Hackney

REPORT OF DEPUTY MAYOR		
WOODBERRY DOWN – PHASES 2 TO 5 PART I **Principal Development Agreement** **Forward Plan No. NR1 C58** **CABINET 25th January 2010**	**Classification** Public Exempt Appendices **Ward(s) affected** Brownswood New River	**Enclosures** **APPENDICES A to H** **EXEMPT APPENDICES 1 to 7** **AGENDA ITEM No**

1. INTRODUCTION BY DEPUTY MAYOR

1.1 Woodberry Down Regeneration is the largest regeneration project in the London Borough of Hackney (LBH) and contributes to key deliverables in the Corporate Plan on Decent Homes, Affordable Homes and Community Safety, as well as wider objectives of neighbourhood renewal, improving opportunities for residents and tackling social exclusion.

1.2 Since 1999 Hackney Council has been working with the residents of Woodberry Down to address the long-standing problem of the worn out, mono-tenure Woodberry Down housing estate that does not meet the Decent Homes standard.

1.3 This report is in two parts. First it completes the process of preparing contracts for exchanging with the Preferred Developer (Berkeley Homes) appointed at the Special Cabinet meeting of 12th October 2009 and the Preferred Registered Social Landlord (RSL) – Genesis Housing Group – appointed in March 2009. Completing the procurement will enable LBH to assemble the whole team of partners involved in the regeneration of Woodberry Down.

1.4 This report therefore seeks confirmation to enter into a Principal Development Agreement (PDA) with Berkeley Homes and Genesis Housing Group (GHG) for the development of Phases 2 to 5 of Woodberry Down and in accordance with the details set out in this report. Contracts will be signed around 9th February 2010.

1.5 The second part of the report explains how Phase 2 can be made ready for early development of affordable housing with the support of the Homes and Communities Agency (HCA). The report also addresses issues relating to the remaining properties in Phases 1 and 2, especially Peak, Petherton, Nicholl and Needwood Houses which are in very poor condition.

1.6 I commend this report to Cabinet.

2. BACKGROUND

2.1 On 12th October 2009 Cabinet selected Berkeley Homes as Preferred Developer partner for Phases 2 to 5 of the Woodberry Down regeneration and confirmed the appointment of the Genesis Housing Group as Preferred Registered Social Landlord (RSL).

2.2 The proposal is that Berkeley Homes and Genesis Housing Group work as a consortium with the Council to deliver the regeneration of Woodberry Down, in its entirety, until completion. This enables the Council to progress, through Hackney Homes, the Kick Start model of decanting, clearing, and rebuilding Woodberry Down on a phase-by-phase basis. The Council and Hackney Homes would decant existing secure tenants from old, worn-out homes into new homes managed and owned by Genesis, who would have purchased these from Berkeley Homes.

2.3 The Phases 2 to 5 procurement of an RSL / Developer Consortium is the largest single project ever undertaken by the Council. Residents and Hackney Council have long agreed that demolition and redevelopment is the only viable option, bearing in mind that many buildings are beyond economic repair. In 2004 the Council and residents, working together, set out a Vision of how a Total Living Environment might be achieved.

2.4 The Kick Start Phase 1 development is underway, with construction making good progress on the Old School site and the Academy, and a detailed Masterplan has been granted planning permission.

2.5 Regeneration with modern, mixed tenure, sustainable homes with a transformed environment has been shown to be realistic, bearing in mind that the £116 million needed for repairing the remaining Phases 2 to 5 homes to a 30 year life is neither available nor would it address the sub-standard living environment. The regeneration provides a certainty of outcome for residents whilst ensuring completion in the shortest possible time scale. There are also significant environmental and economic benefits from regeneration, such as a new living environment, well insulated sustainable homes, more affordable housing, and a major investment in the local economy.

2.6 The Woodberry Down regeneration is funded by a land deal which assumes an element of Homes and Communities Agency (HCA) funding to maximise the amount of new social rented housing that can be built, but does not rely on any guarantee of such funding. A reduction in HCA funding will require a matching reduction in the social rented housing provision in order that the scheme cost remains neutral. The PDA allows for such adjustments.

2.7 Under the PDA, Berkeley Homes will undertake the planning and design of each phase. When planning permission is obtained, and following successful viability tests, Berkeley Homes will enter into a Compulsory Purchase Order (CPO) indemnity deed under which the Council secures vacant possession of each plot, using its CPO powers, decanting and relocating residents underwritten by

Berkeley Homes. In the event of a failure to obtain vacant possession, costs will be shared.

2.8 With vacant possession secured, Hackney and Berkeley Homes will enter into a building agreement for each plot in turn. When building work is commenced on each plot, Berkeley Homes will be granted a 299 year lease and Paddington Churches Housing Association (which is part of the Genesis Housing Group) will commit to buying an underlease of the completed affordable homes (social rented, shared ownership / shared equity and other intermediate).

2.9 The Council will be responsible for delivering vacant properties to Berkeley Homes; Berkeley Homes will demolish and rebuild, selling some properties privately and selling the affordable housing to Paddington Churches Housing Association, who will be responsible for future management of affordable housing.

3. RECOMMENDATIONS

Cabinet is recommended to:

3.1 Authorise in line with the decision of Special Cabinet of 12th October 2009, the Corporate Director of Legal & Democratic Services to obtain all necessary statutory consents and to sign and seal the Principal Development Agreement and all other associated legal documentation that will govern the relationship between the Council, Hackney Homes, Berkeley Homes and the Genesis Housing Group.

3.2 Authorise the Corporate Director of Legal & Democratic Services to agree within six months of the signing of contracts all conditions precedent set out in the Principal Development Agreement.

3.3 Authorise the Corporate Directors of Legal & Democratic Services and Finance & Resources to agree future necessary amendments and variations to the Principal Development Agreement that are in their opinion beneficial to the Council's interests, including allowing for any grant that may be forthcoming from the Homes & Communities Agency or other Government organisation.

3.4 Authorise the Corporate Director of Legal & Democratic Services to prepare the legal documentation required with a view to making the London Borough of Hackney (Woodberry Down) Compulsory Purchase Order 2010 under section 226(1) (a) of the Town and Country Planning Act 1990 as amended by the Planning & Compulsory Purchase Act 2004 (the “1990 Act”) for the purpose of acquiring interests in the remaining land known as Phase 1d, identified on the map appended to this report. This will authorise the commencement of the Compulsory Purchase Order (CPO) procedure on the remaining three houses on the Pewsham site.

3.5 Authorise the Corporate Director of Legal & Democratic Services to prepare the legal documentation required with a view to making the London Borough of Hackney (Woodberry Down) Compulsory Purchase Order 2010 under section

226(1) (a) of the Town and Country Planning Act 1990 as amended by the Planning & Compulsory Purchase Act 2004 (the “1990 Act”) for the purpose of acquiring interests in the remaining land known as Phase 2 identified on the map appended to this report.

3.6 Authorise the necessary budget adjustments set out in paragraph 13.15 of this report to forward fund the leasehold buybacks for Peak, Petherton, Nicholl and Needwood Houses together with associated home loss and void refurbishment costs, noting that £2,500,000 will be received from Berkeley Homes on unconditionality of the Principal Development Agreement.

3.7 Agree the virement of £1 million of Housing capital programme in 2010 / 11 to fund the balance of the repairs to the Four Blocks on the Seven Sisters Road (Havering, Wensleydale, Weybridge and Wyersdale).

3.8 Note the position on the adoption of roads and public realm areas in Woodberry Down as detailed in the plans attached in Appendix E and Appendix F.

3.9 Note the position with regard to the negotiations with the Homes & Communities Agency on grant for Phase 2, and authorise officers to negotiate any necessary variation to the Principal Development Agreement to accommodate early payment of grant.

4. RELATED DECISIONS

Date of Decision	Title	Details of Decision
November 2002	*Woodberry Down Regeneration Programme – The Next Steps:*	Cabinet Decision in respect of Cost Option 3a and the "in principle" disposal of the Former School Site to English Partnerships
January 2004	*Woodberry Down Regeneration Programme – The Next Steps*	Cabinet Decision in respect of stock transfer and the disposal of the former School Site to Developer X
March 2004	*Approval of Consultation Draft Supplementary Planning Guidance for Woodberry Down Estate and Lower Lea Valley*	
June 2004	*Woodberry Down Regeneration Programme: Towards a Total Living Environment Part A:*	Cabinet Decision on various matters to "Kick Start" the regeneration
July 2004	*Woodberry Down Area Action Plan:*	Council Approval as Supplementary Planning Guidance
October 2004	*Woodberry Down: Towards a Total Living Environment Part B*	Cabinet decisions on various matters, including the decision to withdraw the Former School Site from sale.
November 2004	*Woodberry Down Staffing Structure*	Delegated Authority Report on staffing arrangements for the Woodberry Down Regeneration Team.
November 2004	*Woodberry Down – Former School Site – Part A – Appropriation to the Housing Revenue Account [HRA]*	Cabinet decision to appropriate at full market value the Former School Site at Woodberry Down from the Council's General Fund to the HRA under Section 122 of the Local Government Act 1972.
December 2004	*The Future of the Housing Service Stock Investment Options – (Test of Opinion) – Part 2*	
January 2005	*Woodberry Down (Former School Site) Part B – Development Strategy for this Site and the Three Kick Start Sites*	Cabinet decision on various matters including agreeing the outline development strategy for the Former School Site and three Kick Start Sites as the first phase of the regeneration scheme and approval that the "Outlying Estates" no longer be considered as part of the regeneration scheme.
January 2005	*Robin Redmond Resource Centre – Future Management of Facility*	
February 2005	*Woodberry Down Capital Programme 2005/07*	

Date of Decision	Title	Details of Decision
March 2005	*Woodberry Down: Towards a Total Living Environment Part C*	Cabinet decision on various matters including agreeing the development strategy for the Former School Site and three Kick Start Sites as a Partnered Approach to the first phase in line with the Urban Design Framework and eventual Stock Transfer.
June 2005	*Woodberry Down: Education Requirements Arising from Regeneration of Woodberry Down*	Cabinet Decision on various matters related to education requirements on Woodberry Down.
July 2005	*Woodberry Down Regeneration: Procurement of Kick Start Demolition Contractor (RP4)*	Cabinet decision for award of the Kick Start Sites demolition contract to Tenderer 1.
July 2005	*Vulnerable Leaseholders Policy*	Cabinet decision on indicators for vulnerability within leaseholders and the mechanism for deciding the outcome of cases.
November 2005	*Woodberry Down: Towards a Total Living Environment Part D (Section 1 & 2)* *Section 2 titled "Procurement of Developer/Consortium for the Former School Site and the three Kick Start Sites" (RP4)*	Cabinet decision on various matters including agreeing the developer consortia for the Former School Site and three Kick Start Sites.
March 2006	*Woodberry Down: Towards a Total Living Environment - Part E*	Cabinet decision on various matters including the authorisation for the Council to enter into the Principal Development Agreement (PDA) with Berkeley Homes for the development of the Kick Start Sites.
June 2006	*Woodberry Down Health Centre Scheme*	Cabinet decision which authorised the repurchase of leasehold interest in Pewsham House to clear a site for the possibility of a new Health Centre.
July 2006	*Woodberry Down: Towards a Total Living Environment - Part F*	Cabinet decision on various matters including the approval of the Principal Development Agreement (PDA) with Berkeley Homes.
October 2006	*Lettings on Woodberry Down Estate*	Delegated authority decision that Woodberry Down tenants assessed as being in housing need should receive sufficient priority to be eligible for an early move to an existing home on Woodberry Down that better meets their housing need.
December 2006	***Woodberry Down: Towards a Total Living Environment - Part G***	Cabinet decision on the financial model for the overall regeneration scheme
Feb 2007	*Woodberry Down – implementing the 1st phase*	Cabinet decision on CPO and Leasehold Options

