

Item No. 13.	Classification: Open	Date: 23 October 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 the Elmington Estate Phase 3 sites C, D, E and G	
Ward:		Camberwell Green	
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

The council has made a decision to dispose of the 4 sites in Phase 3 of the development and select the developer in July this year to complete the final phase of the renewal programme for the Elmington Estate. The regeneration of these sites 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. The high investment need has meant that the council has had to make a decision to demolish these blocks and replace them with high quality housing, and invest some of the proceeds from the sale into the retained blocks on the Estate.

Compulsory Purchase Powers may have to be relied upon to achieve vacant possession of these sites for the scheme to progress. 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, as well as relocating tenants within the scheme.

Council officers have consulted with the residents (including the leaseholders and tenants) about the possibility of making Compulsory Purchase Orders and explained that the making of the Order(s) are necessary to achieve certainty of acquiring all the leasehold interests to enable the council to deliver new, high quality housing.

I would like to thank the residents of Elmington Estate who have participated in the consultation processes and look forward to the progression of the scheme.

RECOMMENDATIONS

That the cabinet agrees:

1. The council makes four or fewer Compulsory Purchase Orders (“Order[s]”) 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 land and new rights within the areas edged on the plans at Appendix One for the purpose of securing the regeneration of the Elmington Estate in accordance with decisions taken by cabinet on the 22 March 2011.

2. The Director of Regeneration be authorised to:
 - a) determine the powers and implement the optimum number of Order[s] to deliver the overall regeneration aspiration;
 - b) take all necessary steps to secure the making, confirmation and implementation of the Order[s] 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 all interests in land within the Order[s] areas either by agreement or compulsorily;
 - d) approve agreements with land owners setting out the terms for the withdrawal of objections to the Order[s], including where appropriate seeking exclusion of from the Order[s];
 - e) amend the boundaries of the areas edged on the plans at Appendix One; or
 - f) amend the number of leasehold acquisitions in Appendix Two, should it be required.

BACKGROUND INFORMATION

3. On the 22 March 2011, the cabinet approved that the council seek a developer and Housing Association to undertake the redevelopment of sites C, D, E and G within Phase 3 of the Elmington regeneration. The extent of Phase 3 regeneration on the Elmington Estate is shown edged on the plans at Appendix One to this report and includes the properties listed in Appendix Two.
4. Following a marketing exercise and short-listing of three consortia, cabinet approved the selection of Family Mosaic Housing Association and Bellway Homes on the 17 July 2012 as the preferred development partners and disposal of the council's freehold interest in sites C, D E and G.
5. There are a total of 144 flats in the blocks to be demolished of which 113 were tenanted and 31 were owned by leaseholders. The council has started acquiring leasehold interests by agreement but on the basis of compensation under compulsory purchase powers; however, in the event that acquisition by agreement does not successfully buy out all the interests, then the council will need to rely upon compulsory purchase powers.
6. Following a stock condition survey and option appraisal exercise of the blocks on the Elmington Estate, those blocks identified as being beyond the reasonable cost of repair and refurbishment were included within the sites to be re-developed within the regeneration scheme listed at Appendix Two. A number of blocks have already been completely refurbished on the Estate with a number of retained blocks also scheduled to be completely refurbished.

KEY ISSUES FOR CONSIDERATION

7. Elmington phase 3 contains 144 dwellings; of these 30 are now held by leaseholders. Negotiations to acquire these leasehold interests by agreement have been taking place since August 2011 and have enabled a number of agreements to be made and acquisitions to be agreed. The council's aspiration to deliver the regeneration of this phase cannot be achieved without acquiring all the leasehold interests. Negotiation will continue with leaseholders but without a compulsory purchase order it is unlikely that all these interests can be acquired. The making of a compulsory purchase order is therefore recommended to

achieve certainty of acquiring all the leasehold interests within the envisaged timescale and to mitigate risk to the project.

Underlying information in resolving to make these compulsory purchase orders

8. 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 Three to this report.

Community impact statement

9. When the council's Executive agreed a mixed regeneration scheme for Elmington Estate in October 2009, sites C, D E & G were designated for redevelopment with a number of surrounding blocks being retained and refurbished. It is envisaged that investment and renewal in the Elmington Estate will have a positive long term impact on all groups residing in those blocks being retained through the delivery of warm, dry and safe homes regardless of age, disability, faith/ religion, gender, race and ethnicity or sexual orientation.
10. The overall effect of the programme of works on the Elmington Estate is to promote equal treatment by ensuring tenants and leaseholders across all the retained blocks receive the same standard of works and ensure that some of the most disadvantaged groups living in the council's properties have homes that are warm, dry and safe. This will also impact on the wider community by addressing some of the imbalance in living conditions in the borough.
11. For the redevelopment of sites C, D, E and G, the effect of the negotiated acquisition or compulsory purchase order will be to dispossess some persons of their rights in land. This is a necessary process to ensure that redevelopment and regeneration of the Elmington Estate Phase 3 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. The council is achieving a quantitative and qualitative housing gain which will include new, improved socially rented housing on the Estate.
12. All leaseholders that are dispossessed regardless of age, disability, faith/ religion, gender, race, and ethnicity or sexual orientation will be treated fairly and equally throughout negotiations, and where appropriate, they will offered financial and housing assistance as well as being advised of their legal rights in accordance with statutory principles and council policy.
13. The regeneration of the Elmington 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 Appendix Three to this report
14. The furtherance of the regeneration will not negate the council's Diversity and Equal Opportunities Policies. Indeed in the long term it is anticipated the diversity of the area will be widened.

