

MAYOR AND CABINET		
Report Title	Excalibur Bungalow Estate – Decent Homes through stock transfer	
Key Decision	Yes	Item No. 6
Ward	Whitefoot	
Contributors	Executive Director, Regeneration, Executive Director, Finance Executive Director, Customer Services, Head of Law	
Class	Part 1	Date: April 18 2007

1. Summary

- 1.1 The Government's Decent Homes strategy required all local authorities to carry out a stock options appraisal by July 2005 to determine how Decent Homes will be achieved for all Council housing stock by 2010.
- 1.2 A survey of Lewisham Council properties showed that over six out of 10 homes do not currently meet the standard and that it will take over £10,000 per home to carry out the minimum amount of work needed to meet it. Without investment 97% of homes would fall below the standard by 2010. Continued management of homes by the Council is not an option.
- 1.3 Lewisham completed its stock options appraisal in June 2005 and submitted a comprehensive Decent Homes Strategy to Government Office for London (GOL) setting out an investment plan for the entire housing stock.
- 1.4 Lewisham's Decent Homes Strategy was signed off by GOL in July 2005. The application for stock transfer was submitted in January 2005 and Excalibur received a place on the programme. Central government has extended the deadline for the completion of Excalibur's stock transfer to March 2008.
- 1.5 This report seeks to update the Mayor on the progress of the stock transfer for the Excalibur estate, and inform them of the key stages of the transfer process. It provides information on the Registered Social Landlord (RSL) selection process and makes recommendations on the preferred RSL bidder.

2. Recommendations

The Mayor is asked to:

- 2.1 Note the extended and final deadline for the completion of transfer for the estate, as outlined in paragraph 4.4 and the history of the transfer process for Excalibur, which lead to the extension.

- 2.2 Note the timescales for the completion of transfer, as outlined in paragraph 4.4.
- 2.3 Note the outcome of the RSL selection process for Excalibur and consider officers' recommendations on the preferred RSL bidder, as outlined in paragraph 10.5.
- 2.4 Endorse officers' recommendations on the preferred RSL bidder as resulting from the landlord selection process.
- 2.5 Agree the Council pursues stock transfer of the properties on Excalibur estate to London and Quadrant Housing Trust's (L&Q) ownership, as set out in paragraph 10.5.
- 2.6 To agree that officers work with L&Q, the selected RSL, residents and their supporting Independent Tenant Advisor (ITA) to develop the stage one offer document over the next 6 months, as set out in paragraph 11.2.8.

3. Background

- 3.1 The government has set a target of 2010 for all councils to bring all of their homes up to the Decent Homes Standard. The government has specified three options to provide the funds needed to meet the Decent Homes Standard. These are Arms Length Management Organisation (ALMO), Housing Private Finance Initiative (PFI) and Stock Transfer.
- 3.2 The council's key criteria when looking at stock options were whether they:
 - would ensure enough investment in the council's stock over the long term
 - are affordable and offer value for money
 - increase tenant and leaseholder participation
 - promote improved housing management and service standards
 - can deliver

The Stock Options Appraisal in Lewisham demonstrated that continued ownership and management did not meet any of these criteria.

- 3.3 An approach based around 'local solutions for local places' which used all three possible options emerged as the most suitable approach. The main advantage of developing a mixed approach is that it enables the council to tackle the stock with the most urgent need for investment as soon as possible amidst a strategy that addresses all of Lewisham's housing.
- 3.4 This overarching strategy for bringing the borough's housing up to the Decent Homes Standard was endorsed by Cabinet in June 2005 and approved by the Government Office for London in August 2005.
- 3.5 The 100% of properties not meeting the Decent Homes standard at Excalibur and the aspirations of the residents for their estate determined that stock transfer was the only investment option to deliver Decent Homes and provide

Value For Money. Residents support the stock transfer to an existing RSL as their preferred option to meet Decent Homes.