Date of Decision	Title	Details of Decision
June 2007	***Woodberry Down: Towards a Total Living Environment - Part G***	Procurement of a Registered Social Landlord/Developer Consortium RP2a Report, Cabinet Procurement Committee
July 2007	*Woodberry Down Academy Land Transfer*	Cabinet decision on land swap
July 2007	*Woodberry Down – Sustainable Regeneration. Engaging Residents and Leaseholders*	Cabinet decision agreeing the secure tenant offer document, the updated leasehold and freehold options document and the residents' charter.
April 2008	*Woodberry Down – Supporting Stakeholders*	Cabinet Decision on WDCO and BCL School rights of way
Jan 2009	*Woodberry Down Supporting Leaseholders – Hackney Regeneration Estates*	Cabinet Decision on new leasehold offer document and amendment to Councils vulnerable leasehold policy
February 2009	***Woodberry Down - Phases 2-5 RSL Procurement: Final Evaluation***	Confidential Report to the Director of Neighbourhoods and Regeneration to appoint Genesis as preferred RSL
March 2009	***Woodberry Down Old School – Phase 1 – Affordable Housing***	Cabinet decision to approve variation to Phase 1 PDA to allow for HCA grant and associated legal matters.
July 2009	***Woodberry Down Phases 2-5: Appointment Of A Registered Social Landlord (RSL) And Developer Partner***	Report updating Cabinet on the progress of the procurement of a RSL / Developer Consortium to ensure that momentum is being maintained and that the regeneration programme delivers good quality homes within a mixed and sustainable community despite a challenging wider economic climate.
October 2009	Woodberry Down Phases 2 to 5 part H - Procurement of an RSL / Developer Consortium	Report recommending the appointment of a Preferred Developer to form part of the consortium to regenerate phases 2 to 5 of Woodberry Down

5. PROGRESS

5.1 On 12th October 2009, Cabinet approved the appointment of Berkeley Homes as Preferred Developer partner for Phases 2 to 5 of the Woodberry Down regeneration and confirmed the appointment of the Genesis Housing Group as Preferred Registered Social Landlord (RSL).

5.2 A programme of meetings was initiated between representatives from Hackney Council, Woodberry Down Regeneration Team, Berkeley Homes, Genesis Housing Group (GHG) and their legal teams. These meetings were convened to clarify and fine tune the Principal Development Agreement (PDA) to a form suitable for the signature of contracts.

5.3 The PDA requires the following:

- Terms of Reference for a Design Committee involving residents, Genesis and Council representatives;
- Possession Strategy to be agreed within 6 months of PDA signature, covering how the parties will secure land assembly and vacant possession of each plot, including tenant decanting and leaseholder buybacks;
- Estate Management Strategy to be agreed within 6 months of PDA signature, covering how integrated multi-tenure management is to be achieved, including the long term maintenance and funding of common areas across the estate, and including how service charges will be allocated between residents.

The Terms of Reference for the Design Committee are appended at Appendix A. Also appended are the Framework of Broad Principles of the Possession Strategy (Appendix B) and the Framework of Broad Principles of the Estate Management Strategy (Appendix C) which will be used to guide the preparation of these strategies over the next six months. Assuming signature of PDA around 9th February 2010, the Estate Management and Possession Strategy must be agreed by 9th August 2010.

5.4 The Terms of Reference for the Design Committee have been agreed by Berkeley Homes, Genesis Housing Group, the Woodberry Down Community Organisation and the Council. The terms of reference advocate an advisory design committee which aims to improve the quality of the design and construction of new buildings on Woodberry Down, this includes new housing, and non-housing projects, open spaces, roads and infrastructure elements of the new Woodberry Down.

The design committee will maintain oversight of implementation of all new homes through to occupancy and review following occupancy. The design committee will comprise of up to six Woodberry Down residents broadly representative of age, gender and ethnicity across all phases, two representatives from Hackney Homes, two representatives from Genesis, two representatives from Berkeley Homes and representatives from the relevant architectural practices.

5.5 The Possession Strategy covers how the parties involved in the regeneration of Woodberry Down will secure land assembly and vacant possession of each plot, including tenant decanting and leaseholder buy backs. The Broad Principles of the strategy are that parties will seek to obtain title and possession on a plot by plot basis in accordance with the plot sequencing plan in the PDA. No party shall be obliged to take action in relation to any plot whilst the preceding plot has not been acquired with vacant possession. The Council will not be obliged to incur any land assembly, CPO or possession costs for any plot until a CPO Indemnity Deed for that plot has been executed and completed by Berkeley in accordance with the PDA.

Decanting of any Council tenants is on the basis that this is subject to Berkeley Homes delivering the required number of affordable rented homes for tenants to move into whether under the kick start arrangements or other phases. In the event of Berkeley Homes being unable to deliver sufficient units in Phase 1, double decant may be required in accordance with the Residents Charter.

5.6 The Broad Principles of the Estate Management Strategy were developed with the Chief Executive and the Head of Resident Services of Hackney Homes and in consultation with Woodberry Down Community Organisation (WDCO). The Estate Management Strategy includes for the Parties agreeing on the adoption of the roads through the estate with Hackney highway officers with all the costs of adoption and section 38 agreements as scheme development costs. Berkeley Homes estimate that the construction cost to Berkeley for the 3,263 metres of potentially adoptable estate roads is around £2.57million. The Parties must also agree on any adoption of public realm areas, and these are shown at Appendix F. It was not originally envisaged that these public realm areas would be adopted. A plan showing the roads proposed for adoption is attached in Appendix E.

5.7 If the Council were to adopt the open spaces on Woodberry Down as Public Open Spaces, they will be held by the General Fund with the maintenance charged to the General Fund. Berkeley Homes estimate the annual maintenance cost of the nine open spaces (including two areas of Metropolitan Open Land) at £725,410 per annum. These costs will be alleviated by a subsidy amounting to 60% of ground rents as provided for in the PDA. When the development is complete, 60% of the estimated Phases 2 to 5 ground rents are estimated to yield £444,480 per year, leaving a shortfall of £280,930 per year at current prices. The ground rents double every 25 years. The previous Council position, as for Phase 1, was that open space maintenance would be a scheme cost, funded by service charges where there was a shortfall. Service charges to residents will therefore be reduced if the Council were to adopt the Open Spaces.

5.8 The Council and Hackney Homes have established a round table involving Berkeley Homes and Genesis together with WDCO to oversee the completion of detailed Possession and Estate Management Strategies that are both feasible and fundable while ensuring a quality living environment.

5.9 As reported to Cabinet on 12th October 2009, Berkeley Homes will be contractually committed to the following milestones running from vacant possession of Phase 2:

- Overarching obligation to build 1,000 homes within each 10 consecutive years from first commencement;
- Commence within 6 months of vacant possession;
- First occupations within 3 years;
- Minimum of 140 practical completions within first 4 years;
- Minimum of 210 practical completions in the first four years subject to this being commercially viable (now clarified as relating to each plot), and thereafter 210 for each subsequent three years subject to this remaining commercially viable;
- Phase 2 completed within 8 years of commencement.

The intention of Berkeley Homes, however, is to complete the final phase in 17 years by 2027 in accordance with the Indicative Delivery Timetable submitted with their bid and outlined on the revised phase plan (Appendix D).

5.10 Failure to deliver any of the above enables the Council to terminate the Principal Development Agreement (PDA), but note that each phase is subject to planning, viability, land assembly and vacant possession.

5.11 Before progress can be made on vacant possession the Council will need to nominate existing Phase 2 tenants to new homes owned and managed by Genesis, but built by Berkeley Homes. Blocks F & G are currently being built on the Old School site and will deliver 117 new homes for occupation in 2011. The further Kick Start site at Woodberry Grove North (site 1b), for which funding support applications are with the HCA, will deliver a further 160 units by November 2013, making a total of 277 new homes, if the grant application is successful.

5.12 There will also be the leaseholders on Phase 2. Shared ownership and shared equity options for leaseholders provided by Genesis are also expected to be ready for occupation on the Old School Site in late 2011.

5.13 A total of 236 tenants were surveyed by BMG Research, comprising of 134 tenants in Phase 2 (59% of all tenants in Phase 2) and 46 tenants who hold Right-to-Return Certificates and are living on Woodberry Down (38% of all tenants holding a Right-to-Return Certificate and live on Woodberry Down). In addition to the standard Housing Needs Survey, tenants were asked their preferences of where they would like to live if they had a choice of living on any of the Kick Start Sites. This information was used to help shape the Possession Strategy currently being drafted.

5.14 In respect of tenant preferences the survey found that most residents from Phase 2 and those with a Right to Return Certificate can have their housing preferences taken into account.

5.15 The 134 tenants surveyed in Phase 2 make up 59% of the total population of Phase 2. When extrapolated to equal 100% of Phase 2 tenants, this represents:

- 180 households would elect to stay on Woodberry Down;
- 49 households would wish to move away from Woodberry Down to another Council or housing association home;
- 92 households would wish to move to the Old School Site;
- 69 households would wish to move to Woodberry Grove North;
- 19 households are interested in other Kick Start Sites.

5.16 38% of residents with a Right to Return were surveyed. When extrapolated to equal 100% of Right to Return residents, this represents:

- 82 households would move to a Kick Start Site as soon as possible;
- 40 households would be happy to move from their current home in line with the phasing programme;
- 23 Households would move to the Old School Site;
- 37 Households would move to Woodberry Grove North;
- 5 households would move away from Woodberry Down;
- 16 households would move to other Kick Start Sites.

5.17 67% of residents in the Four Blocks on the Seven Sisters Road (Havering, Wensleydale, Weybridge and Wyersdale) were surveyed. When extrapolated to equal 100% of residents in the Four Blocks, this represents:

- 49 households happy to stay in the Four Blocks with no interim repairs, until it was time to be decanted;
- 34 households wanted to be double decanted (move to a void elsewhere on Woodberry Down which would have received interim repairs and then move again into a new home).

