

Item No.	Classification: Open	Date: December 13 2005	MEETING NAME Executive
Report title:		Compulsory Purchase of Lands on the Acorn Estate Peckham, SE15	
Ward(s) or groups affected:		Livesey	
From:		Strategic Director of Regeneration	

RECOMMENDATION

1. That Executive grants authority 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 shown edged in bold in the attached plan in Appendix B.
2. That Executive grants authority to acquire interests in land and new rights within the Compulsory Purchase Order either by agreement or compulsorily and approve agreements with owners of interests within the Compulsory Purchase Order and the making of arrangements for re-housing or relocation of the occupiers of the block.

BACKGROUND INFORMATION

3. Wood Dene is part of the Acorn Estate located between Meeting House Lane and Carlton Grove facing Peckham High Street. It was constructed in the 1960's and comprises of a six storey brick-clad reinforced concrete framed block. There are a total of 317 units in the Wood Dene block comprising one bed flats and two bed maisonettes. The proposed redevelopment will also affect the adjacent three storey terraced houses consisting of flats on Meeting House Lane and seven maisonettes at 1 -11 Carlton Grove. The overall design, construction and condition of the estate is poor and there have been recent concerns raised by the residents in respect of poor security partly due to unrestricted access.
4. Agreement that Wood Dene be demolished and re-developed as part of the Southwark Estate Initiative (SEI) was made at Strategic Committee / Full Council on 25th January 2000.
5. Southwark Estates Initiative (SEI) is aimed at making a major contribution to delivering the Council's Housing Strategy of providing quality services and quality homes. Using the extra borrowing permission granted through Capital Receipts Initiative (CRI), Housing developed a programme of themed investment that was relatively widely spread and major schemes on a smaller number of estates. SEI generates capital receipts funding within the programme to reinvest into the individual schemes. There was a need to balance a number of factors including; decant need and capacity, value for money, long term sustainability, RSLs as developers and availability of ADP funding, and land value.

6. The Council proposes to enter into partnership with either a private developer or a Registered Social Landlord (RSL) to redevelop the estate and provide sustainable housing with a yet to be defined ratio of affordable units and to include neighbourhood facilities such as a convenience store or a children's crèche. The scheme proposes to use physical renewal as a vehicle to improve the environment and tackle the high levels of deprivation and social exclusion on the estate.

KEY ISSUES FOR CONSIDERATION

7. The regeneration of Peckham town centre is one of the Council's priorities. The redevelopment of Wood Dene will help tackle issues of social exclusion and bring together community and voluntary agencies as well as the public and private sectors in achieving neighbourhood renewal.
8. The decanting of tenants is well under way. Many of the flats and maisonettes are now in the process of being vacated and boarded up. The Housing officer anticipates that vacant possession of the block should be obtained by December 2006 and demolition should be underway by March 2007.
9. The Council are the freeholders of the CPO land. Nine leasehold interests have already been acquired by agreement. A further seven leasehold interests remain of which three buy backs have been agreed between the Council and the respective leaseholders and are subject to contracts being drawn up. Every attempt is being made at acquiring the remaining interests to enable the estate redevelopment to proceed within set timescales.
10. 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 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 Secretary of State confirmation of any CPO.
11. Any development could not proceed until issues concerning the loss of rights of light of adjacent properties. This is due to the risk of possible challenge to the development and the resulting grant of an injunction preventing construction. Whilst there is currently no threat to the development, it is considered wise to take whatever precautions are available to the Council. Section 122 of the Local Government Act 1972 enables local authorities to appropriate land held by them for a statutory purpose including planning purposes.

Community Impact Statement

12. Due to the nature and design of Wood Dene, the block would need to be demolished at an early stage in the redevelopment scheme. The tenants and leaseholders need to be decanted and vacant possession gained by Spring 2006.

13. Residents who have been displaced will have the option to return. The development scheme provides a RSL partner the opportunity to provide a high density development of affordable housing for rent, sale and provision of shared ownership. This will provide the opportunity for local residents to own their own home and also attract new investment into the area to benefit the whole community.
14. The leaseholders obtain full open market value and compensation for the loss of their property.
15. An adverse implication for local residents will be disruption caused during the redevelopment scheme but this would be built in to the construction program.

POLICY IMPLICATIONS

16. The redevelopment of Wood Dene helps the Council meet its commitment to regeneration and sustainability in housing as demonstrated through the 1998 – 2005 Southwark Housing Strategy.
17. It is anticipated that the new units will be designed to a high quality standard and address energy efficiency and sustainability. Wherever possible all new dwellings will comply with the Building Research Establishment's "environmental standard" award.

