

Item No. 23.	Classification: Open	Date: 31 October 2017	Meeting Name: Cabinet
Report title:		Aylesbury Estate: Approved Premises Facilities delivery	
Ward(s) or groups affected:		Faraday	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD - COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

This reports seeks authorisation to begin the Compulsory Purchase Order process to enable the delivery of the Approved Premises Facility on the Aylesbury Estate. This new modern facility will enable the Ministry of Justice to move the current facility from the First Development Site of the Aylesbury Estate. This in turn will unlock the delivery of 800 new homes including new social rent, extra care, and learning disability homes on that site.

We have made progress with purchasing a number of leasehold interests in the proposed Order area and the council will continue to seek voluntary purchase of all remaining interests. The full range of options and support for resident leaseholders remains to enable them to stay in the area. However, to give certainty on delivery of the new APF and the much needed new homes on the First Development Site it is necessary to make this CPO application.

RECOMMENDATIONS

1. That Cabinet notes the current position in relation to the delivery of the Approved Premises Facility at Plot 4 within Phase 2 of the Aylesbury regeneration programme:
 - Detailed planning permission granted for the development in April 2017;
 - Funding is already allocated within existing Aylesbury Housing Investment programme allocation for Aylesbury;
 - The council has successfully acquired all 4 resident leasehold properties within 1-30 Foxcote by agreement and 4 of the 7 non-resident leaseholders as well as successfully rehoused 16 households on a secure tenancy;
 - The council is continuing to negotiate with all 3 remaining owners within 1-30 Foxcote and the owner of 140 Albany Rd with the intention to acquire these remaining interests by agreement.

2. That Cabinet resolves to make a Compulsory Purchase Order under section 226 (1)(a) of the Town & Country Planning Act 1990 for all land and rights within the area of land identified within the plan at Appendix 2 for the purposes of securing the delivery of the Approved Premises Facility on the site in line with the existing planning consent and thereby securing decant facilities for Ellison House in turn enabling the delivery of the First Development Site and delivering the regeneration of the wider Aylesbury Estate in line with the adopted Aylesbury Area Action Plan.

3. That cabinet notes that an update report on further progress towards obtaining vacant possession of the site will be brought to Cabinet before a Compulsory Purchase Order is made.
4. That Cabinet confirms that the area of council-owned land hatched black on the plan at Appendix 3 is no longer required for the purposes for which it is currently held and approves the appropriation of the land to planning purposes to facilitate the carrying out of the development proposals for the area in accordance with section 226 of the Town and Country Planning Act 1990 and section 122(1) of the Local Government Act 1972 (as amended), subject to compliance with the advertisement requirements of section 122(2A) of the Local Government Act 1972.
5. That Cabinet confirms that, following completion of the appropriation at paragraph 4 above, the area of council-owned land hatched black on the plan at Appendix 3 will no longer be required for planning purposes and approves the appropriation of the land to housing purposes in accordance with section 9 of the Housing Act 1985 and section 122(1) of the Local Government Act 1972 (as amended), subject to compliance with the advertisement requirements of section 122(2A) of the Local Government Act 1972.

BACKGROUND INFORMATION

6. The background to the regeneration of the Aylesbury Estate has been covered extensively in previous reports but is summarised here for context.
7. Having spent a number of years investigating plans for refurbishing the estate, it became apparent that the extent and cost of works required to refurbish the estate to an acceptable standard would be prohibitive and would not overcome the fundamental design flaws of the layout of the estate, the Council took the decision in 2005 to redevelop the estate.
8. In March 2007 the council undertook the preparation of the Area Action Plan to establish the policy framework for the redevelopment of the estate. The Aylesbury Area Action Plan (AAP) was adopted by the council in January 2010 following extensive public consultation, including an Examination in Public in 2009. It is part of the statutory development plan and deals directly with the redevelopment of the Aylesbury Estate its policies have significant weight in any decisions on applications in this area.
9. Having undertaken a competitive procurement process to secure a development partner for the delivery of the regeneration of the estate, the council appointed Notting Hill Housing Trust (NHHT) to bring forward the phased regeneration of the Aylesbury Estate, and a Development Partnership Agreement (DPA) between the Council and NHHT was signed on 28 April 2014. This partnership will see the development of a further 3,500 new homes across the Aylesbury development area, along with a number of community facilities, commercial facilities and a range of parks and open spaces and high quality public realm.
10. Following further consultation on the masterplan for the estate, applications were submitted by NHHT for detailed planning permission (reference no. 14/AP/3843) for the redevelopment of the First Development Site (FDS) within the south west corner of the estate and for outline planning permission (reference no. 14/AP/3844) for the redevelopment of the wider estate, both in line with the

requirements of the development plan and the aspirations of the AAAP, and both were granted consent on 5 August 2015.