When a supplementary question was asked for their site preference – most residents wanted to be double decanted and move back to a new home on the site of the Four Blocks once the new homes were built (54 households). Only 3 households each wanted to move to the Old School Site or Woodberry Grove North.

6. THE PRINCIPAL DEVELOPMENT AGREEMENT EXPLAINED

6.1 The structure of the PDA is that Berkeley will develop out a housing led mixed use scheme with the role of Genesis (PCHA) being a forward purchaser for the new affordable housing created. This forward purchase will commit PCHA to purchase the new affordable homes if /when they are constructed with the bulk of any price from them being due on handover of the units. Due to the size and scale of the Council's proposals for transformational change in the area this PDA, should be seen as a long term commitment by the Council to work with Berkeley and Genesis to secure the regeneration.

6.2 In line with the Council's own vision the Berkeley bid envisages that there will be incremental development over a number of years in accordance with a clear sequencing of work on a plot by plot basis. Berkeley has produced as part of their bid an indicative programme for the development. This timetable is aspirational only and is not legally binding since the development of the private housing and provision of cross subsidy for the affordable housing will always be linked to market conditions. In addition there are a number of factors which may cause delays in delivery. Within the wider terms of the PDA the Council has identified some key milestones for delivery by which the progress of the scheme can be measured.

6.3 Prior to commencement of building works on site, as with most development projects, there are a number of tasks which need to be achieved. These are identified within the PDA as preconditions and are already reflected in the bid. Within the first six months of signing the PDA the parties will need to deal with three principal issues ('preliminary conditions') - obtaining Central Government consent to the deal, agreeing the Possession Strategy and agreeing the Estate Management Strategy. The PDA is not expressed to be conditional on government grant funding but the availability of HCA funding or other grants may be an important factor in the financial viability of the proposals.

6.4 The consent from Central Government is required under the Housing Act 1985 because the PDA involves the Council selling housing land to facilitate the regeneration of the estate. As the Council has been regularly briefing Government departments on this project the Council is confident that the consents will be confirmed once the PDA is exchanged. The Possession Strategy is intended to cover the Council's approach for buying in third party ownerships within the plots where this is needed for the redevelopment and the approach on decanting and rehousing of Council tenants on the estate. The Council have made it clear to Berkeley that it expects the decanting policy to be in line with the Resident's Charter. The Estate Management Strategy is intended to provide a basis for the long term stewardship and maintenance of public realm and common areas created as part of the redevelopment and how this will be funded. The proposals will include looking at adoption of road and other public areas by the Council.

6.5 Aside from the preliminary conditions the development of each plot will be subject to the parties successfully meeting three further conditions - viability, obtaining detailed planning permission and land assembly.

6.6 In the current economic climate, most major housing developments will be subject to some form of viability check or conditions. In the case of the Berkeley bid the proposal is that there is one form of viability test for each plot - but that it will be carried out at two key stages.

- Before Berkeley commence detailed planning and design work for that plot;
- Before Berkeley become liable to fund any major land assembly costs.

In the viability test for each plot Berkeley will undertake a financial appraisal using an agreed financial model - and to fulfil the test the appraisal will need to show that for the plot Berkeley are likely to recover their development costs plus a margin of 20% on all sales revenues. Where a viability test fails there is provision for this to be rerun again after six months and, if the test fails a second time, there will be a commitment to undertake a wider review of the project to see how the parties can make this viable.

6.7 Berkeley will fund the planning and design for each plot once the first viability test is passed. Once satisfactory planning permission is granted and the second viability test is passed there is provision for the Council to take steps to acquire any third party interests to complete the land assembly needed for the development. There is a definition in the PDA on what constitutes satisfactory planning - but generally it will need to be suitable for both Berkeley and PCHA. This will be undertaken in accordance with an agreed Possession Strategy and may need to include provision for compulsory purchase and, in certain cases, the use of the Council's statutory powers to override third party interests under section 237 of the Town and Country Planning Act 1990. The process will also include securing vacant possession. Where the land assembly or CPO process fails and the Council is unable to secure good title for a plot the land assembly costs are shared between the Council and Berkeley - so there is a sharing of commercial risk here.

6.8 In respect of the land assembly and any compulsory purchase for each plot, Berkeley will fund the cost of new acquisitions and CPO costs so long as an indemnity deed is signed for the relevant plot ('CPO indemnity agreement'). Berkeley are not obliged to sign a CPO indemnity agreement for a plot until the viability tests have shown that the plot is financially viable and satisfactory planning permission has been granted. Once a CPO indemnity deed is signed the developer will reimburse the Council's reasonable costs. In the case of phase 2 the reimbursement would take place once 100 new private homes are built on phases 2-5. In the case of every other plot the reimbursement will operate from signature of the relevant CPO indemnity deed.

6.9 In addition to payments under CPO and land assembly arrangements Berkeley will agree in the PDA to reimburse the Council for up to £2,500,000 in professional and consultants costs and a further £200,000 legal fees relating to Phases 2-5 Woodberry Down. This is subject to the various conditions being met and Berkeley achieving satisfactory planning and vacant possession for phase 2 when the payment would be made.

6.10 Once the viability, planning permission and land assembly tasks are dealt with the PDA will provide for Berkeley to build out each plot in accordance with an agreed programme. This is subject to extensions of time for problems such as market downturn, further viability problems or construction delays outside of Berkeley's control. Within this overall programme the bid provides for some broad delivery milestones (subject to extensions for delays outside of Berkeley's control) which include (a) start on site on the first plot within six months of planning and vacant possession (b) 140 new homes completed within three and a half years of commencement on site (four years of vacant possession) and (c) 1,000 new homes within ten years of commencement.

6.11 The intention is that the development will be consistent with Berkeley's qualitative proposals made in their bid and the master plan but with a scheme of this nature there will need to be a process for reviews to adapt to changes in requirements. Berkeley are to deliver the new housing with a broad mix of 59% private housing and 41% affordable housing spread across the estate as a whole. The affordable housing will itself be a mix of affordable rented and intermediate housing with the Council requiring 599 new affordable rented homes to be provided in total across the development.

6.12 PCHA (backed by Genesis) will have a commitment to buy the new affordable homes from Berkeley at agreed prices once they are delivered.

6.13 Berkeley will deliver the development of each plot by drawing down a building agreement which will be in an agreed form attached to the PDA. This will allow for the grant to Berkeley of a new 299 year lease once the plot development has started on site.

6.14 Beyond Berkeley funding the planning and design costs and funding land assembly the Council will not be paid a minimum sum for each plot when the lease is granted to Berkeley. The PDA will however contain provision for the Council and Berkeley to share equally any 'overage' super profit i.e. profit after the developer has recovered its agreed minimum return. However, the overage would be calculated at the end of the entire development of all the plots so it may be 25 to 30 years before the Council may see any payment. Whilst the Council will reserve and enforce the overage provisions the priority for the Council has been to maximise the chances of the regeneration rather than simply maximising its land value.

7. INTERFACE WITH PHASE 1 PDA

7.1 The Phase 2 to 5 procurement originally envisaged that the successful RSL (Genesis) would purchase the 516 Kick Start Phase 1 social rented units to be built by Berkeley Homes. Genesis tendered accordingly. The intention of this requirement was to ensure integrated management of affordable housing across all phases.

7.2 The credit crunch and its impact on the housing market necessitated adjustments to Phase 1 PDA to enable the HCA to offer grant to Berkeley Homes as an accredited developer of social housing on the Old School site. Also on this agenda is a report proposing similar changes to the Phase 1 PDA for the remaining Kick Start sites.

7.3 It is most important that the signing of the Phases 2 to 5 PDA is co-ordinated with the signing of the variation to the Phase 1 PDA and the side agreement between the Council and Genesis relating to the purchase of the Kick start units. This will protect the Council's interests in respect of the delivery of the remaining Kick Start social rented housing.

7.4 The current decant / lettings policy on Woodberry Down is incorporated in the Woodberry Down Secure Tenants Offer Document (2007) and there is also a delegated authority report (October 2006) "Lettings on Woodberry Down" which provides authority for inter estate transfers to alleviate overcrowding during the regeneration programme.

7.5 There is a local lettings policy currently in place for Woodberry Down to let existing surplus voids on Woodberry Down. There is also a current secure tenants offer document. Any change to these policies will require a separate report which will be produced by Access and Inclusion in consultation with local resident representatives. Cabinet approval is not required as it can be approved through delegated authority by the Deputy Mayor.

8. FINANCIAL CONSIDERATIONS

THE PDA

8.1 Overage will be calculated phase by phase on the basis of actual sales revenue (including sales revenue from the affordable dwellings) less actual costs less the developer’s overheads and profit margin (which is applied to the gross development value excluding the premium amounts paid by Genesis in respect of the rented dwellings). Overage can be called upon to make future phases viable and overage will not be shared between the Council and the developer until the end of the development. Any clawback / overage share required by the HCA, where they provide grant, will be deducted as a cost prior to sharing overage.

8.2 Any overage that the Council receive from Berkeley Homes will be retained by the Council upon the basis that it is applied first to Woodberry Down related capital costs. At the end of the Woodberry Down Programme any surpluses / overages will be held by the Council for investment in future regeneration schemes within Hackney in line with the agreed single conversation with the HCA.

8.3 Early progress assumes receipt of grant funding (applied for on 17th December 2009) from the HCA. All efforts are being made to secure this funding to ensure the building of 599 social rented units, but a reduction in HCA funding (perhaps as a consequence of a change in central Government) may require a reduction in the social rented housing provision for the scheme.

8.4 For the purchase of the Kick Start sites affordable rented dwellings Genesis submitted a very competitive tender. The tender was based on convergent rents to existing tenants in the new build homes. These rents have been adjusted to take account of the actual rents the Council have charged in 2009/10, and the effect of RPI on capped targets, with projections of future rent increases in accordance with government guidelines.

8.5 For the purchase of the affordable rented dwellings on Phases 2 to 5 Genesis also submitted a competitive tender. The tender was based on target rents to tenants of the new build homes and the capped target rents have been updated to take account of latest RPI figures.

8.6 Before new Phase 2 homes are offered in three or four years time there will need to be a satisfactory resolution of the rents applying to Phases 2 to 5 if the target rent issue is still relevant at that time with expected Government changes in rent regimes. The bids submitted are all based on tenants moving onto target rents for the Phases 2 to 5 new build dwellings (which will be higher than the rental levels charged by the Council for the existing dwellings) while Phase 1 is being progressed on convergent rents i.e. tenants moving to their new homes and paying close to their existing rental level initially. This difference arose as a direct consequence of the Government withdrawal of stock transfer funding. The difference in rental income is currently estimated to be £3,950,321 over the life of the project for the 599 rented dwellings, with the Net Present Value being significantly less.

