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Committee: Council

Date: 15 September 2021

Wards: Abbey, Figges Marsh, Ravensbury

Subject: Support for Clarion Estate regeneration programme

Lead officer: Director for Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Regeneration, Housing and the Climate
Emergency

Contact officer: Deputy FutureMerton Manager, Tara Butler

Recommendations:

That Council note that Cabinet resolved the following recommendations at their meeting on 6th September 2021:

- A. To note that the programme-level viability deficit of identified by Clarion Housing Group (Clarion) in April 2020 in relation to their proposed regeneration of the High Path, Ravensbury and Eastfields estates represents a significant barrier to delivery;
- B. To agree that the Council remains supportive of Clarion's delivery of the Merton Estates Regeneration Programme (MERP) and the objectives of Merton's Estates Local Plan 2018 to improve the lives of existing residents and provide new homes;
- C. To agree to support the proposed adjustment of the Sales Clawback mechanism in the Stock Transfer Agreement to suspend the Council's eligibility to the 5% Sales Clawback mechanism so long as MERP is in the course of being delivered and remains in a deficit position at programme-level. The mechanism will be triggered only if MERP's financial performance reaches or exceeds a break-even position.
- D. To agree to support an amendment to the Stock Transfer Agreement to commit Clarion to delivering Decent Homes Standard upgrades linked to any failure to achieve regeneration delivery milestones to ensure these works are guaranteed to be delivered within a specified timeframe irrespective of the status of MERP;
- E. To agree to support an amendment to the Stock Transfer Agreement to specific partnership working arrangements between Clarion and the Council to include open book business plan progress updates and monitoring and regular identification, management and mitigation of risks to viability and deliverability with forums to be

established at operational (Officer) and strategic (Senior Officer and Member) levels with Clarion counterparts. This approach is proposed to ensure proactive management and monitoring of future risks.

- F. To delegate authority to the Director of Environment and Regeneration in consultation with the Cabinet Member for Housing Regeneration, and the Climate Emergency, to conclude any documentation, including, without limitation, amendments to existing agreements between the Council and Clarion, necessary to implement the recommendations C-E above on the best terms which in their view are reasonably achievable .
 - G. To agree that the 2010 Nominations Rights Deed will be preserved and that the council will continue to receive 100% nominations to true voids but that a protocol between Clarion Housing Group and the council be drawn up so as to assist Clarion in meeting its regeneration ambitions and ensuring that the council can continue to discharge its statutory housing duties and protect the public interest. Any such protocol will be jointly prepared between the council and Clarion Housing Group and be delegated to the Director of Community and Housing in consultation with the Cabinet Member for Housing, Regeneration and the Climate Emergency.
 - H. To ask officers to continue to consider options for a freehold asset to the Council that may reflect some value of the claw back suspension and, should a mutually agreeable asset transfer be agreed, to delegate authority to the Director of Environment and Regeneration, and the Director of Corporate Services to conclude that transfer in consultation with the Cabinet Member for Housing Regeneration, and the Climate Emergency and the Cabinet Member for Finance.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. Clarion Housing Group are delivering regeneration across three estates Eastfields, High Path and Ravensbury, supported by Merton's Estates Local Plan (2018). The 15 year programme is the largest housebuilding programme in Merton; it will build approximately 2,704 new homes, including replacing approximately 1,174 homes for existing tenants and homeowners to a modern standard.
- 1.2. The council supports the estate regeneration; it provides new homes to modern standards for the existing social housing and private residents on the three estates; it provides new homes to accommodate existing households that are currently living in overcrowded accommodation particularly at High Path; the regeneration provides modern homes, community rooms; investment to create space for shops and services along Merton High Street and Morden Road, new playgrounds and landscaping (including addressing issues of drainage, parking, providing play spaces and flood risk) and it provides more than 1,000 new homes, a significant proportion of future housing delivery, in Merton: important benefits for tenants and owner occupiers alike in a post Covid 19 where the quality of residents homes and neighbourhood are an important contribution to health and wellbeing.

1.3. This support has been made through a series of council decisions in from

2014 onwards, including the production and adoption of Merton's Estates Local Plan (2014 to February 2018) to guide planning decisions on the three estates and ensure that all three estates are regenerated. The council also agreed the "10 Commitments" with Clarion to ensure residents are treated fairly during the regeneration and has been monitoring the progress through the council's Sustainable Communities Overview and Scrutiny Panel.

