

# West Kensington and Gibbs Green Leaseholder/ Freeholder Offer



**Dear Home Owners**

## **Introduction**

As you will be aware from the draft principles for consultation we issued in February 2011, the Council is considering whether to include the West Kensington and Gibbs Green estates in the proposed comprehensive redevelopment of the Earl's Court and West Kensington area. No final decision has yet been made as we do not want to make the decision before we have given you, the owners of properties at the estates, this opportunity to share your opinions and concerns with us.

This is not a legal document but to help you understand the proposals for redevelopment on the estates and what these may mean for you, we have prepared questions and answers arising out of our discussions with residents over the past few months. These are set out at Sections One and Two:

**Section One:** What does this proposed redevelopment mean for me?

**Section Two:** How will I be compensated for the loss of my home?

If there are any other relevant questions you have, please let us know.

# SECTION ONE: IF THE PROPOSED REDEVELOPMENT GOES AHEAD WHAT DOES THIS MEAN FOR ME?

## 1) **I bought my home and own the freehold or leasehold interest in it. What will happen to me, if the proposals go ahead?**

The Council is negotiating with a developer to sell the land on which your home is located, to enable them to redevelop it. No decision has yet been made. If the Council does decide to go ahead with the proposed sale of the land for redevelopment, it will offer to purchase your home. You will have at least 12 months from when the Council makes its offer to decide whether to accept that offer. Acceptance of the offer does not mean that you will have to move immediately.

The Council will make the offers from the Effective Date, (see Section Two for an explanation of the Effective Date.)

If, when it becomes available, you are interested in accepting one of the Council's Offers to home owners, the Council will issue the necessary legal documents to you. The key terms of the Council's offer are set out in Section Two.

You will not have to consider the Council's offer or these legal documents on your own. The Council will be setting up a panel of independent legal advisers that you will be able to consult, in confidence, in relation to the Council's Offer. These legal advisors will act on your behalf and will not be advising or acting for the Council so you can be assured that they will protect your interests. The independent legal advisers will be able to explain what the documents mean for you and answer queries you may have in this regard. The Council will meet the reasonable costs you incur in consulting your chosen legal advisor regarding your acceptance of one of the Offers, subject to set maximum figures.

You will also be allocated with your own Rehousing Officer, who will support you throughout the whole process, answering any questions you may have on the redevelopment, the offers, how this impacts on you and how we can further support you. The Council will do its best to ensure that the housing team member allocated to you will remain your Council contact throughout, and if staff changes prevent this, we will try to ensure that you are introduced to any replacement.

## 2) **What will I be entitled to if I accept the Council's offer?**

The precise terms of the offer to you will depend upon which of the three categories of resident you fall into. Please see Section Two for further details of how we will calculate the sum you will get from us if we buy your home and the compensation you will be entitled to.

## 3) **Will I be forced to move out?**

Resident home owners will be offered the opportunity to relocate to a new home in the new redevelopment. Moving to a new home in the redevelopment is not compulsory: you may decide you do not want to stay in the area. If you do not qualify for a new home or you do not want to accept a new home in the development, then the Council will still offer to buy your home on the terms set out at Section Two.

The Council will be updating you regularly and ensuring you will be given as much notice as possible as to when you will be required to move. If you find a new home to move to before you are required to move you can ask the Council to buy your home early, so that you can move to the new home you have chosen.

## 4) **When will this happen and when will I have to move?**

You will not be required to move immediately. You may not be required to move for some years. This is because the development of the estates would not happen all at once. Instead, the development will happen in different phases over several years. This gives the Council the ability to relocate those home owners, entitled to new homes that will be built as part of the redevelopment with one move only.

At the moment, there is no fixed timetable for this process, but the Council will keep you regularly updated as to which phase your home is anticipated to be in, when your home is likely to be needed and, if you are entitled to a new home, when that is likely to be ready for you to move into. As with any large scale and long term redevelopment, these dates may be subject to change, but the Council will be informing you of changes over the course of the redevelopment.

The Council proposes to keep you updated by way of newsletters, use of a dedicated website and, particularly when your home is needed, by way of personal letter. You will also be able to speak to your Rehousing Officer about your forthcoming move, if you have any questions or need help.

