

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2578

Title: Assessment of an application for the out-of-borough transfer of homes from the London Borough of Lambeth to a new landlord

Executive summary:

The GLA is responsible for assessing applications for local authority-led voluntary housing stock transfers in London to a new landlord and deciding whether an application should be approved. Where government funding support for debt write-off is required, the GLA makes an assessment alongside the Department for Levelling Up, Housing and Communities (DLUHC) and HM Treasury for recommendation to government ministers as to whether the application should be approved. Under MD2866, the Mayor has delegated authority to the Executive Director of Housing and Land in consultation with the Deputy Mayor for Housing and Residential Development (unless the decision is novel, contentious or repercussive, in which case the decision will be made by the Mayor) to decide whether to approve a local authority-led transfer application received.

A formal application from the London Borough of Lambeth (LB Lambeth) was received on 21 January 2021. The application proposes that 71 tenanted and leasehold council homes located in the London Boroughs of Bromley, Croydon, Merton and Sutton are transferred to a new landlord, Phoenix Community Housing Association (Bellingham and Downham) Limited (registration number IP30057R) (henceforth referred to in this document as Phoenix), replacing LB Lambeth as the existing landlord. The GLA then started the process for formal assessment of the application, in accordance with the relevant guidance issued by the Department for Communities and Local Government, now DLUHC.

The assessment is contained in Part 2 of this Decision (Part 2) and recommends that the application should be approved, which would enable the proposals to move to the next stage of the transfer process, namely formal consultation with tenants.

Decision:

The Executive Director of Housing and Land in consultation with the Deputy Mayor for Housing and Residential Development approves the application submitted by LB Lambeth in respect of the proposed transfer of 71 tenanted and leasehold council homes located in the London Boroughs of Bromley, Croydon, Merton and Sutton from LB Lambeth to a new landlord, Phoenix Community Housing Association (Bellingham and Downham) Limited (registration number IP30057R), based upon an assessment carried out in accordance with the Housing Transfer Manual (the Manual) published by the Government in July 2014.

AUTHORISING DIRECTOR

Name: Rickardo Hyatt

Position: Executive Director, Housing and Land

Signature:



Date:

22/3/22

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

Assessment of Right to Transfer applications

- 1.1 The GLA is responsible for conducting initial assessments of applications for local authority-led voluntary housing stock transfers of local authority-owned homes in London to a new landlord.
- 1.2 Under MD2866, the Mayor has delegated authority to the Executive Director of Housing and Land, in consultation with the Deputy Mayor for Housing and Residential Development, to make findings of assessments of such applications made by local authorities, unless such findings identify that a decision in respect of an application could be novel, contentious or repercussive. In this case, the decision will be made by the Executive Director of Housing and Land.
- 1.3 This decision is not expected to be contentious as residents have been initially consulted and are supportive of the proposal. The application is also not deemed to be novel as stock transfers to registered providers have happened for a long time. The decision is also not expected to be repercussive as the proposal relates to a small-scale transfer of housing stock to an established registered provider.
- 1.4 Where an application proceeds, the GLA's role also includes approving the information provided by the local authority to tenants to consider through formal consultation and a ballot whether they want their homes transferred to a new landlord.
- 1.5 The GLA's role is described in paragraph 2.19 of the Manual published by the Government in July 2014:

“The GLA acts in relation to stock owned by London Boroughs [...]. They are responsible for:

- *initial discussions with a council or tenant group that is considering transfer preparatory to submission of a transfer application;*
- *carrying out formal assessments of each transfer application (alongside DCLG and HM Treasury where financial support for debt write-off or early redemption premiums is sought), including an assessment of value for money based on reliable evidence of how the proposal delivers government, and in London, mayoral, priorities;*
- *approving tenant information provided in the formal consultation;*
- *assessing the provision of tenant information in the formal consultation;*
- *recommendations to DCLG on consent to transfer applications to the Secretary of State; and*
- *managing the transfer caseload, including agreeing each local authority or tenant group's transfer timetable.”¹*

- 1.6 The Manual (paragraph 4.62) also explains that:

¹ [Housing Transfer Manual](#)

“The [GLA] will review the application once it has been formally submitted and take a view on whether it should be approved. Further clarification or evidence may be requested as necessary. Where no debt-write off is required the [GLA] will inform the local authority or the tenant group of its decision directly.”

