

15 March 2023		ITEM: 14 Decision: 110646
Cabinet		
Blackshots Estate – Demolition and Redevelopment		
Wards and communities affected: All	Key Decision: N/A	
Report of: Councillor Luke Spillman – Portfolio Holder for Housing		
Accountable Assistant Director N/A		
Accountable Director: Ewelina Sorbjan – Interim Director of Housing		
This report is Public		

Executive Summary

This report seeks further approvals related to the redevelopment of the Blackshots estate. The report proposes a site area for redevelopment and seeks authority for the vacation of the blocks and the making of appropriate payments to displaced residents.

Government Intervention & Section 114

In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC). On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;

- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

The Secretary of State nominated Essex County Council to the role of Commissioner

On 19 December 2022, the Council's Acting Director of Finance & Section 151 Officer issued a report under Section 114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature'.

Since that period the Council has continued to operate under the s114 Notice and is working alongside Commissioners to tighten its financial management procedures.

1. Recommendation(s)

Cabinet are asked to approve:

- 1.1 The proposed site area for developing proposals for the future of the Blackshots estate**
- 1.2 Commencement of decanting residents from these properties and the treatment of these residents in line with the Council's allocations policy.**
- 1.3 Payment of home loss and disturbance payments as appropriate**
- 1.4 Approval to commence negotiation with leaseholders for the repurchase of properties with approval to complete purchase delegated to the Corporate Director Adults Housing and Health and Chief Financial Officer in consultation with the Director of Place and the Portfolio Holders for Finance, Housing and Growth.**
- 1.5 Subject to further Cabinet approval the use of Compulsory Purchase Powers under s226 Town and Country Planning Act 1990 should this become necessary.**
- 1.6 In view of the decant and leasehold repurchase decisions, no dwellings within these three blocks shall be re-let.**
- 1.7 Service of a demolition notice under Section 138B and Schedule 5A of the Housing Act 1985 which will confirm the Council's intention to demolish the buildings and suspend the obligation on the Council to complete right to buy applications on the three tower blocks in question.**
- 1.8 Approval to negotiate and settle any statutory compensation claims made by residents as a result of the service of the Initial Demolition Notice delegated as at Paragraph 1.4 above.**

1.9 Approval to establish a budget of £2.7m to meet the costs of purchase of leasehold interests

1.10 Agree to receive a report in December 2023 to consider the full Business Case for redevelopment of the site and determine the most appropriate financial option at that time.

1.11 Housing Overview and Scrutiny Committee request that regular public reports are made on project milestones (including slippage factors) and requests officers to confirm to committee what member-led mechanisms will be used to review the adherence to the plan.

2. Introduction and Background

2.1 Cabinet in December 2022 considered the future of the Blackshots estate in light of the fact that the tower blocks at Blackshots are in need of significant repair.

2.2 Initial consultation had been carried out with residents as part of the Council's duty to consult under s105 of the Housing Act 1985, resulting in a significant majority in favour of the redevelopment of the blocks.

2.3 Cabinet approved the principle of demolition and redevelopment to provide good quality housing and agreed the resources for and the appointment of a design team and advisers to develop schemes for consultation with residents.

2.4 This report seeks approval for a number of further steps to progress the scheme.

3. Issues, Options and Analysis of Options

The reason for the demolition of Blackshots tower blocks

3.1 Blackshots tower blocks have considerable problems with damp and mould which has been the subject of resident complaints, is an area of political concern, and has received local focus in the media. Damp and mould are also becoming increasingly a matter of national concern.

3.2 External refurbishment has been considered but while this was able to address some immediate issues at the three blocks in respect of the existing external cladding system, the ventilation of the communal areas and weatherproofing of the structure it was not able to address the overall design and layout of these properties which does not meet the requirements of today's modern living.

3.3 Additionally it was identified that the existing external wall system that has been in place for around 20 years does not conform to current building regulations- and major works are now required to remedy the fixing of these panels. The

current smoke ventilation system to the individual landings also requires improvements. Other building elements including the roof covering and windows are reaching the end of their technical life expectancy. This situation combined with the latest regulatory framework that has recently been enacted through the parliamentary process indicated the fundamental works required to make these blocks both permanently safe and habitable.