4. Introduction

- 4.1 The bungalow estate comprises 187 homes along Baudwin Road, Mordred Road, Persant Road, Pelinore Road, Ector Road, Meliot Road, Wentland Road and Wentland Close in the Downham area of Catford, SE6. Currently, 159 are tenanted properties and 28 are freehold. The estate consists solely of prefabricated bungalows built of non traditional construction in the 1940s. They are one storey dwellings with two double bedrooms.
- 4.2 A refurbishment option has been ruled out as this would not represent value for money. The area is currently built at a density that is below planning guidelines for the area. This presents opportunities to build new homes on the site, as re-provision for the existing units and allow space for further development. The Council is keen that an integrated approach is taken to the whole development so that there are no obvious boundaries between different tenure types, and the scheme is harmonised in terms of design and management.
- 4.3 The non traditional construction of the properties means they require work to improve thermal insulation and extend the life of the properties. This area has been selected because of the unique design and technical requirements of these properties, and the overwhelming preference of residents for stock transfer.
- 4.4 Central government has extended Lewisham's deadline of March 2008 by which to complete the transfer of the Excalibur estate. This means that we are working to an extremely tight deadline, and must start the master planning process by April 2007 at the very latest. Following the master planning stage, an offer document will be produced and residents will be consulted on this before the ballot stage. This should be completed by the end of November 2007.
- 4.5 The estate has been managed by the Excalibur Tenant Management Organisation since 6th May 1991, although the current management agreement did not come into effect until 6th April 1998. they have management responsibility for rent collection, repairs and maintenance, and empty properties (voids).
- 4.6 There are a minimum of seven and a maximum of fifteen estate residents on the TMO committee at any one time. Currently, there are fifteen committee members. The TMO involves tenants in all aspects of decision making about their homes and immediate community.

5. History of Excalibur stock transfer process

- 5.1 The Council and residents at Excalibur have been exploring the future options of the estate for several years. This resulted in a decision to pursue proposals for stock transfer and the submission of an application to ODPM's 2005 housing transfer programme. That application set out early proposals

for the refurbishment of the estate, backed up with a requirement for significant levels of gap funding.

- 5.2 Since then, a refurbishment option has been ruled out as this would not represent value for money. The area is currently built at a density that is below planning guidelines for the area. Current Lewisham planning policy is that a new residential development should normally be built with a density range of 180 – 210 habitable rooms per hectare. This presents opportunities to build new homes on the site, as re-provision for the existing units and allow space for further development to provide cross subsidy to support the future business plan for these properties.
- 5.3 A Way Forward Group was established, via the Tenant Management Organisation (TMO), in September 2005 to represent the whole estate community. The group included tenants and freeholders. The group regularly met with the Council, supported by their ITA, Solon, to progress the stock transfer proposal. The process reached RSL selection stage, and formal interviews were held in April 2006, however the Group were unable to come to a decision on which RSL to select as a preferred partner. At this stage, the process came to a standstill, until November 2006, when the Council attempted to re-engage with Excalibur residents.
- 5.4 A meeting was held on 15th November 2006, between the Council and Excalibur residents to re-engage with the TMO and renew the stock transfer process.
- 5.5 There is currently a Vision Panel in place (born of the TMO), who are involved in the stock transfer process and are liaising with the Council. A Working Party was established at this meeting to act as an RSL selection panel. The Working Party consists of 3 members of the TMO and 2 co-opted members, including one freeholder.
- 5.6 The RSL selection process began in January 2007. The deadline for bids was 19th January, after which, the selection panel, their ITA and our financial advisor at PricewaterhouseCoopers read through and analysed the documents received.
- 5.7 RSL selection took place on Friday 23rd February 2007. the RSL selected as a preferred partner is London and Quadrant Housing Trust (L&Q).

6. Stock condition survey

- 6.1 A stock condition survey was carried out in 2004 by Savills, which showed that 100% of the tenanted properties did not meet the decent homes standard. The stock condition survey identified that none of the properties on the estate meet the decent homes standard and a total of £8.4m would be required over the next 30 years to deal with catch up repairs, future programme renewals, improvements, contingent major repairs, related assets and the removal of asbestos. Their non-traditional construction means they require extensive structural work to over-clad the properties to improve thermal insulation and extend the life of the properties.