8.7 Genesis provided with their tender details an indication of the average level of service charges that would be required for flats and houses. These were considered to be indicative of a usual level of charge for these properties and Genesis have undertaken to subsidise from their business plan the level of service charges in order to the mitigate the highest service charge increases to residents moving into their new homes.

8.8 From the ground rents charged it has been agreed that 60% will be set aside for the costs of management and maintenance of the public realm. Tenants of affordable rented dwellings and owners of the shared equity dwellings will not be required to pay ground rent.

8.9 Genesis and Berkeley Homes will sign Guarantees relating to their obligations to the Partners. These guarantees have been reviewed by BDO Stoy Hayward and comments are attached in Exempt Appendix 4 and Exempt Appendix 5.

8.10 A VAT appraisal of the financial arrangements was performed by KPMG (Exempt Appendix 6) who came to the conclusion that the actual transactions involved have not changed significantly. They reviewed the amendments added to the draft Principal Development Agreement for phases 2-5 as at 17 December 2009 and (subject to confirmation that the revisions to Section 10.1.1 to 10.1.4 relate to the short term building lease) they do not consider that these impact or affect the advice they provided on 30th September 2009 summarising the VAT implications of the transactions involved in phases 2-5. The report from KPMG of September 2009 is attached as Exempt Appendix 6.

PREPARING FOR PHASE 2

8.11 Discussions have been held with the HCA about how best the HCA can support Phases 2 to 5 in the light of the September HCA decision to withdraw the offer of £40m funding for stock transfer. The HCA require a start on site by March 2011. The buyback and decant costs for the whole of Phase 2 would be approximately £19m. The Council agreed to fund Phase 2a on condition that they were repaid by the successful developer (Berkeley Homes) in order to make early progress on the regeneration. Berkeley Homes would then fund the buyback and decant of the rest of Phase 2 and repay the Council its expenditure up to £8.45m for Phase 2a.

8.12 The rapidly deteriorating condition of Peak, Petherton, Nicholl and Needwood Houses and the recent Court action over Nicholl House have highlighted the need to obtain vacant possession of these blocks first. This means that the balance remaining of the Council budget allocated to Phase 2a leaseholder buybacks in the Spring Park Drive area could be re-allocated to Peak, Petherton, Nicholl and Needwood Houses.

8.13 If Peak and Petherton Houses are demolished during 2010, there is the opportunity to build the 146 social rented homes of Phase 2 on the land made available, plus an estimated 41 intermediate homes. This would be undertaken in conjunction with the Pewsham Kick Start site which is adjacent and partially cleared. If the three private houses on the Pewsham site were also to be acquired in 2010, then the new Health Centre could also be brought forward with the support of the City & Hackney Primary Care Trust. Berkeley Homes are in the process of proposing plans for planning permission and for consideration by the HCA.

8.14 Expected decant and leaseholder buyback costs for Peak, Petherton, Nicholl and Needwood Houses, together with associated void refurbishment costs are £11,607,000, as detailed in paragraph 13.15 of this report. £8m of these costs can be funded by re-allocating the remaining current budget for leaseholder repurchases 2009 / 10 from Phase 2a to these four blocks. It is proposed to fund the total costs from within the resources set out below:

Table 1- Resources available

	Expenditure (£)
Current budget remaining for 2009 / 10	8,000,000
Leasehold repurchase under spend from the 2008 / 09 budget	2,000,000
Consultant costs refunded by Berkeley	2,500,000
Total	**12,500,000**

The consultant costs incurred will be refunded by Berkeley on production of invoices when the PDA becomes unconditional, i.e. on vacant possession of the first plot, estimated to be in 2010 / 11, subject to HCA grant, planning permission and viability.

8.15 In addition, £2,394,949 has been spent or committed on leaseholder buybacks in Phases 2 to 5 since January 2009 (see Exempt Appendix 1). The Phase 2 costs of £1,395,822 will be refunded to the Council by Berkeley Homes upon the practical completion of the 100th private home in Phase 2 expected in about 2015. Buybacks for the remainder of Phase 2 and Phases 3 to 5 will be refunded in accordance with the relevant CPO Indemnity Agreement for phase. Berkeley Homes has agreed to refund, as a project cost, the Council's reasonable borrowing costs for the buybacks already undertaken by the Council in connection with Phases 3 and 4 when they reimburse these costs in accordance with the development programme.

Table 2 - Berkeley Homes commitment

	Timescale	**Payment £**
Historic buyback and decant costs refund	Upon practical completion of 100th private home (£1,395,822), balance in accordance with relevant CPO Indemnity Agreement for Phase	2,394,949
Balance of £8.45m agreed by Berkeley	Upon practical completion of 100th private home	6,055,051
Consultancy fees	Upon unconditionality	2,500,000
Legal fees	Upon unconditionality	200,000
Total		**11,150,000**

8.16 Berkeley are committed to refund Phase 2 (and subsequent) historic costs of £2,394,949 and all future costs incurred by the Council in acquiring remaining Phase 2 properties, subject to an immediate ceiling of £8.45m (including historic costs of £2.39m) and a CPO Indemnity Agreement for the balance. The Council should not therefore commit to more than £6m on buyback and decant until the CPO Indemnity Agreement is signed and a PDA variation or side agreement has been agreed to cover revised plans for Phase 2. This would also take account of any HCA grant.

8.17 A side agreement or variation to the PDA will have to be signed to allow for the re-sequencing of Phase 2. This is planned to take place by 1st October 2010, as indicated in Table 8.

9. CORPORATE DIRECTOR OF FINANCE COMMENTS

THE PDA

9.1 The tender agreed by Cabinet in October 2009 involves the procurement of a RSL and Developer consortium for the phased demolition and rebuilding of the Woodberry Down estate over the next twenty years.

9.2 The tender delivers decent homes without resorting to any of the three original preferred options of the Government for the regeneration of estates. That is, it is neither a Stock Transfer, a Private Finance Initiative or relying on ALMO credits. Since July 2009, the Government has allowed a fourth option for local authorities to build new social housing within the HRA but outside the subsidy regime, using rents to fund any additional borrowing required. The tender does not qualify under the terms of the fourth option as the new build homes are outside the HRA, being owned and managed by Genesis Housing Group.

9.3 Instead, the tender is a procurement funded by a land deal which will require the Secretary of State’s permission to proceed. It assumes an element of HCA funding to maximise the amount of new social rented housing that can be built, but does not rely on any guarantee of such funding. For example, £40m of HCA funding should ensure 599 social rented units are built, but a reduction in HCA funding will require a reduction in the social rented housing provision in order to make the scheme cost neutral. The PDA allows for such adjustments.

9.4 The tender is to be set out in a PDA to be signed between the Council, Berkeley Homes and Paddington Churches Housing Association, a part of the Genesis Housing Group Limited. The PDA is a long term agreement to regenerate Woodberry Down, divided into eight phases over the next 20 years or more. There is an indicative but not binding development period of 2011 to 2030.

9.5 Under this tripartite agreement, Berkeley Homes would undertake the planning and design of each phase. When planning permission is obtained, and following a successful viability test, Berkeley Homes would enter into a CPO indemnity deed under which the Council would secure vacant possession of each plot, using its CPO powers, decanting and relocating residents. All reasonable costs are underwritten by Berkeley’s. In the event of a failure to obtain vacant possession, there would be a sharing of the costs.

9.6 With vacant possession secured, Hackney and Berkeley Homes will enter into a building agreement for each plot in turn. When building work is commenced on each, Berkeley Homes will be granted a 299 year lease at no charge and PCHA will commit to buying an underlease of the completed affordable homes (being rented, shared ownership and intermediate).

9.7 The Council will be responsible for delivering vacant properties to Berkeley Homes; Berkeley homes will demolish and rebuild the estate, selling some properties privately and selling the social housing to Paddington Churches Housing Association, who will be responsible for its future management.

9.8 **HRA Overhanging Debt**
What the four government sponsored regeneration options outlined above have in common are that they all include arrangements to fund the borrowing costs of the debt in relation to HRA either through continued HRA subsidy, debt redemption, borrowing credits with guarantees of revenue cover for the capital financing costs, or Prudential borrowing against rents.

9.9 All external debt for the Council is held by the General Fund which is refunded for a notional portion deemed to relate to the HRA via a formulae set by central Government. The HRA is compensated in turn for this contribution through an adjustment to HRA subsidy, again through a nationally set formula.

9.10 In order for the tender to be cost neutral to the Council, the Secretary of State must give permission for the demolition and transfer of HRA land and buildings without making any adjustment to the Subsidy Capital Financing Requirement or the Capital Financing Requirement. This will ensure that subsidy continues to flow for the historic debt and the General Fund continues to be compensated for the cost of borrowing.

9.11 The CLG has indicated that the Council will continue to receive subsidy in relation to the debt apportioned to Woodberry Down, after demolition and redevelopment. The capital financing implications are therefore expected to be broadly neutral, there is a risk however that if the portion of Woodberry Down debt is not either repaid or the debt financing costs continue to be refunded via HRA subsidy (or its successor regime), the General Fund could be liable for the additional financing costs. The maximum liability, in the unlikely event that the whole of the Woodberry Down deemed debt was no longer supported, based on 8% on £62m would be nearly £5m per annum. The actual amount varies over time depending on the overall level of debt, interest rates and the percentage of relevant properties within Woodberry Down. This will clearly not be acceptable and the PDA must allow the Council to withdraw without fault if the unlikely event this position arises as part of the process of obtaining consent from the Secretary of State.

9.12 **Revenue Impact**
The HRA MTFP has assumed Woodberry Down would transfer to an RSL in 2010/11. The estate will now be retained for a phased demolition and rebuild over 20 years or more. The January 2010 HRA 30 year MTFP has taken into account the expected phasing of the Woodberry Down regeneration.

9.13 **Maintenance**
The HRA capital and revenue budgets assume that Woodberry Down was going to transfer in 2010/11. The impact of this new scheme is that the estate remains within the HRA until each phase is redeveloped. This will mean that further interim repairs and major works are necessary. There is not any additional funding for this and these costs must be met by re-profiling the existing budgets. This will have an impact on other estates. The Council, will however continue to receive Major Repairs Allowance in relation to Woodberry Down of £1.4m in 2009/10 for the tenanted stock within the estate. This will be reduced as stock is demolished and disposed of.

9.14 **Rents**
It is current Council Policy for tenants moving into new properties to have their rent set at target rent, this can result in substantial increases where tenants move from a property which is significantly below target rent. The latest draft subsidy determination has brought forward convergence of all HRA rents to target rent to 2012/13 and therefore phase 2-5 tenants are not likely to be affected as they will not move before this date.

