

Meeting Name:	Cabinet
Date:	16 September 2024
Report title:	Tustin Estate Phase 2 Compulsory Purchase Order
Cabinet Member:	Councillor Helen Dennis, New Homes and Sustainable Development
Ward(s) or groups affected:	Old Kent Road
Classification:	Open
Reason for lateness (if applicable):	Not applicable

FOREWORD - COUNCILLOR HELEN DENNIS, CABINET MEMBER FOR NEW HOMES AND SUSTAINABLE DEVELOPMENT

Following on from a successful resident ballot in 2021 to redevelop the Tustin Estate, this cabinet report provides an update on the progress made to date.

Over the course of the phased regeneration, a total of 690 homes will be delivered, including replacement council homes, 220 additional council and keyworker homes, and 220 homes for sale. Wider estate improvements will be delivered including additional greening, walking and cycling routes, connection to South East London Combined Heat and Power (SELCHP) and electric vehicle (EV) charging points, resulting in significant carbon reductions.

I am pleased that the Tustin Estate rebuild is keeping to programme with phase 1 well underway and the Phase 2 planning application has been submitted in August 2024.

As the second phase of the rebuild requires the demolition of some of the old blocks on the estate, we are in negotiations with the leaseholders to buy back their properties and I am pleased that all leaseholders are engaging in these negotiations. This report now asks Cabinet to approve, in principle, the use of the Council's compulsory purchase powers under section 226 of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976, subject to a formal resolution to make a Compulsory Purchase Order at a later date, which will only be needed as a last resort in the event that acquisition of all relevant interests cannot be reached by agreement with relevant parties, so as to enable the continued delivery of the Tustin Estate regeneration including the delivery of 295 new homes in Phase 2.

I want to thank the Tustin Estate Community Association and the Resident Project Group for all their input and support.

RECOMMENDATIONS

1. That the Cabinet note:
 - a) (i) that Initial Demolition Notices (pursuant to Schedule 5A Housing Act 1985) were served (as authorised by the 13 July 2021 Cabinet Meeting) on qualifying tenants suspending the Council's duty to complete any associated right to buy (RTB) applications and (ii) that such Initial Demolition Notices will currently cease to be in force on 30 April 2025.
 - b) the current position in relation to the delivery of 295 new homes at Phase 2 of the Tustin Estate redevelopment:
 - A development partnership with BY Development Ltd (trading as Linkcity) to deliver the Estate Redevelopment, along with the financial plan to deliver the scheme, was agreed by cabinet in October 2022;
 - The council appointed BY Development Ltd (trading as Linkcity) to bring forward the phased rebuilding of the Tustin Estate under a Development Agreement dated 8 November 2022;
 - A planning application for Phase 2 has been submitted in August 2024, with an expected target date for planning permission in January 2025;
 - The council has successfully acquired 13 leaseholder interests in Heversham House;
 - Only 15 leaseholder interests remain outstanding in Heversham House;
 - The council is pursuing a negotiated settlement with all remaining leaseholders situated within Heversham House with the intention to acquire these remaining interests by agreement without the need for the council to use its compulsory purchase powers. Cabinet notes that the council may need to use its compulsory purchase powers to acquire outstanding land and interests in the absence of a negotiated settlement to acquire such; and
 - The council is offering to rehouse all resident leaseholders who want to stay on the rebuilt Tustin Estate, a new leasehold home on a shared ownership or shared equity loan basis in Phase 1 or 2. Phase 1 is anticipated to complete in April 2025.
2. That the Cabinet agree in principle, to use its compulsory purchase powers under Section 226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act") and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2 for

the purposes of facilitating the redevelopment, development and improvement of the land and securing the delivery of 295 new homes on the site in line with the planning application for Phase 2 (“the Scheme”) thereby securing the continued redevelopment of the Tustin Estate subject to a formal resolution to make a Compulsory Purchase Order (CPO) at a later date.