6.2 Following discussions and presentations from financial consultants and surveyors commissioned by the council and by the estate, it became clear that refurbishment would not represent value for money. The Government has said to the Council that they will only provide financial support for schemes that can demonstrate value for money. For the bungalow estate, the best solution is a stock transfer to an existing housing association, who will redevelop the estate by building brand new homes.

7. Investment required to achieve Decent Homes

7.1 The Council has commissioned PricewaterhouseCoopers (PWC) to carry out a review of the extent to which the submissions demonstrate that the RSLs have the financial capacity, and are prepared to make firm financial commitments, that would meet residents' priorities for the estate and address the very significant investment needs identified by stock condition surveys.

7.2 Whilst it is recognised that firm commitments of funding cannot be sought from RSLs until plans for the estate are developed more fully with residents, RSLs were asked about their ability to minimise the need for gap funding. A key aspect of the RSLs' ability to deliver the scheme, will be the extent to which they can commit internal resources to the project in order to minimise the need for gap funding, and to balance the risk of cost overruns.

7.3 The Council submitted an application for a place on the Government's 2005 transfer programme for Excalibur in January 2005. This was based on refurbishment of the housing and indicated a maximum gap funding need of £5.3m. However, it was acknowledged that a refurbishment programme for 159 properties requiring £5.3m of gap funding would raise value for money issues. As a result, the Council undertook to work with residents to select an RSL partner who would commit additional resources to minimise the need for gap funding, whilst delivering an option that had residents' support. It was anticipated that this option would include an element of new development. After this application further discussions took place with Government and a refurbishment option was ruled out, as it would not represent value for money.

7.4 Whilst the original application indicated a maximum gap funding need of £5.3m, Government has not agreed that any gap funding will be available. As gap funding is a funding stream of last resort, it is anticipated that DCLG will need persuasive evidence that the redevelopment project cannot proceed without gap funding.

8. Tenanted market value

A tenanted market valuation of the Excalibur properties was prepared by PricewaterhouseCoopers to support the Council's application for a place on the Government's 2005 transfer programme in January 2005. This was based on refurbishment of the housing and indicated a negative valuation of £5.3m. Since then a refurbishment option has been ruled out, as it would not represent value for money.

9. Resident consultation and support for stock transfer

- 9.1 Excalibur TMO provide the housing management service on the estate, and consists of residents plus a manager and administrator, both provided by the Council. The TMO consult with all residents on all matters concerning the estate, and, between them, have an in-depth knowledge of the situations, needs and aspirations of their community.
- 9.2 Throughout the stock transfer process, the TMO has ensured that residents are aware of progress and activity, and that their views are heard. As a whole, the estate shows full support for the stock transfer process.
- 9.3 The Council produced a newsletter at the end of December 2006 to update all residents on progress and to advise them that the RSL selection process had been renewed and was going ahead. This resulted in several phone calls from residents wanting to know more, and illustrating their interest in what is happening on their estate.
- 9.4 The TMO also produce communications materials for residents on any issues that may affect them on the estate.
- 9.5 There is a minority group of residents who do not support the transfer, and wish the estate to remain exactly the way it is. The TMO, Council and ITA are aware of this group.
- 9.6 The ITA for the estate will be involved in ensuring that all residents are kept up to date of progress, and have a chance to feedback their views. This will be particularly important during the master planning stage, following Cabinet's endorsement of an RSL partner.
- 9.7 The original Independent Tenant Advisor (ITA) for the estate was Solon, who were chosen by the TMO through using a formal selection process. Solon worked with Excalibur residents, including the provision of a freephone helpline and newsletters, from 24.04.05 to 19.01.07. The relationship between Solon and the TMO broke down in late 2006 and an attempt at mediation was unsuccessful, so notification of the contract with Solon to be terminated was completed on 15.12.06, finalised 19.01.07.
- 9.8 A new ITA, PPCR, was selected on 19.01.07 to support and advise the RSL selection panel and see them to the end of the selection process. Following a further tender with a long-term brief for an ITA undertaken in March 2007, PPCR were again selected to support residents throughout the master planning, consultation and ballot stages of transfer.
- 9.9 The estate has been managed by Excalibur TMO since 1991 and residents appreciate this responsive service. Residents would like to see the continuation of local management through the TMO.
- 9.10 Residents currently live in one storey properties with two double bedrooms. One of the biggest concerns is that households that would be considered to have only a one bedroom need would lose their second bedroom. Residents would like to retain two bedrooms as a minimum (unless a resident only wants one).