EFFECT OF PROPOSED CHANGES ON THOSE AFFECTED

18. The SRB programme existed to deliver significant improvements to the lives of some of the most disadvantaged in the borough.
19. The new properties will be available primarily to those residents being decanted who wish to remain on the estate and those wishing to return who have been decanted temporarily elsewhere.

RESOURCE IMPLICATIONS

20. It is estimated that the sale of the site will generate £6.9 million (net) to be recycled into the SEI programme. The cost of demolishing the block is estimated to be in the region of £3.4 million. In respect of the leasehold interests, if the buy backs are voluntarily negotiated, 35% of total purchase costs can be offset against 75% of Right to Buy receipts. This clawback is not permitted in cases where buy backs are undertaken using compulsory purchase powers. The Housing Investment programme has identified a budget to meet the requirements for leasehold acquisition. Each leaseholder is compensated the market value of the flat. In addition, a home or basic loss payment is made depending on whether the leaseholder is in owner occupation and disturbance payments are made. These payments are the costs incurred in having to move from their property and will include Stamp Duty on the replacement property, reasonable legal and surveyors fees.
21. Securing vacant possession and onward sale to the RSL will generate a substantial capital sum. The securing of this receipt is essential to the delivery of the Housing Investment Programme.

22. Delays in securing vacant possession of the land in question will delay the building programme and therefore lead to increased costs, given the current rate of property building inflation in London. The SRB programme must adhere to cashflow and output targets (modified in the review process) as directed by the London Development Agency and failure to do so could result in a loss of financial resources from the programme.

CONSULTATION

23. The initial consultation exercise first took place on August / September 1998. A survey or questionnaire was distributed in March 1999. Of those surveyed 67% of residents stated that they wanted the estate demolished and rebuilt whilst 33% were in favour of refurbishment. A public meeting, held on 25th May 1999 followed this.
24. The Acorn Estate Tenants and Residents Association held meetings on 19th January 1999 and 2nd March 1999. The issues were also raised at the Neighbourhood Forum on 29th June 1998 and 17th January 1999.
25. The building programme has been developed in consultation with local residents as an ongoing process. Some alterations have been made to the original masterplan in response to changing circumstances. The team that manages the building program have engaged residents throughout the review.
26. The expected planning application or any future planning application for redevelopment will be subject to the usual statutory consultation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Comments of Strategic Director of Housing

27. This report seeks authority to apply for a Compulsory Purchase Order in respect of ownership interests not held by the Council. This procedure may prove to be necessary to acquire interests where voluntary negotiations do not for any reason reach an outcome. It is imperative that there is no delay concluding the final stages of decant of the block, and at the point of vacant possession, handing it over to a developer. Any undue delays will extend the period for which the Council will be responsible for safety and security and will increase costs. For the tenanted properties, if households have unreasonably refused alternative accommodation, the Council is able to seek possession through the County Court. In the case of residential ownership, the Council's remedy is through the Compulsory Purchase procedure, and therefore this proposal is fully supported.
28. In addition, the ability to use the CPO procedure brings more certainty to the project, which serves the Council's interests in terms of generating capital receipts which are earmarked for other housing regeneration schemes.