3. That the Cabinet note that a further report will be prepared and submitted to Cabinet at a later date (if required) seeking Cabinet’s formal resolution to make a CPO.
4. That the Cabinet agree that the Director of Planning and Growth, in consultation with the Managing Director of Southwark Construction, be authorised on behalf of the council to:
 - Acquire for planning purposes all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2 and wider masterplan area as may be necessary to facilitate the Scheme by agreement, including entering into negotiations with any third parties for the acquisition of the land interests and/or for new rights over their land (as appropriate), and the payment of compensation;
 - Make any minor additions, deletions, or amendments to the extent of the land as shown on the plan at Appendix 2 should the need arise, to include all land and interests required to facilitate the construction, maintenance, and use of the Scheme; and
 - Appoint and/or retain such external professional advisors and consultants as are necessary to assist the council in facilitating the Scheme, including in the promotion of any potential CPO and the settlement of any compensation claims.
5. That the Cabinet resolve to approve:
 - To apply to the Secretary of State for consent to (i) extend the Initial Demolition Notices issued by the Council dated 28 October 2021 in respect of the Tustin Estate and (ii) issue further initial demolition notices (under Schedule 5A of the Housing Act 1985) in respect the Tustin Estate;
 - The service of further initial demolition notices under Schedule 5A Housing Act 1985 (subject to receipt of the Secretary of State’s consent) in order to suspend the Council’s duty to complete right to buy applications in relation to qualifying tenants from exercising their right to buy their homes for a period of up to 7 years.
6. That the Cabinet resolves to approve:
 - To apply to the Secretary of State for redevelopment status in order to rely on Ground 10A of the Housing Act 1985 (in respect of any secure tenants).

REASONS FOR RECOMMENDATIONS

7. There are various third party interests in the land at Phase 2 of Tustin Estate. The Council will need to acquire those interests in order to secure vacant possession of Heversham House at Tustin Estate (which it is contractually obliged to do) so as to enable the Scheme, including the demolition works scheduled to commence in summer 2025, to proceed.
8. The preparation of a CPO is crucial to the Scheme's success and Cabinet is therefore being asked to confirm its willingness to investigate the use of compulsory purchase powers. If a CPO needs to be made, the Council must be able to demonstrate that it has taken reasonable steps to acquire all of the land and interests included in the CPO by agreement.
9. The Initial Demolition Notices served in respect of the Tustin Estate are due to expire on 30 April 2025. It is unlikely that demolition will occur by such date and therefore in order to ensure that suspension of the Council's duty to complete right to buy applications is extended it is necessary to serve further initial demolition notices (subject to receipt of Secretary of State consent).

ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

10. There are none. The council cannot guarantee it will secure vacant possession of Phase 2 voluntarily by agreement and therefore considers starting the Compulsory Purchase Order (CPO) process (subject to a formal resolution to make a CPO at later date) is an appropriate action to take to enable the council to meet the delivery programme.
11. The land referencing exercise will be carried out in August 2024 - September 2024.

POST DECISION IMPLEMENTATION

12.

Key Activity	Target completion date
Land referencing and diligent enquiries to be made about the interests held in the land shown on the Plan at Appendix 2	August 2024 - September 2024

Key Activity	Target completion date
Review of position and requirement for CPO to be considered and formal authority to make a CPO to be sought from Cabinet (if required)	March 2025

BACKGROUND INFORMATION

13. The Tustin Estate Low Rise Redevelopment Programme is the outcome of a resident-led investment decision into low-rise homes on the Tustin Estate following a detailed feasibility study undertaken by the council between 2019 and 2021 and a resident ballot in March 2021. 87% of the residents voted in favour of the proposal for the redevelopment.
14. The current wider programme comprises:
 - Demolition of 251 homes (200 council rented and 51 leasehold);
 - Construction of 690 new homes including 202 replacement council homes, 443 additional affordable homes (345 social rent homes and 98 key worker homes), 27 shared equity homes and 220 homes for private sale;
 - Refurbishment of council homes in Manor Grove;
 - Development of a new park in the centre of the estate;
 - Demolition and replacement of Pilgrims' Way School; and
 - Construction of new commercial spaces.
15. It is considered that the redevelopment of the low rise homes will bring about significant economic, social and environmental benefits, including improvements in the quality of homes on the Estate. The space standards and access to private space, which are in accordance with the Southwark Plan, would significantly increase the amenity for local residents. A variety of housing types: houses, flats and maisonettes will be constructed to make an inter-generational neighbourhood that meets people's needs over time. Homes are designed to give views onto green open spaces to reduce opportunities for crime and antisocial behaviour. New homes will be built to zero carbon targets.
16. In phase 1, there is specialist provision for over 55s housing and the energy efficiency of refurbished homes will be improved and move towards net zero carbon. New estate lighting will be energy efficient. New electric charging points for cars will be installed and a car club will be created. The new open space at the centre of the neighbourhood will aim to protect existing nature on the estate and encourage biodiversity to create a public landscape where

paths cross, people meet safely and the community's diverse needs can be met – from playgrounds to quiet sitting-out areas. In later phases, the primary school will be redeveloped to provide a modern day educational environment. In later phases, new commercial buildings will be provided to replace the existing provision.

