

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 10 October 2016	<b>Meeting Name:</b> Overview and Scrutiny Committee
<b>Report title:</b>		Aylesbury Regeneration Delivery - Supplemental Report	
<b>Ward(s) or groups affected:</b>		Faraday	
<b>Cabinet Member:</b>		Councillor Mark Williams, Regeneration and New Homes	

## RECOMMENDATIONS

### Recommendations for the Cabinet

1. To approve a series of actions as set out in paragraphs 10, 11, 13 and 14 of the substantive report to bring forward the delivery of the Aylesbury regeneration programme namely:
  - a) The council funding directly the demolition of Plot 18;
  - b) The council underwriting design fees on Plot 18 and Phase 2 in order to progress planning applications; and
  - c) The council bringing forward funding and delivery of the Approved Premises Facility.
  
2. In the light of the recent Secretary of State decision on the CPO for the First Development Site, it is also further recommended that:
  - a) The council should proceed with funding the partial demolition of the First Development Site on land where there are no outstanding third party interests. The agreement to the scope of the contract and the revised cost to be delegated to the Chief Executive for approval;
  - b) That cabinet note that due to the CPO decision that any additional costs arising from the delay of the demolition of the First Development Site will need to be identified and will be subject to future approval by Cabinet
  - c) The council should review the development proposals for the First Development Site to take account of the phased demolition; and
  - d) The Council should make an application to the High Court for the Secretary of State decision to be reviewed.
  
3. To delegate approval of the final terms of the agreed actions, as set out on paragraphs 10, 11, 13 and 14 of the substantive report to the director of regeneration.

## BACKGROUND INFORMATION

4. The substantive report on the open agenda sets out the background.
  
5. The Secretary of State decision on the application for confirmation of the Compulsory Purchase Order (CPO) for the First Development Site was received by the council on 16 September. The letter stated that the council's application for the use of compulsory purchase powers had met the criteria of:

- Viability and deliverability of the scheme;
  - Planning policy;
  - A range of social and economic benefits; and
  - That there was no alternative to demolition and regeneration should be progressed since the refurbishment of the estate was not an option.
6. The letter stated that the Secretary of State did not confirm the CPO as a compelling case in the public interest had not been made for the following reasons:
- The council had not fully met well-being criteria as the decision would have considerable economic, social and environmental dis-benefits in terms of consequences for existing leaseholders;
  - The council had not taken reasonable steps to acquire land interests by agreement;
  - Due to the impact on Human Rights, the Order was not justified or proportionate between the public interest and interests of the residents; and
  - That there would be significant negative impacts on groups with protected characteristics under the Equality Act 2010 although in this respect the Secretary of State did not follow the finding of the Inspector which was that the council had not failed to comply with section 149, Equality Act 2010.
7. The council is starting the process of bringing an application for judicial review of the decision by the Secretary of State.

#### **KEY ISSUES FOR CONSIDERATION**

8. Due to the success of the rehousing programme, Bradenham and Chartridge (blocks 77-105, 69-76 and 104-119) are currently vacant. It is considered that these blocks can be demolished whilst the Council is awaiting the decision on judicial review. Other blocks on the site, which are substantially vacant, may become fully vacated during the period of the judicial review, subject to successful negotiation with the remaining 8 leaseholders. Subject to these blocks becoming vacant by agreement with the leaseholders, it is proposed that these other blocks will be added to the demolition contract as they become available. This demolition of the vacant blocks on the FDS would meet the following objectives:
- Reducing the cost to the council of managing vacant buildings;
  - Reducing the need to secure the whole site;
  - Demonstrating momentum of regeneration and maximising acceleration of delivery; and
  - Bringing forward the opportunity to provide new homes for local residents.
9. The council will continue to negotiate under existing arrangements to acquire the outstanding leasehold interests on the FDS.

#### **Resource implications**

10. The terms of the phased demolition contract are currently being negotiated with the successful contractor. Due to the need to phase the contract and the uncertainty over vacant possession of the remainder of the blocks resulting from the Secretary of State's decision, it is anticipated that the overall costs of the FDS demolition contract may exceed the amount specified in paragraphs 12 and 16 of the substantive report. Any additional cost will need to be identified and reported to Cabinet at a later date.

## **Legal implications**

11. Please see the concurrent from the director of law and democracy.

## **Financial implications**

12. As set out in paragraph 10 above, the costs of the demolition of currently vacant sites can be contained within the budget set out in the substantive report. It is anticipated, however, that due to the phased nature of the contract the overall cost of demolition of the FDS may be higher. This situation will be kept under review and Cabinet approval sought in the event of costs increasing. All efforts will be made together with the contractor to contain these costs as far as is possible.

## **Consultation**

13. External lawyers are advising on the judicial review process. Notting Hill Housing Trust has been consulted about the revised approach. A letter will go out to all Aylesbury Estate residents from the Chief Executive setting out the way forward.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Democracy**

14. Comments have already been made in the original report and advice given in the closed report in the context of compliance with the Public Contracts Regulations. The same advice applies to the proposed demolition steps referred to in paragraph 2 of this report
15. As to the application to the High Court to seek a judicial review of the Secretary of State's decision, the council has six weeks from 16 September to lodge this claim, and urgent advice is being taken from counsel concerning the specific grounds.

### **Strategic Director of Finance and Governance (F&G 16/005)**

16. This supplemental report addresses the latest development in relation to the delivery of the Aylesbury Estate regeneration programme following the Secretary of State's decision not to confirm the CPO for the FDS. Given the uncertainty that this creates and the potential delay in achieving vacant possession, re-phasing of the planned demolition may be required with associated cost implications, in addition to the resources reported in the substantive Aylesbury report on this agenda. Pending a judicial review of the decision being lodged, the council will continue to negotiate with the remaining leaseholders to vacate, to enable the delivery of new homes on the site as quickly as possible. Every effort will be made to contain demolition costs within the agreed approval, but any consequent costs attributable to this delay will be reported to Cabinet at a later date.

## **REASONS FOR URGENCY**

17. The report is urgent due to the need for the council to lodge a claim for judicial review within a specified period and the need to direct the contractual negotiations with the demolition contractor.

## **REASONS FOR LATENESS**

18. It has not been possible to circulate the report five clear days in advance of the meeting because the letter from the Secretary of State was received by the council on 16 September. The council needed to consider the implications of the letter and decide on the course of action.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Letter from Department of Communities and Local Government on the London Borough of Southwark (Aylesbury Estate Site 1B-1C) Compulsory Purchase Order 2014 16 <sup>th</sup> September 2016	Regeneration South, 5 <sup>th</sup> Floor, 160 Tooley Street, SE1	Neil Kirby 020 7525 1878
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5373&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5373&amp;Ver=4</a>		

## APPENDICES

No.	Title
None.	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Mark Williams, Regeneration and New Homes	
<b>Lead Officer</b>	Eleanor Kelly Chief Executive	
<b>Report Author</b>	Neil Kirby Head of Regeneration (South)	
<b>Version</b>		
<b>Dated</b>	20 <sup>th</sup> September 2016	
<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 Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
List other officers here		
<b>Cabinet Member</b>	Yes/No	Yes/No
<b>Date final report sent to Constitutional Team</b>		