11. In order to secure the implementation of the consented scheme for the FDS, the council is well advanced in securing vacant possession of the FDS. To date, 5 residential blocks are fully vacant and the council is progressing a Compulsory Purchase Order to secure vacant possession for the remaining blocks within the FDS in line with the revised development programme. In addition to securing vacant possession of the residential blocks on the FDS, the council is also progressing the delivery of a new Approved Premises Facility (APF) outside of the FDS in order to provide decant facilities for the existing facility within the FDS at Ellison House and thereby ensure vacant possession of the full FDS.
12. The new APF will be delivered within Plot 4 of Phase 2 of the Aylesbury Estate by its development partner NHHT on the council's behalf utilising existing provisions for delivering council works within the DPA. An application for detailed planning permission (reference no. 17/AP/0053) was submitted by NHHT, and this was granted consent on the 7th April 2017.
13. This report sets out the current position in relation to the delivery of the scheme.

KEY ISSUES FOR CONSIDERATION

The scheme

14. An APF is a residential facility that provides housing and support for people who have recently left prison (usually on probation) who require 24 hour supervision in a residential setting. The main aim of an APF is to rehabilitate offenders considered ready for release from prison, supporting them back into the community through enhanced levels of contact, support and supervision. The consented scheme for the APF Site will deliver a new 36-bed residential APF to be managed by the National Probation Service for the rehousing and supervision of former offenders released from prison in order to manage their successful reintegration into society. The proposed site has been chosen as it is close to the existing site, has good access to public transport routes and is within the Aylesbury Estate where the current facility is housed. The delivery of the new APF constitutes the re-provision of the existing facility in a new, modern, fit-for-purpose expanded facility.
15. Planning permission was sought and obtained for the scheme in order to provide alternative premises for the Ministry of Justice facility currently housed at Ellison House within the First Development Site. The Ministry has agreed with the Council to vacate Ellison House, and securing planning permission and obtaining the land needed to deliver the alternative premises are necessary steps in that process. The scheme of redevelopment with planning permission on the First Development Site requires the demolition of Ellison House and it is therefore important to provide an alternative facility in line with the agreement with the Ministry, to provide for a timely decant. Since the grant of the detailed planning consent, detailed designs for the scheme have now be developed to Tender stage and a contractor is to be procured through a competitive procurement process via the council's development partner, Notting Hill Housing Trust. It is intended that the contract will be let in early 2018.
16. The currently consented scheme for the FDS will deliver a total of 830 new

mixed-tenure housing units. An application has been made to vary the existing consent for the FDS, which will increase the quantum of new homes to be delivered on the FDS to 842 units. The proposed changes to the FDS tenure mix are broadly in line with the figures previously reported to Cabinet, but with a small increase in units for social rent of 7 units, a small reduction in units for shared ownership of 8 units, and small increase in units for private sale of 3 units. The consented and revised tenure mix for FDS as follows:

	FDS consented scheme	FDS revised scheme	Net change
Social Rent	304	348	+44
Shared Ownership	102	211	+109
Market Rent	48	48	0
Private Sale	376	235	-141
Total	830	842	+12