17. A development partnership with BY Development Ltd (trading as Linkcity) to deliver the Estate Redevelopment, along with the required budgets to deliver the scheme, was agreed by cabinet in October 2022.
18. The council appointed BY Development Ltd (trading as Linkcity) to bring forward the phased rebuilding of the Tustin Estate under a Development Agreement dated 8 November 2022. Linkcity will carry out the works associated with the construction of the new and improved council and key worker homes, the new school and commercial properties, landscaping and the construction and funding of the homes for sale. This partnership will see the development of 690 new homes across the Tustin development area, along with a replacement primary school, refurbishment of council homes, a number of community facilities, commercial facilities and a range of open spaces and high quality public realm. The Development Agreement covers the construction of the entire scheme including the construction and sales of the homes for sale.
19. Phase 1 of the development, providing 157 council homes, and ten homes for returning leaseholders and refurbishment of council homes in Manor Grove, started construction on site in October 2022. Construction is progressing well with the first homes scheduled for handover to the council in December 2024.
20. A planning application has been submitted by the developer in August 2024 for detailed planning permission for the redevelopment of Phase 2 in line with the requirements of the Southwark Plan and the aspirations of the Old Kent Road Area Action Plan. The plan showing Phase 2 sites is shown within Appendix 1. Part of Phase 2 is on the site of Heversham House and part on part of Kentmere House.
21. Phase 2 of the development will deliver rehousing for leaseholders and tenants who have been unable to be rehoused in phase 1. It is anticipated that, subject to planning permission and vacant possession, works will begin on Phase 2 in summer 2025 with completion in summer 2028. The balance of the programme will be developed in two further phases over a period lasting until 2030.

KEY ISSUES FOR CONSIDERATION

22. The original unit/ tenure mix in the agreed masterplan/ outline planning consent approved by Planning for the whole of the estate was:

Phase	Council rent	Keyworker	Shared equity	Private sale	Total
Phase 1	157	0	10	0	167
Phase 2	59	51	10	126	246
Phase 3	51	0	0	0	51

Phase	Council rent	Keyworker	Shared equity	Private sale	Total
Phase 4	78	47	7	94	226
Total	345	98	27	220	690

23. As the design work has progressed there have been two changes to this unit/tenure mix:

- Ten of 27 shared equity homes have been converted into additional council homes based on the lower take up of returning leaseholders and additional Greater London Authority (GLA) grant. Leaseholders have the option to stay or move off the estate; and
- A change in building shapes planned for Phase 2, to address changes in the Building Safety Act, meant that 49 additional homes could be delivered within the four buildings planned as part of Phase 2.

24. These changes, which are subject to planning, will lead to the below tenure mix. The provision is in accordance with the s.106 planning obligation, although it is expressed in a different manner for planning purposes:

Phase	Council homes	Keyworker	Shared equity	Private homes	Total
Phase 1	162	0	5	0	167
Phase 2	90	51	10	174	295
Phase 3	51	0	0	0	51
Phase 4	52	47	2	76	177
Total	355	98	17	220	690

25. The design for Phase 2, which is subject to planning, constitutes four new buildings:

Block	Storey height	Council homes	Keyworker	Shared equity	Private homes	Total homes
F1	5	14	0	5	0	19
F2	5	17	0	5	0	22
G2	11	29	51	0	30	110
H	20	0	0	0	144	144
Total		60	51	10	174	295

26. The extent of the Phase 2 sites are shown in the plan at Appendix 1. The CPO land within Phase 2 comprises the residential block at Heversham House and ancillary open space. Heversham House comprises 98 dwellings of which six are vacant, 57 are let on secure tenancies, eight are occupied by resident leaseholders and eight are owned by investment leaseholders.