1.7 The assessment of applications for transfer centres on the business case supporting the application. The Manual requires the business case to be organised under five main headings (the strategic, economic, commercial, financial and management cases). Under each heading, the business case must address specific criteria through the evidence required, as set out at Annex A of the Manual, which is annexed to Part 2.

1.8 As explained at paragraph 4.4 of the Manual:

“Business cases will be assessed to ensure that:

- *they present a strong case for transfer: **the Strategic Case** covering drivers for change, with strong emphasis on macro benefits. Criteria include how the transfer will help deliver wider government, and in London mayoral, housing and social policy objectives (in particular estate regeneration; greater tenant and resident empowerment; and the contribution to growth through additional homes, investment in the existing stock and local economic activity);*
- *they deliver value for money: **the Economic Case** which monetises the benefits shown in the strategic case to demonstrate a positive benefit to cost position. Where precise figures are unavailable, estimates are acceptable if based on demonstrable, reliable evidence;*
- *the transfer is viable: **the Commercial Case** covering indicative fundability of the transfer, asset management, delivery risks and landlord selection;*
- *they are affordable by the government: **the Financial Case** covering the specific public sector costs and benefits of the proposed transfer. Criteria include demonstrating that the Transfer Value has been acceptably optimised in respect of the balance between maximising transfer value, minimising debt write-off and securing additional private investment which delivers growth and any debt write-off requirement is sufficiently justified; and*
- *they can be delivered within an agreed timetable: **the Management Case** covering the timely delivery of the transfer project. Criteria include demonstrating that the project plan for transfer is achievable given the resources available.”²*

1.9 The Manual (paragraphs 2.1 and 2.2) states:

“For transfer to take place, the consent of the Secretary of State under sections 32-34 and/or 43 of the Housing Act 1985 is required. Before giving that consent and agreeing to provide any support for debt write-off, the Secretary of State will wish to be sure that the proposal offers value for money; accords with government policy; has the support of the tenants involved; and provides them with the protection of a regulated landlord. The Secretary of State will consider these matters in full when deciding whether to grant consent to the transfer. In addition, prior to proceeding to formal consultation, the local authority or tenant group must have its application for transfer approved by the HCA or GLA.”²

² [Housing Transfer Manual](#)

London Borough of Lambeth out-of-borough stock transfer application

- 1.10 A formal application from LB Lambeth was received on 21 January 2021. The application proposes the transfer of a total of 71 Housing Revenue Account properties owned by LB Lambeth, located within Bromley, Croydon, Merton and Sutton, to a new landlord, Phoenix, replacing LB Lambeth as the landlord. The stock comprises 34 tenanted properties; 36 properties sold under the right to buy; one leased private dwelling and a row of derelict garages. LB Lambeth and Phoenix have come to agreement on a transfer value and heads of terms for a transfer agreement, in advance of the formal application being assessed.
- 1.11 Phoenix is an existing not-for-profit resident-led housing association based in south London. Phoenix owns and manages more than 6,000 homes in the Bellingham, Downham and Whitefoot areas of Lewisham, and is currently building new homes. Phoenix also has more than 850 leaseholders. Phoenix is a small Registered Provider with a G1, V1 Governance and Viability rating with the Regulator of Social Housing. Phoenix is currently a GLA investment partner.
- 1.12 Part 2 together with Annex 5 of this Decision contains the assessment of LB Lambeth's out-of-borough stock transfer application. For the reasons set out in Part 2 and Annex 5, it is recommended that the business case – and therefore the application – should be approved by the Executive Director, which would enable the proposals to move to the next stage of the transfer process, namely formal consultation with tenants.
- 1.13 The business case was assessed on the criteria discussed in 1.8 above and the following salient conclusions were made:
- 1.14 In terms of the strategic case, the evidence supports the "growth case". The business case includes proposals to deliver additional affordable housing, Decent Homes Standards (DHS) works and benefits in terms of improvement to local economic activity should the transfer proceed. The evidence supports the "better-public-services case" as innovation in governance is offered by the new landlord, monetary benefits would also accrue from the transfer, which may be realised by the tenants, LB Lambeth and the Phoenix, and the proposal meets relevant national and London-wide policies and objectives. The evidence supports the "business sustainability case" as the demand for housing stock is high. While the assessment identifies some outcomes of the proposed transfer may not be certain, overall, the proposals are assessed as supporting the Strategic case for transfer.
- 1.15 In terms of the economic case, the business case evidenced that the investment proposed by Phoenix compared favourably against the option of retaining the stock and showed considerably better value for money.
- 1.16 In terms of the commercial case, the evidence shows the viability of the proposal over the long term, based on financial information provided and taking into consideration the small-scale of the transfer. This supports the case for transfer. The business case also demonstrated that, given the small number of properties involved and their geographical proximity to existing Phoenix housing stock, it is not considered likely that any other prospective landlord would provide a superior option for tenants. LB Lambeth has also evidenced extensive consultation with residents and an iterative process of negotiating with several registered providers before finally deciding on Phoenix. These considerations support a strong commercial case for the transfer.

