

## **LONDON BOROUGH OF HAMMERSMITH & FULHAM**

### **The Defend Council Homes Policy**

**(adopted by Cabinet 04/01/21)**

#### **Introduction**

This policy has been devised for the purpose of binding the Council to the following principle of good administration: namely, that residents of council housing in the Borough can expect the Council to honour its commitments and obligations to them under this policy, acting in accordance with Good Practice in any circumstances where their homes are significantly affected by redevelopment.

The Council will give residents further assurance that this policy will be upheld by registering a Restriction on Title on its Housing Land, preventing any disposals of Housing Land except where the Council certifies to HM Land Registry that it has complied with this policy or that this policy does not apply to the disposal.

#### **Aims of the Policy**

The primary aim of this policy is to provide residents of council housing in Hammersmith & Fulham with extra protection if a Redevelopment Proposal would significantly affect their homes.

The extra protection consists of a set of written commitments by and obligations on the Council to follow certain procedures in the event of any Redevelopment Proposal that would significantly affect any council housing in the Borough. Any disposal of Housing Land required as part of a Redevelopment Programme shall be subject to formal certification by the Council that it has complied with this policy or that it does not apply to the disposal.

For the purposes of this policy, a resident's home would be significantly affected by a Redevelopment Proposal if the proposal would result in:

- the resident's home being demolished or rebuilt; or
- the redesign of the estate or building in which the resident's home is situated to increase housing density and/or the overall supply of affordable housing; or
- the loss of common areas and/or amenities on Housing Land, such as green space or other community facilities, that benefit the resident's home.

## **Definition of Terms**

*Compliance Certificate:* A certificate approved by the Monitoring Officer, or their deputy, provided to HM Land Registry to confirm that the Council has complied with the provisions of this policy or that the disposal is an Exempt Disposal and Transaction

*Compliance Referral:* a formal representation made by a resident to the Council to the effect that this policy is not being or has not been complied with or that this policy should be brought into operation with respect to a Redevelopment Proposal significantly affecting their home. A Compliance Referral may also be made to the Monitoring Officer should the referrer not be satisfied with the Council's initial response

*Exempt Disposals and Transactions:* the disposals and transactions that this policy does not apply to, as described in Appendix 2

*First Notice:* a written communication by the Council giving residents relevant information about a Redevelopment Proposal

*Good Practice:* practice in matters of estate redevelopment or regeneration that conforms to the highest possible standards from time to time followed by or required of local authorities, for example, such as is set out in the Mayor's Good Practice Guide To Estate Regeneration published in February 2018 and in force at the time of the introduction of this policy

*Housing Land:* all land, houses and other buildings held and accounted for within the Council's Housing Revenue Account

*Monitoring Officer:* council officer appointed under Section 5 of the Local Government and Housing Act 1989, responsible for ensuring lawfulness and fairness of decision-making in the Council

*Redevelopment Proposal:* an outline plan to redevelop any Housing Land in which there is a realistic prospect of any resident's home being significantly affected

*Option Appraisal:* the formal evaluation of different options for delivering a Redevelopment Proposal or alternative plans for the housing in a given area

*Redevelopment Scheme:* an agreed plan (e.g. the preferred option emerging from an Option Appraisal) to redevelop any Housing Land

*Redevelopment Programme:* the implementation plan and timetable for delivering a Redevelopment Scheme

*Residents' Steering Group:* a group of local residents who agree to liaise and work with the Council on all aspects of a Redevelopment Proposal, Redevelopment Scheme and/or Redevelopment Programme, having regard to the best interests of all the residents affected and to the Council's compliance with Good Practice

*Restriction on Title:* an entry in the official copy of the register of title held by HM Land Registry that prevents a change in ownership being registered unless certain stipulated conditions have been met

*Second Notice:* a written communication by the Council containing a clear and unequivocal statement of commitments and obligations to residents in relation to a Redevelopment Programme that will significantly affect their homes

