

Item No. 14.	Classification: Open	Date: September 2012	Meeting Name: Cabinet
Report title:		To approve an application to the Secretary of State for a compulsory purchase order (CPO) to purchase the remaining leasehold properties within Maydew House, Abbeyfield Estate	
Ward:		Rotherhithe	
Cabinet Member		Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	

FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT

Following the earlier council decision for a limited sale of leasehold flats to part-subsidise the enhanced works programme and relocation of tenants identified as part of the options appraisal for the Estate, it is now considered necessary to instigate compulsory purchase proceedings to acquire those remaining interests in Maydew House and effect the works.

The enhanced refurbishment of this block is a key strategic housing priority both in terms of the new high quality housing to be delivered, and the reduced long term impact on the Housing Investment Programme. To help the council achieve its aspiration to enhance the properties in this block however, Compulsory Purchase Powers are required to achieve vacant possession of Maydew for the works to begin.

The council will seek to acquire all the leasehold interests by agreement but without a compulsory purchase order it is unlikely that all these interests can be acquired. We have consulted with the residents (including the leaseholders and tenants) about the possibility of making compulsory purchase orders and the making of it is therefore necessary to achieve certainty of acquiring all the leasehold interests to enable the council to deliver the enhanced refurbishment programme. The council recognises the disruption this programme has caused but it is necessary to effect these works to improve the living environment for the returning tenants/ leaseholders. The council will continue to work closely with the leaseholders and tenants alike to provide housing and financial support where appropriate.

I would once again like to thank all those residents who have assisted us greatly in the appraisal process and the related consultation work and in particular those residents who kindly allowed us to internally survey their homes. I look forward to progressing the refurbishment programme.

RECOMMENDATIONS

That the cabinet agrees:

1. The council makes a Compulsory Purchase Order (“Order”) under section 226 (1) of the Town & Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 or in the alternative under

section 17 of the Housing Act 1985 for the acquisition of the remaining leasehold interests within the area edged bold on the plan at Appendix 1 for the purpose of securing the regeneration of the Abbeyfield Estate in accordance with decisions taken by cabinet on the 20 March 2012 and 17 July 2012.

2. The Director of Regeneration be authorised to:
 - a) determine the powers and implement the Order to deliver the overall regeneration aspiration
 - b) take all necessary steps to secure the making, confirmation and implementation of the Order including the publication and service of all notices and the presentation of the council's case at Public Inquiry should one be called
 - c) acquire interests in land within the Order areas either by agreement or compulsorily
 - d) approve agreements with land owners setting out the terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of from the Order
 - e) amend the boundaries of the area shown edged in bold on the plan at Appendix 1.

BACKGROUND INFORMATION

3. On the 20 March 2012 the cabinet noted the findings of a detailed option appraisal for the Abbeyfield Estate, shown edged in bold on the plan at Appendix 2, considering Maydew House, Thaxted Court and Damorey House, Abbeyfield Estate. It approved the adoption of enhanced refurbishment of all three blocks, with the retention of the freehold of Maydew House and disposal of sufficient void properties in that block to bridge the funding gap between warm, dry, safe works and enhanced refurbishment works on the estate.
4. Furthermore, cabinet noted that the building works required at Maydew House could not be carried out with residents in situ and would require all occupiers to vacate the block. Surveys conducted in 2010 by Levitt Bernstein and BPTW concluded that substantial upgrading and replacement of key services together with the prevalence of asbestos within dwellings necessitated the block be fully vacant to complete the required works. This was further confirmed by Mace, the council's appointed building surveyors, in 2001.
5. Cabinet also noted the need to acquire all third party interests in Maydew House, which would require a separate cabinet report seeking approval to make the Order.
6. Having adopted the preferred option and the additional benefits that would be achieved it was agreed that the scheme would be dealt with as a regeneration project.
7. Maydew House is a 26 storey tower block, with 24 storeys accommodating 144 residential units. It also contains the heating installation that supplies the adjoining blocks on the Abbeyfield Estate. Of 144 flats in the block to be refurbished two are still currently owned by leaseholders. The council has been

acquiring leasehold interests by agreement but on the basis of payments under the compensation code; however in the event that acquisition by agreement does not successfully buy out all the interests then the council will need to rely upon making the Order.

8. The extent of Maydew House is shown edged bold on the plan at Appendix 1 to this report and includes the properties to be acquired, listed in Appendix 3.

KEY ISSUES FOR CONSIDERATION

9. Maydew House contains 144 dwellings; of which five were held by leaseholders who had bought their properties pursuant to the right to buy legislation. Negotiations to acquire these leasehold interests by agreement have been taking place since December 2010 and have enabled three acquisitions to be completed. The council's aspiration to deliver the regeneration of Maydew House cannot be achieved without acquiring all the leaseholds. Negotiations will continue with the two remaining leaseholders but without a compulsory purchase order it is unlikely that all these interests will be acquired. The making of a compulsory purchase order is therefore recommended to achieve certainty of acquiring the leaseholds within the envisaged timescale and to mitigate risk to the project.

Underlying information in resolving to make this Compulsory Purchase Order

10. The compulsory purchase procedure is complex and has regard to a variety of factors. Details of relevant procedural and legal matters are set out at Appendix 4 to this report.