Concurrent Report of the Council's Legal Services

COMPULSORY PURCHASE POWERS

29. Section 17 of the Housing Act 1985 empowers the Council, as a local housing authority, to acquire land, houses or other properties for the provision of housing accommodation. This power is available even where the land is acquired for the 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. Government guidance in ODPM circular 06/2004 requires that compulsory purchase should achieve a qualitative or quantitative housing gain and the Council would have to demonstrate such gain when seeking the Secretary of State's confirmation of any compulsory purchase order ("CPO").
30. Once the CPO is made, it must be notified to relevant persons and publicised, following which it will be submitted to the Secretary of State for confirmation. The minimum statutory period for objections is 3 weeks. Any person may object to a compulsory purchase order and, if an objection is made and not withdrawn, a public inquiry is usually required to be held. Under new regulations a written representations procedure may be followed if all objectors agree. Any public inquiry will be conducted by an Inspector appointed by the Secretary of State who will hear evidence from any persons objecting to the CPO and from the Council. The Inspector would then submit a report on the evidence heard and the merits of the proposed order and his/her recommendations to the Secretary of State who would then decide whether or not to confirm the CPO. Before confirming the CPO the Secretary of State would have to be satisfied that there are no impediments to the implementation of the scheme, that the CPO would achieve a qualitative or quantitative housing gain and that there is a compelling case for the CPO in the public interest.
31. The process of acquiring and obtaining possession of properties through a CPO may take up to 18 months if a public inquiry is required, before the Secretary of State will confirm the CPO. This is due to the shortage of inspectors, generally there is a delay of some 12 months from the end of the statutory objection period to the date of the public inquiry.
32. When applying for the confirmation of a CPO made under Part II of the 1985 Act the Council should include in its statement of reasons for making the order information regarding needs for the provision of further housing accommodation in its area. This information should normally include the total number of dwellings in the district, unfit dwellings, other dwellings in need of renovation and vacant dwellings; the total number of households and the number for which, in the authority's view, provision needs to be made. Details of the Council's housing stock, by type, may also be helpful, particularly where the case advanced for compulsory purchase turns on a need to provide housing of a particular type. Where a compulsory purchase order is made with a view to meeting special housing needs, such as those of single persons, the elderly, disabled or homeless, specific information about these needs should also be included.

33. The Council should also provide information about its proposals for the land or property it is seeking to acquire. Where, as will normally be the case, it proposes to dispose of the land or property concerned, the Council should submit where possible information regarding the prospective purchaser; the purchaser's proposals regarding the provision of housing accommodation; and when these will materialise.
34. The acquisition of land for housing development is an acceptable use of compulsory purchase powers, including where it will make land available for private development, or development by Housing Associations. Section 17(4) of the 1985 Act provides that the Secretary of State may not confirm a compulsory purchase order unless he is satisfied that the land is likely to be required within 10 years. The Secretary of State would not normally regard compulsory purchase as justified where development will not be completed within 3 years of acquisition.

RE-HOUSING

35. Council tenants will be re-housed under the Council's relevant policies.
36. 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)
37. The section applies to residential accommodation and no distinction is made by reference to the period of tenure. It is for the authority to decide what is reasonable in all the circumstances considering the availability of accommodation, as in number of rooms and family circumstances, that is, adult children need not necessarily be re-housed with other members of the family. Trespassers are excepted from the duty.
38. Persons that are subject to immigration control are not eligible to receive help for housing under the Housing and Homeless Persons Acts as they cannot have recourse to public funds. However, the obligation to re-house where persons are displaced by a CPO (as here) is imposed by the Land Compensation Act 1973 not by the Homeless Persons legislation. No such immigration control exception to the Land Compensation Act duty is provided. There are criteria for qualification under the LCA 1973. Residence must exist at the date of the notice of making the CPO is published. A person serving a blight notice or who has received a mortgage advance to buy alternative accommodation, persons permitted to reside pending demolition nor trespassers are entitled to re-housing under the Land Compensation Act duty.

HUMAN RIGHTS IMPLICATIONS

39. ODPM circular 06/2004 sets out government policy relating to the making and confirmation of Compulsory Purchase Order's.

40. 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.

41. 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.

42. 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".

43. 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.

44. It is recommended that the Executive grants authority to:-

44.1.1 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 shown edged [black] on the plan attached at [appendix B] together with any new rights required;

44.1.2 acquire interests in land and new rights within the compulsory purchase order either by agreement or compulsorily; and

44.1.3 approve agreements with owners of interests within the Compulsory Purchase Order for the withdrawal of objections to the Compulsory

Purchase Order and the making of arrangements for re-housing or relocation of occupiers,

so that Wood Dene's Redevelopment may proceed.

45. Therefore, in reaching its decision, Executive needs to consider the extent to which the decision may impact upon the Human Rights of estate residents 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.
46. It is relevant to consideration of this issue that should the scheme proceed occupiers will be offered re-housing in accordance with the Council's re-housing policy. In addition, owners will be entitled to receive market value for their properties as well as home loss payments and the reimbursement of professional fees and other removal expenses.

Background Papers	Held At	Contact
Property Division File	Southwark Property Chiltern House Portland Street London SE17 2ES	Ash Merali 020 7525 5632

APPENDIX A

Audit Trail

Lead Officer	Paul Evans, Strategic Director of Regeneration	
Report Author	Ash Merali	
Version	Final	
Dated	22/11/05	
Key Decision?		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	YES	YES
Chief Finance Officer	YES	NO
Executive Member – Cllr Jeff Hooks		
Date final report sent to Constitutional Support Services	1/12/05	

APPENDIX B

Plan of Estate