1.4. On 6 April 2020 Clarion wrote to Merton's Chief Executive advising that a significant viability gap had emerged in relation to the proposed Merton Estates Regeneration Programme (MERP) encompassing the High Path, Eastfields and Ravensbury Estates. The programme-level viability gap, on a growth model basis, had swung from a surplus position at the point of the grant of planning permission in April 2019 to a deficit as of April 2020 as set out in the confidential section of this report. Clarion advised that this level of deficit was a serious risk to deliverability and measures needed to be explored to reduce this deficit and mitigate risks to delivery.

1.5. This report covers the following principal areas:

- a) The background and reasons for how and why the programme- level MERP viability gap has emerged, as reported by Clarion and scrutinised by LBM and their consultants;
- b) An overview of the process which has taken place over the last 12 months to address this viability gap inclusive of extensive cost and value optimising, programme refinement, options and scenario testing which took place via collaborative working between LBM and Clarion;
- c) The proposed measures identified as an output of this process to reduce the deficit to a position Clarion has confirmed is sufficient to allow them to commit to delivery; and
- d) Analysis and justification of the proposed commitments this report recommends LBM supports the reduction of Clarion's viability deficit at the time of writing this report, as set out in the confidential section of this report, but note that this is subject to final financial due diligence and subject to exchange of contracts and to manage risk across the remainder of the delivery programme, as set out in the recommendations of this report.
- e) The report covers the following principle areas - Heads of terms for the purposes of facilitating Merton Estate Regeneration Programme

1.5.2 On 6th September 2021, Cabinet met to consider the report and resolved all of the recommendations in this report. Merton's Sustainable Communities Overview and Scrutiny Panel considered a

presentation of the key matters in the report in their meeting on 2nd September 2021.

1.5.3 Councillors should note the following matters which are expanded in more detail within the report:

- (i) The above recommendations A-H are set out “in principle” subject to further legal and financial due diligence and the final agreement to the Heads of Terms is delegated to the Director of Environment and Regeneration in consultation with the Cabinet Member for Housing, Regeneration and the Climate Emergency. Now that Cabinet have resolved these principles, the financial and legal due diligence will continue.
- (ii) That Clarion’s business plan for MERP has been robustly scrutinised, challenged and iteratively developed through dialogue over the last 12 months by LBM Officers, Members and Merton’s independent financial viability consultants, SQW. This includes the identified viability deficit and a range of potential mitigation and value optimisation measures and interventions.
- (iii) That the options for scheme optimisation and value enhancement identified and referred to in the body of this report have not been designed in detail or subject to either formal planning or public consultation. Subject to endorsement of the recommendations set out above, Clarion will commit to progressing with design development, public and stakeholder consultation and seeking any necessary consents with full acknowledgement that this still represents their risk to deliverability and that the council’s planning decisions are not fettered by Cabinet and council decisions on the estate regeneration.
- (iv) That the outputs and conclusions of the process reported in this paper have been focused on identifying a viability position that Clarion can commit to delivering the full regeneration programme of all three estates to unlock the homes, jobs, placemaking and sustainability benefits the full programme would deliver relative to Decent Homes Standards upgrades, including
 - the provision of new homes to meet the needs of tenants and help address overcrowding
 - improved external areas, landscaping and open spaces, which are particularly important in a post Covid19 world
 - greater sustainability within the developments and improved comfort within the new homes
 - Contributions towards local infrastructure and travel which helps access to local amenities
 - contributes to Merton’s share of London’s housing needs, which is for targets of 918 new homes in Merton per year for the next 10 years.
- (v) That officers have endeavoured to ensure that the recommendations put before the Cabinet are proposed both to enable the delivery of full regeneration benefits for all three estates, whilst also ensuring adequate fallback, milestone-linked, provisions regarding Decent Homes Standards are secured to protect the

position of residents should MERP fail to proceed at the pace anticipated.

- (vi) That significant risks to financial viability and deliverability still remain, notwithstanding Clarion's commitment to deliver and proceed with MERP on the basis of the viability deficit identified in the confidential section of this report, and that is important for LBM and Clarion to work openly, proactively and collaboratively within an agreed governance framework to ensure these risks can be pre-empted, identified and managed effectively across the remaining duration of the programme.
- (vii) That officers are working to monitor Clarion's housing and maintenance following recent events where the standard of repairs and maintenance fell well below the expectations of the residents and of the Council; regular updates are being provided by CHG to the Council to ensure that they are tackling repairs and maintenance issues to a good standard and in a timely fashion particularly on the Eastfields Estate.

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