- 1.17 In terms of the financial case, the costed investment plan and asset management strategy for the transfer of Phoenix provided reflects the stock condition and demand information. It also evidences the amount of investment into DHS works on the properties that Phoenix are committed to undertake, if transfer were to proceed. This investment would otherwise not be available were LB Lambeth to retain the stock. The transfer value has been shown to be acceptably optimised and it is considered that the financial case is affordable by the government. This supports the case for transfer.
- 1.18 In terms of the management case, it is considered that the transfer could be reasonably achieved within an agreed timetable, once updated, if the business case is approved. The amount of resources LB Lambeth is prepared to commit seems reasonable as it is a small-scale transfer. The alternative to transfer is that LB Lambeth would retain the stock but, in such circumstances, it is understood that ongoing management and maintenance of the stock would be limited and reactive. These considerations support the management case for transfer.
- 1.19 The result of the assessment is that, overall, it is recommended that the business case should be approved by the Executive Director in consultation with the Deputy Mayor for Housing and Residential Development; and that the proposals move to the next stage of the transfer process.
- 1.20 Should the Executive Director decide to approve the assessment of the business case, the GLA would continue to have oversight of the transfer process, as the GLA must also approve the offer document and formal letters which are used for the consultation with residents. After this point, if the tenant ballot is successful, the final decision as to whether the transfer may proceed will be made by the Secretary of State.
- 1.21 Part 2 and Annex 5 are not published at this time. This is because they contain commercially sensitive information. Upon publication of the Part 1 of this Decision, the GLA will write to LB Lambeth seeking its views on the GLA publishing a full or redacted version of the assessment set out in Part 2 and Annex 5. The GLA will consider LB Lambeth's response when deciding whether to publish these documents.

2. Objectives and expected outcomes

- 2.1 The objective of this decision is to set out the GLA's assessment of LB Lambeth's stock transfer application and the reasons for the GLA's decision (contained in Part 2). Following consultation and ballot, this will enable the Secretary of State to discharge his function of making the final decision on the transfer.

