

Item No. 10	Classification: Open	Date: 14/02/06	MEETING NAME: Executive
Report title:		Compulsory Purchase of Lands on the Silwood Estate (Phase 4A), SE16 – Confirmation of Order	
Ward(s) or groups affected:		Livesey	
From:		Strategic Director of Regeneration	

RECOMMENDATION

1. That the Executive, exercising its power under Section 14A of the Acquisition of Land Act 1981 as authorised by the First Secretary of State acting through the Government Office For London (the "**confirming authority**"), confirms the London Borough of Southwark (Silwood Estate, Rotherhithe – Phase 4A) Compulsory Purchase Order 2005 (the "**Order**").
2. That the Executive, having resolved to confirm the London Borough of Southwark (Silwood Estate, Rotherhithe – Phase 4A) Compulsory Purchase Order 2005, grants authority to the Acting Head of Legal Services to authenticate and date the confirming endorsement on the said Order.

BACKGROUND INFORMATION

3. The Silwood Estate was constructed in the 1960's and comprised predominantly a mixture of 11 storey high slab blocks together with four storey and six storey maisonette blocks and some terraced houses. The estate straddles both the London boroughs of Southwark and Lewisham with the majority holding being in the latter. The overall design, condition and location of the estate is poor. This is marked by the fact that an independent survey of the residents conducted in 1999 found that 58% of residents stated that they would like to see the estate totally demolished and rebuilt.
4. The Silwood Estate redevelopment (the "**Scheme**") is being funded through a round 5 Single Regeneration Budget ("**SRB**") under the Government's SRB Initiative. The SRB funding is for 7 years from 1999-2006 and comprises an SRB grant and match funding from the public and private sector. The Silwood SRB is a cross borough partnership with Lewisham Council as the accountable body. Approval for Southwark Council to enter such a partnership was granted by the Housing (Urgency) Sub Committee on the 8th April 1999.

5. The Scheme aims to comprehensively redevelop the Silwood Estate and provide a range of amenity, educational and community improvements for residents in and around the local area. The Scheme also proposes to use physical renewal as a vehicle to improve the environment and tackle the high levels of deprivation and social exclusion on the Silwood Estate.
6. The Scheme is made up of 7 phases. Phases 1 and 2a have now been completed, whilst phases 2b and 3 are currently under construction.
7. Phase 4A straddles the London Boroughs of Southwark and Lewisham. The Phase 4A area within Southwark currently comprises 32 residential units contained in 2 x 4 storey blocks (94 to 132 (even) Eugenia Road and 134 to 156 (even) Eugenia Road). These blocks are made up of 28 x 3 bed maisonettes and 4 x 4 bed maisonettes.
8. On the 8th March 2005 the Executive resolved to take all necessary steps to secure the making confirmation and implementation of a Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any public inquiry for the acquisition of all interests not within the Council's ownership in the land required for Phase 4A (Southwark) of the Scheme.
9. The Executive also resolved to acquire interests in land and acquire new rights through a Compulsory Purchase Order either by agreement or compulsorily and approve agreements with owners of interests within the Compulsory Purchase Order Land and the making of arrangements for re-housing or relocation of occupiers so that Phase 4A of the Silwood Estate's redevelopment may proceed.
10. On the 12 July 2005 Phase 4A of the scheme received full planning permission.
11. Southwark Council made the London Borough of Southwark (Silwood Estate, Rotherhithe – Phase 4A) Compulsory Purchase Order on the 4th October 2005. The Council's Statement of Reasons for making the Order is attached at Appendix C. The Order Land (the Order Map is contained in Appendix B) comprises 1 property built for private residential purposes, being 100 Eugenia Road Silwood Estate Southwark London SE16 2RA. The freehold of 100 Eugenia Road is owned by Southwark Council. On 27 May 1991, Southwark Council granted a 125 year lease over 100 Eugenia Road. Both the freehold and the leasehold of 100 Eugenia Road are registered.
12. The Order was also made for all interests in all non-residential land in the area covered by Phase 4A of the Scheme for the regeneration of the Silwood Estate and which falls within the Council's administrative area. This is so as to avoid delay and uncertainty and to secure the objectives underlying the regeneration of the Silwood Estate and

safeguard the funding. This non-residential land is used for communal parking and community amenity areas for use by the residents of the Silwood Estate.