9.15 **Woodberry Down Team**
The cost of managing the Woodberry Down project will need to be kept within existing capital budgets.

9.16 **Bad Debts on Rent and Service charges**
For tenanted properties, any arrears are netted off the Home Loss and Disturbance Payments, so there should be minimal arrears. For leaseholders, any arrears are netted off the repurchase price and any charge of the property met at the time of repurchase. There is therefore not expected to be a significant financial impact.

9.17 **Capital Impact**
The Council has agreed a budget for Woodberry Down interim repairs for phases 3 – 5, because these phases are not due for demolition for between eight to twenty years. Any further interim repairs will need to be managed by re-profiling the maintenance programmes, within existing budgets. The approved gross capital programme from 27th July Capital report for 2009-2011 is as follows:

Table 3

	£'m 2009/10	**£'m 2010/11**	**£'m Total**
Woodberry Down Regeneration	13.119	3.827	16.946
Woodberry Down – Planned Maintenance	8.955	11.637	20.592
Total Woodberry Down	**22.074**	**15.464**	**37.538**

9.18 An indicative cashflow, for the Council in relation to the Woodberry Down programme is summarised in the table below, Since the scheme is highly flexible these are indicative figures and are likely to change.

Table 4

	2009/10 to 2013/14 £'m	2014/15 to 2018/19 £'m	2019/20 to 2023/24 £'m	2024/24 to 2029/30 £'m	TOTAL £
Expenditure					
-					
Kick Start	1,050	630	480	390	2,550
Phase 2-5 – Buybacks & CPOs	23,249	30,628	31,456	600	85,933
Interim Repairs – Phase 3-5	20,608	0	0	0	20,608
Project Fees	2,256	1,990	1,790	1,760	7,796
Other Expenditure – including Salaries, Security and Consultancy	12,435	9,995	9,705	10,799	42,935
Total Expenditure	**59,598**	**43,243**	**43,431**	**13,549**	**159,822**
Income					
Sales & Expense Reimbursement	32,234	39,636	38,294	4,390	114,554
Other Income – including appropriation and Overage	4,129	0	0	0	4,129
Council Resources	23,235	3,608	5,137	9,159	41,139
Total Income	**59,598**	**43,243**	**43,431**	**13,549**	**159,822**

9.19 The recommendations in this report do not change the overall capital requirements. The re-ordering of Phase 2 will increase Council costs in the early part of Phase 2 but this will be offset by reduced costs later in the phase and is affordable within existing budgets.

9.20 **Capital Receipts**

Under the Local Authorities (Capital Finance) (Amendment) (England) Regulations 2003, a portion of housing receipts must in most cases be paid over to the Central Government pool unless it is a qualifying disposal (such as Large Scale Voluntary and Small Scale Voluntary Transfers). The percentage to be paid over varies by the type of asset. For all non-RTB land and property, such as in this case, the pool rate is 50% unless the Council can demonstrate, as in this case, that it has used the receipt for the purposes of regeneration or affordable housing, in which case it its is exempt from pooling.

9.21 Non-money receipts which take the form of housing nomination rights (rights granted to an authority to nominate the occupants of a dwelling (through rent or sale), or to specify that only people of a particular description may occupy a dwelling) will not generate a pooling requirement because they are treated as having a nil value. The Council expects that as a result of the above no capital receipts or notional capital receipts will need to be pooled.

Other Issues

9.22 **Overage**
The methodology agreed for the share of any overage seems to represent an advantageous position for the developer as all costs, overheads and developers profits are deducted from sales income before any overage is shared. Any clawback or overage share required by the HCA as a result of them providing grant is also considered a cost and is deductible before the remaining amount is shared. Further, the Council's share of the overage is ring fenced to Woodberry Down. The risk of future viability of each phase lies with the Council as any developer risk has been limited by two viability tests for each plot, with cost sharing of abortive costs.

9.23 The intention between the parties is for any overage to be used in constructing more social rented units and to aid the Woodberry Down scheme generally. If the Council decides to apply overage to the scheme Berkeley Homes must [provide an equal amount. Any overage would not be capable of being used to carry out interim repairs. If the economy improves and the income from the scheme increases, the HCA will also probably expect that is grant is repaid first.

9.24 Overage from Phases 2-5 should therefore be considered as unlikely, especially in the early years. No assumptions have therefore been made on overage in the capital resource forecast.

9.25 **Liability**
There are two viability tests for each phase, one prior to planning and the other prior to Berkeley Homes entering into a CPO Indemnity Agreement after planning. Viability means that the estimated costs and estimated values support the developer achieving their 20% margin (5% overheads and 15% profit addition) from that phase of development. The margin is applied to all development value applicable to that phase excluding any grant and the premium payments from Genesis in connection with the purchase of the affordable rented dwellings. The margin is applied to the purchase prices paid by Genesis for all the affordable dwellings (excluding the premium as stated above) but no developer's overheads and profit are applied to any construction costs. It is expected that Berkeley Homes' actual profits will be in line with industry standards.

9.26 **CPO Indemnity**
The Council will not be obliged to incur any land assembly, CPO or possession costs for any plot until a CPO Indemnity Deed for that plot has been executed and completed by Berkeley in accordance with the PDA. Once a CPO indemnity deed is signed the developer will reimburse the Council's reasonable costs. In the case of phase 2 the reimbursement would take place once 100 new private homes are built on phases 2-5. In the case of every other plot the reimbursement will operate from signature of the relevant CPO indemnity deed. Berkeley are committed to refund Phase 2 (and subsequent) historic costs of £2,39m (Exempt Appendix 1) and all future costs incurred by the Council in acquiring remaining Phase 2 properties, subject to an immediate ceiling of £8.45m (including historic costs of £2.39m) and a CPO Indemnity Agreement for the balance.

9.27 **Reimbursements of up front costs**
The Council expects through this agreement to be refunded for the £8.45m leasehold buy-backs it is committed to for Phase 2, The Council should not commit to more than £6m expenditure on buyback and decant until the CPO Indemnity Agreement is signed and a PDA variation or side agreement has been agreed to cover revised plans for Phase 2. To protect the Council, no commitments to forward funding any plot in phases 3-5 should be made prior to the signing of the CPO Indemnity agreement for that phase. Written agreement should also be obtained from Berkeley that the costs are reasonable. Note that upfront costs for phase 1d (Pewsham) are estimated to be £4m and for the remaining Phase 2 land they are expected to be £20m.

9.28 **Value for Money Summary**
The Council has appointed several consultants to carry out independent checks on various aspects of this scheme, all of which have reported back positively and are given in detail in the confidential appendices to the October Cabinet report.

9.29 In particular, Frost Consultants, acting as our cost consultants, have confirmed the scheme is value for money as set out in section 12 of the October Cabinet report.

9.30 The Council also appointed consultants DLA Piper to make an independent assessment that the undervalue the Council is receiving for its land is Best Consideration. They have concluded that the undervalue is more than compensated for by other benefits the Council will receive under the PDA.

9.31 In summary, the Council is contributing land with a residual value of £92m in return for which it gets nomination rights to 599 new built Social units which are transferred to the ownership of its partner RSL. It also obtains investment in the infrastructure of £111m over the whole scheme. (see Appendix 3).

9.32 The Council has an overall responsibility to deliver decent homes on the estate and rebuild any properties it has demolished to meet its London Plan commitments. This redevelopment reduces the Council's liabilities in this respect by between £85m and £116m depending on which standard it is assumed the properties are brought to. This far outweighs the investment required of the Council to proceed with this scheme.

9.33 **Rent Allowances**
Tenants of the RSL will move from the Local Authority Housing Rent Rebate to Rent Allowances system, both of which are administered by the Council on behalf of the government and reimbursed accordingly. The financial arrangements for the two schemes are similar as RSL tenancies attract 100% subsidy.

9.34 Registered Social Landlord rents are normally exempt from mandatory referrals to the Rent Officers Service, however there are two exceptions, as stated in the HB (General) Regulations 2006, these are as follows:

- the rent for the accommodation is unreasonably high
- the tenant and his household are over accommodated.

9.35 If these conditions apply, the LA is required to refer the rent to the Rent Officers Service for a determination. The maximum rent that can be used to calculate benefit will be the lowest of the rent officer determinations. Where referral to the rent officer is not required then the Rent Allowance will be calculated based on the eligible rent figure set by the RSL. The policies in relation to tenants' right to return and accommodation should therefore ensure that tenants are reasonably accommodated to avoid this potential restriction to Housing Benefit.

9.36 **Council New Build**

In July 2009, the Government announced that all new social housing developed by Local Authorities could be outside the HRA subsidy regime, though still remaining within the HRA ring fence. It issued guidance on this in September 2009 that indicated a Section 80B request to the Secretary of State would be required to take advantage of this offer on a scheme-by-scheme basis. It is also necessary for the Council to be awarded Investment Partnership Status (IPS) with the HCA to progress any such scheme itself. Hackney has applied to the HCA for IPS and has been informed that this has been approved. This will allow Hackney Council to receive HCA grant funding for new build outside the subsidy regime. Hackney has already successfully obtained permission to build 151 new properties within the HRA.

9.37 The main advantages of this option are that the Council retains ownership of its assets and all of the rents of the new build social housing which it can use as it sees fit. After allowing for all relevant costs, the Council could borrow money against future net rental streams, as long as these were affordable under the prudential regime. The current Woodberry Down scheme was developed when this option was not available and was designed to maximise the Council position under the old regulatory regime.

9.38 Using this new regime, the Council could build social housing on Woodberry Down. It could also sell, subject to the necessary permissions, some land for private development on the estate to part fund this regeneration and the infrastructure improvements and use prudential borrowing against the rental stream to fund the balance. The land on which the private properties are being built in Woodberry Down is valued at £92m. The Council has not yet been able to develop an option to appraise under this new scheme for Woodberry Down but it is clear that it would take a considerable period of time to prepare such an option even if the Council had access to the substantial sums of money that would need to be borrowed. There is also no guarantee that in the current market a buyer could be found for any land required to be disposed of.

9.39 **Risks**

With long term regeneration schemes such as these there are significant risks, principally because of the length of time and complexity of the contractual relationship between the three parties. The complexity of the PDA is notable, with numerous options for the developer to extend the timeline of the development. The financial implications are to a considerable extent determined by subsidiary documents which will not be finalised until after the PDA is signed such as the CPO indemnity agreement, the Possession Strategy and Estate Management Strategy. This makes it difficult to realistically asses the level of risk and scope of associated financial liabilities. The key risks were highlighted to Cabinet in October, and are set out again in Appendix G.