- 9.11 Residents enjoy their current living space. In terms of floor space, residents would like to have Parker Morris plus ten per cent in the new properties.
- 9.12 Residents appreciate the current level of density on the estate but are aware this may have to increase. Therefore, residents would like to see a design that helps preserve the character of the estate and properties that do not exceed two storeys with a mixture of flats and houses.
- 9.13 There are a considerable number of freeholders on the estate and securing the future of freeholders is a vital element of retaining the sense of community. Residents would like to see a 'menu of options' for freeholders.

10. Landlord Selection process

The selection process had to ensure that the chosen RSL is able to meet the residents' aspirations, can demonstrate value for money and meets Council and DCLG requirements to minimise gap funding. At the same time, their proposals for redevelopment should provide an innovative and sustainable design solution for the estate.

10.1 Tenant involvement in the future landlord selection

The two bids received were read by the selection panel and analysed by the ITA and PricewaterhouseCoopers, and this information was presented to the selection panel. The selection panel, accompanied by the ITA and an officer from Lewisham, also visited a site developed by each RSL. Following a tour of the site, including – for L&Q – a look inside a number of occupied homes, the selection panel had an informal question and answer session with staff from each RSL. This gave the panel a more in-depth idea of what each organisation could offer them.

10.2 Landlord selection – Bid process

The RSL selection process was renewed in January 2007, with a new selection panel consisting of 3 members of the TMO and two co-opted members, including one freeholder. This group was put forward by the TMO and given responsibility for selecting a preferred RSL partner. The selection process was coordinated by Lewisham Council, and largely facilitated by the ITA, who provided advice, support and training to the selection panel to empower and enable them to make an informed decision on which RSL to recommend to Mayor and Cabinet.

10.3 Expressions of Interest

Five RSLs originally expressed an interest in working with residents on the redevelopment of the Excalibur estate. These were: Hyde, London & Quadrant, Circle Anglia, Hexagon and Wandle. The information requested from the RSLs, as part of their submission, included their vision for the estate; the financial implications of meeting residents' aspirations; their approach to programme delivery and copies of balance sheets and accounts.

For the second attempt at RSL selection, submissions were received only from two RSLs – L&Q and Circle Anglia. Hyde had dropped out the previous year due to issues relating to gap funding. Hexagon pulled out at the last

minute, stating they no longer had the capacity to deliver the redevelopment of the estate due to recently acquired commitments.

10.4 Outcome of selection process

Both RSLs were invited to attend an interview on Friday 23rd February 2007, preceded by a 20 minute presentation of their vision for the estate circa 2017. Both were asked the same 10 questions, some with sub questions, as agreed by the panel at a meeting on Monday 19 February 2007.

The TMO Working Party on the day, consisting of 2 tenants, 1 freeholder and 1 co-optee from the Vision Panel, voted unanimously for L&Q to be offered the contract, subject to endorsement by LBL Mayor and Cabinet.

10.5 The Mayor is asked to endorse Officers' recommendations on the preferred RSL bidder following the landlord selection process and to agree that the Council pursues stock transfer of the properties at Excalibur to L&Q ownership.

11. Formal consultation requirements

11.1 A local authority landlord considering stock transfer is required by the Housing Act 1985 to enter into formal consultation with residents about the proposal. The required process has two stages:

11.2 Stage 1 Notice

11.2.1 This notice is usually referred to as the 'offer document' and must invite representations within a reasonable period.

11.2.2 The authority is required to consider any representations made within that period and may revise its proposals as a result. Where the authority proposes to change the terms of the offer following Stage 1, the revised terms must be clearly set out in the stage 2 notice.

11.2.3 The offer document is a key document in the stock transfer process, setting out to tenants the reasons for the transfer and the works proposed by the new landlord to bring residents homes up to the decent homes standard. It will also detail any additional improvements to their homes the successful RSL may have offered in the landlord's proposals in the landlord selection process. It will also set out the key policies and approach of the new landlord including management and service arrangements.