- 3.4 Although much of the remedial work was technically possible, costs associated with a project for new systems on high rise residential buildings are prohibitively expensive for both short and long-term solutions.
- 3.5 The Council would have been in a position where it needed to undertake either short term measures to the blocks and spend in excess of circa £10m across the three blocks, whilst not upgrading essential items such as windows, and roof coverings. Alternatively, it could have spent a minimum of £16m to carry out the external works alone but even with further significant expenditure to the internal part of the blocks ultimately still deliver sub-optimal homes with poor and out of date internal arrangements, and no absolute guarantee that some at least of these problems would not recur within the 30- year life- time of the project.
- 3.6 The department was not able to continue to leave the blocks as they currently stand for any protracted amount of time because of the inherent defects. Additionally, it is not possible to remove the existing external wall system and leave the blocks exposed because this would make the blocks untenable, and conditions unliveable, in a very short period of time.
- 3.7 As the works should only be undertaken as a full building retrofit that will enhance the buildings and their performance and provide better accommodation for our residents for a minimum period of 25 years and this aspect cannot be achieved without significant investment for a sub-optimal product the principle of demolition and redevelopment was agreed.
- 3.8 Whilst the Council continues to maintain the buildings to safeguard the residents in respect of building and fire safety for the time being, the new building safety regulations coming into force from early this year, will potentially place the Council in a position of self-referral with the new regulatory framework because the existing external wall system on the building does have inherent defects because of the age and condition of the external wall system. This was a further driver for the principle of demolition, although it is still possible that the regulator may wish to put alternative measures in place and move more swiftly to empty the blocks.
- 3.9 In summary these blocks are not fit for purpose and need to be demolished so that good quality accommodation can be provided for the benefit of the Borough's residents. Refurbishment would produce a sub-standard product at old fashioned design standards, with no firm guarantee that the blocks would

last the 30 years of the HRA Business Plan. It was on this basis that the principle of demolition was agreed.

Redevelopment of the Tower Blocks

- 3.10 The three existing tower blocks provide 168 homes, of which 12 are leasehold and the remainder owned by the Council. Any redevelopment should ensure we replace at least a similar number of rented properties with an affordable housing product.
- 3.11 The Council's advisers carried out initial master planning work and developed indicative concept schemes. All the options provide circa 240 units of replacement and additional housing, with apartments and a varying proportion of houses. The schemes would have a maximum height of six storeys, although subject to discussion with planners some blocks away from neighbouring properties could potentially be taller. The indicative plans demonstrate the options would create walkable, liveable blocks with attractive amenity spaces with good pedestrian/cycle links.
- 3.12 The four options are shown at Appendix 1. Option 4 is the preferred option recommended by this report. A red line plan showing the boundaries of Option 4 together with an indicative massing study are shown at Appendix 2.

Preferred Option – Scope for redevelopment

- 3.13 Option 4 is the best overall solution for the following reasons:
- The scheme is the least dense.
 - It allows for no costly undercroft parking which is not always resident friendly.
 - It provides an opportunity to help with resident decanting, potentially enabling one move for residents. This will be subject to the views of the building contractor and their programme, and subject to consultation with residents, but it is an opportunity less likely to be available with the other options.
 - This scheme is the most favourable option financially
 - It provides better natural surveillance from the development overlooking the playing field.
- 3.14 As was discussed in the December Cabinet report option 4 will require the use of an area currently designated as Green Belt, and subject to the progress and outcome of the green belt review associated with the local plan, this would require the demonstration of the Very Special Circumstances required to permit development in the Green Belt.
- 3.15 In December Cabinet was also referred to the need for discussions with regard to the Fields in Trust status of the existing playing fields and the need to replace these. As the design progresses, options for this will be considered.

3.16 It is important to remember that the designs to date are indicative, and that they will both iterate and improve during the design and consultation process, as well as achieving an accurate cost position. Fixing the scope of the site enables the design process to progress in earnest.

Vacation of the blocks

3.17 Given that the principle of demolition has been established and if members are minded to agree to the recommendation that there is a clear site area in place, it is now appropriate to begin to clear the blocks and to move residents to alternative accommodation.

3.18 The process will begin with a reassessment of the housing need of all those in the blocks, and further consultation under s105 Housing Act 1985 to discuss the process, their understanding and their requirements. This though will be about the decanting and future redevelopment, not about the principle of demolition.

