a whole and influence decisions around the phasing of building new homes and the construction works.

**Key Guarantees for Homeowners:**

- 1.8 Key Guarantee 1: If you, as a resident homeowner, wish to continue to live on your new estate, you will be given the opportunity to do so. You will be offered a range of options to cater for your personal financial circumstances. If none of these options are adequate to enable you to continue living on your estate, the council will explore alternatives with you. (This Guarantee does not apply to non-resident homeowners.)
- 1.9 Key Guarantee 2: If you, as a homeowner, do not currently live on the estate or do not wish to live in a home on the newly-built estate, you can sell your home at the market value to the council after an independent valuation and make your own new housing arrangements. (This Guarantee is the only option available to non-resident homeowners.)
- 1.10 Key Guarantee 3: The valuation of your property will be independent and based on market values and you will be compensated for having to move home.
- 1.11 Key Guarantee 4: The council will provide you with help to enable your move, with additional support offered to you if you have special needs or a disability.
- 1.12 Key Guarantee 5: The council will provide you with advice and information to help you make informed decisions about your future housing.
- 1.13 Key Guarantee 6: If you choose to stay on your current estate, you will be able to get involved in the design of the new homes and the estate as a whole and influence decisions around the phasing of building new homes and the construction works.
- 1.14 Key Guarantee 7: If you choose to stay living on your estate and if you require adaptations due to a disability or that of a family member, you will be able to have these adaptations made to your new home.

