

Earls Court residents set to take legal action to scupper Capco plans

11 August 2015 | By David Parsley

Residents of two West London council estates will serve a legal notice on Hammersmith and Fulham Council this afternoon demanding the transfer of their homes to a community landlord, *Property Week* can reveal.

The proposal could scupper plans by property group Capital & Counties (Capco) to redevelop the area and pave the way for community-led takeovers of threatened estates. The site forms part of Capco's huge redevelopment of Earls Court.

The £12bn Earl's Court redevelopment, which was granted planning permission in 2013, includes the demolition of 760 West Kensington and Gibbs Green homes. The buildings are subject to a land sale agreement between Hammersmith & Fulham Council and EC Properties, a company controlled by Capco.

Keith Drew, chairman of the West Ken Gibbs Green Community Homes, said: "Residents are fed up with the on-going uncertainty. We've always opposed demolition and the current council's manifesto said the same. The council has been talking with the developer for almost a year. It's apparent that the previously agreed regeneration scheme is undergoing major revision but residents have been excluded from the discussions and no new scheme has been agreed. We expect the government to support tenants to exercise our legal rights to be empowered to get on with our own plans for regeneration."

A spokesman for Capco said: "The Earls Court Masterplan - including the plans to regenerate the estates - is well advanced, has broad support and will bring very significant investment and benefits to residents, the local area and London. The estates have already been sold under an existing binding contract, as already approved by the Secretary of State. As part of the area's regeneration residents will gain new and better homes, more jobs, a new school, parkland, new shops and leisure facilities."

In January 2013 the then Conservative-led council signed a collateral agreement with Capco obligating it to resist and oppose any challenge to the redevelopment. A legal opinion obtained by residents from Martin Westgate QC of Doughty Street Chambers states that this agreement is an "unlawful fetter" on the council's discretion and that the council should not have regard to it when deciding how to respond to the tenants' request to transfer their homes to a community landlord.

Once a Right to Transfer Proposal Notice has been served, the regulations stipulate the council has 28 days to validate the notice. At any time, the council may seek a determination from the secretary of state not to co-operate with the transfer proposal on the grounds it may have a detrimental impact on the regeneration of the area or the provision of housing services.

However, the residents group claims the council has halted the original regeneration scheme, and through its negotiations with Capco is planning to produce a completely different scheme. The residents claim they have been excluded from these negotiations and not told what options are being discussed.

As part of their transfer proposals, residents intend to produce their own plans for regeneration of the area. Architects will be engaged to draw up options for making improvements to the existing properties and constructing new homes at various locations around the estates. There will be widespread consultation with residents who will be invited to make their own suggestions and get involved in preparing a policy for prioritising who should be offered new homes.

Residents have steadfastly opposed demolition, by a factor of four to one according to the council's own consultation. Now, the tenants are pressing forward with their own plans for seeking community ownership. The Right to Transfer legislation, in section 34A of the Housing Act 1985, grants secure council tenants the right to transfer their homes to a housing association.

Residents, who have been fighting the demolition plans since 2009, established West Ken Gibbs Green Community Homes in 2011 as the tenant group to take forward their plans.

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