The site / vacant possession

17. The extents of the APF Site are shown in the plan at Appendix 1. The Site comprises the residential buildings at 1-30 Foxcote and 140 Albany Road, along with adjacent ancillary open space and unadopted estate footpath and parking land. While construction of the APF Scheme can commence on land already within the council's control, full implementation of the scheme will require the council to achieve vacant possession of the block at 1-30 Foxcote and 140 Albany Road to enable these buildings to be demolished and this land to be redeveloped as part of the scheme in line with the existing planning consent. Furthermore, vacant possession of these buildings is required to enable the future delivery of their redevelopment along with the surrounding land in line with the outline planning permission for the redevelopment of the wider estate.
18. 1-30 Foxcote and 140 Albany Road fall within the wider Phase 2 of the Aylesbury Estate regeneration programme and were activated for rehousing in July 2014 on that basis. The block of 1-30 Foxcote contains 30 properties. At the time of activation, there were a total of 7 leaseholders, of which 2 were resident leaseholders and 5 non-resident leaseholders, plus 20 secure tenants and 3 voids.
19. Since the rehousing of residents in 1-30 Foxcote commenced, the council has successfully rehoused a total of 16 of the 20 households on secure tenancies on the same basis and the council's Area Housing office is continuing to work with the 4 remaining households on a secure tenancy to facilitate their move to a new property. As with all tenants relocated from the Aylesbury Estate, all tenants relocated retain the option to return to new homes on the estate should they wish to do so once all remaining tenants from the estate have been rehoused.
20. The council has successfully completed the acquisition of all 4 of the resident leasehold properties within 1-30 Foxcote, 2 under the council's early buy-back programme and 2 since activation in July 2014. In addition, the council has successfully completed the acquisition of 4 of the 7 non-resident leaseholds, 2 as early buy-backs and 2 since activation. These were purchased by agreement following successful negotiation with the leaseholders. All of the remaining leasehold interests in the block are owned by non-resident leaseholders, although as noted below the owner of one has recently advised that they have moved back

into the property. The council is continuing to negotiate with all 3 remaining leaseholders with the intention to acquire the remaining interests by agreement.

21. Having successfully relocated 20 households from the block since activation, the resultant vacant properties have been in use by the council for temporary accommodation and the block currently contains 6 households in temporary accommodation. As further properties become vacant within the block, either following successful rehousing of the remaining secure tenants or temporary accommodation households, or buy back of outstanding leaseholds, these properties will no longer be utilised for further lettings and will be held void until the block is fully vacant prior to demolition. A total of 17 properties are currently held void in this way.
22. Negotiations to acquire the 3 remaining leasehold interests within 1-30 Foxcote and that of the Freeholder at 140 Albany Road remain ongoing and the council's aspiration is to agree to acquire all outstanding interests by agreement and thereby secure vacant possession of the block and complete the redevelopment of the site without the need to utilise its statutory compulsory purchase powers.
23. The owner of 13 Foxcote has received a total of 3 offers to date, in March 2015, October 2015 and March 2017. The owner of the property has not responded to the latest offer and is not engaging with the council.
24. The owner of 21 Foxcote has received a total of 3 offers to date, in March 2015, October 2015 and April 2017. The owner of the property has not been engaging with the council until the latest offer following which they have contacted the council claiming to have resident status and not keen to dispose of the property at the present time.
25. The council has been attempting to contact the owner of 26 Foxcote since 2014 with a view to access the property to undertake an inspection for valuation purposes to inform a formal offer. Having successfully made contact earlier this year, the council's surveyors have since inspected the property and terms have been agreed with the leaseholder. The matter is now in solicitors' hands.
26. 140 Albany Road is a detached dwelling, previously converted to residential from its previous use as a public house. The freehold owners of 140 Albany Road have received 1 offer to date in May 2017 and this was followed up with a meeting in June 2017. The owner has now confirmed in principle their willingness to sell and discussions are ongoing as to value.
27. The council is continuing to negotiate with the remaining owners, however it is now considered necessary to promote a compulsory purchase order for the block comprising 1-30 Foxcote and associated land and 140 Albany Road as identified in Appendix 2, in parallel with negotiations, as provided for in the 2015 DCLG Guidance on compulsory purchase. This will give further impetus to stalled negotiations and ultimately to provide certainty of acquiring all remaining interests required to ensure full vacant possession of all land required within the timescale required by the construction programme for the APF. It will ensure the redevelopment of the site fully in line with the existing consented scheme and thereby ensure delivery of a new APF, providing decant facilities for Ellison House, and in turn also allowing new homes to be delivered on the FDS.

Sunlight and daylight

28. The approved regeneration scheme comprises a single four-storey building arranged in two blocks. As part of the planning process a lighting report was obtained from specialist consultants and their conclusion was as follows:

Overall we conclude that the impact of the proposed development on the neighbouring properties will be reasonable and will comply with the BRE guidelines, and in this regard, the level of development is not excessive. Similarly, the scheme itself will enjoy good levels of daylight, and comply with the BRE and British Standards.

29. This report was submitted and considered as part of the planning application for the scheme and the case officer concluded as follows:

There will be some impacts to the residents of Domville Court in terms of a loss of daylight however this is in line with the impacts deemed acceptable under the OPP and the daylight distribution levels remain compliant with BRE guidelines.

