

LONDON BOROUGH OF CROYDON

REPORT:	CABINET	
DATE OF DECISION	26 July 2023	
REPORT TITLE:	REGINA ROAD PROJECT – OUTCOME OF BALLOT AND NEXT STEPS	
CORPORATE DIRECTOR / DIRECTOR:	Susmita Sen Corporate Director, Housing	
LEAD OFFICER:	Robin Smith Regina Road Project Lead	
LEAD MEMBER:	Robin Smith Regina Road Project Lead Email: robin.smith@croydon.gov.uk	
KEY DECISION 3823EM	Yes	REASON: Meeting of Financial Criteria £1m+ for Key Decision
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	All	

1. SUMMARY OF REPORT

- 1.1** This report gives the outcome of the Ballot of residents at Regina Road held between 26 April and 22 May 2023. Residents voted ‘Yes’ to the Council’s Landlord Offer agreed by Cabinet on 22 March 2023 (Key decision ref. 8622EM). The Landlord Offer proposed the demolition of the three ageing towers and properties in the immediately surrounding area shown within the red line boundary on the Regina Road estate as the Council’s preferred way forward for rebuilding the area.
- 1.2** The report sets out the next steps towards rebuilding the area covered by the Ballot. This includes actions following on from the approval of the landlord offer at ballot: the purchase of leaseholder/freeholder interests; the decision around declaring existing homes obsolete; ensure decant capacity; progressing necessary planning applications and permissions and demolitions; and seeking authority to secure GLA funding towards rebuilding. It emphasises the importance of the continuing dialogue with residents throughout the rebuilding process.
- 1.3** A further report is planned for Cabinet on 25 October in relation to consideration and selection of the best delivery model.

2. RECOMMENDATIONS

For the reasons set out in the report and its appendices, the Executive Mayor in Cabinet is recommended:

- 2.1** To consider the outcome of the Ballot (“Are you in favour of the proposal to demolish and rebuild homes as shown within the red line boundary on the Regina Road estate) in which the majority of eligible residents voted “Yes” as detailed at Section 4 of this report.

- 2.2** Subject to statutory processes for obtaining suitable Planning Permissions and other relevant permissions/ consents for the purposes of the project and having due regard to the equalities considerations, the financial and legal implications and risks set out within the report:
 - 2.2.1** To agree the demolition of the three towers and immediate surrounding area included within the red line shown in the Landlord Offer;
 - 2.2.2** To confirm and approve the Landlord Offer in Appendix A;
 - 2.2.3** To approve the project to deliver a minimum of 200 new social rented/shared equity homes on the Regina Road Estate, the exact split to be decided by the Corporate Director of Housing taking into account any needs of the existing leaseholders/freeholders for shared equity homes within the red line area;

- 2.3** In accordance with the Landlord Offer, approve the commencement of acquisition of freehold/ leasehold interests on the properties within the red line area via negotiation in the first instance and under terms that would apply pursuant to a Compulsory Purchase Order (CPO).

- 2.4** Delegate authority for the approval of compensation packages for the acquisition of individual freehold/leasehold interests to the Corporate Director of Housing in consultation with the Corporate Director of Finance and Section 151 Officer.

- 2.5** To authorise preparation in due course of a Compulsory Purchase Order to cover all properties within the red line shown in the Landlord Offer.

- 2.6** For the reasons set out in section 4, to delegate authority to the Corporate Director of Housing to agree whether or not homes within the red line shown in the Landlord Offer are considered to be obsolete in accordance with the definition used by the Greater London Authority in their Affordable Housing Capital Funding Guide.

- 2.7** To approve the continued rehousing of all secure tenants remaining in the properties within the red line area to enable vacant possession of the blocks in accordance with the Landlord Offer in order that the delivery of the proposed

redevelopment of the Regina Road Estate can proceed, including, if necessary, by way of service of the requisite statutory notice seeking possession from secure tenants under Ground 10 of Schedule 2 of the Housing Act 1985.

- 2.8** To delegate authority to the Corporate Director of Housing, in consultation with the Cabinet Member for Homes, to serve demolition notices under the Housing Act 1985, as amended, in order to suspend qualifying tenants from exercising their Right to Buy (RTB) for a period of up to 5 years from the date of service. Further, in consultation with the Director of Legal Services and Monitoring Officer, to settle any claims pursuant to the service of such notices.
- 2.9** To note the following actions to provide early decant capacity for residents:
- (i) Allocation of the 12 new homes at Trellis Mews to residents of nos 1-87 Regina Road wherever possible, according to their Housing Need.
 - (ii) Subject to internal governance processes, purchase up to 50 homes suitable for rehousing sufficient residents on a temporary or permanent basis, according to Housing Need.
 - (iii) To ensure nos 1-87 Regina Road and other properties within the red line area are emptied as may be necessary as detailed design progresses through ongoing design engagement with Croydon Local Planning Authority, with the financial implications to be addressed via the Housing Investment Plan.
 - (iv) Subject to internal governance processes, build up to 9 new build homes at Malton House as part of Phase 1 social rent/shared equity homes at Regina Road
- 2.10** To authorise officers to apply to the Greater London Authority for Investment Partner Status, and for funding towards new homes, both social rented and shared equity, to be built to rehouse existing residents in phases at Regina Road and Malton House in accordance with the Landlord Offer in Appendix A.
- 2.11** To authorise the Corporate Director of Housing to apply to the Local Planning Authority for all the necessary Planning Permissions and other statutory consents for the demolition of all properties within the red line area and for the rebuilding on a phased basis within the context of an indicative Masterplan for the area within the red line in the Landlord Offer in Appendix A.