11.2.4 Following the completion of the landlord selection process on 23rd February 2007 and the Mayor's agreement to endorse the decision to pursue stock transfer of the Excalibur properties to L&Q, it is proposed that the Council commences detailed discussions with L&Q and residents to develop a high quality accessible offer document for residents which will inform their decision on the transfer proposal.

11.2.5 The offer document will also be accompanied by a letter emphasising the importance of tenants' views at this stage of the process. It will make clear the transfer is still at the stage of a proposal and the details can still change.

11.2.6 Responses must be recorded and tenants must be advised of the later stages of the process and how any amendments to the offer will be made as a result

of comments made or any other circumstances that necessitated an amendment to the offer. These changes should be presented in a further 'stage 2' notice which must be issued before a ballot is held.

11.2.7 The Mayor is asked to agree that officers work with L&Q the selected RSL, the residents and their supporting Independent Tenants Adviser (ITA) to develop the stage one offer document over the next 3-4 months to return to Mayor and Cabinet for final approval.

11.3 Test of opinion

11.3.1 It is proposed that a test of opinion is carried out before proceeding to ballot to ensure that there is sufficient support for the transfer proposal.

11.4 Stage 2 Notice

11.4.1 The stage 2 notice is a statutory requirement set out in letter form to all tenants drawing attention to the fact that the Secretary of State (SoS) may not give consent to a transfer if it appears that a majority of tenants are opposed to the transfer. The letter specifies a period of at least 28 days during which tenants may send any objections to the SoS.

11.4.2 The DCLG expect the ballot to commence immediately after the issue of the stage 2 notice and the 28 days to run concurrently with the ballot.

11.4.3 It is intended that the stage 2 notice will be used to announce when the ballot period will begin and end.

11.5 Ballot

11.5.1 The ballot will commence immediately after the issue of the stage 2 notice and the 28 days to run concurrently.

11.6 Consultation – Freeholders

11.6.1 There are no statutory requirements for consulting freeholders. In the event that it is necessary to compulsory purchase the properties the appropriate legal procedures will need to be followed. Lewisham recognises that freeholders are key stakeholders in any transfer and have sought to involve them in the consultation process from the outset of the stock options appraisal and RSL selection.

11.6.2 In line with the legislative requirements Lewisham policy is to ballot only tenants, but to ensure that freeholders are fully involved a bespoke freeholders offer document will be produced which will be distributed to both tenants and freeholders for consultation purposes. The document outlines the implications for freeholders of the proposed transfer. This is in accordance with DCLG guidance. The Excalibur TMO and Vision Panel have agreed the formal consultation document should be sent to all freeholders for consultation purposes.

11.6.3 There was freeholder representation on the RSL selection panel. L&Q explained that freeholders would have the opportunity to undertake 3 options

- shared equity with no rent,
- buy out of their property and become tenants; and
- buyout of their property with the opportunity to move off the estate

11.6.4 Any offer to freeholders will be made at premium to market values

12. Consultation with other Stakeholders

12.1 The communications strategy agreed for the borough wide options appraisal has been followed. This has ensured staff and other stakeholders, including partner landlords are kept informed of the appraisal process.

13. Staff consultation

13.1 The Council has consulted with staff regarding the options and the implications for them in the context of the overarching strategy for the borough. This has included staff involved in housing services - sheltered housing staff and estate wardens, caretakers and support staff. All have had access to information on the options appraisal process through the Council's web site and regular briefings.

13.2 The consultation was led by officers from the Council's regeneration section, working closely with the staff from the housing management section and, where appropriate representatives of the prospective new landlord.

13.3 Excalibur Tenant Management Co-Operative directly employs one and a half employees in housing management and a part-time street cleaner. They are fully aware of and have been consulted on the proposals and the likely implication in respect of TUPE.