*This policy:* the Defend Council Homes Policy

## **Scope of the Policy**

This policy is intended to cover the full range of circumstances in which a Redevelopment Proposal may arise including:

- *Strategic asset management considerations* – for example where factors such as low demand, poor condition, outdated housing type etc indicate that a block, estate or individual property may be reaching the end of its useful life and may need to be replaced
- *Strategic opportunities to provide more/better affordable housing* – for example where, perhaps in addition to asset management considerations, there is scope to redesign an estate or area to increase housing density and/or the overall supply of affordable housing
- *Health and safety considerations* – for example where structural or design problems indicate a health and safety risk to residents if they remain in situ
- *Infrastructure projects* – for example where a road or rail scheme requires a land acquisition affecting council homes
- *Commercially-driven development initiatives* – for example where a regeneration initiative affecting council homes is brought forward as a planning proposal by a private developer, a consortium of interests or even by the Council itself

This policy shall apply to all residents of Housing Land allowing for the fact that different types and levels of protection may apply in different tenures. For the purposes of this policy a resident is any council tenant or leaseholder of council housing included in the Housing Revenue Account and any tenant of a council leaseholder.

This policy shall not compromise or prejudice other protections available to residents such as those provided by their tenancy agreement or lease and those provided by law.

## **Policy Responsibility**

The Cabinet Member for Housing shall hold political responsibility for this policy and its implementation. The Lead Director for the Economy Department shall hold executive responsibility for this policy and its implementation. The Council's senior officer responsible for housing shall hold operational responsibility for this policy and its implementation.

## **Key Principles**

This policy is based on a number of Key Principles that have been endorsed by the Council, as follows:

- That residents are entitled to expect the Council to comply with this policy with respect to any Redevelopment Proposal and throughout any of the subsequent stages in which this policy is in operation
- That disposals of the Council's Housing Land in respect of any Redevelopment Proposal will not be permitted unless and until the Council has certified to HM Land Registry that it has complied with this policy or that it is an Exempt Disposal and Transaction
- That residents are entitled to full relevant information, and to be kept informed, about any Redevelopment Proposal that could significantly affect their homes and throughout any of the subsequent stages in which this policy is in operation
- That residents are entitled to participate fully and in a timely manner in all decisions having a bearing on their interests that arise from a Redevelopment Proposal that could significantly affect their homes and throughout any of the subsequent stages in which this policy is in operation
- That residents are entitled to fair and equitable treatment throughout the stages in which this policy is in operation
- That the Council will follow Good Practice in all its dealings with residents throughout the stages in which this policy is in operation
- That any significant variations to this policy (including its full revocation) can only be made following full consultation with residents

## **Operation of the Policy**

### ***Restriction on Title***

The Council shall, on adopting this policy, apply to HM Land Registry to register a Restriction on Title on Housing Land where the Council is freeholder, using the wording of the non-standard form of restriction attached as Appendix 1. The effect of this will be to prevent any disposal of Housing Land except where the Council provides a Compliance Certificate to HM Land Registry to confirm the policy has been complied with, or that it is an Exempt Disposal and Transaction.

A list of Exempt Disposals and Transactions is attached as Appendix 2.

### ***Redevelopment Proposals***

This policy shall not pre-empt or prevent initial discussions between the Council and residents about the possibility, for whatever reason, of redevelopment that may affect their homes. The policy shall only apply and come into operation when there is a Redevelopment Proposal.

For a Redevelopment Proposal to be deemed to fall within the scope of this policy the Lead Director for the Economy Department (or equivalent officer of the Council) will need to have reasonable cause to be satisfied that:

- there is a realistic prospect that the redevelopment could significantly affect residents' homes and
- there is a realistic prospect of the proposal becoming a Redevelopment Scheme within the following twelve months

Any resident who has reason to believe that a Redevelopment Proposal that could significantly affect their home exists and that this policy should be brought into operation may submit a Compliance Referral to the Council.