3.19 This will also mean that from the date of decision residents will attract priority through the Council's Allocations scheme giving them increased entitlement to be rehoused and the rehousing process will begin. The Council's Housing Decant Policy will apply. It is estimated that full clearance of these blocks will take up to two years dependent on availability of alternative accommodation and agreement with leaseholders to purchase those properties.

3.20 There will of course be a consequent effect in terms of a reduction of allocations to those in lesser priority need on the housing waiting list.

3.21 This will mean that for qualifying tenants Home Loss Payments under s30 Land Compensation Act 1973 will be due. This is currently set at £7,800 and amended by the government each year.

3.22 Disturbance payments will also be available. These are to meet 'reasonable expenses and are paid after the tenant has moved.

3.23 There will also be a need to repurchase the 12 Leasehold properties. The Council's emerging Housing Residential Leasehold Decant Policy applies to this. Home loss and disturbance payments are applicable to Leaseholders also as is the opportunity to have the property repurchased at an appropriate valuation by the Council. This report seeks authority to commence negotiations with leaseholders with a view to agreeing appropriate sale prices.

3.24 The Council fully intends to agree the necessary repurchase of properties by agreement. However, it is possible that difficulties may arise with some leaseholders and while it is premature to make resolutions concerning compulsory purchase at this time it is right that the Council should confirm its' willingness to use these powers if necessary.

3.25 Compulsory purchase is a legal mechanism by which local authorities, amongst others, can acquire interests in land without the consent of the owner. In this

context, once the Council has a clearly defined redevelopment scheme, if it fails to achieve the repurchase of the leasehold properties by negotiation it can resolve to use its compulsory purchase powers. Following this it would then make a Compulsory Purchase Order, publicise it and submit it to the Secretary of State for confirmation.

- 3.26 Following an opportunity for objection, and further negotiation, there may be a compulsory purchase hearing in front of an inspector after which it is decided if the order is to be confirmed, modified or rejected.
- 3.27 Compensation is then paid to those whose properties are being compulsorily acquired based on the value of their loss; essentially the market value of the property at the time of acquisition.
- 3.28 This procedure is a matter of last resort and would only be embarked upon with the further agreement of the Cabinet following the failure of the extensive consultation and negotiation with the leaseholders which will begin on agreement of this report.
- 3.29 Budgets for home loss and disturbance, and for leaseholder purchase are dealt with in the financial implications.
- 3.30 As these blocks are not fit for purpose and given the well-rehearsed defects noted above, together with the future involvement of the regulator it is not proposed to use these flats for temporary accommodation. In any event to bring these flats to a lettable standard for temporary accommodation, investment in the void properties of circa £9k per property would be required which is not good value in properties subject to demolition.

Demolition Notices

- 3.31 At this point it is also the correct procedure to serve an Initial Demolition Notice under the Housing Act 1985 to residents. The service of this notice confirms that the Council intends to demolish the blocks and suspends the requirement on the Council to grant the Right to Buy, or complete Right to Buy sales for a period to be determined of up to 7 years. Clearly, so far as possible, it is not appropriate to put the residents at risk of completing a sale on a property that will then have to be repurchased or increase the costs and administrative burden to all parties.
- 3.32 The Council will provide detailed information to all residents affected by the service of a notice and how it affects their rights.
- 3.33 If, following the steps outlined in this report, it is decided to go ahead with the demolition, then the Council will need to serve a Final Demolition Notice which will permanently suspend any Right to Buy applications. This notice would not be served until the Council has advanced its plans and determined an accurate time period for demolition.

- 3.34 If the Council has not served a Final Demolition Notice within the period specified in the Initial Demolition Notice, then it will lose the ability to serve another Initial Demolition notice for a period of 5 years. For the reasons set out in this report, action is required imminently and so this is not expected to be an issue.
- 3.35 Service of an Initial Demolition Notice may give rise to compensation claims under Section 138C Housing Act 1985. This is in relation to expenditure that may have been incurred by residents in relation to Right to Buy applications that are suspended by the Initial Demolition Notice.
- 3.36 It should also be noted that where the Council buy back property from any leaseholders in the blocks, that under Section 160 Housing Act 1985 there are exemptions in relation to the normal requirements to repay any discount that they received under the Right to Buy scheme.