14. Member consultation

14.1 Council members have been engaged in the options appraisal process with regular presentations on the findings of the stock condition survey, the financial analysis and the emerging results of resident consultation. The formal process of the Mayor endorsing the Council's approach to Options Appraisal has included:

Date	Members	Involvement
23 April 2003	Mayor and Cabinet	Initial report on Housing Stock Options Appraisal
17 September 2003	Mayor and Cabinet	Agree policy framework for Housing Investment Strategy
10 December 2003	Mayor and Cabinet	Advised PWC commissioned for the first stage of the Stock Option Appraisal process, the appointment FPD Savills to update the stock condition survey, PPCR appointed as the ITA and a Strategic Project Steering group had been set up
9 June 2004	Mayor and Cabinet	Progress report on Stock Option Appraisal
15 December 2004	Full Council	Endorse the continuation of fourfold approach. Mainstream capital programme, existing major regeneration schemes, proposed regeneration schemes and Brockley PFI. Note progress on the Borough wide stock option

		approach to complete the appraisal
29 June 2005	Full Council	Endorse Lewisham's Full Decent Home strategy and agreement to submit to GoL an application for inclusion on the 2006 Housing Transfer programme
9 November 2005	Mayor and Cabinet	Approve the outcome of the submission to GoL of Lewisham's full Decent Homes strategy. The strategy detailed plans to submit applications for 3 stock transfers in Grove Park, Lewisham Park and John Henry.

15. Timetables for stock transfer

Table one: Excalibur stock transfer timetable

Task	Timescale
Stock Options Appraisal	December 2004
Submit transfer application to DCLG	January 2005
Invitation to tender sent to all RSLs operating within the South-East Sub – Region deadline	August 2005
Selection of landlord – First stage submissions deadline	August 2005
Selection of landlord – Second stage submissions deadline	March 2006
Selection of Landlord – Round 2 Second stage submissions deadline	January 2007
Final recommendation reached on landlord selection	February 2007
Members endorse: <ul style="list-style-type: none"> officers' recommendations on preferred RSL following completion of competitive process. Members agree: <ul style="list-style-type: none"> officers and residents work with the RSL to develop the Offer Document (stage 1 notice) and return to Mayor and Cabinet for endorsement of the formal offer document that transfer application be submitted to DCLG 	April 2007
Develop Offer Document (stage 1 notice) with RSL & residents	April – September 2007
Mayor and Cabinet endorse stage 1 formal offer document	January 2008
Formal consultation period – Offer Document to all residents	February/March 2008
Test of opinion prior to ballot	March 2008
Issue stage 2 notice – letter to all tenants & Ballot period – 2 weeks	May 2008
Transfer Contract developed and agreed between Lewisham and the new RSL Landlord (4 months)	May/June 2008
Mayor and Cabinet Council approve terms of transfer and Council approve application to be made to the Secretary of State.	July 2008
Lewisham Apply for Secretary of State consent to transfer properties and related land to new RSL landlord	July 2008
Formal transfer to new RSL landlord	September 2008

16. Contingency Plan for Excalibur transfer applications

16.1 A refurbishment option has been ruled out as this would not represent value for money. The area is currently built at a density that is below planning

guidelines for the area. This presents opportunities to build new homes on the site, as re-provision for the existing units and allow space for further development. The Council is keen that an integrated approach is taken to the whole development so that there are no obvious boundaries between different tenure types, and the scheme is harmonised in terms of design and management.

- 16.2 It has been decided that the only other option for the estate, if stock transfer does not go ahead, is to turn it into a regeneration project.

17. Financial Implications

17.1 Impact on the HRA

17.1.1 The HRA budget 2007/08 does not take account of a potential transfer of the Excalibur stock. The effect on the HRA in a full year would be around £200,000 – loss of rent and subsidy offset by reduced management and maintenance expenditure. As the transfer is likely to take place in March 2008, the effect in 2007/08 will be around £15,000 which can be contained within the HRA budget approved by Council on 1 March 2007.

17.1.2 The HRA budget for 2008/09 will have to allow for the full effect of the loss of stock at Excalibur. The budget will have to include sufficient savings to achieve a balanced HRA taking into account the effects of stock transfers and other factors.

17.2 Housing investment programme

The Council is not in a position to fund the investment requirements of Excalibur from resources available through Government subsidy. The new RSL will now meet the shortfall from its own resources.