3. REASONS FOR RECOMMENDATIONS

- 3.1** Following the 'Yes' vote outcome of the Ballot of residents at Regina Road, the

Council needs to consider future actions to progress the rebuilding of the area and associated implications.

- 3.2** This report follows on from the statutory consultation undertaken with residents over the period 13 December 2022 to 26 January 2023, as authorised by Cabinet on 16 November 2022 (Key Decision ref 5122EM) in accordance with Section 105 of the Housing Act 1985 and, to the extent relevant, under section 137 of the Housing Act 1996 on proposals to refurbish or demolish and redevelop the three tower blocks and certain other properties within the Regina Road estate.
- 3.3** Cabinet subsequently agreed on 22 March 2023 (Key decision ref 8622EM), based on the outcome of the statutory and other consultations, that a Landlord Offer be put to a Ballot of residents eligible to vote under the rules of the Greater London Authority. The Ballot result has now been received from the Independent Party which conducted the Ballot - Civica Election Services - as detailed below in section 4 and the Council needs to consider the impact and next steps.

4. BALLOT RESULT AND NEXT STEPS

- 4.1** As previously reported, the Regina Road Estate was developed as social housing by the Borough in the mid-1960s. The area includes three 11 storey tower blocks (each containing 44 flats), 5 medium rise blocks (containing 50 flats) and 9 two-storey properties, all of which are included in the scope of this report. The towers were built using the Wates Large Panel System (LPS), firstly nos 1-87 in 1964 and then the other two towers. The background to this matter is set out in previous reports to members on [16 November 2022](#) and [22 March 2023](#) which can be accessed here for Members' information.
- 4.2** On 22 March 2023 Cabinet authorised a Ballot of eligible residents to be undertaken in accordance with GLA funding guidelines on the Landlord Offer agreed at that meeting. The Ballot subsequently took place between 26 April and 22 May and was run by an Independent Party, Civica Electoral Services, in accordance with GLA funding guidelines.
- 4.3** The Ballot results, independently verified and summarised by Civica Electoral Services in response to the ballot question set out below, are:

QUESTION: Are you in favour of the proposal to demolish and rebuild homes as shown within the red line boundary on the Regina Road Estate?

RESULT	No. votes	% of valid vote
Yes	118	88.1%
No	16	11.9%

Number of eligible voters		164
Votes cast by post:	40	
Votes cast online:	81	
Votes cast by telephone:	13	
Total number of votes cast:		134
Turnout:		81.7%
Number of votes found to be invalid:		0
Total number of valid votes to be counted:		134

The result was that 88.1% of eligible residents voted ‘Yes’ with a turnout of 81.7% of eligible voters.

- 4.4** Subject to statutory processes for obtaining suitable Planning Permissions and other relevant permissions/consent for the purposes of the project and having due regard to the equalities considerations and public sector equality duty requirements as set out in section 11 and in Appendix A, the financial and legal implications set out within the report and in light of the outcome of the Ballot, Cabinet is recommended to agree the demolition of the three towers and immediately surrounding area included within the red line shown in the Landlord Offer and to confirm and approve the Landlord Offer, Appendix A, and the commitments made therein, for the purposes of the rebuilding of the site.
- 4.5** Bearing in mind that several households appear to wish to move away from Regina Road, whether because of poor housing conditions, concerns about building or demolition works, or other reasons, further properties should be considered for acquisition by purchase or lease to boost supply. At this stage it is considered that budget allocation should be made for the purchase of up to 50 suitable properties for decant purposes as set out in the report recommendations.
- 4.6** On 31 May the Executive Mayor attended a public meeting held at the nearby Stanley Halls attended by many residents to discuss next steps. The feeling of many residents at that meeting was that the Council should make early progress on rebuilding homes. There were specific concerns about living next to a building site while the new homes are being built, how demolition might be phased, whether Planning Permission would be granted and whether the GLA would actually provide grant funding.
- 4.7** Assurances were given at the meeting that residents would continue to be engaged fully in developing the design work commenced at the end of last year through to the submission of Planning Applications for the entire site and during the rebuilding.