3. Equality comments

- 3.1 Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities – of whom the Mayor is one – must have due regard to the need to:
- eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 3.2 There is a chronic shortage of affordable housing in London, and those with protected characteristics are more likely to suffer disproportionately as a result of that shortage. LB Lambeth's proposal includes the transfer of 34 tenanted homes, let at social rents by LB Lambeth, to an existing not-for-profit registered provider of social housing. Phoenix has plans to deliver a minimum of six additional affordable housing units as an outcome of this transfer. The delivery of the additional affordable homes will contribute to meeting housing need in the borough of Bromley. Phoenix has committed to retaining affordable housing at social rent levels for the 34 tenanted properties to be transferred as part of this proposal. Retaining affordable housing at social rent levels will also go some way towards meeting housing need in the borough.
- 3.3 A full equality impact assessment was conducted by LB Lambeth (Attached in Part 2, Annex 1 Appendix 2). There are positive impacts resulting from the proposal for existing and future residents in terms of ethnicity, gender, disability and age. While there are both positive and negative impacts in terms of socio-economic factors for existing and future residents. The outcome of the assessment showed that the impact of the stock transfer was assessed to be positive, overall, in the long term, with no disproportionate negative impacts on particular groups.
- 3.4 LB Lambeth's application contains positive outcomes whereby the transfer to Phoenix will contribute to resident and community empowerment by providing tenants with a stronger say in the management and future of their homes. Examples provided included enabling residents to become shareholders of Phoenix or enabling participating in a residents' forum and community gateways, detailed further in Part 2.
- 3.5 The proposal has evidenced that Phoenix has organisational policies that include support for SMEs, and for the provision of training and employment opportunities for residents. The proposed transfer will support national and London-wide social policy objectives such as housing mobility and welfare reform.
- 3.6 Phoenix also offers its tenants access to a Community Chest to fund projects for residents (see Part 2, Annex 5). Such policies, amongst others assessed in the application, have the potential to help eliminate unlawful discrimination; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 3.7 The outcome of the GLA's assessment means that until a final decision is taken by the Secretary of State, the homes subject to the application will remain under the control of LB Lambeth, which is subject to the public-sector equality duty. If transfer were to proceed, Phoenix may be performing functions of a public nature when allocating and managing social housing. However, this is fact-dependent, and several factors would need to be taken into account. If it is determined that Phoenix is performing functions of a public nature, then it is like that the public sector equality duty would apply to these activities but there is some uncertainty about this.

4. Other considerations

Links to Mayoral strategies and priorities

4.1. The Mayor's Housing Strategy has five priorities:

- building homes for Londoners
- delivering genuinely affordable homes
- high quality homes and inclusive neighbourhoods
- a fairer deal for private renters and leaseholders
- tackling homelessness and helping rough sleepers.

4.2. Paragraph 5.81 of the **Mayor's Housing Strategy**, provides:

"it is essential that tenants, leaseholders, freeholders, and other residents and users of estates be reassured that, where regeneration is being considered, they will be fully involved in the process, and that councils, landlords and others will abide by a common minimum set of standards."

The assurance that Phoenix would not charge leaseholders in excess of £15,000 for works within the first five years of the transfer would support the priority of a fairer deal for leaseholders under the London Housing Strategy.

4.3. Phoenix's proposed significant investment in the transferred homes and the delivery of six additional affordable homes would help to deliver the objective of building homes for Londoners, delivering genuinely affordable homes and delivering high-quality homes under the **Mayor's Housing Strategy**.

4.4. **The Mayor's Good Practice Guide to Estate Regeneration** - 'Better Homes for Local People' outlines that social housing residents must be at the heart of decisions about the ongoing management and future of their estates. The proposed transfer to Phoenix will help give tenants and residents a stronger say in the management and future of their homes through a local resident forum facilitated by Phoenix, and via the opportunities to get involved in formal and informal governance. These opportunities will be facilitated by Phoenix and represents greater tenant empowerment than would be offered by LB Lambeth in a non-transfer scenario.

4.5. **The London Plan 2021** states at paragraph 1.0.1.: "Good Growth – growth that is socially and economically inclusive and environmentally sustainable – underpins the whole of the London Plan." The six Good Growth objectives are:

- GG1: building strong and inclusive communities
- GG2: making the best use of land
- GG3: creating a healthy city
- GG4: delivering the homes Londoners need
- GG5: growing a good economy
- GG6: increasing efficiency and resilience.

- 4.6. The proposals would help deliver certain policy objectives including the Mayor's Good Growth policies and the London Housing Strategy. The proposals may help to deliver GG1: building strong and inclusive communities, through increased levels of consultation with residents through participation in a local resident forum run and facilitated by Phoenix Community Housing. It may deliver GG2 through making the best use of land and GG4 by delivering the homes Londoners need in terms of the development of the additional affordable units proposed.
- 4.7. The proposals may help deliver GG5 by growing a good economy through the benefits such as Phoenix's approach to procuring local SMEs, and employment and training opportunities, as well as the apprenticeship positions made available. It may deliver GG6: increasing efficiency and resilience through investment in the repairs and improvements to bring the homes up to Decent Homes Standards.