9.40 **HRA Finance Review**:
One of the main financial risks to this scheme is from the financial review of the HRA that is currently under consultation. Briefly the review proposes the abolition of HRA subsidy and the redistribution of debt. The impact can not be quantified until the review is complete and it also needs the support of the next Parliament. However, should it proceed, it expected to mean that in 2011/12 the HRA Subsidy regime will end for all local authorities. The HRA will continue, with a strengthened ring fence and the debt redistributed from high debt authorities to low debt authorities. As Hackney is a high debt authority there will be a reduction in our overall debt. There is also likely to be some reduction in the back log of repairs funded by Central Government. The result of this would be that for all HRAs, including Hackney, the existing debt and back log of repairs and improvements are affordable by the HRA, using its rents and prudential borrowing against the rents. This is a radically changed position financially and the Council will need to consider what impact this might have on this regeneration.

9.41 **Input VAT:**
The Council is able to reclaim all the input VAT it incurs on its expenditure, however, where expenditure and VAT is incurred which will be used to generate exempt income this is recoverable provided the Council remains below its 5% partial exemption limit.

9.42 At the end of financial year the 5% limit is determined by taking 5% of all the input VAT reclaimed in the year, provided the VAT incurred in generating income which is exempt from VAT is less than this limit all the VAT is recoverable.

Should the VAT incurred on generating exempt income exceed this limit, all the VAT incurred in making exempt supplies for the year will have to be repaid to HMRC not just the amount by which the limit has been exceeded. This would become an additional & unbudgeted cost for the Council. The VAT consultant has advised on this scheme, including amendments to the draft PDA as at 17th December 2009 and the leases to Berkeley Homes will be an exempt transaction for the Council. The expenditure which is to be incurred by the Council will need to be monitored and should it be likely that the 5% partial exemption limit could be breached an option to tax would need to be made to remove the risk. SDLT is not considered to be an issue, because by not opting to tax there is a reduction in SDLT which is paid by Berkeleys as SDLT is payable on the VAT inclusive price. This will help to minimise the SDLT position for them.

9.43 Other significant risks the Council will be exposed to as a result of entering into the PDA are summarised in the table below, at present it should be noted that many are difficult to quantify at this stage:

Risk	Amount at risk (£m)
Inability to secure vacant possession of properties within each plot – in this instance the design, planning costs will be shared and the Council will bear the buy back costs.	To be quantified
If HCA grant is not received or reduced the PDA is not determined but instead the social housing element is reduced. If the Council falls short of its affordable housing targets as a consequence it will be liable for any reinstatement costs.	150-180k per property below govt targets
Double decant costs in the event that Berkeley Homes are unable to deliver sufficient affordable rented homes for tenants to move into in Phase 1.	To be quantified
Professional/Consultant Costs and Legal fees subject to various conditions being met and Berkeley achieving satisfactory planning and vacant possession for Phase 2	2.7
The PDA allows for Berkley to extend the development timetable for up to 18 months for each plot, in certain circumstances. There is considerable scope for the programme to slip in which case the Council will incur additional programme costs, including interim repairs, lost income from voids and the client team..	To be quantified
MAXIMUM POTENTIAL FINANCIAL RISK	**To be quantified**

9.44 **Adoption of Highways and Open Spaces**
Highways adopted under Section 228 of the Highway Act 1980 are maintained by the Highway Authority (the Council) at public expense and are a charge to the General Fund. In this context, highways could include carriageways, footways, cycle-ways and emergency links. It could also include areas of land which are necessary to ensure the stability of the highway, verges and other highway drainage features.

9.45 There will be a cost implication to the general fund and more specifically Neighbourhoods and Regeneration Public Realm budgets as a result of the adoption of any highways within the estate by the Council. As a general guide the approximate annual cost to the General Fund per annum of each kilometre of road adopted is as follows:

	£'000 Capital/Annum	£'000 Revenue/Annum
Carriageway – maintenance	7.7	1.0
Footway – maintenance	11.5	1.5
Total	19.2	2.5

Issues around green space, cleansing and parking are not included in the table above and will add further costs. It is envisaged this will need to met from existing budgets and will therefore impact on the Councils overall road programme.

9.46 Prior to the transfer of the land from the HRA, all open spaces maintenance would be charged to the HRA.

9.47 Following transfer, if the Council were to adopt the open spaces on Woodberry Down as Public Open spaces they would be held by the General Fund with the maintenance also attributable to the General Fund. The PDA allows costs whether held in the HRA or General fund to be alleviated by a subsidy which amounts to 60% of ground rents. Ground rents are not linked to costs and are not index linked, the PDA allows for a stepped increase of 100% every 25 years. It is assumed that the 60% received of ground rents would be used to fund the maintenance of only the adopted areas. The total contribution from all the properties at current prices would yield £444k per annum but this total will only be achieved when all the properties are built out. The maintenance costs of the open spaces are not yet known, but after adoption the net costs would need to be met from existing general fund budgets. These costs will need to be identified prior to this being agreed.

PREPARING FOR PHASE 2

9.48 The re-sequencing of Phase 2, which the recommendations in 3.4, 3.5 and 3.6 are in preparation for will be subject to a side agreement or a revision to the PDA, any additional capital requirements will need to be found from existing budgets. The decant of 178 tenant households from Peak, Petherton, Nicholl and Needwood into voids and new build will mean the costs of these four blocks and managing current voids will be saved, there will also be a reduction in the fee payable to Pinnacle.

10. CORPORATE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES COMMENTS

10.1 The legal implications of the developer’s bid are set out in detail in the attached report from the Council’s external legal advisers at Exempt Appendix 2 - Phases 2-5 DLA Piper Legal Comments.

10.2 The Council has the power, under S.2 of the Local Government Act 2000, to do anything which it considers likely to promote or improve the social, economic or environmental well-being of the Council’s area for the benefit of its residents. This scheme is being effected pursuant to that statutory power.

10.3 The Council has received a written valuation from external advisers Drivers Jonas confirming that the developer’s bid meets with the requirements of S. 123 of the Local Government act 1972. This valuation and report are set out at Exempt Appendix 3 – Drivers Jonas Valuation Report.

10.4 In respect of the Council’s obligations under public procurement law, the comments of the Assistant Director of Procurement are endorsed in general and specifically in relation to the Council’s continuing need to comply with its obligations arising from the competitive dialogue procedure.

11. PLANNING COMMENTS

11.1 Berkeley Homes obtained planning permission for the redevelopment of the first kick start site and this scheme is now on site. They have also submitted applications in respect of the next two phase one kick start sites and are discussing schemes in respect of further phases. It is evident from the negotiations that have hitherto occurred that Berkeley Homes have a clear appreciation of the key themes contained in the approved Masterplan, including the importance of achieving sustainable development, and this is equally reflected in their phase 2-5 submission documents which, overall, are compliant with the Masterplan.

11.2 Equally important, it is evident that Berkeley Homes are responsive to planning concerns and willing to make changes to their proposals that demonstrate a constructive approach. Such an approach will be crucial as detailed proposals for the remaining phases are taken forward in dialogue with existing tenants, the wider community, Genesis and the local planning authority. Whilst the approved Masterplan sets out the key parameters that will shape the future development it needs to be recognised that the dynamic environment within which this development will occur (notably increasing expectations as to physically sustainable development and changing market conditions) will also be vital considerations. Furthermore, this commitment to constructive dialogue will help foster a sense of ownership by existing tenants of the development and in that sense further reinforce the developments sustainability in the broadest sense.

11.3 The terms of reference attached as Appendix A helpfully provides clarity around how the Design Committee will operate. This is important to ensuring that the role of the committee is understood be its members and as a means to ensuring that structured conclusions are arrived at.

11.4 Berkeley Homes have also demonstrated through their built developments a genuine commitment to quality building and recognise that to not have this commitment is a false economy.

11.5 For these reasons the appointment of Berkeley Homes is supported.

11.6 It is important that sufficient time is allowed for meaningful dialogue around the detailed evolution of proposals for Phase 2 both through dialogue with the Design Committee and with planning officers. It is considered that the overall timeframe discussed in the report does allow sufficient time for this.

12. PROCUREMENT COMMENTS

12.1 Since the Cabinet meeting of 12th October 2009, fine tuning and clarification of the PDA has been undertaken in finalising the text of the PDA. In the opinion of the lawyers, there has been no material change and the PDA text is consistent with the procurement laid out in the Cabinet report for 12th October 2009.

12.2 The overarching procurement considerations remain unchanged as has the strong imperative to retain the momentum of current process.

12.3 Cabinet should take this opportunity to ensure that it is satisfied that the PDA (summarised in Exempt Appendix 2) provides the necessary assurance for delivery of the regeneration programme described in paragraph 5.9 of this report.

12.4 Cabinet should also take this opportunity to be assured that the commercial considerations of the deal remain acceptable following clarification. Exempt Appendix 3 provides advice on commercial aspects of the offer and these should be considered alongside the financial comments in section 9.

13. PREPARING FOR PHASE 2

13.1 The PDA places a requirement on the Council to deliver vacant possession of the first plot within Phase 2 as soon as possible. Berkeley Homes are not obligated to deliver their side of the PDA until the Council has delivered vacant possession of the first plot.

13.2 The Homes and Communities Agency (HCA) has explained that there is more likelihood of applications for grant funding being successful if Berkeley Homes is able to commence construction on Phase 2 by March 2011 and deliver updated new homes by March 2014.

13.3 The Phase 2 proposals submitted by Berkeley Homes to the HCA on 17th December 2009 allow for grant to build 146 social rented units, and 41 intermediate homes by March 2014, being on site by March 2011. A new Health Centre will also be built as part of the project. Overall Phase 2 will ultimately deliver:

- 146 social rented homes
- 142 intermediate homes
- 438 private homes
- New Health Centre

13.4 The Council has written to the HCA in support of the Berkeley Homes application and has requested a letter from the HCA to the Council underlining the HCA's commitment to Woodberry Down.

13.5 In the event of early payment of grant for Phase 2 from the HCA a variation to the PDA will have to be negotiated to accommodate this position.

13.6 If the construction of affordable housing in Phase 2 is viable with the aid of HCA funding, the regeneration programme can commence earlier, more residents can be re-housed earlier, and the programme can then gain momentum as each phase contributes to the viability of subsequent phases.

13.7 The current position is that the first part of Phase 2 to be cleared are the low rise properties in the Spring Park Drive area (known as Phase 2a), and the Council has recently made available resources to fund the buyback of leaseholders. However it has become increasingly obvious that a number of Phase 2 residential blocks have deteriorated rapidly in recent months. These blocks are Peak, Petherton, Nicholl and Needwood Houses.

13.8 Hackney Homes is currently facing a disrepair court action from resident(s) of Nicholl House and has instructed surveyors to assess the position. Frost Associates have recently updated their Condition Survey on Nicholl, Needwood, Peak and Petherton Houses (initially prepared in 2007). The survey found the blocks to be in such a poor condition that a considerable amount of work is needed to address any significant health and safety issues and to ensure that the tenants can live in reasonable conditions until the blocks are decanted. London Borough of Hackney also has a responsibility under the Landlord and Tenant Act 1985 to keep the structure and installations of the buildings in proper repair.