- 4.8** Subject to Planning Permission and other relevant permissions/ consents and the requirements of associated authorities (such as the GLA), the proposal is to build Phase 1 as soon as practicable, and discussions are ongoing with the Local Planning Authority on its location. The intention is to enable most residents who wish to remain at Regina Road the ability to move from their existing homes directly in a single move to new ones built to the latest standards.
- 4.9** The location of Phase 1 within the site is complex and subject to design and statutory processes for Planning Permission and other relevant permissions/ consents. In the Landlord Offer, Appendix A, the Design Process was broadly explained and that the Architects would continue to work with the Resident Working Group to draft a Masterplan for the area and to prepare a Planning Application for a Phase 1 project which will be developed ahead of any demolition, meaning that the necessary Planning Applications for Phase 1 would be prepared for submission ahead of any demolitions. It is not possible at the earliest stages of design to be precise about what might arise from a complex process that involves detailed discussions and advice from statutory authorities such as the Local Planning Authority.
- 4.10** The Council has appointed Arup structural engineers to review its Large Panel System (LPS) tower blocks and to undertake intrusive examinations on an empty block at Regina Road which will inform the Council's strategy on the future of similar LPS tower blocks across the Borough. Arups have established that nos 1-87 tower was the first to be built in 1964 and that the other two towers were built about two years later to a modified design.
- 4.11** As previously reported to members on 16 November 2022 the flats in the tower blocks – particularly in nos 1-87 Regina Road – have suffered in recent years from a variety of issues including water penetration, condensation and mould that have proved difficult to remedy and it was agreed at that meeting that no further tenancies, permanent or temporary, would be granted in the three tower blocks.
- 4.12** Since summer 2022 households have been moved from the tower blocks to the extent that the current situation is as shown in the following table:

Table 1 - Occupancy of the Regina Road Tower Blocks, as of 13 July 2023

REGINA ROAD Tower Blocks	TENANTS			L/H*	VOID	TOTALS
	SECURE	TA	5 Year Flexi (Secure)			
1-87 (1 bed flats)	28	0	0	1	15	44
2-56A (2 bed flats)	35	0	1	2	6	44
58-108A (2 bed flats)	31	0	2	0	11	44
Tower Block Totals	94	0	3	3	32	132

Table 1 shows that, as at 13 July 2023, nos 1-87 tower block has the highest number of empty flats at 15 flats, leaving only 29 flats still occupied in that tower. Bearing in mind the situation as reported on 16 November 2022 and the current number of voids, nos 1-87 tower block is suitable candidate for early decanting, intrusive examination and subject to the Landlord Offer, demolition.

- 4.13** To facilitate early demolition the Council has purchased 12 newly-built homes at nearby Trellis Mews, comprising 10 x 1 bedroom flats and 2 x 2 bedroom flats, as part of the re-provision of new homes. These will be reserved for Regina Road residents and allocated wherever possible to the residents in nos 1-87. For the remaining households, it is recommended that the Council purchase or lease several suitable properties, either local or where households might wish to move, to speed the process of decanting.
- 4.14** It is therefore possible that nos 1-87 tower block might be empty towards the end of 2023.
- 4.15** There is also the site recently purchased by the Housing Revenue Account at Malton House, South Norwood, which has a valid Planning Permission for up to nine small homes, although some variation may be needed because of the presence of an electricity sub-station. It should therefore be possible to build up to nine new social rent or shared equity homes for completion as part of Phase 1.
- 4.16** The principal next step, however, is the design and delivery of approximately 129 new homes (and replacement kindergarten) at Regina Road and Malton House in Phase 1 to enable decanting, according to housing need, to be progressed as soon as practicable. Resident engagement will be vital throughout the design and rebuilding process in accordance with the Council's Residents Charter and the Landlord Offer, Appendix A.
- 4.17** The preferred timeline for Phase 1 is a start on site just before Christmas 2024. This enables access to the current round of GLA funding to support the construction of new social rented housing and would enable most residents to

move directly into their new homes during the summer of 2026. In order to access funding from the GLA, the Council needs to apply for Investment Partner status, and this is reflected in the recommendations to this report. This indicative timeline is based on Council-led rebuild project by the Council for social rented, and shared equity replacement for leaseholders, using a Design/Build process with a main contractor. Planning Permission will be needed, and the intention is to progress a detailed Planning Application for Phase 1 of 120 homes at Regina Road (both social rented and shared equity) and replacement kindergarten at Regina Road in the context of an outline Masterplan for the whole of the red line area. Below are the main steps of a possible timeline to the essential outcome of Planning Permission, but please note that the timeline is tight and dependent on immediate full resourcing of the project, both internally and through the consultant team:

Event	Start	End
ITV feature on nos 1-87	March 2021	
ARK Report	June 2021	
Commissioning of Ridge reports on the tower blocks	December 2021	
Election of Executive Mayor	May 2022	
Resident Walkabout	July 2022	
Resident engagement meetings	October 2022	November 2022
Cabinet authorises formal consultation	16 November 2022	January 2023
Cabinet proposes Landlord Offer	22 March 2023	
Ballot	April 2023	May 2023
PPA/ Pre application meeting No.1	14 June 2023	
Cabinet Meeting	26 July 2023	
Application to GLA for Investor Partner and funding for new social rented homes	July 2023	August 2023
Residential Engagement, Masterplan	July 2023	July 2023
Place Review Panel No. 1	August 2023	August 2023
Public Exhibition on initial proposals	September 2023	September 2023
Informal Pre-Application Workshops/ Meetings	September 2023	February 2024
Additional resident/ public workshops and Exhibitions	October	December 2024
Place Review Panel No.2	November 2023	November 2023
Design Freeze & Preparation of Supporting Documentation	15 December 2023	February 2024
Pre-App Committee presentation	December 2023	January 2024
Place Review Panel No.3	January 2024	February 2024
RIBA Stage 4a (tender) Design Development	January 2024	April 2024