15. An equalities information collection form has been issued to all remaining leaseholders on the Estate which will assist the council in understanding our service users and residents needs; identify possible discrimination, barriers to our services for different groups of people; and anticipate and avoid potential difficulties for some people and work to remove them.

Schedule of leaseholder ownership/ status as at the date of the report

	Total	Owner occupation	Investors	Unknown status
Leaseholders	31	11	16	4
Completed purchases	1		1	
Agreements made and solicitors' instructed	4	2	2	
Agreements expected in financial year 2012/13	8	2	6	
Remaining leaseholders	18	7	7	4

16. It is anticipated that the leaseholders of unknown status will be investors. The number of remaining leaseholders is 30 with 1 leasehold interest already been acquired.

Consultation

17. There has been extensive consultation with Elmington Estate 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.

Financial implications (inv/ii2616/030912/rjb)

18. There is sufficient funding already budgeted and allocated to finance the acquisition of the remaining leasehold interests and any third party interests within the council's Housing Investment Programme. The budget also includes a sum for procedural and legal matters to enable the making, confirmation and implementation of the compulsory purchase order.
19. There will be staff resource costs in taking the Order[s] to completion, relocating tenants and providing financial and housing assistance to tenants and leaseholders where appropriate as well as acquiring the leasehold interests; there is also provision for them in the overall project programme. There are sufficient uncommitted resources in the programme to meet the proposed costs.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

20. As set out in Appendix Three 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(s) 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").
21. Appendix Three sets out in more detail the requirements of each of the powers.

22. If the 1990 Act is considered to be the appropriate power, cabinet should note from paragraph 32 of Appendix Three to this report that consideration must be given to the well being objectives under Section 226 (1)(a) of the 1990 Act in relation to the council's aspirations for the regeneration of the Elmington 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 Elmington 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.
23. 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.
24. Ancillary powers to create new rights are also provided under s13 of the Local Government (Miscellaneous Provisions) Act 1976. As noted at paragraph 44 of Appendix Three, 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 on the Elmington Estate sites C, D, E and G 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.
25. 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 Housing & Community Services

26. The leaseholder re-housing assistance package referred to in paragraph 12 of this report and paragraph 29 of Appendix Three to the report is administered by Home Ownership Services (HOS). Home Ownership Service officers are already in contact with a number of leaseholders and are administering a total of three re-housing assistance applications at the date of this report.
27. Preliminary research suggests that approximately half the 31 leasehold units on the estate are owner-occupied. With such a low-take up of the offer of re-housing assistance to date and such a (potentially) high proportion of investors, HOS agrees that the obtaining of a compulsory purchase order is a prudent and necessary step in achieving vacant possession.
28. Despite the recent changes to the Right to Buy discount regime, there have been no new Right to Buy applications from tenants of the affected blocks. The service of statutory demolition notices under powers conferred by the Housing Act 2004 has accordingly not been required to date. Statistics on tenant moves provided by Camberwell Resident Service Officers to date show positive movement and

the risk of having to serve statutory demolition notices to prevent further Right to Buy applications is deemed low

Strategic Director of Finance & Corporate Services (SDFCS) (NR/FCS/3/9/12)

- 29. This report recommends that the cabinet agrees to the council making four or fewer Compulsory Purchase Orders for the purpose of securing the regeneration of the Elmington Estate in accordance with decisions taken by cabinet on the 22 March 2011 and that the director of regeneration be authorised to undertake various actions associated with the recommendation.
- 30. The strategic director notes the financial implications contained within the report. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Cabinet Report - selection of preferred bidder and disposal of the council's freehold interest in sites C, D, E and G at Elmington Estate, Camberwell, SE5.	Development & Disposals Team Chief Executive's Department, 5 th Floor, Hub 1, 160 Tooley Street, SE1 2QH	Marcus Mayne 020 7525 5651

APPENDICES

No.	Title
Appendix One	Location plans showing regeneration sites C, D, E and G within Elmington Estate Phase Three.
Appendix Two	Property schedule of blocks to be included in the regeneration of Elmington Estate Phase Three.
Appendix Three	Procedural and legal matters

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Marcus Mayne, Principal Surveyor	
Version	Final	
Dated	11 October 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 & Corporate Services	Yes	Yes
Strategic Director of Housing & Community Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		11 October 2012