4. Financial Commitments

- 4.1 At December Cabinet the Council committed £200,000 for the design and development of the scheme and the appointment of a Tenant Adviser for the residents.
- 4.2 This report commits to the spending of home loss and disturbance payments for which a budget already exists and to the repurchase of leasehold properties for which a budget needs to be established.
- 4.3 The estimate for home loss and disturbance totals £1,201,200 against the 154 existing Social Rented units. For leaseholders our approach assumes all leaseholders are entitled to secure the Home Loss Payment. If it is the case that there are non-resident leaseholder properties present within the estate, then these may be subject to a reduced compensation reflecting Basic Loss Payment within the same Compensation Code. A further sum is assumed to provide additional compensation for relocation costs. Our cost allowance for the cost of leaseholder buy backs plus associated compensation totals £2,700,000 against the 12 existing Leasehold properties.
- 4.4 Key issues remain to be addressed during the design and development process; particularly the level of build costs, financing costs and rent levels. The very indicative scheme proposed for Option 4 continues to present viability challenges over the life of the HRA Business Plan, which will need to be addressed, but having agreed the site and the principle of demolition and redevelopment the Council can now progress towards achieving a viable scheme.
- 4.5 At this stage there is no commitment to the financial costs of redevelopment until this work is done. The full Business Case for consideration will be available in December 2023 and a report will be brought to Cabinet for final decision.

5. Options Considered

- 5.1 It is clearly apparent that a 'do nothing' scenario is not appropriate.
- 5.2 Refurbishment was considered both in terms of its practicality, as discussed above, and financially. The redevelopment and replacement scheme based on the current indicative costs is lower cost over the 30-year period than the refurbishment option, and when rental income, day to day running and borrowing costs and the use of right to buy receipts on the new build option are taken into account is better in viability for the HRA, notwithstanding the current challenging position.
- 5.3 Demolition alone has also been considered as an option, but this would put further pressure on an already stretched housing stock and do nothing to deal with the Borough's housing needs or housing affordability issues. Nonetheless in the unlikely event of the Council being unable to produce a viable scheme this could be a fall- back option.
- 5.4 Four development scenarios were tested. Following consideration Option 4 is the proposed option from which detailed work to arrive at a viable and planning acceptable option will now take place.

Next Steps

- 5.5 The multi-disciplinary consultancy to develop the scheme based on option 4 boundaries, together with the independent Tenant Advisor are currently under procurement. They will design the scheme and undertake detailed consultation with residents between April and September 2023 at which point the final Business Case will be drafted, leading to a Cabinet report in December 2023.

6. Public Health Implications

- 6.1 The proposed demolition and redevelopment of the blocks and the development of new housing will provide a significantly healthier environment for residents and will be in accordance with the recommendations of the Council's emerging public health and wellbeing strategy.
- 6.2 Public health specialists will be consulted on the design of the redevelopment to ensure the provision of healthy housing and associated space.

7. Reasons for Recommendation

- 7.1 The report seeks approvals necessary to progress the scheme for the redevelopment of the Blackshots estate and particularly commences the decanting and buy back process

8. Consultation (including Overview and Scrutiny, if applicable)

- 8.1 A report on this matter was prepared for Housing Overview and Scrutiny Committee on 7 March 2023. Due to the timing of publication a verbal update of that Committee's comments will be made at Cabinet.

9. Impact on corporate policies, priorities, performance and community impact

- 9.1 The development of housing aligns closely with the Council's Vision and Priorities adopted in 2018. In particular it resonates with the "Place" theme which focuses on houses, places and environments in which residents can take pride.

10. Implications

10.1 Financial

Implications verified by: **Mike Jones**
Strategic Lead – Corporate Finance

There are direct financial implications arising from the report.

The budget for the disturbance costs can be funded and contained within the specific decant reserve. This has a value of £2.60m and is detailed within the Housing Revenue Account – Rent Setting and Budgets 2023/24 Cabinet report 8 February 2023. This funding has been identified and held for this scheme. The current estimated cost for these works is £1.2m

A further budget requirement of £2.7m is required for the cost of leaseholder buy backs, as detailed in para 4.3. This can also be funded, initially directly from the HRA reserves, through a combination of the remaining funding within the decant reserve of £1.44m, with the remaining £1.26m from the financial contingency reserve (£2.00m), detailed in the HRA rent setting and Budget report. Therefore, for the costs as detailed in the report, there are no further borrowing requirements at this time, as this can be fully funded from existing resources within the Housing Revenue Account.