17.3 Funding of the transfer

17.3.1 The costs of the transfer are estimated at around £250,000 of which £150,000 would be chargeable to general fund and £100,000 chargeable to the HRA. Both general fund and HRA have budget available in 2007/08 for costs related to stock transfers including Excalibur.

17.3.2 The only costs which may be charged to the HRA are the costs of the statutory consultation. This involves all the work after a formal decision to hold a ballot including consultancy, legal, independent tenants' advisor, surveyors, preparation and printing of the offer document and the cost of holding the ballot. All other expenditure is a charge to the general fund. This includes the initial feasibility work leading up to a decision to hold a ballot and also preparation and set-up work for the transfer post-ballot.

17.3.3 In the event of successful transfers at Grove Park or New Cross, the Council will be able to offset the costs of the Excalibur transfer against the capital receipt from the Grove Park or New Cross transfer. (These are the transfers which are expected to result in a net capital receipt to the Council – other transfers are planned to be at nil cost or to have a gap funding requirement.)

17.4 Capital receipts

17.4.1 The bidding process has shown that at best the Council may be able to transfer the properties at nil cost. There is little prospect of a positive capital receipt.

17.4.2 The Council and London & Quadrant will negotiate a basis for sharing the proceeds of right to buy sales occurring after transfer.

17.5 VAT shelter

The Council and London & Quadrant will negotiate the terms of a VAT shelter for the improvement works on the estate. The parties will agree a basis for sharing the proceeds of the VAT shelter. The terms of the VAT shelter agreement as well as arrangements for sharing future right to buy receipts will form part of the eventual transfer agreement between the Council and London & Quadrant. The transfer agreement will be subject to agreement by the Mayor and Cabinet.

18. Legal Implications

18.1 Consultation

18.1.1 Where a stock transfer is proposed Section 106A of and Schedule 3A to the Housing Act 1985 impose additional consultation requirements on the Council, and these apply in place of the general duty to consult on matters of housing management under section 105 of the Housing Act 1985. Authorities are required to consult with affected tenants providing them with details of the proposal including the identity of the proposed transferee landlord, the likely consequences of the disposal for the tenant (including the preserved Right to Buy for secure tenants) and the effect of the consultation requirements. The authority is required to consider any responses received and to serve a further notice on the tenants advising them of any significant changes to the transfer proposal and of their right to object to the proposal to the Secretary of State. The Secretary of State cannot give his consent to the transfer if it appears to him that the majority of tenants do not wish to proceed with the proposed transfer.

18.1.2 The Council would need to undertake this consultation once the transfer proposals had been worked up in sufficient detail, and following Ministerial approval to include the transfer in the disposals programme. At that stage Mayor and Cabinet would need to consider the outcome of the consultation and make a formal decision whether or not to proceed with the proposed transfer.

18.2 Disposal Consent/disposal programme

18.2.1 Under section 32 of Housing Act 1985 local housing authorities cannot dispose of land held for housing purposes without the consent of the Secretary of State. In considering whether to grant consent the Secretary of State will be mindful of the tenants ballot discussed above. The formal application for Ministerial Disposal consent under section 32 of the Housing Act 1985 would need to be authorised by full Council.

18.3 Housing Management Contract

18.3.1 The Council has an existing housing management contract covering the management of Excalibur. Housing management contracts require consent from the Secretary of State which requires renewal every five years. With TMOs there is a general housing management consent issued by the Secretary of State. This requires the TMO to ballot its members every five years as to whether they wish to continue with the management agreement. The last ballot carried out by Excalibur was in 2005. The consent for the Excalibur TMO Contract will expire on 6 April 2008 unless the members decide to continue in any future ballot of their members.

18.3.2 Should the ballot be successful and the transfer goes ahead the Housing Management Contract will come to an end by virtue of the provisions of that agreement.