13.9 The roofs of Nicholl and Needwood are in considerable disrepair even though a certain amount of re-covering was carried out to Nicholl House within the last few years. Currently repair work is being carried out on Court instructions to Nicholl House to patch the roof but a full re-covering of the roofs to both blocks is probably necessary in order to ensure the blocks remain watertight.

13.10 In dwellings where water has penetrated significantly from the roof into the internal walls, the affected plasterwork and any timber components will need removing, the structure allowed to dry out and the area re-plastered with new joinery fitted. The extent of such works will probably require the residents to move out into temporary alternative accommodation.

13.11 Frost estimate that the repair works to Nicholl and Needwood will cost the Council nearly £22,000 per occupied dwelling assuming a contribution of £14,000 each from the 31 leaseholders. Repairs to Peak and Petherton will cost over £26,000 per occupied dwelling assuming a contribution of almost £17,000 each from the 15 leaseholders. These are high costs for such a short life and there is likely to be resistance from the leaseholders to paying their contribution. Also some residents will need to be decanted while repairs take place. Decanting the blocks for demolition as soon as possible is better value for money since Frosts estimate it will cost £3.05m to undertake repairs to occupied homes in Nicholl and Needwood and £2.27m to repair occupied homes in Peak and Petherton.

13.12 By bringing forward the decant and demolition of Peak, Petherton, Nicholl and Needwood, most residents will need to be double decanted using voids on Woodberry Down. There is approximately a shortfall of 52 voids on the estate if all the blocks are decanted immediately and it is possible that these will need to be taken up by voids elsewhere. The intention is to start with Peak and Petherton Houses and then follow with Nicholl and Needwood Houses as soon as practicable. On this basis and with completion of new homes on the Old School site in early 2011, it should be possible by careful timing, working with residents, to avoid decanting people off Woodberry Down unless this is their wish.

13.13 Individual preferences of residents will be taken into account as far as possible and their Right to Return Certificates will reflect their choice. However, tenants in Peak, Petherton, Nicholl and Needwood who have expressed a preference to move into the Old School Site will be prioritised.

13.14 There are 9 tenants in Phase 2 who have already been decanted; therefore these tenants could be faced with a triple decant. These residents will be provided with extra support if required during the decant process.

13.15 The Council will also need to re-allocate funds of £11,607,000 for the buybacks and additional second decant as detailed below in Table 6:

Table 6 – Decant and Buyback Costs

	Residents to Re-house	Homeloss (£)	Void Works (£)	Total / Move (£)	Total Costs (£)
Second Decant Costs					
Peak and Petherton	72	6,000	8,500	14,500	1,044,000
Nicholl and Needwood	54	6,000	8,500	14,500	783,000
Nicholl and Needwood *	52	0	0	0	0
Second decant cost					**1,827,000**
Buyback Costs					
Peak and Petherton	15				3,380,000
Nicholl and Needwood	28				6,400,000
Total buyback and decant					**11,607,000**
Resources					
Remaining current budget					8,000,000
Leasehold repurchase under spend from the 2008 / 09 budget					2,000,000
Consultant costs refunded by Berkeley on vacant possession					2,500,000
Total adjusted resources					**12,500,000**

* An estimated 52 households will be re-housed from Nicholl and Needwood directly to the new homes in the Old School site (as indicated by the accelerated timetable in Table 8) and therefore there are no extra second decant costs.

13.16 Appendix H shows the location of the 126 voids available in Woodberry Down in phases 3 to 5 plus the Four Blocks on Seven Sisters Road in Phase 1. The housing need is estimated as follows:

Table 7 – Housing Need

	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Peak and Petherton	33	21	13	5		72
Nicholl and Needwood	30	39	31	6		106
Total	**63**	**60**	**44**	**11**		**178**
Voids on estate *	23	59	40	4		126
Shortfall	**40**	**1**	**4**	**7**		**52**

* Voids include 22 non bedsit voids within Havering, Wensleydale, Weybridge and Wyersdale Houses

13.17 In order to achieve an accelerated decant and buyback to address the separate issues of disrepair (affecting Peak, Petherton, Nicholl and Needwood Houses) and early clearance to facilitate HCA grant (Peak and Petherton Houses only), the sequence of actions has been reviewed and Phase 2 has been divided into three possible tranches. A revised Phase plan is attached as Appendix D showing Phase 2 as Phase 2.1, Phase 2.2 and Phase 2.3. Below is the proposed timetable for the accelerated decant and buyback of Phase 2.

Table 8 – Accelerated timetable for Phase 2 decant and buyback

Milestone	Start	End
Cabinet approval for re-phasing and emergency clearance programme	25 Jan 2010	25 Jan 2010
PDA signed		09 Feb 2010
Initial meetings with residents	09 Feb 2010	28 Feb 2010
Preparations for buy back of Peak and Petherton leaseholders as part of emergency clearance programme – Phase 2.1	09 Feb 2010	
Preparations for buy back of 3 houses on Pewsham site by negotiation	09 Feb 2010	
Preparations for decanting Peak and Petherton (Double Decant Required) – Phase 2.1	09 Feb 2010	
Indemnity agreement signed for Compulsory Purchase Order(s)	01 Mar 2010	
Complete buy back of Peak and Petherton leaseholders as part of emergency clearance programme – Phase 2.1	01 Apr 2010	30 Jun 2010
Council authorisation for any Compulsory Purchase Order(s)		31 Jul 2010
Side agreement or variation to the PDA signed to allow for the re-sequencing of Phase 2	01 Oct 2010	01 Oct 2010
Commence buybacks and decanting of Nicholl and Needwood	02 Oct 2010	
Complete buy back of 3 houses on Pewsham site by negotiation		31 Oct 2010
Complete decant of Peak and Petherton (Double Decant Required) – Phase 2.1		31 Oct 2010
Complete buy back of Nicholl and Needwood leaseholders as part of emergency clearance programme – Phase 2.2		30 Apr 2011
Complete decant of Nicholl and Needwood (Double Decant Required) – Phase 2.2		30 Apr 2011

13.18 Options for re-housing tenants in the Old School Site have been discussed in the joint Round Table meetings with the Council / Hackney Homes, Berkeleys Genesis, and WDCO (chaired by the Deputy Mayor). Meetings have discussed the immediate problem of the poor condition of Peak, Petherton, Nicholl and Needwood Houses, while allowing for a bid to the HCA for Phase 2 funding on the site of Peak and Petherton Houses. Individual preferences of residents in Phases 1 & 2 will be taken into account as far as possible.

13.19 Subject to HCA funding and satisfactory agreement with the Council, including the reimbursement of single decant and leaseholder buyback costs, the schedule below shows the steps to be undertaken in order to achieve a start on site for Phase 2 by March 2011. Berkeleys would commence construction on a site that combines the Phase 1 Pewsham plot and Phase 2.1.

Table 9 – Accelerated schedule for Phase 2 progression

Milestone	Start	End
Berkeley make grant submission to HCA	17 Dec 2009	17 Dec 2009
PDA signed		09 Feb 2010
Initial meetings with residents	09 Feb 2010	28 Feb 2010
Detailed HCA grant application for Phase 2 and Pewsham	15 Feb 2010	15 Feb 2010
HCA agree grant application	15 Mar 2010	15 Mar 2010
Void enhancements commence	15 Mar 2010	31 Mar 2011
Submit detailed planning for Phase 2 and Pewsham site	01 May 2010	01 May 2010
Planning approved for Phase 2 and Pewsham site		30 Sep 2010
PDA variation / side agreement signed	01 Oct 2010	01 Oct 2010
Berkeleys disconnect services and demolish 3 houses on Pewsham site	01 Oct 2010	31 Dec 2010
Berkeleys disconnect services and demolish Peak and Petherton - Phase 2.1	01 Nov 2010	24 Dec 2010
Commence construction on Phase 2.1 on site of Peak / Petherton Houses and, if possible, Health Centre on Pewsham Site	03 Jan 2011	
Build of Blocks F and G on Old School Site complete		30 Apr 2011

Berkeleys disconnect services and demolish Nicholl and Needwood - Phase 2.2		31 May 2011
Build of shared equity block E on Old School Site complete		30 Nov 2011
Build of Phase 2.1 complete		31 Jul 2013
Build of Horston and Sherwood complete		31 Aug 2013
Build of Woodberry Grove North complete		30 Nov 2013
Build of Oakend complete		30 Nov 2013
Build of Newnton Close complete		31 Mar 2014
Phase 2 construction complete		30 Jun 2016
Build of Havering & Wyersdale complete		31 Jul 2016
Phase 3 construction complete		30 Jun 2020
Phase 4 construction complete		30 Jun 2023
Phase 5 construction complete		30 Apr 2027

13.20 The preferred approach is to negotiate a mutually satisfactory buy out of leaseholders wherever possible and to decant tenants according to their preferences. To effect the clearance of Phase 2.1 to comply with the HCA request, the CPO process needs to be initiated immediately. It is estimated that on average, obtaining possession, where this proves to be necessary, can take 18 months or up to two years so it is essential that proceedings are underway in the event that a CPO is required.

13.21 In managing the decanting great sensitivity will be needed. Preliminary discussions with WDCO representatives have been held, and a pathway to a resident-friendly decant process will be developed in consultation with residents over the next few weeks.

13.22 The subsequent clearance of Phase 2.3 (the remainder of the original Phase 2) will see the construction timetable converge with the original completion date in 2016.

13.23 Shared Equity new homes on the Old School Site will not be available until November 2011. For those leaseholders who wish to take up the opportunity of purchasing a shared equity property on the Old School Site they will be offered temporary accommodation off Woodberry Down (via a non secured tenancy agreement) and the money value of their property put into an escrow account for the purpose of purchasing a shared equity property on the Old School Site

13.24 It is proposed that the Council will issue Notices to Seek Possession and obtain Possession Orders for all tenants in a forthcoming decant phase to minimise the opportunity for any individual to delay the overall regeneration, assuming that suitable alternative accommodation is provided. The Possession Orders will be obtained in time for court date slippage, non-decision and securing bailiff action. The Council will issue Demolition Notices on all properties to prevent further right to buy applications. Initial Demolition Notices (IDNs) cease to be in force after 5 years. Final Demolition Notices (FDNs) are in force for 2 years.

13.25 HCA grant for Phase 1 assumes delivery across Woodberry Grove North, Horston & Sherwood, and Newnton Close by March 2014. In addition funding is being sought by Berkeley to build 27 social rented units at Green Lanes and Berkeley are expected to make a proposition about this site which may require a variation to the PDA or a side agreement.

13.26 There is also the issue of funding any essential repairs for all remaining properties within Phases 1 and 2 that are in Council ownership. Table 10 summarises the position.