Planning Application – Ghost submission to test processes	February 2024	March 2024
Final Approval by Corporate Director of Housing to Submit Planning Application	March 2024	End of March 2024
Planning Application -Statutory Determination Period (13 weeks)	April 2024	July 2024
Planning Application - Statutory Consultation	April 2024	May 2024
Planning Application - GLA Stage 1 Response	May 2024	May 2024
Contractor Tender Process	May 2024	July 2024
Planning Application - Agreement of S106 equivalent	May 2024	July 2024
Planning Application - LB Croydon Planning Committee, determination of application by Borough	July/August/September 2024	July/August/September 2024
Planning Application - GLA Stage 2 Referral	August/September 2024	September 2024
Preparation of Details for Pre-Commencement Conditions	July 2024	September 2024
Issue of Planning Permission (if granted by the Planning Committee)	August 2024	September 2024
Judicial Review Period of 6 weeks (if the Planning Permission is granted by the Planning Committee)	October 2024	November 2024
Contractor Award	October 2024	October 2024
Submission and Discharge of Pre-Commencement Planning Conditions	September 2024	December 2024
Start on Site	December 2024	
Build Phase 1 homes	January 2025	August 2026

4.18 In parallel with obtaining Planning Permissions and other relevant permissions/ consents, decisions need to be made regarding the best method of delivery of the new homes and how best to finance them, considering all the issues and risks involved in a balanced way. Provisional costings and method of delivery options were outlined in the March Cabinet Report, with the assumption that the private housing element of the rebuilt Regina Road would be developed separately by a housebuilder. Paragraph 16.3 from March Cabinet report is relevant:

‘There are several options that can be considered on how any scheme at Regina Road might be delivered. These range from a Council-led rebuild project which would replace and add to the Council’s stock of social housing as well as possible partnership options with Housing Associations and/or private

housebuilders with different cost profiles. The options will consider the wider social need within the borough such as social care need and the demand for key worker accommodation.'

- 4.19** Savills have been engaged to advise on viability and delivery options. They confirm that rebuilding is the best option, as already demonstrated in the 16 November 2022 Cabinet Report because refurbishment is more costly than rebuilding. Savills also outline the challenge of designing a developer-led scheme that a developer would want to build without subsidy in the current market. The latest estimate of the deficit in this model needs further review if a developer-led approach is to be considered.
- 4.20** In summarising the issues that the Council faces regarding choice of the delivery option, it would appear unlikely that the deficit on a developer-led scheme can be eliminated in today's market. There is also the need for a selection and negotiation process for a Developer-led scheme through a Development Agreement. This can take time and may extend beyond current GLA funding scheme timelines, thereby creating another risk.
- 4.21** Quality is paramount. If speed is also paramount, a Council-led Rebuild scheme with 200 social rent/shared equity homes in two phases may be the most practicable and quickest replacement option, using a Design/Build approach whereby the Council obtains Planning Permission (in the context of an indicative Masterplan) and designs to RIBA Stage 4a to procure a main contractor who will then complete the detail design and build, monitored by the Council's agent.
- 4.22** The question then becomes the best way to dispose of the remainder of the site, whether to a private housebuilder for a capital receipt when market conditions improve, or even perhaps retain part of the site for an extra care sheltered housing scheme, possibly in partnership with a specialised provider. There would be risks that the undeveloped area might not sell quickly, or a purchaser might seek to landbank.
- 4.23** There is no easy nor quick answer. The Pros and Cons of the two main options above are summarised below:

OPTION	PROS	CONS/RISKS
Delivery Option A – Developer-led with Development Agreement	<ul style="list-style-type: none"> * Potential to achieve a better price for the affordable housing as a result of a single development partner delivering across the whole site/economies of scale * Potential share of any profits resulting from the programme, by way of a planning and sales overage 	<ul style="list-style-type: none"> * May need an element of Council subsidy over and above the cost of the affordable housing * Developer profit in this option may be between 20%-25% of cost (or 18.5% - 20% of Gross development Value) weighed against lower professional fees of 10% (although need to