Within 30 days of a decision of the Lead Director for the Economy Department (or equivalent officer of the Council) that this policy applies, a First Notice, a copy of this policy and a summary of this policy shall be issued to every resident whose home could be significantly affected by the Redevelopment Proposal,

### *First Notice*

The First Notice shall provide relevant information such as:

- Nature, scope and status of the Redevelopment Proposal
- A statement of current Good Practice guidance in relation to taking the Redevelopment Proposal forward and the identity of the source and authority for the Good Practice guidance
- Timetable and arrangements for determining the result of the Redevelopment Proposal, including any formal Option Appraisal process
- Arrangements for residents to be involved in determining the result of the proposal including arrangements for informal and formal consultation
- Arrangements for establishing a Residents' Steering Group and the role of the Residents' Steering Group
- The procedure for residents to make a Compliance Referral including the role of the Monitoring Officer
- Appointment of independent advisers (as applicable)

### *Residents' Steering Group*

A Residents' Steering Group shall be established for each Redevelopment Proposal. The composition, terms of reference and working practices of a Residents' Steering Group shall be determined with regard to local needs, circumstances and preferences. However, as a guiding principle the members of a Residents' Steering Group shall be expected to have regard at all times to the best interests of all residents affected by the Redevelopment Proposal and to the Council's compliance with Good Practice.

The Council shall ensure that each Residents' Steering Group is adequately trained and resourced to carry out its role at all times.

## ***Redevelopment Schemes***

If, following a formal Option Appraisal and/or consultation, a Redevelopment Scheme emerges as the preferred option, the Council shall carry out further discussions and consultation with residents as necessary to determine levels of support for the scheme.

In certain circumstances it may be appropriate to determine levels of support for a scheme by holding an estate ballot. A note on estate ballots is attached as Appendix 3.

If the Council decides to proceed with a Redevelopment Scheme, a number of further stages will be involved. These will include such of the following as necessary to comply with this policy and the particular requirements of the Redevelopment Scheme:

- Development partner procurement
- Masterplanning
- Obtaining outline planning permission
- Developing a funding plan
- Drawing up an implementation plan for the scheme

The Residents' Steering Group established for the purposes of the Redevelopment Proposal, or an equivalent body, shall have the same or an equivalent role with respect to the Redevelopment Scheme.

Arrangements for residents to be involved in each of these stages shall be made in accordance with the Key Principles and agreed with the Residents' Steering Group and shall be set out in a communications and engagement plan for the Redevelopment Scheme in question. A copy of the communications and engagement plan shall be given to every resident whose home would be significantly affected by the scheme.

At the point where each of the above stages, such as may be required, have been completed and an agreed implementation plan is in place, the Redevelopment Scheme shall be deemed to have become a Redevelopment Programme.

## ***Redevelopment Programmes***

At least 30 days prior to the start of any Redevelopment Programme, the Council shall prepare and issue a Second Notice.

### *Second Notice*

The Second Notice shall be issued to every resident whose home will be significantly affected by the Redevelopment Programme.

The Second Notice shall include a clear and unequivocal statement of commitments and obligations to residents in accordance with the Key Principles in relation to relevant matters such as:

- Timing and phasing of the Redevelopment Programme
- Programme management and resident involvement arrangements, including the role of the Residents' Steering Group
- The procedure for residents to make a Compliance Referral including the role of the Monitoring Officer
- Appointment of independent advisers
- Communications, engagement and consultation
- Rights and entitlements of tenants and leaseholders
- Temporary and permanent rehousing
- Rehousing, compensation and disturbance packages
- Decanting arrangements
- Health and safety, site conditions and security
- On-site communications and complaints
- Community support, community facilities and community legacy
- Programme monitoring, review and evaluation

The Second Notice shall also include a statement of current Good Practice guidance in relation to the above matters and the identity of the source and authority for the Good Practice guidance.