13. All relevant persons were notified of the making of the Order and all other notice requirements under Sections 11 and 12 of the Acquisition of Land Act 1981 have been met. The Order was submitted to the First Secretary of State for confirmation on 27 October 2005, with the General Certificate in Support of Order Submission being issued to the First Secretary of State on 9 November 2005.
14. On 24 November 2005, the First Secretary of State gave notice under Section 14A of the Acquisition of Land Act 1981 that the power to confirm the Order may be exercised by the Southwark Council.
15. On 29 November 2005, the First Secretary of State informed Southwark Council that an objection to the Order had been received. Accordingly, the First Secretary of State revoked the Section 14A Notice and Southwark Council's power to confirm the Order.
16. Since 29 November 2005, Southwark Council has been in negotiation with the objectors, being the leaseholders of 100 Eugenia Road. On 13 January 2006, Southwark Council reached an agreement with the objectors which resulted in withdrawal of the objection on 13 January 2006.
17. With no remaining objections, the First Secretary of State has returned the Order to Southwark Council for confirmation under Section 14A. The letter and notice received from the First Secretary of State on 17 January 2006 are attached at Appendix D.

KEY ISSUES FOR CONSIDERATION

18. The regeneration of the Silwood Estate is one of the Council's priorities. The Silwood partnership, of which Southwark is an integral member, has brought together the community, voluntary agencies as well as the public and private sectors to deal with issues of social inclusion and neighbourhood renewal. In July 2003, the Executive approved the basis for Southwark's involvement in the redevelopment phase of the Silwood programme.
19. Within the jurisdiction of Southwark Council, Phase 4A of the Scheme is being undertaken in partnership with Presentation Housing, one of the partner Residential Social Landlord's. Presentation Housing will purchase the Phase 4A Southwark site from Southwark Council and develop it as social housing providing 33 units for rent.
20. The decanting of tenants of Phase 4A started at the latter half of 2004 and is now complete. All of the maisonettes are now empty and

boarded with the exception of 100 Eugenia Road (which is a leasehold property).

21. Four leasehold interests have already been acquired by agreement in Phase 4A. One leasehold interest (100 Eugenia Road) remains in the hands of third parties. It was the leaseholders of this residential property who objected to the Order. Negotiations with the leaseholders of 100 Eugenia Road commenced on 7 April 2004, when the initial letter was issued to the leaseholders informing them of Southwark Council's need to acquire 100 Eugenia Road. Southwark Council visited the leaseholders of 100 Eugenia Road on 22 June 2004, with the leaseholders subsequently contacting the Council on 21 January 2005.
22. Negotiations with the leaseholders of 100 Eugenia Road proved protracted and hence the Council made the Order. Unsurprisingly, the leaseholders objected to the Order. Finally, on 13 January 2006 the Council and the leaseholders reached an agreement which resulted in the one objection to the Order being withdrawn.
23. Under the terms of the agreement, the leaseholders to 100 Eugenia Road are to give vacant possession of 100 Eugenia Road on 10 February 2006. However, there is no guarantee that this date will be met and consequently the Council has received legal advice recommending that the Order be confirmed so that the Council has the option to exercise its rights under the Order and acquire compulsorily the leasehold interest to 100 Eugenia. This will give certainty to the Council and its partners in the Scheme.
24. Delays in securing vacant possession of 100 Eugenia Road will delay the building programme and therefore lead to increased costs. Failure to acquire 100 Eugenia Road will also seriously jeopardise the delivery of the Silwood Estate regeneration. The SRB programme must adhere to cashflow and output targets as directed by the London Development Agency and failure to do so could result in a loss of financial resources from the programme.
25. Section 17 of the Housing Act 1985 empowers the Council, as a local housing authority, to acquire land, houses or other properties for the local provision of housing accommodation. This power is available even where the land is acquired for onward sale to another as long as the purchaser intends to develop it for housing purposes. The 1985 Act also empowers local authorities to acquire land compulsorily (subject to authorisation from the First Secretary of State). Government guidance in ODPM circular 06/2004 requires a qualitative or quantitative housing gain and the Council would have to demonstrate such gain when seeking the First Secretary of State's confirmation of any CPO. As already stated in paragraph 17 above and as can be seen in Appendix D, the First Secretary of State has now empowered Southwark Council to decide whether or not to

confirm the Order under Section 14A of the Acquisition of Land Act 1981.

Policy implications

26. The redevelopment of the Silwood Estate helps the Council meet its commitment to regeneration and sustainability in housing as demonstrated through the 1998 – 2005 Southwark Housing Strategy.
27. In partnership with Presentation Housing, the new residential units are being designed to a high quality standard. The designs address energy efficiency and sustainability. Wherever possible, all new dwellings will comply with the Building Research Establishment's "environmental standard" award. The demolition contracts specify that where practical, materials will be re-used for infill for the new properties to be built. In addition, all materials will come from, where possible, sustainable and renewable sources. They will also comply with the Metropolitan Police's 'secured by design' standards.

Community impact assessment

28. The SRB programme exists to deliver significant improvements to the lives of some of the most disadvantaged in the Borough.
29. The new properties will be available primarily to those residents being decanted who wish to remain on the Silwood Estate and those wishing to return who have been decanted temporarily elsewhere.
30. Presentation Housing was selected as a partner RSL partly for their experience with the BME community.
31. Across the whole estate, seven wheelchair units are being provided.