Impact assessments and consultations

- 4.8. GLA officers have consulted with the LB Lambeth for clarifications and confirmation of facts (see Annex 5 to Part 2). Officers from Lambeth have provided their draft offer documents as part of the evidence for the assessment of the transfer and impact assessments (referred to in para. 3.3 in this report) to the GLA for review. These documents will also be considered as part of an assessment for the next stage of the process should the transfer be approved.

Risks

- 4.9. There is a risk that without publishing the findings of the assessment of LB Lambeth's stock transfer application, the GLA would be failing to fulfil a key responsibility defined by central government in the Manual. The impact of this would be uncertainty for tenants and leaseholders affected by the proposed transfer and for other key stakeholders including the existing landlord (LB Lambeth) and Phoenix. To address this risk, this Decision plans to make the findings of the GLA's assessment available in the public domain, subject to redactions on grounds of commercial sensitivity.
- 4.10. Following approval of the business case, there are also risks to the successful completion of the transfer; for example, tenants may not vote in favour of the transfer, or the Secretary of State's consent may be withheld. It is therefore important that, throughout the development of the transfer proposal, an alternative plan for the landlord function, with a viable long-term business plan, is maintained. This is covered in further detail in the management case in Part 2.

Declarations of interest

- 4.11. The officers involved in the drafting or clearance of this form do not have an interest to declare in accordance with the GLA's policy on registering interests which might, or might be seen to, conflict with this Executive Director's Decision.

5. Financial comments

- 5.1 The decision is seeking approval for the transfer of 71 tenanted and leasehold council homes from LB Lambeth to Phoenix Community Housing Association (Bellingham and Downham)

Limited. A budget is not required to grant the approval of the stock transfer.

6. Legal comments

- 6.1 For a transfer (in part or whole) of a local authority's housing stock to take place, the consent of the Secretary of State under sections 32-34 and/or 43 of the Housing Act 1985 is required.
- 6.2 The then Department for Communities and Local Government published a Manual in July 2014 – jointly with the Homes and Communities Agency and the GLA – setting out the process that a local authority is required to follow in order to gain consent from the Secretary of State to transfer, and the issues that will be considered in assessing individual transfer applications. It describes the submissions required ahead of the final application for consent, and the criteria by which these submissions will be assessed. The Housing Transfer Manual sets out those areas that require GLA assessment or approval.
- 6.3 Under section 30 of the Greater London Authority Act 1999 (the GLA Act), the GLA has power to do anything which it considers will further any one or more of its principal purposes which are promoting economic development and wealth creation in Greater London, promoting social development in Greater London, and promoting the improvement of the environment in Greater London. Section 34 of the GLA Act provides that the GLA may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of its functions. The GLA's role pursuant to the Manual falls within the statutory powers of the GLA under sections 30 and 34 to promote social development and/or to do anything which is facilitative of or conducive or incidental to the promotion of social development in Greater London. In preparing the recommendation in respect of which a decision is sought, officers have complied with the GLA's related statutory duties to:
- pay due regard to the principle that there should be equality of opportunity for all people (section 33, GLA Act 1999)
 - have regard to the effect which the proposed exercise of the GLA's power would have on each of the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom, and climate change and the consequences of climate change (section 30(4) GLA Act 1999)
 - consult with such bodies as the GLA considers appropriate (section 32, GLA Act 1999).

7. Planned delivery approach and next steps

- 7.1 The table below sets out key next steps in the transfer process and indicative timeframes from the date of this decision.

Activity	Timeline
GLA and LB Lambeth agree offer document	May 2022
Local authority consultation (Stages 1 and 2)	November 2022
Secretary of State approves transfer	March 2023
Transfer completes	May 2023

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Virgil Rappa has drafted this report in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service:

Natalie Daniels has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

Corporate Investment Board

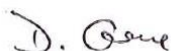
This decision was agreed by the Corporate Investment Board on 21 March 2022.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature



Date

22/3/22