27. Full implementation of the scheme will require the council to achieve vacant possession of the block at Heversham House to enable the building to be demolished and this land to be redeveloped as part of the scheme in line with the proposed planning application.
28. Since the outset of the consultation on the proposals for the low rise homes on Tustin in 2018 the council has held a number of meetings with leaseholders across the Estate. The council has been negotiating with leaseholders in Heversham House since the point the landlord offer was agreed in March 2021 with the intention to acquire all interests by agreement. The council has appointed independent surveyors to inspect and value the properties, and leaseholders have appointed their own surveyors to act for them. The leaseholders reasonable legal and surveyors' professional fees are borne by the council. To date, the council has successfully acquired 13 of the 28 leaseholder interests in Heversham House via the buyback programme.
29. In addition, all resident leaseholders have been offered a range of rehousing options to acquire a new leasehold home that can be bought via shared ownership, or shared equity loan with the council. 8 leaseholders have chosen a new home on the rebuilt Tustin Estate.
30. As the remaining 15 leasehold properties are acquired with vacant possession and secure tenants are rehoused, no more properties will be utilised for further lettings and will be held void until the block is fully vacant prior to its demolition. A total of six properties within the block are currently held void in this way.
31. The council will continue to negotiate with all remaining leaseholders, however it is now considered necessary to promote a CPO for the acquisition of all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2, as provided for in the Guidance on Compulsory Purchase process and The Critchel Down Rules (issued by the Department for Levelling Up, Housing and Communities, July 2019) (the "Guidance"). This will provide further impetus to any stalled negotiations.
32. All secure tenants within Heversham House will be moving to a new council home in phase 1 or elsewhere in the borough by spring 2025. The pre-allocations process is complete. Temporary accommodation residents will also be moved by spring 2025.

Policy framework implications

33. The Old Kent Road Area Action Plan (OKR AAP) (currently draft status, dated December 2020) provides the vision and policy for the growth and development of the area- new housing and employment uses, and anticipates the Bakerloo line extension.
34. Tustin Estate sits within the Core Area of the Opportunity Area, however, is not designated as a site within the OKR AAP. It is surrounded by sites OKR 16,17 and 18 which are grouped under Sub Area 4-Hatcham, Ilderton and Old Kent Road South.

35. Despite the OKR AAP not prescribing strategies and policies for the Estate, references to the site are made within the document. Thus, the site should respond to the guidelines for these surrounding sites and emerging context, as well as facilitate development of area-wide infrastructure and connections.
36. Proposals also seek to deliver physical properties which enable a safe and inclusive community to thrive and prosper and ensure, in accordance with Strategic Policy SP2 of the New Southwark Plan 'Regeneration that was for all' that 'we revitalise our places and neighbourhoods to create new opportunities for residents, promote well-being and reduce inequalities so that people have better lives in stronger communities'.
37. The Outline Planning Application for the wider masterplan set out a series of parameter plans and a design code which set the parameters for all subsequent phases to follow. Phase 2 is in accordance with these guidelines.

Community, equalities (including socio-economic) and health impacts

Community impact statement

38. The redevelopment brings about significant benefits which together contribute to a significant increase in the social, economic, and environmental well being of the site itself, the wider estate, and the borough.
39. The scheme will address the poor quality of existing physical environment. Existing buildings are of poor quality, using poor quality building materials, employing outdated construction methods, severely in need of costly repair, and representing inefficient land use with a low density of residential accommodation.
40. The redevelopment of the site will bring about a significant improvement of the physical environment within the site. It will deliver a broad range of community facilities, replacing existing facilities with new purpose-built facilities, and extending these. The development will deliver a replacement school. The development will also provide new high quality homes, contributing towards an increase in both the quantum and quality of residential accommodation on the site and contributing to corresponding improvements in the wider area. The homes that will be built will see significant improvement on the existing stock.
41. There are 15 leaseholder interests that remain outstanding in the site. In line with the government guidance, leaseholders will receive market value for the purchase of their property, plus a home loss payment of 10% if you are a resident leaseholder, or 7.5% if you are a non-resident leaseholder, as well as a disturbance payment to cover the reasonable costs of moving and professional fees. Where properties are purchased by agreement, the council acquires them at market value in accordance with compulsory purchase legislation. Resident leaseholders who do not choose a replacement property in Phase 1 or 2 are free to purchase a new property on the open market.
42. To mitigate any potential issues that may be caused by differences between the existing value of leasehold interests in their current properties, compared to potential value of new build properties being built or other properties in the