Those home owners that are entitled to a new home and accept the relevant offer may be able to move to that new home before the Council requires the current home for redevelopment. If the Council has suitable new homes available before that time, you may be offered the opportunity to bid for an earlier date for the move to a new home.

## 5) **What happens if I do not accept the Council's offer to buy my home? What happens if I do not want to move?**

You do not have to accept the Council's offer to buy your home. However, if you do not accept, this does not necessarily mean that you will be able to stay in your home. In order to be certain that the Council can buy all the homes on the estates, the Council would consider, if necessary

and appropriate, to make use of compulsory purchase powers in relation to the estates.

A compulsory purchase order gives the Council the power to buy your home from you, provided that it pays you the value of your home and other statutory compensation. There is a legal process that the Council must go through before it can exercise any power to buy and take possession of your home. If the Council does choose to use compulsory purchase powers to buy your home, the law gives you a right to object to the use of these powers and any order may need to be confirmed by the Secretary of State.

The Council would prefer to buy your home under an agreement with you. If you do not accept the Council's offer, the Council may make subsequent offers to purchase your home, but they may not include all the benefits included in the original offer.

The Council has made sure that the sum you would receive for your current home, together with statutory compensation, under the offer is never less than you would be entitled to if it were to buy your home under a compulsory purchase order. Indeed, parts of the offer are greater than the compensation to which you would currently be entitled if the Council were to buy your home under a compulsory purchase order.

## 6) **Even if I accept the Council's offer you say it may be years before I am required to sell my home to the Council. What if I want to go early or change my mind about buying a home in the new development? Am I stuck?**

The Council recognises that it is asking residents to enter into legal agreements which will mean that you may be asked to sell your home to the Council years in the future. Therefore, it has included as much flexibility as possible to give you freedom to change your mind and not take a new home in the development (if you originally qualified for it) and to sell your home to the Council before it is needed for the development.

The Council will not ask you to sell and move out of your home until that home is needed for

the next phase of the development. If you have accepted the Council's offer, at any time before the Council needs your home, you can ask the Council to buy your home within 2 - 3 months. This may not apply, if there should be an ongoing application for a transfer of the estates to the residents (see question 7 below).

When the time comes for the Council to purchase your home, we will give you time to reconsider whether you still want a new home in the development. You will be able to decide not to take a new home in the development, if you wish.

**7) I have heard that the estates may be transferred to the residents. How does this affect the Council's offer or the proposals for redevelopment?**

Some residents who do not want the redevelopment to go ahead have indicated that they want to buy the estates themselves under Section 34A of the Housing Act 1985. However, the residents cannot use this law to buy the estates until the Government takes further steps to enable this to happen. The timescale for this is unknown and it is possible that the Government may never do this. But, if it does then those residents may make an application to buy and manage the estates (or parts of them) and at that stage the Council would need to consider how best to take forward the redevelopment. It may want to wait and see what the outcome of the application is before it bought any more homes on the estates.

This means that, under the Offers, if an application for the transfer of the estates or any part of them is made under Section 34A then the Council may suspend our obligation to buy your home before we need it for the development.

**8) I have lived in my home for decades. My age and frailty means that moving will be difficult for me and I have no family nearby that can help me. Does the Council expect me to do this on my own?**

We recognise that moving house can be a very stressful time and particularly traumatic if you

have lived in your home for a long time. We want to ensure that any move as part of the redevelopment will be as smooth as possible. Your Rehousing Officer will be on hand to support you throughout the whole move process and will be able to organise any additional support if needed. For example ensuring that packing services are available to you if you are physically unable or find it difficult to pack and unpack your belongings.

You will be able to take familiar items with you that will help you settle into your new home.

The Council values any suggestions that you may have about how we can help you during this time.

**9) My son is disabled and I am no longer as mobile as I once was. My home has been specially adapted for both my son and for me. If I buy a new home in the development, will it be the same? Will you help us to move?**

If you or a family member that lives with you may need an alternative home to be specially adapted then your Rehousing Officer will ensure that you have an assessment to ensure that the correct adaptations are provided in the new property.

**10) I am expecting my third child and have two young children. How will I know that you won't need me to move when I am due or in hospital? How can you help me manage my family and a move?**

We want to ensure that your family life is disrupted as little as possible as a consequence of any move. If you need assistance with your move, perhaps because you are pregnant, or you have a family to look after, and will struggle to move on certain dates, please let us know as soon as possible and we can try to help you plan your move with our support and assistance.