	<p>clause</p> <ul style="list-style-type: none"> * Benefit from the expertise of a developer partner bringing specialist resource to optimise the value from the scheme * Less risk to the Council compared to direct delivery of the affordable homes where the Council would be fully exposed to construction risks 	<p>consider this against the likely higher costs in the Option B which could be significant)</p> <ul style="list-style-type: none"> * Council would still have some element of control over the affordable housing delivery, through signoff and approval gateways etc within the contract documentation. * Specification would need to be negotiated/agreed, and may result in less choice for residents Although less direct risk, there remains the exposure to developer failure * Potential that developers might not be interested in the opportunity (although Savills consider this risk to be small) * Potential longer procurement & therefore longer timescale for replacement homes delivery * Complexity of Development Agreement not to be underestimated * GLA grant route potentially more complex
<p>Delivery Option B – Council-led process with a Design/Build tender of the affordable housing only, and disposal of remainder of the site</p>	<ul style="list-style-type: none"> * Direct control on timescale, quality and programme * Ability to provide early delivery * Bespoke home options possible for residents (although this would be budget dependent) * Ability to sell the remaining cleared site(s) with planning permission when market conditions improve, and receive a better land receipt compared to disposal now, when land value is nil * Funding already allocated in HIP * Simple later phase option for extra care social housing * Potential to package the remaining site(s) with other Council owned regeneration sites for a more attractive opportunity to the market 	<ul style="list-style-type: none"> * Most likely to be a higher cost for the affordable housing due to higher build costs on smaller sites * Need for a larger consultant team, and additional internal resource to support the Council with competent clienting * Professional fees (including framework levies) up to 18% * Risk of land remaining unsold for a long period of time * Risk of land remaining vacant by developer land banking pending improved market conditions * Potential that some developers may not be interested in a fully market sale scheme, where they normally seek mixed tenure for a preferable cash flow profile * Direct exposure to contractor risk, cost inflation and contractor failure risk

	<p>* Potential to benefit from any profit associated with the market sale and (once the land is sold) through a planning and sales overage</p>	
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- 4.24** The key issue now is to avoid delay by progressing the design of the rebuilding scheme, to obtain Planning Permission and to apply for GLA grant funding. Steps are being taken to procure the teams necessary for this work.
- 4.25** Over the summer market testing can be carried out with major developers as to the possibilities that might arise, not only at Regina Road, but also at neighbouring sites with similar issues in South Norwood and where other LPS blocks are present.
- 4.26** Turning now to the existing homes within the red line of the Landlord Offer, GLA have indicated that the Council should consider declaring existing homes obsolete in accordance with their current condition and GLA funding criteria. If the GLA criteria are satisfied, this could enable the Council to access GLA grant for every new social rent home. Normally GLA grants are only available for additional social housing, not for replacement social housing. However, where existing social housing has been declared obsolete according to the GLA definition, it is possible, on an exceptional basis, to achieve grant for replacement social housing. Paragraph 2.3.6 of the GLA Capital Funding Guide (Section 2, London.gov.uk/cfg) sets out the GLA definition of, and approach to, obsolete homes:
 “AHP 21-26 grant can be used for new homes which are replacing existing homes, only where those existing homes are obsolete. An obsolete home is defined as one where an affordable home is no longer considered by the landlord to be capable for letting for long term tenancies for reasons pertaining to condition, type or building standards, regulations, or safety. The replacement of obsolete homes will only be funded when they are part of a project that also delivers a net increase in affordable housing. The GLA will only provide funding for replacement of obsolete homes on an exceptional basis.”
- 4.27** It is therefore recommended that authority be delegated to the Corporate Director of Housing to consider and as necessary agree on behalf of the Council as landlord, whether or not homes within the red line shown in the Landlord Offer are considered to be obsolete in accordance with the definition used by the Greater London Authority in their Affordable Housing Capital Funding Guide.
- 4.28** Under Schedule 5A of the Housing Act 1985 as inserted by clause 182 of the Housing Act 2004 and amended by the Housing and Regeneration Act 2008, the Council is able to issue demolition notices. There are two different types of demolition notice – initial demolition notices and final demolition notices. The

purpose of demolition notices is to either suspend or end a qualifying tenant's Right to Buy (RTB) claim, this will not affect homeowners who've already bought their homes.

- 4.29** In light of the proposed redevelopment and implications arising, it is also recommended that the Corporate Director of Housing, in consultation with the Cabinet Member for Housing be authorised to serve initial demolition notices under the Housing Act 1985, as amended, to suspend the progression of Right-to-Buy applications for the dwellings within the red line shown in the Landlord Offer. The only impact that the service of such a notice has is that it suspends the obligation on the Council to complete a Right to Buy purchase for a period of time. If a resident has already applied for the Right to Buy, they can still complete the purchase if demolition does not subsequently take place. Residents can also make a new application while an initial demolition notice is in force, but the Council would not be required to complete the sale under those circumstances.
- 4.30** However, if the Council serves a final demolition notice, then any existing Right to Buy claims are ended and no new applications can be made. The Council can only serve such a notice if all other premises which are to be demolished within the red line area have been acquired or are subject to binding agreements to acquire. This is to prevent tenants from being disadvantaged by unresolved compulsory purchase issues. A final demolition notice is valid for two years and can be extended by an application from the Council to the Secretary of State for DLUHC. If a tenant has established a valid claim to exercise the Right to Buy before either an initial demolition notice or a final demolition notice is served, the tenant has three months in which to claim compensation for expenditure connected with the conveyancing process, such as legal or survey fees.
- 4.31** If the Council subsequently decides not to demolish the property, a revocation notice must be served on the tenant as soon as is reasonably practicable. If it appears to the Secretary of State that the Council has no intention of demolishing properties, the Secretary of State may serve a notice revoking the initial or final demolition notice which has been served. It is important to note that Right-to-Buy carries over from the existing secure tenancy to a new secure tenancy on a new home.
- 4.32** In relation to existing freeholders/ leaseholders, while every effort will be made to reach agreements with those impacted by proposals for Regina Road, including the offer of shared equity homes where appropriate in accordance with the Landlord Offer, the Council may need to seek a compulsory purchase order which is a legal function that allows the Council to acquire land, for a specific purpose such as redevelopment, if the owner is not willing to sell by agreement. There are various statutory provisions relating to Compulsory Purchase Orders (CPO). The procedure for making and confirming CPOs is, in most cases, governed by the Acquisition of Land Act 1981 (as amended by the Planning and Compulsory Purchase Act 2004). There are various stages to a CPO process, such as confirmation by the Secretary of State and