Resource implications

32. There is one remaining leasehold three-bedroom maisonette to be acquired, 100 Eugenia Road. This will need to be acquired at full market value (and this is part of the agreement reached with the leaseholders). The Housing Investment programme identified a budget of £1.67m from BCA/MRA to meet the requirements for leasehold acquisition.
33. In addition, the leaseholders will be entitled to home loss and disturbance payments. The Council will also have to bear the leaseholders' reasonable legal and surveyor's fees.
34. Securing vacant possession and onward sale to Presentation Housing will generate a substantial capital sum. The securing of this receipt is essential to the delivery of the Housing Investment Programme.

35. As stated in paragraph 24 above, delays in securing vacant possession of the Order Land will delay the building programme and therefore lead to increased costs, given the current rate of property building inflation in London.

Consultation

36. Consultation first took place in 1999 and was carried out by PPCR in the form of a survey. Of those surveyed 69% of Southwark residents responded, with 58% of these stating that they wanted the estate demolished and rebuilt. A public meeting and exhibition followed.
37. Southwark residents have been included in all consultation meetings held by Lewisham; such as the Regeneration Forum, Decanting meetings and Leaseholder meetings. Details of the planned redevelopment have been included in previous editions of the Silwood SRB newsletter delivered to all residents and former residents who have requested to return to the Silwood. Plans were previously displayed in the Silwood SRB office on the estate for residents to view. A website detailing the regeneration of the estate is available for all to access.
38. The planning application for this phase was subject to the usual statutory consultation.
39. Following the making and publication of the Order a period of three weeks followed in which objections could be made.

Re-Housing

40. Section 39 of the Land Compensation Act 1973 places a duty upon the Council that where a person is displaced from residential accommodation in circumstances such as apply here then there is a duty on the Council where suitable alternative residential accommodation on reasonable terms is not otherwise available to secure that such accommodation is provided (subject to certain qualifying criteria).
41. The leaseholders of 100 Eugenia Road are currently looking for permanent accommodation and do not require the Council to provide permanent alternative accommodation. However, the Council has offered to provide temporary accommodation to bridge any potential gap between the leaseholders leaving 100 Eugenia Road and moving into their new permanent accommodation.

Human Rights Implications

42. ODPM circular 06/2004 sets out government policy relating to the making and confirmation of Compulsory Purchase Orders.
43. The guidance states that a Compulsory Purchase Order should only be made where there is a compelling case in the public interest and

that regard should be had in particular to the provisions of article 1 of the first protocol to the European Convention on Human Rights and article 8 of the Convention. These articles are set out in the Schedule to the Human Rights Act 1998, which came into force in October 2000.

44. A balanced view has to be taken between the intentions of the Council and concerns of those whose interest in land it is proposed to acquire. There must be clear evidence that the public benefit will outweigh the private loss.

45. Article 1 of the first protocol states as follows:-

"every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principals of International Law".

46. Article 8 states that:-

- everyone has the right to respect for his private and family life, his home and his correspondence; and
- there shall be no interference by public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

In considering these articles the European Court in the case of *Sporrong v Sweden* stated that they meant that individuals are entitled to the peaceful enjoyment of their property and possessions but that the State can deprive individuals of their property and possessions and can control the use of property and possessions. However the State's actions had to be in accordance with law, be necessary and legitimate in the general, interest and proportionate.

47.1 It is recommended that the Executive:-

47.1.1 Confirms the Order;

47.1.2 Grants authority to the Acting Head of Legal Services, to authenticate and date the confirming endorsement on the Order;

so that Phase 4A of the Silwood Estate's Redevelopment may proceed.

48. Therefore, in reaching its decision the Executive needs to consider the extent to which the decision may impact upon the Human Rights

of the leaseholders to 100 Eugenia Road (bearing in mind that a agreement has been reached) and to balance these against the overall benefits to the community, which the Scheme will bring. Executive will wish to be satisfied that interference with the rights under Article 8 of the E.C.H.R. and Article 1 of Protocol 1 to the Convention is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest. In reaching its decision the Executive will have regard to paragraph 10.4 of the Statement of Reasons, which states there is a compelling case in the public interest for the acquisition of 100 Eugenia Road and interests/rights affected by the Order.