**11) I own my home, but I do not live in it, and I rent it out. Can I still have a new home in the development?**

No. See Section Two for further details of who qualifies for a new home in the development under the Council's Offers.

**12) What if I am thinking of buying a home within the estates? Can I benefit from these offers?**

The offers detailed at Section Two may not be available to anyone who buys a home in the estates after the 'Effective Date'. This date is explained at Section Two.

**13) What if I am a Council tenant with a right to buy - if I exercise it, will I get a new home in the development as a home owner?**

If you complete your purchase under right to buy you will no longer be a Council tenant. This means that you will not be entitled to the benefits referred to in the information for council tenants. You may be entitled to take advantage of the offer being made available to home owners on the estates. However, it is very important that you understand that:

- Unless you have already made a right to buy application by having served an RTB1 form you will not qualify for a new home under the Council's offer to home owners on the estates.

# SECTION TWO: HOW WILL I BE COMPENSATED FOR THE LOSS OF MY HOME?

## 1) How do I work out which category I fall into for the Council Offers? Does it matter if I have a mortgage?

There are three different categories of home owners who have a freehold or long leasehold interest in a home on the estates. The rehousing options and compensation package available to you will depend on which category you are in. It does not matter whether you have a mortgage, since you will still be classed as a home owner for these purposes.

The three categories of owner are:

### A) Resident Homeowner

Any owner of a freehold or leasehold interest at the estates, who has lived at that home for at least 12 months before the 'Effective Date'.

You may still fall into this category if:

- You are temporarily living away from your home (e.g. as a result of service in the armed forces or working abroad or for personal financial hardship) (whether or not your home is tenanted) as long as your home has remained your principal residence
- You were the last occupier of the home before leaving it to be taken into care (including care by your family)
- You are the administrator or executor of a deceased former owner who occupied the home (and who would have been entitled to this Offer)
- You have already served Form RTB1 to exercise your right to buy your home
- If you own your home under any form of shared ownership scheme (but you will only receive your share of your home to put towards a new home)

### B) Non Resident Homeowner

Any owner of a freehold or leasehold interest at the estates, but who does not live at that home as at the 'Effective Date'.

### C) Non Qualifying Owner

Any owner of a freehold or leasehold interest at the estates, who is living there at the 'Effective Date', but who has not lived at that home for at least 12 months before the 'Effective Date'.

You may not be sure which category you are likely to fall into, because of your personal circumstances. If so, or you have any queries about these categories, then please contact us and we will be happy to discuss your particular case.

## 2) The three categories are determined by reference to the 'Effective Date'. What is this?

The Effective Date is the date on which the Council will make these Offers available to owners. The date is dependent upon key approvals being in place, giving more certainty that the scheme can go ahead.

The approvals that need to be in place are as follows:

- the grant of a satisfactory planning permission on the main development site
- the consent of the Secretary of State for the Council to sell its housing land
- the Council signing an agreement with EC Properties Ltd

The date that all of these key approvals have been secured will be the Effective Date. The Council will inform the home owners once the Effective Date has occurred. The Offer will be available for at least 12 months from this date and at this point,

the home owners will be able to work out which category they fall into.

### 3) **I think I will be a Resident Homeowner. If I am, what will I be entitled to?**

If you are a resident homeowner, you will be entitled to:

#### **A) Replacement Home**

Resident home owners that accept the Offer will be offered a brand new home, with the same number of bedrooms as your current home, in the development. This means that you will not have to move far from your current home. You will not be forced to accept the proposed new home, if you do not want it.

You must use the money the Council will pay you for your existing home and your compensation to buy the new home. You will also be expected to keep any mortgage loan you may have at the same level. If this is not enough to buy the new home, you will be able to buy a share in the new home, provided that you could afford to buy at least a 25% share in the new home.

In these circumstances, the Council would then own the other share of your home. You would not need to pay any rent, interest or fees on the share which you would not own. You would have the opportunity to buy further equity shares in your home should you wish to in the future but you would not be obliged to do so.

#### **B) 10% Early Purchase Discount**

Resident home owners that accept the Offer, during the offer period, will be entitled to a 10% discount on the price of the new home. This is due to the fact that the Developer will be offering a discount for multiple purchases which can be negotiated by the Council.