implementation, including issuing relevant notices, before powers to take possession of land can be exercised. Compensation will need to be paid (primarily governed by the Compulsory Purchase Act 1965 and the Land Compensation Act 1973) and disputes in relation compensation can be referred to the Upper Tribunal (Lands Chamber). The Council may also be required to secure alternative accommodation for freeholders/ leaseholders if suitable alternative residential accommodation on reasonable terms is not otherwise available (section 39 of the Land Compensation Act 1973), hence the provision for shared equity housing in the Landlord Offer. Given the complexity of CPOs and the lengthy process, it is recommended that initial steps be taken to prepare to make a CPO whilst Planning Permission is sought for the rebuilding. Legal advice will need to be obtained prior to making a CPO and throughout the process, including considering claims for compensation which can be made up to a period of six years.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1** The report to Cabinet on 16 November 2022 explained in detail why it is better for all parties to demolish and rebuild. The Council considered this to be its preferred option and put the proposal forward to residents for formal consultation, subsequently leading to the proposals in the Landlord Offer for new modern homes fit for the 21st Century which have now been approved by residents via the ballot outcome. Rebuilding is also better for the Council in that the costs of refurbishment to meet the requirements of the Building Safety Act and other legislation exceeds the cost of rebuilding as new homes meeting modern standards.

6. CONSULTATION

- 6.1** Consultation with residents in accordance with the Residents Charter has been extensive and ongoing since July 2022. Previous statutory consultation and engagement with residents is also detailed in previous reports, most recently to Cabinet on 22 March. A key element of the Landlord Offer, Appendix A, is the emphasis on resident engagement throughout the design and development process.
- 6.2** Plans are also being prepared to engage with the wide range of local businesses and organisations that will be impacted by the rebuilding of Regina Road.
- 6.3** The Improvement & Assurance Panel have been consulted on the approach in this report.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1** Resolving the future of the Regina Road homes contributes to Priority 4: 'Croydon is a cleaner, safer and healthier place, a borough we're proud to call home'
- 7.2** More specifically:
- Invest in council homes to drive up standards and develop a more responsive and effective housing service.
 - Ensure new homes are safe, well-designed and in keeping with the local area.

8. IMPLICATIONS

- 8.1** There are many risks associated with a major rebuilding scheme. Many of these have been outlined in the paragraphs above. Risk identification, and then especially mitigation of risks, will be key to the management of the scheme. A Risk Register has been produced and regular corporate workshops are held to review risks – these are reported to Members as appropriate. These will continue to be held until the rebuilding is complete.

9. FINANCIAL IMPLICATIONS

- 9.1** The costs approved by Cabinet on 22 March 2023 (Key Decision ref 8622EM) were based on best estimates and current market prices of £80m. Included within this is the purchase of the properties at Trellis Mews, a provision for demolition works and a provisional sum for leaseholder buybacks. This will need to be increased to allow for the increased number of leaseholders across the projects that maybe impacted, an additional £5m is requested to be added to this provision.
- 9.2** The purchase of an additional 50 properties to decant residents to would require an additional investment of £15m from the Council HRA and assumes that other grants would be available to support the purchases.
- 9.3** The purchase price for the site at Malton House was included in the 22 March paper estimate. The provision of £3m needs to be added to that for the estimated cost of building out of up to nine homes.
- 9.4** The additional funding request of £23m for Phase 1 is therefore assumed. The gross costs are prior to any grant or other funding. The funds would be borrowed by the HRA as and when draw down for the projects is required.
- 9.5** The request to agree to apply to restore the Councils Investment Partner Status with the GLA would allow the Council to access potentially £200k per unit (£24m for Phase 1 of 120 new homes).
- 9.6** The proposals are capital delivery projects with distinct elements that will need to be costed and have the funding profiled once agreement on the delivery options has been reached.