49. It is relevant to consideration of this issue that the leaseholders of 100 Eugenia Road have been offered re-housing in accordance with the Council's re-housing policy together with the market value for the property as well as home loss payments and the reimbursement of professional fees and other removal expenses.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Report of the Council's Appointed Legal Advisors in this Matter – Pinsent Masons

Power to Confirm Compulsory Purchase Orders

50. Section 14A of the Acquisition of Land Act 1981, as inserted by Section 102 of the Planning And Compulsory Purchase Act 2004, provides a discretionary power for the confirming authority, in this case the Government Office For London acting with the authority of the First Secretary of State, to give the Council responsibility for deciding whether or not to confirm an order. The confirming authority will only use this power if certain criteria are met (see below). This is intended to help speed up the confirmation process.
51. The confirming authority cannot exercise its discretion if the Order Land:
- 51.1 includes statutory undertaker land which was acquired for the purposes of the undertaking, or the Order Land includes new rights over undertaker land for which the undertaker has made Section 16 (Acquisition of Land Act 1981) representations; or
- 51.2 includes common, open space or fuel or field garden allotment land for the purposes of Section 19 of the Acquisition of Land Act 1981.

We confirm that the Land contained within the Order does not fall within any of the descriptions contained in this paragraph.

52. If the Order Land does not fall within the descriptions as noted in paragraph 48 above (as in this case) then the confirming authority may give notice under Section 14A of the Acquisition of Land Act 1981 if it is satisfied that:

52.1 all notice requirements under sections 11 and 12 of the Acquisition of Land Act 1981 to publish, affix and serve notices have been met; and

52.2 there are no objections or if objections have been received that all such objections have been withdrawn; and

52.3 the Order is capable of confirmation without modification.

As can be seen from the letter from the Government Office For London dated 17 January 2006 , the First Secretary of State is satisfied that *"all the notice requirements of sections 11 and 12 of the 1981 Act [the Acquisition of Land Act 1981) in relation to the order have been met, that the order is unopposed – the single objection having been formally withdrawn – and that it [the order] is capable of confirmation without of modification and as a single order (i.e. not in stages)."*

53. As the Order satisfies the relevant criteria, the Government Office For London, as authorised by the First Secretary of State, has served a Section 14A notice empowering the Council to confirm the Order. The Council now has the power to decide whether or not to confirm the Order, but the Council does not have the power to modify the Order on confirmation nor to confirm the Order in stages.

54. It is the First Secretary of State's policy that all orders should be determined as quickly as practicable. Therefore, if the Government Office For London has not received notification of a decision on the Order within 6 weeks from 17 January 2006, then consideration will be given as to whether the Section 14A notice should be revoked.

Strategic Director of Housing

55. In July 2003, the Executive gave approval to the basis for Southwark's involvement in the redevelopment phase of the Silwood programme, including, demolition costs, leasehold acquisitions, home loss and disturbance payments.

56. Southwark residents of the Phase 4 sites have been included in all consultation meetings held by Lewisham such as the Regeneration Forum, Decanting and Leaseholder meetings.

57. It is essential that Phase 4A of the scheme is cleared within the timescale to negate the risk of potentially putting at risk the funding

from the Housing Corporation and the ability to develop the sites and achieve the outputs required by the SRB programme.

58. The Housing Investment Programme has identified a budget of £1.67m from BCA/MRA to meet the requirements for leasehold acquisition. This budget was identified in June 2003 and £423k has been spent to the end of January 2005; a further £747k is scheduled to spend on acquisitions and home loss by the year-end.

Chief Finance Officer

59. The Silwood SRB is a round 5 SRB scheme under the Government's Single Regeneration Budget Initiative. The scheme runs from 7 years from 1999-2006 and is funded through SRB grant and match funding from the public and private sector.
60. Phase 4A is a scheduled development phase of the overall scheme. Failure to obtain vacant possession of the site within the requisite time frame will seriously jeopardise the delivery of the estate regeneration. This could result in increased building costs caused by the high levels of property building inflation.
61. The SRB programme must adhere to cashflow and output targets as directed by the London Development Agency, failure to do so could result in a loss of financial resources from the programme and the withdrawal of funding from the partner RSL's.
62. The onward sale of Phase 4A to Presentation Housing will result in a substantial capital receipt to the Council, as identified in the Housing Investment Programme, which could be delayed or jeopardised by failure to deliver the site with vacant possession within the required timeframe.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Property Division file	Property Division. Chiltern House Portland St	Paul Davies 020 7525 5529

APPENDIX A

AUDIT TRAIL

Lead Officer	Paul Evans – Strategic Director of Regeneration	
Report Author	Paul Davies – Property Division	
Version	Final	
Dated	03/02/06	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
Director of Housing	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services	03 Feb 06	

APPENDIX B

**MAP REFERRED TO IN THE LONDON BOROUGH OF SOUTHWARK
(SILWOOD ESTATE, ROTHERHITHE – PHASE 4A) COMPULSORY
PURCHASE ORDER 2005**

APPENDIX C

STATEMENT OF REASONS

APPENDIX D

**LETTER FROM THE GOVERNMENT OFFICE FOR LONDON AND
SECTION 14A NOTICE**