#### **C) Design and Fit Out**

Resident home owners that accept the Offer will be entitled to have an input into the specification of their new home in the redevelopment. You will be able to choose:

- a) whether you would like a lounge/diner or a kitchen/diner;
- b) colour choices for decoration from a range of choices to be offered; and
- c) the style and type of the following, from a range of options to be made available:
  - Blinds or curtains
  - Carpets or other floor covering (including underlay or soundproofing)
  - Oven and hob
  - Fridge and freezer
  - Dishwasher
  - Washing Machine and Tumble Dryer.

#### **D) Home Loss Compensation**

You would be entitled to receive compensation for the loss of your home, even if a new home in the development is being offered. The level of compensation is set by the Government and is currently 10% of the value of your home, with a minimum of £4,700 and a maximum of £47,000. If the Government changes this level before you sell your home to the Council, you will be entitled to the revised level of compensation that is current when you do sell your home.

If there are other people that occupy your home with you, who would also be entitled to this compensation, the payment will be shared between you. If you do not accept the Offer, you may still qualify for Home Loss Compensation.

#### **E) Disturbance Payment**

You would be entitled to a payment to compensate you for the reasonable costs you incur when you move.

Such reasonable costs will include, but are not restricted to, the following:

- Removal expenses
- Legal and other professional fees arising from the sale of your current home and the acquisition of your replacement home
- Redirection of mail
- Disconnections and reconnections
- Alteration to furnishings, i.e. carpets and curtains (when you do not get a new home in the redevelopment).

If you do not accept the Offer, you may still qualify for Disturbance Payment.

#### **F) Other Compensation/Benefits**

You may be entitled to other compensation payments or benefits as follows:

- **Decent Homes** - The Council will develop a policy to reimburse owners on a sliding scale for leasehold section 20 charges, if these are not reflected in an increase in value of the current home.
- **Owner's Improvements** - The Council will develop a policy for assessment of compensation, to compensate you for improvements undertaken to your home that the Council (as landlord) consented to (or for which you did not need to obtain consent), if the costs are not reflected in an increase in value of your home.
- **Right to buy discount repayments** - If you accept the Offer, the Council will extinguish the repayment of discounts if these are still relevant when your home is to be sold to the Council.
- **Losses on existing mortgages** - Where you have to pay early redemption penalties or other fees on redemption of your mortgage that you would not have had to pay had your home not been sold under our Offer, then these costs will be reimbursed so far as they are reasonable.

This will only apply to loans used to purchase your home or to undertake reasonable improvements.

Some of these benefits will depend on your circumstances. New statutory benefits may be introduced by the Government for those required to move home for redevelopment - if so, the Council will consider whether these are relevant to each home owner on a case by case basis.

### 4) **I will be a Non Resident Homeowner. If I am, what will I be entitled to?**

If you are a non resident homeowner, as set out above you will be entitled to receive the value of your home at the time you sell it to the Council, together with the payments listed at (F) above (except the compensation for losses on existing mortgages).

You will not be entitled to Home Loss Compensation. Instead you will be entitled to a Basic Loss payment. The level of compensation for this basic loss payment is set by the Government and is currently 7.5% of the value of your home. If the Government changes this level before you sell your home to the Council, you will be entitled to the revised level of compensation that is current when you do sell your home.

The Council will not pay all those costs listed at (E) above, but will pay your reasonable costs of purchasing an equivalent property elsewhere in the UK if you do so within 12 months. You may want to seek tax advice, at your own cost, if you consider acquiring another investment property.

### 5) **I think I will be a Non Qualifying Homeowner. If I am, what will I be entitled to?**

If you are a non qualifying homeowner, as set out above you will be entitled to receive the value of your home at the time you sell it to the Council, together with the compensation and other payments listed at (D) to (F) above.

### 6) **If I am entitled to a new home in the development, what will it be like? What assurances are there that it will be a good quality home?**

If you are entitled to a new home in the development as set out above, you will be offered an equivalent new home with regard to the number bedrooms/space you have in your current

home. Your new home must meet the space standards set out in the London Housing Design Guide published by the Mayor of London.

If you would like your new home to be smaller or larger than your existing home, the Council will discuss with this you, but it may not always be possible to accommodate your wishes, depending on when your new home is to be provided.