30. It should be noted that the assessment did not consider any impacts specifically on the properties at 1-30 Foxcote and 140 Albany Road on the basis that these properties form part of the Aylesbury regeneration area and as such will be demolished as part of the implementation of the vision for the regeneration of the wider estate in line with the extant outline planning permission and, as set out above, the council is actively seeking to acquire all outstanding interests in these properties in any case.

Appropriation

31. The appropriation of land refers to the process whereby a council alters the purpose for which it holds land. Where land has been appropriated for planning purposes third party rights enjoyed over the land can be overridden. The beneficiaries of such rights may however claim compensation (equal to the loss in value of their property caused by losing the right) but cannot seek an injunction to delay or terminate the development. This will give the council the certainty that having commenced construction works a person with the benefit of an unregistered (with the Land Registry) right over land (such as a right to light) cannot apply to the court to have the development stopped. This is a very important tool in enabling development to proceed on urban sites. As mentioned, the beneficiary of any such right is entitled to financial compensation for the loss of the right. The council could either insure against such compensation claims but this will be costly or accept the risk of an injunction that may be fatal to development or potentially result in unquantifiable but significant costs.
32. The compensation to which persons affected by the loss of a right to light may be entitled to is based on the value of their properties before the right has been infringed versus the value of the property with the infringed right. This compensation is based on the diminution in value of the affected property. If agreement between the parties is not possible it will be determined by the Upper Tribunal (Lands Chamber).
33. In this case, it is recommended that the land be appropriated from housing purposes to planning purposes and thereafter back to housing purposes as to

hold the land for planning purposes may cause adverse financial implications (see below).

34. The rationale for the appropriations of the land shown at Appendix 3, which is in the council's freehold ownership, is set out at Appendix 4 and cabinet is recommended to approve the appropriations.

35. The appropriation stages are summarised as follows:

	Land currently held for housing	
Appropriate from housing to planning	↓	Third party rights infringed by development cannot be enforced by injunction
Appropriate from planning to housing	↓	Construction of APF can proceed

36. The rationale for the appropriations is summarised as follows:

- to mitigate against the construction of the new APF being frustrated or delayed by injunctions;
- to mitigate against consequential delays to the delivery of decant facilities for Ellison House and resulting impacts on the delivery of new homes across a range of tenures on the FDS;
- to de-risk the construction of the APF so as to encourage the maximum number of bidders and achieve a lower construction cost
- to avoid any potential adverse accounting implications through the appropriation of the land back to housing from planning purposes.

Policy implications

37. The proposed scheme has detailed planning consent and its implementation facilitates the objectives of the relevant policy framework. The Aylesbury Area Action Plan (AAAP) is a key material consideration for all applications within the area it covers. The AAAP was adopted by the council in January 2010, following a three-year process of consultation and engagement including an Examination in Public in 2009. It is part of the statutory development plan and deals directly with the redevelopment of the Aylesbury Estate. The policies in the AAAP have significant weight in any decisions on planning applications within the area. In addition, the statutory development plan for the borough comprises the London Plan, Core Strategy and saved policies from the Southwark Plan, while National Planning Policy Framework provides national planning guidance.

38. The AAAP does not reference either the existing or the proposed APF directly, however the relocation of the existing APF to another site within the Aylesbury Estate is will enable the implementation of the regeneration of the wider Aylesbury estate in line with the objectives of the AAAP. It is considered that the APF scheme does not impact and indeed facilitates the delivery of the objectives of the AAAP.

39. Saved Southwark Plan policy 4.7 'Non self-contained housing for identified user groups', states that new development which provides non self-contained residential accommodation will normally be permitted where the need for and suitability of the accommodation can be demonstrated, with adequate amenities

and facilities including details of security and long-term management and maintenance arrangements of the accommodation. The Ministry of Justice has confirmed that the need for the facility still exists in the local area and its suitability has been demonstrated as part of the planning application process.

40. In the determining the application for detailed planning permission, the scheme was assessed against the relevant development plan policies and guidance at that time, and it was considered to be supported in principle. The scheme will directly deliver an improved and expanded social facility, for which there remains a strategic need, and which the council therefore considers is required in accordance with the good planning of the area.
41. This facility performs a key social role in managing the reintroduction of former offenders into wider society in a well-managed facility which allows for the appropriate levels of both support and supervision. Furthermore, the delivery of this scheme provides decant facilities allowing for the re allows delivery additional of new high quality homes within the FDS. The scheme will support the wider programme for the regeneration of the estate, delivering key community facilities for both existing and incoming residents, supporting the broader community through the transformation of the estate.

