

<b>Item No.</b> 17.	<b>Classification:</b> Open	<b>Date:</b> 18 March 2014	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Phase 1b and 1c Aylesbury Regeneration	
<b>Ward or groups affected:</b>		Faraday	
<b>Cabinet Member:</b>		Councillor Fiona Colley, Regeneration and Corporate Strategy	

## **FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY**

This report is a further step on the road to regenerating the Estate. We have been acquiring properties from leaseholders by agreement but we have now reached a stage where to avoid delaying progress we will need to make a compulsory purchase order to ensure we achieve vacant possession of the site. This is essential to enable this part of the Estate to be transformed. We will continue to work with affected leaseholders to ensure they receive both the statutory compensation package they are entitled to and for those that are eligible, will seek to provide rehousing assistance which may be a shared equity, shared ownership or a council tenancy home.

The past four years has been a period of remarkable progress in the regeneration of the Aylesbury Estate. The Project previously failed to provide a clear means for the regeneration to move beyond Phase 1A. Since then, we have entered into a partnership agreement that is bringing forward the regeneration of 1-59 Wolverton and construction work is underway there. High quality new homes in Phase 1A have been completed, transforming the south west corner of the Estate. We have gone through the appropriate procedure and identified a long term partner in Notting Hill Housing Trust to bring forward the regeneration of the rest of the Estate; this report follows on from that. The job is far from done though and much hard work will be needed in the coming years to deliver the complete regeneration that the community both demands and deserves.

## **RECOMMENDATIONS**

That the cabinet

1. Agrees for the council to make 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 for the acquisition of the land and new rights within the area edged hatched on the plan at Appendix One for the purpose of delivering the regeneration of the Aylesbury Estate in accordance with the provisions of the Aylesbury Area Action Plan.
2. The head of property be authorised to:
  - a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the council’s case at Public Inquiry should one be called

- b) To acquire all interests in land within the compulsory purchase order area either by agreement or compulsorily
- c) Approve agreements with land owners setting out the terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land from the Order and
- d) Amend the boundaries of the Site shown hatched on the plan at Appendix One should the need arise.

## **BACKGROUND INFORMATION**

- 3. On 9 February 2010 the Executive approved a resolution authorising the making of one or more compulsory purchase orders in respect of various sites on the Aylesbury Estate including the land which is the subject of this report. That particular resolution also covered other sites including 1-59 Wolverton (Site 7 on the plan appended to the 9 February 2010 report) where an Order was made in 2012 and confirmed by the Secretary of State for Communities and Local Government following a Public Inquiry last year.
- 4. The principle of making this Order is therefore standing policy. Since the earlier resolution significant progress has been made with the regeneration of the Aylesbury Estate. As mentioned above, an order has been made and confirmed in respect of Site 7 and work is now underway on that site. The cabinet on 28 January 2014 selected Notting Hill Housing Trust (Walworth Unlimited) as the preferred development partner to proceed with the regeneration of the remainder of the estate. A development partnership agreement is currently being negotiated setting out the process of regeneration pursuant to which, this site will be the first to be redeveloped. That agreement will set out the basis on which planning permission will be applied for.
- 5. The site in question is included within the The Aylesbury Area Action Plan and covers 1 – 28 Arklow House, 42-256 Bradenham, 1-149 Chartridge, 1-172 Chiltern and 370 Albany Road. All but the last property are residential dwellings. The last property is approved premises operated by the Probation Service
- 6. 370 Albany Road serves as accommodation for Probation Service clients. The property is shown cross-hatched on the plan at Appendix One. It is held on a long lease under a complex ownership arrangement involving the London Probation Service and the Ministry of Justice. It is Crown property and cannot be subject to a compulsory purchase order unless the Home Secretary agrees to its inclusion. If the property is included within the Order land it can be subsequently excluded if such agreement is not possible. Alternatively, the Secretary of State may confirm the Order in part pending such an agreement between the council and Home Secretary.
- 7. The inclusion of 370 Albany Road is considered on balance a better option than its exclusion because whereas land included within a compulsory purchase order can be subsequently removed, land cannot subsequently be added to the Order. It is highly desirable in terms of getting the Order confirmed that the land within it corresponds with the land that will be subject to the planning application that will provide for the intended regeneration.
- 8. It is clear however that to achieve this part of the Aylesbury regeneration agreement will have to be reached with the Ministry of Justice for the surrender of the leasehold interest in this property.

9. Discussions are underway with the Ministry of Justice and it is hoped that this agreement will be reached in the near future.
10. The council is close to completing an EU procurement exercise to select a development partner to deliver the regeneration of this site and the wider Aylesbury area. As previously mentioned, on 28 January 2014 cabinet approved the selection of Walworth Unlimited as the preferred partner. It is planned that the Development Partnership Agreement will be finalised by April 2014.