surrounding area, the council has put in place a range of rehousing options for resident leaseholders. These will ensure that leaseholders are able to remain in the area to access services, employment opportunities and to preserve community ties. The options for leaseholders depend on the individuals' specific financial 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 through a shared equity loan (where unowned equity is gifted to leaseholders in exchange for a charge on the property equal to the gifted equity). The combination of these options aim to mitigate any negative impact on resident leaseholders caused by the potential use of compulsory purchase powers.

43. The council has sought to mitigate any disbenefits through a range of reasonable and proportionate measures focused on rehousing and compensation options, to realise the public benefits associated with the redevelopment. The council has considered 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 is a compelling case in the public interest for the Scheme to proceed and therefore for the council to consider the use of its compulsory purchase powers, subject to a formal resolution to make a CPO (if required) at a later date.

Equalities (including socio-economic) impact statement

44. Section 149 of the Equality Act 2010 lays out the Public Sector Equality Duty (PSED) which requires public bodies when taking decisions, to have due regard to the need to:
 - a) Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
 - c) Foster good relations between those who share a relevant characteristic and those that do not share it.
45. The council through a process of regular review has been considering the impact on all protected groups throughout the development of the council's proposals for all regeneration projects within the borough. This has led to the council developing rehousing policies for tenants and leaseholders affected by regeneration proposals in the borough.
46. These have identified that the council has a range of measures in place to mitigate any potential impacts of regeneration proposals, including:
 - a) Rehousing policies through the council which provide a range of local rehousing opportunities that enable residents to move locally (if they choose to do so) to a new home that meets the needs of their family and financial position.

- b) A dedicated team of officers which supports both tenants and leaseholders through the rehousing process.
 - c) Providing support and guidance about a range of routes to all residents affected by regeneration but with particular focus on those that may be vulnerable or in need of additional support.
 - d) The development of new homes in the borough which will provide high quality homes to modern standards for residents in the borough to move to.
47. Therefore, 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 available through council officers and local independent organisations that provide support and guidance to Tustin Estate residents.
48. Through the consultation process, the council has also sought to update its understanding of the demographic of residents with protected characteristics affected by the rehousing and process. The council will continue to monitor any resulting impacts. The council will also seek to update and expand upon this information throughout the ongoing process as it continues to discharge its public sector equality duty.
49. In addition, an Equality Health and Impact Assessment (EqIA) has been undertaken by the council and completed by consultants Mott MacDonald for the whole project to ensure the impacts of the re-development of the estate have been independently assessed. This has been updated at Appendix 3.
50. It identifies differential or disproportionate effects, both positive and negative, on those with protected characteristics from the development proposals and sets out mitigation or enhancement measures that the council can put in place. It looks at these factors ahead of confirming decisions and policy. Relevant mitigation measures are identified and are embedded into the redevelopment programme.
51. The equalities impact assessments were conducted in accordance with the Equality Act 2010 and the council's Public Sector Equality Duty.
52. The assessment will be shared with the consultants engaged to work on this programme to inform their resident engagement process alongside the council's.
53. The compulsory acquisition of land and interests will interfere with Article 1 First Protocol Convention Rights. However, Article 1 of the First Protocol allows such interference if it is in the public interest and in accordance with the law. The use of CPO powers is lawful in Article 1 terms provided that the council strikes a fair balance between the public interest and the private rights of individuals which are protected by Article 1. It is also relevant that compensation is available to persons affected by compulsory acquisition in certain circumstances. It is considered that the compelling benefits of the Scheme in the public interest justify the interference with Article 1 rights in this case when weighed against the private rights of individuals if CPO powers were used.

54. As regards Article 6 Convention Rights, there are well established statutory procedures that will give all those likely to be affected by a CPO the right to be notified and the opportunity to object. Any such objections may cause a public inquiry to be held where those objections can be heard. Compensation disputes can be referred for hearing by the Lands Chamber of the Upper Tribunal. For these reasons Article 6 is complied with.