Community impact statement

42. An Approved Premises Facility is a key piece of social infrastructure for which there is a strategic need nationally. The site has been identified as being particularly suitable for accommodating this facility due to its good local transport connections. The implementation of the new APF allows for the relocation of existing facilities elsewhere on the estate and re-provision in an expanded, modern, fit-for-purpose facility, contributing primarily towards the social and environmental well being of the borough and indeed meeting a national need. In the absence of such a facility, these people would otherwise be released into general housing stock and would not thereby benefit from the close supervision and management that such a facility provides. Close supervision and management in a well-run, purpose built-facility improves the life chances of those individuals and thereby contributes to better outcome social outcomes more widely. The proposed scheme will bring about a significant improvement of the physical environment of the site. The scheme will result in the redevelopment of an under-utilised piece of land that will address the poor quality of environment in its immediate location.
43. Furthermore, the new facility will provide decant facilities to enable the relocation (and expansion) of an existing APF within the FDS. This, in turn, will enable the demolition and redevelopment of the broader FDS in line with the consented scheme for that site, which as set out above will deliver a significant quantum of new homes, across a range of tenures, including specialist accommodation for residents with learning difficulties and those with extra care needs. This will contribute significantly to delivering the council's vision for the regeneration of the wider Aylesbury estate in accordance with the Aylesbury Area Action Plan.
44. While these scheme benefits are significant and compelling they must however be weighed against any potential disbenefits. The council has given detailed consideration to the potential adverse impacts of bringing forward the proposed redevelopment and promoting the associated CPO. The primary potential area for direct adverse impacts arises from the requirement for households currently

resident within the Site to be relocated outside of the Site in order to allow for the construction of the development in line with the existing planning consent. In the absence of council rehousing policies to enable affected residents to be able to stay in the local area this could give rise to a number of resulting adverse impacts such as disruption, unfamiliarity with a new area, difficulty maintaining access to local amenities, services and other social and cultural amenities. However, it is considered that the council's rehousing assistance and associated support and guidance enable these potential adverse impacts to be fully mitigated.

45. As outlined above, the land to be included in any CPO currently comprises a single block of 30 residential properties, of which 13 are presently occupied. 6 properties are currently occupied by households in temporary accommodation. It is not considered there would be any adverse impacts on these households resulting from the scheme, as they would be rehoused through the council's regular rehousing processes by the time of implementation.
46. There are currently 4 households occupying a property on a secure tenancy. These tenants have decant status and the housing office are working with them to assist them with the rehousing process. Again it is not considered that there would be any adverse impact on these households resulting from the scheme. They have been given decant status providing priority status in bidding for alternative accommodation either within existing council stock or that of housing association partners. As this is a choice-based bidding system, tenants are able to exercise personal choice in the location of moves. This ensures the ability to remain within the local area should they wish to do so.
47. Data on the location of tenant moves from across the whole of the wider Phase 2 area demonstrates this. Data on the destination of tenant moves from phase 2 up to March 2017 has shown that:
 - 35% of tenants rehomed within the same postcode;
 - 82% of tenants rehomed within the same or adjacent postcodes;
 - 96% of tenants rehomed within the borough.
48. While a small proportion (4%) of tenants have moved out of the borough, these have been as a result of individual choice in pursuing the opportunity to move to new locations for a range of personal reasons, such as moving nearer to family. All tenants who move also retain the option to return.
49. There are 3 leasehold interests remaining in the site in addition to 1 freehold interest. In line with Compulsory Purchase and Compensation guidelines set out by the Government, leaseholders and freeholders receive market value for the purchase of their property, plus a home loss payment of 10% for resident leaseholders, or 7.5% for non-resident leaseholders, as well as disturbance payment to cover the reasonable costs of moving, such as removals costs and fees. Even where purchasing properties by agreement, the council makes offers on this basis in recognition that this would be the basis for a purchase under a CPO. Homeowners are free to purchase a new property on the open market.
50. While issues relating to the value of leasehold interests are not in themselves a consideration in promoting a CPO, it is acknowledged that there could be a potential impact resulting from the disparity in existing values on the estate and those in the surrounding areas which if unmitigated could present a barrier to

resident leaseholders remaining in the area and continuing to access services, employment opportunities and community ties. The council has, therefore, put in place a range of rehousing options for resident leaseholders which, depending on the individuals' specific circumstances, can result in the offer of a council tenancy on a council-owned property, the purchase of a council property on either shared ownership (where rent is paid on the unowned portion) or shared equity (where no rent is paid on the unowned portion) terms, or the purchase of a housing association property on either shared ownership or shared equity terms. Such options provide the opportunity for existing residents to be able to choose to remain in the local area, should they wish to, and thereby mitigating any potential impacts on individuals' ability to continue to access local services and amenities resulting from the proposed CPO.