#### **KEY ISSUE FOR CONSIDERATION**

11. This phase contains 566 dwellings; of these twenty-eight are held by leaseholders. Negotiations to acquire these leasehold interests by agreement have been taking place since December 2008 and have enabled forty-six properties to be purchased. The council's aspiration to deliver the regeneration of the phase cannot be achieved without acquiring all the leaseholds. Negotiation will continue with leaseholders but without a compulsory purchase order it is unlikely that all these interests can be acquired; indeed some leaseholders have stated they will remain until an order is made. The making of a compulsory purchase order is therefore essential to enable this phase of the Regeneration to proceed.
12. The Development Partnership Agreement between the council and Walworth Unlimited will require the partner to prepare and submit a detailed planning application for the site as part of an outline application for the wider area. It is expected that this application will be submitted in September 2014.

#### **Underlying information in resolving to make these compulsory purchase orders**

13. 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**

14. 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 the redevelopment and regeneration of the Aylesbury 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.
15. The regeneration of the Aylesbury Estate will 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 will be provided by the regeneration against the possible impact to those with an interest in the affected land. In carrying out this exercise, a degree of proportionality is to be adopted. The Human Rights of these individuals have accordingly been considered and commented upon in this report.
16. As part of the production of the Aylesbury Area Action Plan an Equalities Impact Assessment was carried out and the formulation of the Plan had regard to the Assessment. The regeneration of the site in question and the need to exercise compulsory purchase powers flows from the Action Plan.

17. 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.
18. Section 149 of the Equality Act 2010 requires the council to have due regard to the need to:
  - a. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. The council must, in order to comply with this Public Sector Equality Duty, take steps to ensure that it considers equalities issues throughout the compulsory purchase process and has due regard to its duties under the Equality Act.

### **Consultation**

20. There has been extensive consultation with Aylesbury Estate residents [including tenants and leaseholders] at all stages of the regeneration and the making of compulsory purchase orders has been included within this consultation.

### **Resource implications**

21. The making of the Order will give rise to the following costs;

Estimated cost of property acquisitions	£8,200,000
CPO costs including Inquiry	£200,000
Estimated demolition costs	£8,300,000

22. Budget provision has been made within the existing capital programme for these items. The management of the leasehold acquisition and the demolition contract will be delivered by the Aylesbury and Property Teams using existing resources.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

23. Section 226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act") is the appropriate power under which the council may seek to secure the compulsory purchase of the phase 1 sites including site 1b/1c. Consideration has been 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 Aylesbury Estate. It is considered that the regeneration of the area will assist the council in promoting and improving the economic, social and environmental well being of the area and therefore there are adequate powers available to the council to acquire all the land and property interests in site 1b/1c either compulsorily or by agreement.
24. Ancillary powers to create new rights are also provided under s13 of the Local Government (Miscellaneous Provisions) Act 1976. The council also has power under section 227 of the 1990 or section 120(1) of the Local Government Act

1972 ("the 1972 Act") to acquire interests in this site 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 orders.
26. Although the council's executive has already approved a recommendation to make a compulsory purchase order in respect of this site, the director of legal services advises that in the light of the passage of time and legislative changes it is considered desirable that the cabinet reaffirms the earlier decision.

### **Strategic Director of Finance and Corporate Services (FC13/089)**

27. This report seeks approval for the council to make a Compulsory Purchase Order for the acquisition of the land and new rights within the Aylesbury Estate, in accordance with the provisions of the Aylesbury Area Action Plan. The financial implications are detailed in paragraphs 20 to 22.
28. The acquisitions and demolitions on this land are fundamental to moving forward with the regeneration of the Aylesbury Estate and are supported by provision within the council's capital programme. The clearance of these sites is a necessary prerequisite for the Aylesbury Area Action Plan.
29. The budget set aside for these phases will be closely monitored and updates will be provided to cabinet through the quarterly capital programme reports. Officer time to implement this decision can be contained within existing resources.

### **Strategic Director Housing & Community Services**

30. Final Demolition Notices pursuant to Section 138B of the Housing Act 2004 (as amended) were served on all residents of 1 – 28 Arklow House, 42-256 Bradenham, 1-149 Chartridge, and 1-172 Chiltern on 21 March 2013. This was done in accordance with a special consent issued by the Secretary of State. This notice was an extension to a Final Demolition Notice which first became effective on 30 March 2011. The purpose of this notice is to end any active right to buy claim in these blocks.

## BACKGROUND PAPERS

Background Papers	Held At	Contact
Area Action Plan		
<b>Link</b> <a href="http://www.southwark.gov.uk/downloads/download/1975/aylesbury_area_action_plan_accompanying_documents">http://www.southwark.gov.uk/downloads/download/1975/aylesbury_area_action_plan_accompanying_documents</a>		
Report to Council Executive on 9 February 2010 and minute		
<b>Link</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=118&amp;MId=2837&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=118&amp;MId=2837&amp;Ver=4</a>		
Minute 9 Cabinet 28 January 2014		
<b>Link</b> <a href="http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?AllId=31068">http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?AllId=31068</a>		

## APPENDICES

No.	Title
Appendix 1	Location plan showing Phase 1b and 1c
Appendix 2	Property schedule
Appendix 3	Procedural and legal matters

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Fiona Colley, Regeneration and Corporate Strategy	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Patrick McGreal, Property Services	
<b>Version</b>	Final	
<b>Dated</b>	6 March 2014	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Strategic Director Housing & Community Services	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to ConstitutionalTeam</b>	6 March 2014	