Community impact statement

11. The effect of the negotiated acquisition or compulsory purchase order will be to dispossess persons of their rights in land. This is a necessary process to ensure that redevelopment and regeneration of Maydew House and the wider Abbeyfield Estate can proceed. This is considered acceptable where the proposals are in the public interest and where, as in this case, the advantages of regeneration substantially outweigh the disadvantages to those dispossessed.
12. The regeneration of Maydew House and the wider Abbeyfield Estate is considered to have benefits to not only the immediate community but also the borough as a whole in that it will act as a catalyst to further investment. It is therefore necessary to balance the benefits that could be provided by the proposed scheme against the possible impact to those with an interest in the affected land. In carrying out this exercise a degree of proportionality should therefore be adopted. The Human Rights of these individuals have accordingly been considered and commented upon in this report.
13. Based on the outcome of the impact assessment carried out in relation to the housing investment programme in 2011, it is envisaged that investment in the council's housing stock generally will have a positive impact on all groups residing in these properties through the delivery of warm, dry and safe homes regardless of age, disability, faith/religion, gender, race, ethnicity and sexual orientation.
14. By refurbishing the homes to an enhanced refurbishment standard residents will benefit from improved thermal insulation as a result of the over cladding of their

blocks. They will also benefit from kitchen and bathroom renewal/replacement where the worst cases of internal disrepair will be addressed. Externally all residents will benefit from improved access ways, landscaping, garage refurbishment and car parking. From a health and safety perspective residents of Maydew House will benefit from the removal of asbestos and the replacement of a heating system that has been systematically failing over a period of time. Overall all homes will be made warm, dry and safe which will benefit all residents. Adopting the enhanced approach reduces investment requirements and consequent disruption to residents in future years.

Consultation

15. There has been extensive consultation with Maydew House residents (including tenants and leaseholders) at all stages of the regeneration process and the possibility of making compulsory purchase orders has been included within this consultation.

Resource implications (inv/ii2617/030912/rjb)

16. There are sufficient financial resources already budgeted and allocated within the council's Housing Investment Programme to acquire the remaining leasehold interests within Maydew House, together with all associated costs. This includes the funding of the legal process to enable the making, confirmation and implementation of the compulsory purchase order. There are sufficient uncommitted resources available to meet the proposed expenditure.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

17. As set out in Appendix 4 to this report, it is intended that Counsel's advice should be taken to ascertain whether the preferred power under which the Compulsory Purchase Order should be made is s226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act") or s17 of the Housing Act 1985 ("the 1985 Act").
18. Appendix 4 sets out in more detail the requirements of each of the powers.
19. If the 1990 Act is considered to be the appropriate power, cabinet will note from paragraph 32 of Appendix 4 to this report that consideration must be given to the well being objectives under Section 226 (1A) of the 1990 Act in relation to the council's aspirations for the regeneration of the Abbeyfield Estate. If 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 Abbeyfield Estate there are adequate powers available to the council to acquire all the land and property interests in the sites either compulsorily or by agreement.
20. In the alternative, the 1985 Act 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.

21. Ancillary powers to create new rights are also provided under s13 of the Local Government (Miscellaneous Provisions) Act 1976. As noted at paragraph 36 of Appendix 4, the council also has power under Section 227 of the 1990 Act or Section 120(1) of the Local Government Act 1972 (“the 1972 Act”) to acquire interests in the Abbeyfield Estate by agreement with the owners. Further, by virtue of Section 120(2) of the 1972 Act, any properties acquired under the 1972 Act that are not required immediately for the purposes for which they have been acquired, can be used in the interim for the purpose of any of the council’s functions.
22. Part 3C of the council’s constitution reserves to cabinet decisions on the acquisition of land and property where the market value exceeds £100,000 and the acquisition of land and property which involves the use of compulsory purchase powers.

Strategic Director of Finance and Corporate Services

23. This report recommends that the cabinet agrees to the council making Compulsory Purchase Orders for the purpose of securing the regeneration of the Abbeyfield Estate in accordance with decisions taken by cabinet on the 20 March 2012 and 17 July 2012 and that the Director of Regeneration be authorised to undertake various actions associated with the recommendation.
24. The SDFCS notes the resource implications contained within the report. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

Strategic Director of Housing (Head of Home Ownership)

25. In the absence of an extended re-housing assistance package, Home Ownership officers have had extensive contact with those leaseholders who have requested it. Further assistance will be provided, if requested, to find alternative property on the open market and through Low Cost Home Ownership Schemes from Registered Providers.

BACKGROUND INFORMATION

Background Papers	Held At	Contact
Cabinet Report – Abbeyfield Estate: Options Appraisal for Maydew House, Thaxted Court, and Damory House, Abbeyfield Estate, SE16	Southwark Property Chief Executive’s Office, 5 th Floor, hub 1, 160 Tooley Street, SE1 2QH	Paul Davies 020 7525 5529

APPENDICES

No.	Title
Appendix 1	Location plan
Appendix 2	Estate plan
Appendix 3	Property schedule
Appendix 4	Procedural and legal matters

AUDIT TRAIL

Cabinet Member	Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Paul Davies, Principal Surveyor	
Version	Final	
Dated	14 September 2012	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Strategic Director of Housing	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Support Services	14 September 2012	