18.3.3 The DCLG housing transfer manual indicates that the DCLG and the Housing Corporation would expect the acquiring landlord to honour the principle of an existing management arrangement and to enter into a new agreement with the TMO. This should be negotiated as a partnership between the TMO and new RSL prior to the transfer. If it is not considered feasible by the acquiring landlord and the TMO is to continue with the existing management arrangements, full justification for any decision must be given to the Housing Corporation

18.4 Freeholders

18.4.1 There are no statutory requirements to consult with freehold owners on the estate. As they own the freehold interest in their homes, the Council can not transfer ownership of their properties to L&Q. This means that if these properties are going to be redeveloped, L&Q will have to negotiate their purchase or in the event it is not, the Council would have to exercise its CPO powers to acquire the property and then transfer the properties to L&Q. The CPO process may take 12 to 18 months.

18.4.2 In the event there is a compulsory purchase of freehold properties on the estate this may potentially interfere with the human rights of the owners of those properties e.g. their entitlement to peaceful enjoyment of their possessions.

18.5 TUPE

18.5.1 Should the transfer take place certain employees of the Excalibur Housing Management Co-Operative Ltd. may be transferred to L&Q under the Transfer of Undertakings (Protection of Employment) Regulations. Any contract would need to consider the comparability of any pension arrangements between the TMO and L&Q.

18.6. Race Relations Amendment Act 2000

18.6.1 As part of the Council's Decent Homes Strategy Mayor and Cabinet will need to have due regard to the Council's general duties under the Race Relations

(Amendment) Act including the need to assess the likely impact of policies prior to introduction.

19. Disability Discrimination Act 2005

- 19.1 Members will need to have due regard to the Council's general duty under the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005, including the need to eliminate unlawful discrimination, harassment, to promote equality of opportunity, and positive attitudes towards disabled persons, and to encourage participation by disabled persons in public life.

20. Equalities implications

- 20.1 A full Equalities Impact Assessment (EIA) on the stock options appraisal process has been carried out to assess the possible negative and positive impact on all equality groups in Lewisham. This will be published and the effect of the policy will be monitored. The EIA will also be presented to shadow boards and steering groups leading the process in each area so that the findings can be taken into account.

21. Environmental Implications

- 21.1 Works carried out to bring homes up to the Decent Homes standard by the successful RSL should lead to greater energy efficiency, reduced maintenance costs and lower fuel bills for residents. It will also reduce the level of harmful gasses being released into the air.
- 21.2 The new landlord will develop minimum standards that tenants can expect from their home. A key part of that will be the affordability and sustainability of the energy usage. SAP rating information will be utilised to inform decisions on the type and targeting of enhancements to be included in the overall improvement works.
- 21.3 The improvement and exceptional extensive works programmes will include works to install double glazed windows, wall insulation, and new or upgraded heating systems. Many of these works would not be possible under existing resources. These works are all designed to improve the thermal efficiency of dwellings. The new landlord will also consider the provision of advice to tenants on energy efficiency and how they can reduce their fuel bills.
- 21.4 Detailed proposals will be developed by the new landlords in full consultation with the Council, especially in the context of the Council's Local Agenda 21 action plan. Mechanisms would be established between the new landlord and the Council to monitor the action taken by the new landlord towards meeting the Council's targets under the Home Energy Conservation Act 1995. The business plan for the new landlords would make provision for all works necessary to bring the properties up to modern standards of thermal efficiency and comfort.

22. Conclusion

- 22.1 This report seeks the Mayor's endorsement of the prospective new Landlord for the properties at Excalibur. The new landlord L&Q will bring not only major financial investment to ensure sustainable decent homes are achieved by 2010 but will also bring excellent housing management services with enhanced resident participation.
- 22.2 With the Mayor's approval Officers will work with residents and L&Q over the following weeks to develop the formal offer document for Excalibur residents. Officers will return to Mayor and Cabinet in January 2008 to seek endorsement of the offer document and to progress to the next step in the consultation process.

Background Papers

title document	Date	Location
Decent Homes update	Mayor and Cabinet 9 November 2005	5th Floor Laurence House
Decent Homes Strategy	Full Council 29 June 2005	5th Floor Laurence House
Decent Homes Strategy	Mayor and Cabinet 8 June 2005	5th Floor Laurence House
Housing Stock Option Appraisal - Overarching strategy	Full Council 15 December 2004	5th Floor Laurence House

For more information on this report please contact Dave Baptiste, Acting Strategic Housing Manager on Tel: 020 8314 9131.