Health impact statement

55. The updated EqIA sets out the potential health impacts of the overall development.

Climate change implications

56. The redevelopment of this block would enable homes of the highest environmental standard to be developed. The current homes are inefficient in energy terms.
57. The achievement of a zero carbon development is a key objective of the programme for the low rise homes on Tustin. As part of the development of the design option as part of the ballot process, sustainability consultants produced a detailed report. Sustainability consultants have been appointed as an integral part of the new design team and will provide a detailed assessment of the impact of redeveloping the low rise as part of the planning application process. Experience in addressing these issues was a key criterion in the appointment of the delivery partner.
58. It is anticipated that the new homes will be served by the South East London Combined Heat & Power (SELCHIP) heating system.

Resource implications

59. The acquisition process continues to be met within existing resources within the council, supplemented with external professional advice as required. The delivery of the new homes is being taken forward to contract stage by BY Group on behalf of the council under the development agreement (DA) entered in 2022. There are no additional resource implications arising from this report.

Legal implications

60. The Council has various powers to compulsory purchase land, for example, the power under section 226(1) of the Town and Country Planning Act 1990 (as amended) and the power under section 17 of the Housing Act 1985 etc.
61. Section 226(1)(a) of the 1990 Act provides that “...A local authority [to whom this section applies] shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area:
- (a) 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,”

62. The power in section 226(1)(a) of the 1990 Act is subject to section 226(1A) of the 1990 Act which provides that an authority must not exercise the power under section 226(1)(a) of the 1990 Act unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects:-
- the promotion or improvement of the economic well-being of their area;
 - the promotion or improvement of the social well-being of their area;
 - the promotion or improvement of the environmental well-being of their area.
63. This report recommends that the Cabinet approves, in principle, the use of compulsory purchase powers under Section 226(1)(a) of the 1990 Act and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2. This however is subject to the Council making a formal resolution to make a CPO at a later date.
64. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides a power for a local authority to purchase compulsorily such new rights as are specified in the compulsory purchase order.
65. Before determining whether or not to make a formal resolution to make a CPO the Council will consider which compulsory purchase power is the most appropriate to be utilised in this case and will provide a justification for the use of such power in any future reports that seek a formal resolution to make a CPO (if applicable).
66. In order to establish the need for a CPO the Council must have first taken all reasonable steps to acquire the land by negotiation.
67. The Council has the power to seek possession of secure tenancies under various grounds set out in Schedule 2 of the Housing Act 1985. Ground 10A of Schedule 2 allows the Council to obtain possession in an area the subject of a redevelopment scheme. In order to obtain possession the Council must undertake statutory consultation with affected tenants and have the approval of the Secretary of State. Possession under Ground 10A will also only be granted where suitable accommodation must be available to affected tenants.
68. As part of the preparation for future redevelopment, it will be necessary, in due course, to consider whether or not those assets should be appropriated from their existing purpose to planning and other purposes so as to facilitate site assembly. Approval of the Secretary of State would also be required to appropriate housing land for purposes other than housing.
69. Where a secure tenant of the Council has claimed to exercise the right to buy their property (and that right has been established), then as soon as all matters relating to the grant have been agreed, the Council (as landlord) is obliged, pursuant to section 138(1) of the Housing Act 1985 (“**HA 1985**”) to

grant to that secure tenant a freehold / leasehold interest in that property.

70. Section 138A Housing Act 1985 provides that where an Initial Demolition Notice is served on a secure tenant and such notice is served before the landlord has granted an interest (pursuant to section 138(1) HA 1985) the Council (as landlord) will not be bound to complete that right to buy application. Service of an Initial Demolition Notice pursuant to Schedule 5A HA 1985 therefore suspends the Council's duty to complete right to buy applications under section 138(1) HA 1985 in respect of that particular tenant's interest in the relevant property.
71. Paragraph 4 of Schedule 5A HA 1985 restricts the service of further initial demolition notices (for a period of 5 years) following the time when the Initial Demolition Notice ceases to be in force, unless such further notice is served with the consent of the Secretary of State.

Financial implications

72. The required budgets to deliver the scheme were agreed by cabinet in October 2022. These costs will be funded from resources supporting the Housing Investment Programme.
73. The costs associated with the preparation of a CPO can be managed within existing budgets. If a CPO needs to be made the associated costs can be met through the use of contingency in the project budget.