Comments approved by Orlagh Guarnori on behalf of the Director of Finance.
(Date 05/06/2023)

10. LEGAL IMPLICATIONS

- 10.1** The Greater London Authority (GLA) Affordable Housing Capital Funding Guide (CFG) contains the rules and procedures for Investment Partners (IPs) providing housing under the Affordable Housing Programmes (AHPs) with funding from GLA.
- 10.2** The GLA is empowered in the Greater London Authority Act 1999 inter alia, to make grants available for the development and provision of affordable housing. If the GLA enters into a Funding Agreement or Contract with investment partners (IPs) for a housing investment programme, pursuant to which the GLA agrees to provide grant funding to the IP this is done for the purpose of delivery by an agreed date of the number of affordable dwellings specified in the programme offer. Grant paid by the GLA to the IP pursuant to those Agreements/Contracts constitutes social housing assistance as defined in the Housing and Regeneration Act 2008. Any such funding is subject to not only the specific terms of the GLA Agreements and Contracts but is also subject to the requirements of the CFG.
- 10.3** The GLA funding guidance, compliance with which is necessary for applying for and receiving GLA funding in support of this project, provides that IPs must complete the GLA Resident Ballot Compliance Checklist, which must then be signed by the Independent Body, to confirm the resident ballot was held in accordance with the requirements of the Capital Funding Guide prior to claiming grant. In addition, the GLA will undertake further compliance checks at key points throughout each project.
- 10.4** The GLA may terminate a funding allocation and/or reclaim any funding paid (plus interest) on a project if in its view:
- the planning permission secured for a project materially deviates from the proposals set out in the Landlord Offer to residents;
 - a progress report to residents highlights that a project materially deviates from the proposals set out in the Landlord Offer to residents; and/or
 - the completed project materially deviates from the proposals set out in the Landlord Offer to residents.
- 10.5** Examples of material deviations include, but are not limited to, changes to:
- the right to return for social tenants;
 - the offer to leaseholders and/or freeholders;
 - the scale of demolition and number of units to be demolished;
 - the number of new homes; and/or
 - the tenure mix of the new development.

- 10.6** There is an Investment Partner qualification process, the requirements of which the Council will need to satisfy, in order to be eligible to apply for and receive Grant Funding. There is also an annual continuing partner qualification process with which the Council would need to comply. These requirements are set out as part of the GLA. Investment Partners are required to adhere to specific standards and requirements and provide specific information to residents.
- 10.7** The CFG defines obsolete in the context of the GLA funded projects as follows: “An obsolete home is defined as one where an affordable home is no longer considered by the landlord to be capable for letting for long term tenancies for reasons pertaining to condition, type or building standards, regulations or safety. The replacement of obsolete homes in the 21- 26 Affordable Housing Programme will only be funded when they are part of a project that also delivers a net increase in affordable housing. The GLA will only provide funding for replacement of obsolete homes on an exceptional basis.”
- 10.8** In relation to the acquisition of leasehold and freehold interests, the Council has power under s120 of the Local Government Act 1972 (the 1972 Act) to acquire land by agreement for the purposes of any of their functions under the 1972 Act or any other enactment, or for the benefit, improvement, or development of their area. Subsection (2) provides that even if the land is not immediately required for the purpose for which it is being acquired, it may be acquired and used for the purpose of any of the council’s functions.
- 10.9** In addition, the Council has power to acquire land by agreement under s227 of the Town and Country Planning Act 1990 (the 1990 Act) for any purpose for which a local authority may be authorised to acquire land under s226. That section includes purposes of development and redevelopment.
- 10.10** In this report the recommendation is that land is being acquired by agreement in order to facilitate the proposed redevelopment of the Regina Road Estate, which falls within the purposes set out in s120(1) of the 1972 Act and s226 of the 1990 Act. Accordingly, the Council has power to acquire leasehold and freehold interests by agreement as recommended by this report.
- 10.11** In relation to compensation payments, persons with a qualifying legal interest displaced from their properties because of demolition, such as tenants, leaseholders and freeholders, will be eligible for mandatory or discretionary statutory compensation and disturbance. These will be made in line with the applicable legislation and council policy (including the Landlord Offer) at the appropriate time.
- 10.12** Whilst the report makes clear that in accordance with the Landlord Offer, the council will seek to re-house remaining secure tenants by agreement, where agreement is not achieved the Council has the ability, following service of the requisite statutory notice seeking possession, to bring a claim for possession against its secure tenants under Ground 10 of Schedule 2 of the Housing Act 1985, which provides as follows: “The landlord intends, within a reasonable time

of obtaining possession of the dwelling- house to demolish or reconstruct the building or part of the building comprising the dwelling-house, or to carry out work on that building or land let together with, and thus treated as part of, the dwelling-house, and cannot reasonably do so without obtaining possession of the dwellinghouse.” The court will not make an order for possession of a dwelling-house let under a secure tenancy under Ground 10 unless it is satisfied that suitable alternative accommodation will be available for the tenant when the order takes effect. Accordingly, the council will need to ensure suitable alternative accommodation is offered to secure tenants.