The works pertaining to tenants' disturbance and leaseholder buy backs are the first stages of the overall project, taking the immediate required actions as part of the long term solution for Blackshots Tower blocks which will require significant capital expenditure in future years. This is considered as part of the HRA business plan and budget setting process. Given the level of investment needed in the units to ensure that they meet long term legislative requirements, a do nothing option will not be viable.

Refurbishment of the existing units would appear to not represent the best value for money based on the initial financial modelling, when set against a demolition and new build option. The level of Capital investment into the existing unit would be significant and would be required throughout the length of the 30 year HRA business plan.

In the event that the business case for the full regeneration of the units is approved, the costs identified for the works detailed within this report, could be capitalised as part of the overall project.

The demolition of the blocks, without a replacement will lead to lost revenue, from the rents and service charges of the existing Blackshots dwellings.

The investment required in the units will be contained and financed solely within the HRA and will need to be considered as part of the borrowing strategy. There will be no direct financial implications outside of the HRA ring-fence.

10.2 Legal

Implications verified by: **Asmat Hussain**
Director of Legal and Governance

Repairing Obligations

The Council has a responsibility under the Landlord and Tenant Act 1985 as amended by the Housing (Fitness for Human Habitation) Act 2018 to ensure that repair the structure and essential services of their properties and that they are fit for human habitation for the duration of the tenancy; and where the Council fails to do so, it is at risk as to compensation and abatement claims from its tenants.

Ordinarily to address this duty the council needs to have a planned maintenance programme with periodic inspections and an effective responsive repairs service. In this instance the Council should take appropriate responsive maintenance action prior to tenant decant.

Obligations under the Building Safety Act 2022

The Council will face additional regulatory obligations under the Building Safety Act 2022 and it is prudent to formulate plans for the satisfactory discharge of such obligations in respect of the three Blackshots Tower Blocks as anticipated to come into force from April 2023.

Human Rights

Human Rights issues arise in respect of the proposed arrangements. The Council should be sure that the purposes for which the demolition and redevelopment are to occur and for which rights are to be overridden sufficiently justify interfering with the human rights of those with interests in the land affected. Furthermore, the Council is required to act in accordance with the European Convention on Human Rights (the **ECHR**) in deciding whether or not to implement the arrangements. Article 1 of the First Protocol of the ECHR are applicable and each are qualified rights.

In the present case it is considered that the public interest in demolishing the three Tower Blocks which suffer from the difficulties outlined in this report and proceeding to Full Business Case consideration of redevelopment proposals

outweighs the rights of the individuals to peaceful enjoyment of their possessions and their right for private and family life and home, and that the proposed use of the Council's powers amounts to a proportionate interference in all the circumstances.

10.3 Diversity and Equality -

Implications verified by: **Becky Lee**
Team Manager – Community Development and Equalities

An extensive consultation and engagement exercise has been completed with residents of Blackshots Estate with the results previously reported to Cabinet. An initial analysis of feedback received highlights the redevelopment of the estate is expected to have a positive impact for the health and wellbeing of residents. A full Community Equality Impact Assessment will be completed to account for the proposed redevelopment and will be the subject of an ongoing cycle of monitoring, review and refreshing by the project team.

Any contractor or consultant appointed by the council to fulfil works associated with the proposals will be directed to the council's CEIA and will be required to fulfil legislative requirements arising from the Equality Act 2010 and Public Sector Equality Duty as standard. Contracts for services and works will include social value measures to be delivered by the provider/contractor and will be directed in line with the council's social value framework and supporting priorities for communities

10.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Looked After Children

None

11. Background papers used in preparing the report

Blackshots Estate- Proposals for the Way Forward – Cabinet, 7 December 2022

Blackshots Estate – Demolition and Redevelopment - Housing Overview and Scrutiny Committee, 7 March 2023

12. List of Appendices

Appendix 1 – Indicative Options 1-4

Appendix 2 – Option 4 Red line plan and massing study.