Table 10 – Remaining properties in Phases 1 and 2 within Council ownership

Block / Street	Repairs Position
Parkfield House	Demolition (formerly Woodberry Works – unsuitable on Health & Safety grounds)
Peak House	Demolition in 2010
Petherton House	Demolition in 2010
Nicholl House	Demolition in 2011
Needwood House	Demolition in 2011
Havering House	External repairs
Wyersdale House	External repairs
Weybridge House	External repairs
Wensleydale House	External repairs
Shopping parade & flats – South block	Low rise – Existing reactive repairs budgets
Shopping parade & flats – North block	Low rise – Existing reactive repairs budgets
Town Court Path	Low rise – Existing reactive repairs budgets
Spring Park Drive East	Low rise – Existing reactive repairs budgets
Spring Park Drive West	Low rise – Existing reactive repairs budgets
Spring Park Drive South	Low rise – Existing reactive repairs budgets
Burtley Close	Low rise – Existing reactive repairs budgets
Banstead House	4 storey block – Existing reactive repairs budgets

13.27 Most of the remaining properties are low rise and therefore can be adequately dealt with through existing reactive repair budgets, in accordance with landlord responsibilities. The exception is the four remaining Kick Start blocks on Seven Sisters Road (Havering, Wensleydale, Weybridge and Wyersdale Houses) that were the result of the land swap to enable the construction of the Skinners Academy now being built. These four blocks are outside the interim repairs programme and are expected to have to last until 2015 or thereabouts. There are currently 22 voids (excluding bedsits) in these blocks (these units are included in the 126 units in Table 7) and use of these voids would be helpful in decanting blocks in worse condition. The bedsit voids could be utilised for single person lettings under licence, using current budgets for licences.

13.28 The cost of refurbishing these voids to assist the decanting of Peak, Petherton, Nicholl and Needwood Houses is £180,000, which is included in void costs in Table 6. Window replacement, roofing and other external repairs are considered necessary for properties to keep these homes weather tight. A survey has recently been carried out and the external works estimated at

£1.522m (including £68,000 for external works to the void properties). These works also include reasonable concrete repairs and repairs to brickwork, tank overflows, staircase areas, etc. and renewing the defective asphalt areas and broken entrance doors which would ensure immediate wind and watertightness and therefore minimise future reactive repairs and maintenance. It is suggested that a capital bid to fund these external works for early implementation is made as soon as practicable. This total estimated cost is £1.522m and Table 6 shows that the Total Adjusted Resources is £12,500,000 while £11,607,000 is needed for decant and buyback costs. Allowing for the contingencies that can be expected in dealing with old properties, it is recommended that capital resources of £1 million are made available immediately to cover the cost of these works. Any necessary internal or heath and safety works would continue to be dealt with through existing repair and emergency repair budgets as now, consistent with policy across Hackney. General maintenance would be addressed through maintenance budgets.

13.29 There are 28 leaseholders in Havering, Wensleydale, Weybridge and Wyersdale Houses and the average leaseholder contribution to these repair costs is estimated at £12,000, probably more depending upon the contingency position.

13.30 146 social rented homes on Phase 2 should attract £20.49 million grant if started on site by March 2011 and delivered by March 2014. No HCA grant at all will mean that the building of further social rented homes will depend on a return to higher values in the private housing market, new government initiatives after the election period, or a combination of these.

14. CONTINUING RESIDENT ENGAGEMENT

14.1 During the evaluation of the developer bid on 29th June (attended by representatives of WDCO, Genesis and the Council), a general consensus was reached after an open discussion with the release of the statement below:

> "The quality assessment panel is of the opinion that there is a good prospect for a workable solution from the proposals submitted by Berkeley Homes. The panel has some reservations about some aspects of the design as it relates to the residents charter and would like the PDA to reflect how these reservations can be addressed; including maximising the number of dual aspect properties for tenants and leaseholders under the general parameters of the Masterplan. The panel also recommends building into the PDA the terms of reference of the design committee to oversee the evolution of the design of the regeneration project over its life, and to ensure a single management organisation to deliver an integrated management proposal with the RSL in relation to the public realm. On the basis of working towards the above items, the quality assessment panel recommends the selection of Berkeley Homes"

14.2 In the second round of meetings, after the meeting of 14th September when detailed scoring of the bid was completed, the quality panel released the following statement:

"Further to the statement issued by the panel from its meeting on 29th June 2009, the panel notes the progress made in the recent Addendum to the Quality Submissions made by Berkeley Homes. We feel that more work needs to be done in relation to delivering the Residents' Charter, while noting the strength of the Berkeley delivery team.

We expect the following issues to be addressed in the final clarification of the terms of the Principal Development Agreement (PDA):

1. Agreement as a Condition Precedent on the estate management proposals that sets out how the whole neighbourhood will be managed on an integrated basis that is affordable.

2. Incorporation into the PDA of terms of reference of a Design Committee. These terms of reference should be agreed between WDCO and the parties to the PDA by 5th November 2009. If agreement cannot be reached by 5th November 2009, the three parties to the PDA will seek to agree the terms of reference themselves, taking account of all the views expressed.

3. Ensuring residents' views and the design aspects of the Residents Charter are properly taken into account through the Design Committee into the planning and design of phases.

It will be important to demonstrate how the views of WDCO representatives will be taken into account through the Design Committee, together with changes to the agreed base specification for the affordable units attached to the Principal Development Agreement, and residents' requirements, as these evolve during the lifetime of the regeneration project. The Council will use reasonable endeavours to seek provision between the parties for reasonable endeavours to be applied to enhancing the base specification for the social rented and shared equity units with the aim of maximising dual aspect homes and windows in kitchens. Regular reviews to be carried out at least at five yearly intervals and these will include the reviewing of the Masterplan before each subsequent phase."

14.3 The points raised by the panel have been addressed through the final clarifications of the PDA.

14.4 Hackney Homes is fully committed to developing housing management options with WDCO, especially at Chief Executive level. Options require careful consideration, and will need to be the subject of further report after affordable options have been developed in consultation with residents.

14.5 WDCO have been given the opportunity to influence the shape of the Terms of Reference of the Design Committee and they will take an active part in these meetings during the design phase of the regeneration. WDCO have also been consulted on the Broad Principles of the Possession Strategy and the Estate Management Strategy and will be further involved when the detail for these strategies is developed.

14.6 Monthly round table meetings have been held between WDCO, Genesis, Berkeley Homes, Hackney Homes and Hackney Council. The Deputy Mayor of Hackney chairs this forum which is used to share the Council's plans with its partners, and share the views of WDCO and the partners for consideration when decisions are required. Working in partnership, this group was formed to oversee the preparation of the Possession Strategy, Estate Management Strategy and Housing Management arrangements.

14.7 Before and throughout the expected programme of works there will be continuing resident engagement by a variety of means to ensure residents are fully involved and informed.

15. RISK MANAGEMENT

15.1 A comprehensive risk log that contains all risks associated with the management and completion of the RSL / Developer partnership procurement has been maintained and reviewed on a monthly basis.

15.2 Highlighted in the risk register is the risk of adverse macroeconomic changes that may affect the viability of the project at a given time. Changes in the property market will affect the amount of cash generated by the sale of properties although this is partially offset by a reduction in development costs. A variety of scenarios have been modelled using projected interest rate changes and these have not shown significant adverse effects on the viability.

15.3 There is always a risk of challenge from unsuccessful bidders but procurement procedures are being adhered to and legal advice is always sought to minimise the chance of any such challenge being successful.

15.4 To prevent changes to the substance of the deal with Genesis, they have been included in the competitive dialogue and procurement.

15.5 The financial viability reviews of Berkeley Homes and Genesis Housing Group reported to Cabinet in October have confirmed that they are robust enough to be awarded this contract and identify any possibility of them being the subject of a merger or acquisition.

15.6 Regular dialogue has been maintained with the GLA to manage any issues that may arise with planning permission submissions for Woodberry Down.

15.7 Appendix G contains the key remaining risks associated with the continuing delivery of the phase 2 to 5 procurement.

16. CONCLUSION

16.1 The Principal Development Agreement (PDA) for Phases 2 to 5 is now ready for signature. The Kick Start development is underway, with construction making good progress. The procurement has proceeded in accordance with the strategy set by Cabinet in December 2006, and despite the worst economic crisis for generations, has resulted in the selection of Genesis Housing Group - one of the country's major Registered Social Landlords - as Preferred RSL, and Berkeley Homes as the Preferred Developer.

16.2 Discussion between all parties has enabled the clarification and fine tuning of the PDA. The Design Committee Terms of Reference have been agreed and the Broad Principles of the Possession and Estate Management Strategies have been progressed ready for detailed discussion with residents.

16.3 The HCA has advised that there is more likelihood of applications for grant funding being successful if Berkeley Homes is able to commence construction on Phase 2 by March 2011 and deliver updated new homes by March 2014. Revised plans have been developed to change the sequence of site clearance for Phase 2 by dividing the site into three possible tranches. These plans include a schedule for the accelerated decant and buyback of Phase 2 and a schedule for an early start to construction on Phase 2.

16.4 Condition Surveys on Nicholl, Needwood, Peak and Petherton Houses have found the blocks to be in such a poor condition that a considerable amount of repair work will be needed if the blocks are not demolished soon.

16.5 In re-housing residents, individual preferences will be taken into account as far as possible. A pathway to a resident friendly decant process will be developed in consultation with residents over the next few weeks.

16.6 There is a good opportunity to maintain the momentum of Hackney's largest regeneration project following the start on site last March.

KAREN ALCOCK **Deputy Mayor of** **London Borough of Hackney**	**CHARLOTTE GRAVES** **Chief Executive of** **Hackney Homes Ltd.**

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Background papers:
None

Appendices

Appendix A - Terms of reference for the Design Committee
Appendix B - Broad Principles of the Possession Strategy
Appendix C - Broad Principles of the Estate Management Strategy
Appendix D - Phase Plan
Appendix E - Proposed Roads Adoption Plan
Appendix F - Proposed Public Realm Area Adoption Plan
Appendix G - Risk Register
Appendix H - Voids in Phases 3 to 5 Woodberry Down

Exempt Appendices

Exempt Appendix 1 - Buybacks Phases 2 to 5
Exempt Appendix 2 - Phases 2-5 DLA Piper Legal Comments
Exempt Appendix 3 - Drivers Jonas Valuation Report
Exempt Appendix 4 - Genesis Agreement review
Exempt Appendix 5 - Berkeley Guarantee review
Exempt Appendix 6 - KPMG VAT Summary 09 09 30
Exempt Appendix 7 - Reasons to Enter into the PDA

Appendices 1 to 7 have been classified as Exempt on the following basis:

That under S100(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 Part I of Schedule 12A of the Act as amended.

Information relating to the financial or business affairs of any particular person (including the authority holding the information).