Consultation

74. Consultation is taking place with all affected leaseholders and tenants within Heversham House. In addition, this issue has been discussed with the Residents Project Team and the Tustin Estate Community Association.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive, Governance and Assurance

75. The purpose of this report is to recommend, in principle, the use of compulsory purchase powers under Section 226(1)(a) of the 1990 Act and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2. This however is subject to the Council making a formal resolution to make a CPO at a later date.
76. Section 226(1)(a) of the 1990 Act gives local authorities the power to compulsorily acquire land in their area 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. The use of the power is limited by s226(1A) which provides that a local authority must not exercise the power unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of three objects, namely the promotion or improvement of the economic, social or environmental well-being of their area.

77. Paragraphs 15,16, 38, 39, 40 set out a summary of the economic, social and environmental well-being benefits the implementation of the Scheme will bring to the area.
78. Section 120(1) of the Local Government Act 1972 ("the 1972 Act") authorises local authorities to acquire any land by agreement for the purposes of a) any of their statutory functions or b) for the benefit, improvement or development of their area. By virtue of section 120(2) of the 1972 Act, local authorities may acquire by agreement any land for any purpose for which they are authorised by the 1972 Act or any other Act to acquire land, notwithstanding that the land is not immediately required for the purpose and, until it is required for that purpose, it may be used for the purpose of any of a local authority's functions.
79. Section 227 of the 1990 Act also enables local authorities to acquire land by agreement for any purpose for which a local authority may be authorised to acquire land under section 226 of the 1990 Act.
80. In this report the recommendation is that land is being acquired by agreement in order to facilitate the development of the area, which falls within the purposes set out in section 120(1) of the 1973 Act and section 226 of the 1990 Act.
81. Accordingly, local authorities have power to acquire land and interests by agreement as recommended in this report.
82. Persons with a qualifying legal interest who are displaced from the blocks subject to demolition, such as tenants and leaseholders, will be eligible for mandatory or discretionary statutory compensation and disturbance payments. These will be made in line with the applicable legislation and local authority policy at the appropriate time.

Strategic Director, Resources (H&M 24/044)

83. This report seeks Cabinet approval to the use, in principle, of compulsory purchase powers under Section 226 (1)(a) of the Town & Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of all land and interests (which are not already owned by the Council) within the area of land shown for identification purposes edged black and bold on the plan at Appendix 2 to facilitate the redevelopment of the Tustin Estate. This is an in principle proposal, and as such, does not commit the council to incurring expenditure, but as outlined in the financial implications section of this report, any costs associated with securing vacant possession can be contained within the existing financial resources approved for the regeneration of Tustin Estate. Those costs will be met from funds available to the council's Housing Investment Programme for the delivery of the new homes programme.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<p>Tustin Development Agreement Decision - Gateway 2 - Contract Award Approval - Partner & Financial Plan for redevelopment of Tustin Estate - Southwark Council</p> <p>Link: https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?Id=7726</p>	<p>Housing, New Homes Directorate, Third Floor, Hub 2 160 Tooley Street, London, SE1 2QH</p>	<p>Cat Janman 020 7525 0659</p>
<p>Tustin Phase 1 CPO Decision - Tustin Estate Low Rise Redevelopment Programme: Update and Phase 1 Compulsory Purchase Order (CPO) - Southwark Council</p> <p>Link: https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?Id=7497</p>	<p>Finance, Planning and Growth Directorate, Fifth Floor, Hub 2 160 Tooley Street, London, SE1 2QH</p>	<p>Neil Kirby 020 7525 1878</p>

APPENDICES

No.	Title
Appendix 1	Site plan showing Phase 2 sites
Appendix 2	Site plan showing Tustin Estate and indicative CPO Plan Tustin Estate
Appendix 3	Equality and Health Impact Assessment, August 2024

AUDIT TRAIL

Cabinet Member	Councillor Helen Dennis, New Homes and Sustainable Development	
Lead Officer	Hakeem Osinaike, Strategic Director of Housing	
Report Author	Cat Janman, Senior Project Manager	
Version	Final	
Dated	4 September 2024	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Assistant Chief Executive, Governance and Assurance	Yes	Yes
Strategic Director, Resources	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	4 September 2024	