51. This can be seen from existing data on moves across the wider Aylesbury estate. To date, the Council has successfully acquired 284 leasehold and freehold interests, of which 147 were recorded as being resident on the estate. While no forwarding address information is held for 58 of those households, of those for whom the council holds information:
 - 18% moved within the same postcode; and
 - 45% moved within the borough.
52. Therefore, at least 27% of all resident leaseholders acquired to date have moved within the borough, and given that the destination of 39% of resident leaseholder households moves is not known, the actual figure could be higher.
53. The Council has sought to mitigate any disbenefits through a range of reasonable and proportionate measures focused on rehousing and compensation options, in order to realise the public benefits associated with the redevelopment. The council has given consideration to the potential disproportionate impacts that could potentially arise and has identified and implemented measures to mitigate such impacts as far as possible. It is therefore considered that there remains a compelling case in the public interest for the scheme to proceed and therefore for the council to promote a CPO for the site.

Resource implications

54. The acquisition process continues to be met within existing resources within the council, supplemented with external professional advice as required.
55. The delivery of the new facilities is being undertaken by Notting Hill Housing Trust on behalf of the council under the delivery partnership arrangements established with in the Development Partnership Agreement entered into in April 2015.

Legal implications

56. The use of Section 226(1)(a) T&CPA 1990 is subject to subsection (1A) which provides that a local authority should not exercise the power to compulsorily acquire unless it considers that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion, or improvement of the economic, social or environmental well-being of the area.
57. The Human Rights Act 1998 prohibits public authorities from acting in a way

which is incompatible with the European Convention on Human Rights. The council is therefore required to consider whether its actions would infringe the human rights of anyone affected by the making of the CPO. While certain Convention rights may be relevant to the CPO (such as the “right to peaceful enjoyment of possessions”) interference with such rights by public authorities will be justified where the public interest outweighs the interest of the private individual. It is considered that any interference with the Convention rights caused by the CPO will be justified and proportionate in the wider public interest in order to secure the economic, social, physical and environmental regeneration of the site and the wider estate.

58. As outlined in paragraphs 42 - 43, officers consider that the proposed scheme will bring about a significant improvement to the economic, social and/or environmental well-being of both the site itself and of the wider area. The scheme will deliver a key piece of social infrastructure for which there is a strategic need nationally. The scheme will also support the wider programme for the regeneration of the estate, delivering an increase in both the quantum and quality of homes within the area as well as key community facilities for both existing and incoming residents, supporting the broader community through the transformation of the estate.
59. The Public Sector Equality Duty (PSED) which arises from Section 149 of the Equality Act 2010, requires that public authorities to have due regard to:
 - eliminating unlawful discrimination, harassment, and victimisation;
 - advancing equality of opportunity between different groups; and
 - fostering good relations between different groups.
60. The characteristics that are protected by the Equality Act 2010 are age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex and sexual orientation. While the PSED does not specify a particular process for considering the likely effects, public authorities must demonstrate that they have shown due regard to the aims of the PSED in decision-making.
61. As part of the production of the AAAP, an Equalities Impact Assessment of the original development proposals was carried out in 2009 and the formulation of the Plan had regard to the Assessment. The regeneration of the site in question and the need to exercise compulsory purchase powers flows from the implementation of the AAAP. As part of recent work to review this original Equalities Impact Assessment in relation to the FDS, consultants collated latest details of the socio-demographic profile of the wider estate as it related to protected characteristics. This showed that:
 - The estate has a larger than average population proportion under 16 compared to the borough and London, but a comparatively smaller post-retirement population
 - The estate has similar proportion of population with a significant disability to the rest of the borough but less than average compared nationally.
 - The estate has a larger population proportion from black ethnic groups, particularly black African, compared to the borough and London.
 - The gender distribution is in line with that of borough and London.
62. In order to gather detailed demographic information about the specific makeup of

individuals potentially affected by the proposed CPO, the council has invited all occupiers of the 3 leasehold properties and 1 freehold property within the proposed CPO area to complete a survey of key equalities information. To date, however, the council has had no responses to its invitation and therefore must rely on broader data upon which to assess equalities considerations.