The Residents' Steering Group established for the purposes of the Redevelopment Proposal, or an equivalent body, shall have the same or an equivalent role with respect to the Redevelopment Programme.



## **Implementation**

If a Redevelopment Programme proceeds to implementation, the Council shall nominate a Programme Manager with overall responsibility for the Redevelopment Programme and the delivery of each of the Council's commitments and obligations under this policy.

## **Compliance Referrals**

Any resident who has reason to believe at any stage that the Council has not complied with this policy or has not applied the policy to a Redevelopment Proposal, Redevelopment Scheme or Redevelopment Programme shall be entitled to refer the matter in the first instance to the Council and, if not satisfied with the Council's response, to the Monitoring Officer.

## **Annual Report**

The Monitoring Officer shall make an annual report to the Housing Representatives' Forum, or any successor body set up to represent the interests of residents of council housing, on the activities carried out by the Monitoring Officer during the year under the provisions of this policy.

## **Consultation**

This policy has been approved following full consultation with residents and in accordance with the requirements of s105 of the Housing Act 1985.

## **Variations to this Policy**

Any significant variations and/or amendments to this policy may only be made following full consultation with residents on the nature and implications of the proposed variations and/or amendments.

## **Revocation of this Policy**

This policy may only be revoked following full consultation with residents on its proposed revocation.

## **Appendix 1**

### **Wording of the Restriction on Council Freehold Title**

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by Hammersmith and Fulham Council [or their conveyancer] that the provisions of the Defend Council Homes Policy (in the terms in effect as at the date of certificate) have been complied with or that they do not apply to the disposition.”

## Appendix 2

### Exempt Disposals and Transactions

- (a) exercise of Right to Buy
- (b) commercial leases, other than those relating to the development of housing land
- (c) statutory undertakings – utilities, highways authority etc and electricity sub-station leases
- (d) grant of a tenancy (e.g. in the context of shared ownership) by the Council
- (e) compulsory purchase orders
- (f) 'compliance' disposals (e.g. disposals to comply with legislation such as that which would have required councils to sell their higher value voids)
- (g) any other disposals or transactions required by statute
- (h) disposals for the "community benefit" (public land, sports facilities etc.)
- (i) lease extensions (voluntary and statutory)
- (j) collective enfranchisements (voluntary and statutory)
- (k) academy leases (leases granted to schools that have been converted to academies)
- (l) grant of a lease to a community building or amenity space
- (m) grants of deeds of easements and rights of way
- (n) 'de minimis' disposals and transactions with a monetary value below £10,000 assessed on an open market basis
- (o) deeds of variation and deeds of rectification relating to any of the above

## **Appendix 3**

### **Estate Ballots**

Where it is reasonably necessary to do so, the Council shall ask residents to vote on a Redevelopment Scheme in a ballot.

In deciding whether or not a ballot is reasonably necessary the Council shall consult with the Residents' Steering Group.

In all cases where a ballot is held the Council shall follow the guidance on resident ballots set out in section eight of the Greater London Authority Capital Funding Guide (or any subsequent guidance).

## **Appendix 4**

### **Related Policies**

#### *Council-wide*

- Planning policies
- Local development framework/local development scheme

#### *The Economy Department*

- Borough housing strategy
- Building homes and communities strategy
- Homelessness strategy
- Asset management strategy
- Procurement policy (e.g. procurement of development partners)
- Introductory tenancies
- Allocation scheme
- Other housing management policies
- Tenancy and lease agreements
- Resident involvement policy/strategy
- Policies on redevelopment/regeneration
- Policies on the rights and entitlements of tenants and leaseholders

#### *Nation-wide & London specific*

- The London Plan
- London Housing Strategy
- The Mayor's Good Practice Guide to Estate Regeneration
- Greater London Authority (GLA) capital funding guide