All new homes will be registered with a reputable warranty provider, such as NHBC, generally used by builders to guarantee new homes.

### 7) **How do I know that I will receive a fair price for my home if I sell it to the Council?**

Whether you are taking a new home in the development or you are only selling your home to the Council and moving away, your home will be valued by an independent valuer as part of the process when the Council comes to buy your home.

The basis on which the valuation will be made will be set out in the contract. You should not receive a lower price for your home than you would if your home had been acquired by the Council under a compulsory purchase order.

If you do not agree with the valuation and you believe your home is worth more, then you will have the opportunity to challenge this, either by reference to an independent panel of valuers or by reference to a formal tribunal known as the Upper Tribunal (Lands Chamber) (formerly known as the Lands Tribunal), established by the Government to oversee and resolve disputes over valuations.

### 8) **What if I paid more than my home is worth when the Council comes to buy it?**

If you do decide that you do not want a new home in the development and you bought your home before February 2011 then the Council will, as a minimum, pay the price you paid for the home.

### 9) **What if I am entitled to a new home, but I just cannot afford it?**

If because of your personal circumstances you are unable to afford the minimum 25% share in the new home that has been offered, the Council will work with you to ensure that you are not left homeless when the Council needs your house for the development.

We are entirely committed to ensuring that those who may be affected by the proposed regeneration in this way are not left without a home for any period of time. If you are concerned about this, we recommend that you discuss this with us as soon as possible.

### 10) **If I am entitled to a new home in the development, can you explain what my legal interest and outgoings will be, once I move into my new home?**

You will be granted a long lease of your new home, for a term of at least 150 years (which is acceptable to banks and other institutional mortgage lenders). You will be required to pay:

- **Ground Rent:** As with most leases, you will be required to pay a ground rent. Current estimates are that this will be approximately £250 a year.
- **Service Charge:** The Council is committed to keeping these costs as low as possible. Services may be provided, such as ensuring that the structure of the building in which your new home is housed (if it is in a block of flats) is maintained. The cost of doing this will be recovered from you via the service charge. We will cap your contribution at your current service charge level for the first five years.
- **Council Tax:** Council tax will be set by the valuation office and we cannot control this. Whatever the assessment of Council tax is for your new home, you will be required to pay this.
- **Utilities:** You must pay for utilities you use at your home. For example you will pay for your heating costs, telephone, gas and electric bills.

- **Mortgage:** Of course, if you buy your share of the new home with a mortgage, you will be required to keep up repayments, just as you would any other new home.

You may also be given the opportunity to increase your share in the new home by 'staircasing'. The full terms of this will be in the Council's Offer. If you wished to increase your share, the cost would be based on the value of your home at the time that you increase your share.

If you wanted to sell your new home to a member of your immediate family or pass it to such a person as a gift or inheritance, or in a matrimonial settlement, then that person will be entitled to buy/accept the new home with the benefit of the Council's equity arrangements and service charge cap in place, as if the incoming purchaser had been the original party. This will only apply to one sale or transfer.

### 11) **How will I know when the Council needs to buy my home?**

The Council will keep you regularly updated about the likely date that you will need to move, so this will never come as a surprise. Under the Offers, you will always be given at least 9 months notice that your home will soon be completed. The Council will be assisting with moves and concerns during the entire process.

You should be aware that when the Council buys your home under the Offers, it will only do so if: (a) you move out on the day of completion and (b) anyone else at your home who claims a right to occupy it (e.g. your spouse) also moves out when you are to sell your home to the Council. You will not be allowed to remain in your home beyond this date.

### 12) **What if I don't want a new home in the development but want the Council to buy my home, when will this happen?**

Whichever type of owner you are if you wish your existing home to be purchased you will be able to choose this option from the Effective Date. At this point you can decide that you want the council to buy your home. However, it is up to

you to decide the date which is most appropriate/ convenient for you for the purchase to take place, up until the time when your property is required for development. You do not have to tell the council at this point when you would want your home to be purchased. At any point up until your property is required you can with 2 months notice tell the council that you would like them to purchase your home and they will be contracted to do so. The exception to this will be if a resident led purchase of the estates is proceeding

You will be able to change your mind and decide you would like a home in the development up until the Council informs you that your property is required for the development.

**Please contact us if you need this information in any other language or would like any part of this document produced in large print or Braille.**

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