63. While the council continues to seek to update its understanding of the makeup of individuals affected in order to monitor any resulting disproportionate impacts through as the scheme progresses to delivery, as set out in the community impact section above, the council considers that the potential impacts of the scheme are fully addressed through the operation of its rehousing policies and provision of dedicated support and guidance. As a result, it is not considered that there would be any disproportionate impact on any protected group.

Appropriation

64. The appropriation of the land is authorised by Section 122(1) Local Government Act 1972 which states that “the Council may appropriate for any purpose for which the council is authorised by statute to acquire land by agreement any land which belongs to it and is no longer required for the purpose for which it is held immediately before the appropriation”. As stated earlier in this report, the council currently owns the land identified in Appendix 3, it is currently held for a purpose for which it is no longer required, and it is now being appropriated for the purposes of implementing a consented development scheme, which the council is authorised by statute to do.
65. Where the land to be appropriated includes open space, the council is required not to appropriate without having first advertised its intent to appropriate for a period of 2 consecutive weeks prior. The land proposed to be appropriated comprises hard and soft landscaping in addition to an unadopted estate footpath. While this does not constitute formally designated open space, as outlined above, the council will nevertheless advertise its intent to appropriate the land as if it were open space, and will consider any responses.

Financial implications

66. The resources required to promote a Compulsory Purchase Order are met from existing budgets for the Aylesbury regeneration programme, as are the budgets for the acquisitions themselves.
67. The funding package for the scheme is already contained within existing Aylesbury Housing Investment programme allocation for Aylesbury.

Consultation

68. There has been extensive consultation on the overall regeneration programme for the Aylesbury estate, which has been set out in detail within previous reports. This includes extensive consultation on the formation of the AAP, non-statutory and statutory consultation undertaken on the outline masterplan and detailed FDS planning applications, and non-statutory and statutory consultation undertaken on the detailed planning application for the APF.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

69. Not applicable.

Director of Law and Democracy

70. The Cabinet is advised that the Council has a power to compulsorily acquire land and property interests under Section 226(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”).
71. Section 226(1)(a) gives the Council power to acquire compulsorily any land in their area if the Council think that the acquisition will “facilitate the carrying out of development/re-development, or improvement on, or in relation to, the land”. In exercising this power the Council must have regard to Section 226(1A) of the 1990 Act and must not exercise the power unless it thinks that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects-
- (a) The promotion of improvement of the economic well being of the area;
 - (b) The promotion or improvement of the social well being of the area;
 - (c) The promotion or improvement of the environmental well being of the area.
72. The Council’s duty to consider rights of property owners under the Human Rights Act 1988 and the requirements of the Equality Act 2010 are explained in paragraphs 57 - 63 of this report.
73. The Cabinet will note from paragraph 42 - 44 of this report that consideration has been given to the well being objectives under section 226(1A) of the 1990 Act in relation to the Council’s proposals for the site. It is considered that the regeneration of the area will assist the Council in promoting and improving the economic, social and environmental well being of the area and the wider Estate, and therefore there are adequate powers available to the Council to acquire all the land and property interests in the sites either compulsorily or by agreement.
74. The report further recommends the appropriation of council-owned land for planning purposes, and thereafter, the appropriation of that land for housing purposes.
75. A council holds land and property for a variety of statutory purposes in order to perform its functions. A council is authorised by virtue of section 122 of the Local Government Act 1972 (“the 1972 Act”) to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement, where is no longer required for the purpose for which it is held immediately before the appropriation.
76. The land must already belong to the council. Paragraph 34 of the report confirms that the land to be appropriated is in the council’s freehold ownership.
77. The land must be no longer required for the purpose for which it is currently held. The report confirms at paragraph 5 of Appendix 4 that the land is no longer required for housing purposes.