- 10.13** Under Schedule 5A of the Housing Act 1985 as inserted by clause 182 of the Housing Act 2004 and amended by the Housing and Regeneration Act 2008, the Council is able to issue demolition notices. The purpose of demolition notices is to either suspend or end a qualifying tenant's Right to Buy (RTB) claim, this will not affect homeowners who've already bought their homes.
- 10.14** Demolition notices are issued in two stages: Initial Demolition Notices (IDNs), which is a notice served on a secure tenant stating that the Landlord intends to demolish the premises and usually issued when the local authority intends to demolish the property but has not yet planned precisely when it will take place. Whilst the IDN remains in force the Council will not be obliged to convey the premises to the secure tenant. It is important to note that the IDN does not prevent a claim being made to exercise the Right to Buy (RTB). The IDN served must state that there is a right to compensation. The right to compensation under Section 138C of the 1985 Act is subject to: (i) the RTB claim having been established before the IDN comes into force; (ii) the claim for compensation being made within 3 months of the IDN coming into force; (iii) that claim for compensation being made for expenditure reasonably incurred by the tenant, before the coming into effect of the IDN, in respect of legal and other professional costs and fees in connection with the exercise of the RTB; and (iv) that expenditure being evidenced by receipts or other documents showing that it was in fact incurred by the tenant.
- 10.15** A Final Demolition Notice may be issued before the demolition can take place. This will suspend the council's obligation to complete the Right to Buy claim. The period of suspension must not allow the Council more than what is, in the circumstances, a reasonable period to carry out the proposed demolition but in any case, must expire no more than seven years after the date of service of the IDN on the tenant. Final Demolition Notices (FDNs) when issued will replace the Initial Demolition Notice and are usually issued when a date is set for the demolition to take place. Final Demolition Notices will end any existing Right to Buy claims and enable the Council to refuse new applications. The notice will be valid for up to 24 months. There is a statutory restriction on service of a further demolition notice in that no further demolition notice may be served during the period of 5 years following the time when the IDN comes in to force unless the further notice is served with the consent of the Secretary of State, who when consenting to an extension may impose further conditions. If the Council decides not to demolish properties affected by a notice, a Revocation Notice will be served.

10.16 Each demolition notice should clearly identify the properties affected by it, explain the reasons why those properties have been earmarked for demolition, give a broad indication of when the properties will be demolished, the date when the notice or notices will cease to be in force and that compensation is payable for certain reasonable expenditure incurred in respect of existing Right to Buy claims (as set out above).

10.17 The recommendations in this report indicate potential future decisions in respect of a Compulsory Purchase Order. Compulsory purchase is a legal mechanism by which certain bodies (known as 'acquiring authorities', such as the Council) can acquire land without the consent of the owner. This may be required if agreement cannot be reached with freeholders/ leaseholders for the purchase of their properties in accordance with the Landlord Offer. At the relevant time, this will require legal advice and following statutory processes under:

- the Acquisition of Land Act 1981 governs the procedures which applies to such an acquisitions and may require the conduct of a public inquiry if there are objections.
- the Compulsory Purchase Act 1965, which governs post confirmation procedures and;
- the Land Compensation Acts 1961 and 1973, which governs the amount and assessment of compensation.

10.18 As set out in this report, the proposals to bring forward a development of the Regina Road site will be dependent upon Planning Permission and other necessary permissions/ consents being granted. The Planning application, once submitted, will be determined on by the Local Planning Authority via Planning Committee on planning merits of the scheme.

Comments approved by the Director of Legal Services and Monitoring Officer,
17/07/2023

11. EQUALITIES IMPLICATIONS

11.1. The Council has a statutory duty to comply with the provisions set out in Sec 149 of the Equality Act 2010. The Council must therefore have due regard to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 11.2.** The department have sought to collate some data on protected characteristics at Regina Road and now hold some data on: ethnicity, sex, sexual orientation and religion. Over the course of the forthcoming months more data will be gathered on the remaining characteristics and efforts will be made to build trust which will support residents sharing their data. During the consultation efforts were made to pay due regard to all equality characteristics by ensuring that the consultation was accessible to all residents in particular those who may not have English as a first language and residents who are non-neurotypical.
- 11.3.** An equality analysis has been carried out in respect of resident consultation at Regina Road. The data collected via the consultation at Regina Road indicates that the proposal will have a positive impact on age, disability, sex, race and religion and belief. This is a live document and will be updated with further data when available.
- 11.4.** The department will continue to consider equality implications throughout the duration of the project including the needs of disabled residents affected through any transitions.

Comments approved by Denise McCausland on behalf of Denise McCausland, the Equalities Programme Manager. Date 08/06/23

12. APPENDICES

- A Landlord Offer agreed by Cabinet on 22 March 2023 prior to Ballot
- B EQIA

13. PREVIOUS CABINET REPORTS

Cabinet, 16 November 2022– Regina Road Estate, Norwood,
Key Decision: 5122 EM

Cabinet, 122 March 2023 – Regina Road Estate, Norwood, Outcome of Statutory Consultation and arrangements for a Ballot of residents on the Landlord Offer
Key Decision: 8622 EM