78. The purpose for which the council is appropriating the land must be authorised by statute. It is proposed that the land is held for planning purposes. This is a purpose which is authorised by statute. Section 246 of the Town and Country Planning Act 1990 ("TCPA 1990") defines such purposes as, inter alia, those for which can be acquired under ss226 or 227 of that Act. Section 227 provides that a council may acquire land by agreement for any purposes for which it is authorised to acquire land compulsorily by s226 TCPA 1990.
79. The purposes for which a council can acquire land pursuant to s226 TCPA 1990 include purposes "which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated." As set out above in relation to compulsory purchase s226 also authorises the acquisition of land "... if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land." In the case of either s226 or s227 the acquiring authority must be satisfied that whatever development proposals it has for the land in question these are likely to "contribute to the achievement of any one or more of the following objects – (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area; (c) the promotion or improvement of the environmental well-being of their area." The Council's proposal to build the new APF on the site is capable of falling within the social and environmental categories for the reasons outline within paragraphs 3 and 4 of Appendix 4.
80. Section 203 of the Housing and Planning Act 2016 came into force on 13 July 2016. This section contains a power to override easements and other rights, and it replaces s237 TCPA.
81. S203 says :
“(1) A person may carry out building or maintenance work to which this subsection applies even if it involves
(a) interfering with a relevant right or interest...
(2) Subsection (1) applies to building or maintenance work where –
(a) there is planning consent for the building or maintenance work,
(b) the work is carried out on land that has at any time on or after the day on which this section comes into force
(i) become vested in or acquired by a specified authority or
(ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990 [*i.e. for purposes for which an authority can acquire land under ss226 and 227*]
(c) the authority could acquire the land compulsorily for the purposes of the building or maintenance work, and
(d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).”
82. What this means is that where land has been appropriated for planning purposes building work may be carried out on land even if this interferes with rights or interests if there is planning consent for the building work; and the work must be for purposes related to the purposes for which the land was appropriated, in this case planning purposes. By s204 those third party rights are converted into an entitlement to compensation to be calculated in accordance with ss7 and 10 of the Compulsory Purchase Act 1965.
83. This report confirms that the work being done on the land will be done in accordance with planning permission. Once the land has been appropriated and

s203 triggered, that work will be authorised even where it interferes with third party rights.

84. Section 122 of the 1972 Act provides that where land consists or forms part of an open space then the council may not appropriate the land unless before doing so they cause notice of their intention to do so to be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.
85. Following the appropriation of the land for planning purposes it is recommended that the land is appropriated for housing purposes, as the land is to be used for the provision of new housing. At that point the land will no longer be required for planning purposes and will be appropriated for housing purposes in accordance with section 9 of the Housing Act 1985.

Strategic Director of Finance and Governance (FC17/067)

86. This report is requesting cabinet to note the current position in relation delivery of the Approved Premises Facility at Plot 4 within Phase 2 of the Aylesbury Estate. The report also seeks resolution to make a Compulsory Purchase Order and appropriation of land as detailed in the report to progress the regeneration of the Aylesbury Estate in line with the adopted Aylesbury Area Action Plan. Full details and background is provided within the main body of the report.
87. The strategic director of finance and governance notes that costs will be contained within the current approved Aylesbury capital programme.
88. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.
89. The land appropriation is proposed to occur in such a way that it will have a neutral financial impact.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Aylesbury Area Action Plan	Regeneration South Chief Executives' 160 Tooley Street London SE1 2QH	Matt Derry 0207 525 3787
Link: http://www.2.southwark.gov.uk/downloads/download/4444/adopted_area_action_plans		
Gateway 2 - Contract Award Approval Development partner for the regeneration of the Aylesbury Estate (Cabinet, April 2014)	Regeneration South Chief Executives' 160 Tooley Street London SE1 2QH	Matt Derry 0207 525 3787
Link (please copy and paste into your browser): http://moderngov.southwark.gov.uk/documents/s44910/Report.pdf		
Aylesbury Regeneration Programme Delivery (Cabinet, 9 May 2017)	Regeneration South Chief Executives' 160 Tooley Street London SE1 2QH	Matt Derry 0207 525 3787
Link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?AllId=44960		
Aylesbury Regeneration Programme Delivery (Cabinet, 20 September 2016)	Regeneration South Chief Executives' 160 Tooley Street London SE1 2QH	Matt Derry 0207 525 3787
Link: http://moderngov.southwark.gov.uk/ieIssueDetails.aspx?Id=50010613&Opt=3		

APPENDICES

No.	Title
Appendix 1	APF Site Plan
Appendix 2	APF CPO Plan
Appendix 3	APF Appropriation Plan
Appendix 4	Background to Appropriation

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Neil Kirby, Head of Regeneration South	
Report Author	Matt Derry, Senior Regeneration Manager	
Version	Final	
Dated	23 October 2017	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	23 October 2017	