

## MUNICIPAL YEAR 2010/2011 REPORT NO. **212A**

### MEETING TITLE AND DATE:

**Council – 6 April 2011**

### JOINT REPORT OF:

Ray James, Director of Health, Housing and Adult Social Care and Neil Rousell, Director of Regeneration, Leisure and Culture.

**Agenda – Part: 1**

**Item: 11**

**Subject:** Ladderswood Place Shaping Programme: Compulsory Purchase Order and Shared Equity Option Report

**Wards:** New Southgate

**Cabinet Member consulted:** Cllr Del Goddard

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### **1. EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to recommend that Council make the Ladderswood and New Southgate Industrial estate CPO 2011 to acquire the remaining residential and commercial leasehold interests, as a contingency should the Council fail to reach a negotiated settlement, to enable the physical regeneration of the area to commence in accordance with the project programme.
- 1.2 This report contains the relevant documentation required to make the Ladderswood and New Southgate Industrial Estate CPO 2011.
- 1.3 This report also recommends a shared equity option for eligible leaseholders which will allow Property Services to offer an alternative to cash purchases of the leases; which will in turn assist in obtaining vacant possession of the estate. Property Services continue to negotiate with the remaining leaseholders on Ladderswood. Through these negotiations the Council has recognised that a number of leaseholders wish to remain in the locality. As a result officers have sought to agree alternatives to cash purchase of the leasehold interest. The number of shared equity units is limited however Property Services will endeavour to allocate them in a fair and transparent way.

## **2. RECOMMENDATIONS**

- 2.1 Council is requested to note the statement of reasons attached to this report which sets out the justification for making the Ladderswood and New Southgate Industrial estate CPO 2011.
- 2.2 Council is requested to note the indicative timeline for the CPO process for the Ladderswood and New Southgate Industrial Estate CPO 2011 attached to this report.
- 2.3 Council is requested to make the Ladderswood and New Southgate Industrial Estate CPO 2011 under section 226(1)(a) of the Town & Country Planning Act 1990 as amended by the Planning & Compulsory Purchase Act 2004 (the "1990 Act").
- 2.4 Council is requested to authorise the Director of Health and Adult Social Care to take all the necessary steps consequent to the making of the Ladderswood and New Southgate Industrial Estate CPO 2011.
- 2.5 Council authorise the inclusion of a limited number of shared equity properties in the development as an alternative purchase option for leaseholders on the Ladderswood Estate.

## **3. BACKGROUND**

- 3.1 The Ladderswood Way estate and the New Southgate Industrial estate were constructed in the 1960s through to the 1970s and comprise approximately 3.2 hectares of developed land. The Ladderswood Way estate contains 161 residential units housed in six blocks (Curtis House, Danford House, Betspath House, Mason House, Lorne House and Roberts House). 44 of the 161 properties are leaseholders. The New Southgate Industrial estate contains 30 commercial units which house 19 commercial tenants. Since the construction of both the Ladderswood estate and the New Southgate Industrial estate there has been a gradual deterioration in the state of the residential and commercial buildings.
- 3.2 In July 2007 the Council commissioned Levitt Bernstein to assess the regeneration potential of the Ladderswood estate and the surrounding area; the commission also included three consultation activities. The report found that there was significant opportunity available to provide more and better homes for new and existing residents. The report also identified substantial opportunity to increase the positive effect of regeneration if the New Southgate Industrial estate be included in an overall regeneration scheme. More residents were in favour of

redevelopment than refurbishment although in some cases this was by a close margin.

- 3.3 The Levitt Bernstein report (2007) was then followed up by an options appraisal carried out by Drivers Jonas LLP in partnership with the architects, Shepherd Epstein and Hunter. Again a resident and stakeholder consultation programme was delivered and the findings supported a report to Cabinet on the 25<sup>th</sup> November 2009 (*Ladderswood Way Estate, Place Shaping Report* (136)) recommending redevelopment of the four of the blocks, refurbishment of two of the blocks and partial redevelopment of the New Southgate Industrial estate.
- 3.4 Subsequently, an extensive consultation programme has been undertaken with the residents of Lorne House and Roberts House; the two blocks originally identified for refurbishment. The consultation indicated that the majority of residents were in favour of the blocks being included in the redevelopment and therefore Cabinet approved to include 1 – 15 Roberts House and 4 to 42 Lorne House in the redevelopment and therefore this Order.
- 3.5 The redevelopment proposals have been drawn up in partnership with a variety of stakeholders including Ladderswood residents, residents from the wider neighbourhood, commercial tenants, key local stakeholders and central, regional and local Government. The proposals will ensure a mix of affordable, social and private housing supported by new social infrastructure and commercial facilities
- 3.6 The making of the CPO is therefore primarily related to securing vacant possession from the remaining leaseholders, secure tenants and the existing New Southgate Industrial estate commercial tenants. In accordance with CPO best practice, the Council will endeavour to reach a negotiated settlement with all commercial tenants; CPO powers, once obtained, will only be used where a negotiated settlement cannot be reached. The Ladderswood and New Southgate Industrial Estate CPO 2011 affects those interests within the red line attached in Appendix 1 of this Part 1 report.
- 3.7 The Ladderswood and New Southgate Industrial Estate CPO 2011 is being made pursuant to section 226(1)(a) of the 1990 Town and Country Planning Act which authorises the Council to acquire land compulsorily subject to following the procedures laid down by the Acquisition of Land Act 1981.
- 3.8 The Council is selecting a Development Partner pursuant to a Competitive Dialogue Procedure in accordance with the Public Contracts Regulations 2006. Two bidding developer and Registered Provider consortia are now in the final stage of the procurement. The current timetable shows Cabinet appointing the preferred Development Partner in April 2011 with the first planning application being submitted

within 6 months of the Development Agreement being signed. The planning application is envisaged to be submitted in November 2011.

- 3.9 The draft Development Agreement's negotiated with the two short-listed bidders includes a commitment by the Council to use powers granted pursuant to Section 237 of the Town & Country Planning Act 1990 to appropriate the development site for planning purposes. Appropriation for planning purposes will clear any third-party interests in the site. Any compensation payable to the beneficiaries of the third-party interests will be reimbursed to the Council by the appointed developer.
- 3.10 The Council has allocated the funds necessary to achieve vacant possession of the site. On completion of the Development Agreement the costs to complete vacant possession and all costs incurred in the of making the CPO will be reimbursed to the Council by the appointed developer.

### **Land which is the Subject of the Ladderswood and New Southgate Industrial Estate CPO 2011**

3.11 The land to be included in the CPO includes:

- Curtis House, Danford House, Mason House, Betspath House;
- Lorne House and Roberts House;
- Units 1 to 30, New Southgate Industrial estate;
- All land included in the line drawing attached to this report.

### **Description of the proposed development for the Ladderswood and New Southgate Industrial estates**

3.12 The regeneration of Ladderswood and New Southgate Industrial estate is one of the Council's key priorities and a flag ship regeneration scheme for the borough. The Council, residents and stakeholders are working to create an inclusive and sustainable neighbourhood that will provide approximately 450 new homes, 3,000sqm of commercial space and a 300sqm community centre. The residential units will be built to Code for Sustainable Homes level 4 and the community and commercial buildings to the BREEAM Very Good rating.

### **Purpose and Justification for seeking to compulsorily acquire the Legal interests in the Ladderswood and New Southgate Industrial estates**

3.13 Compulsory purchase of the legal interests of the secure tenants, leaseholders and commercial tenants at Ladderswood estate and New Southgate estate will enable the redevelopment of the said estates and site to provide new homes, including many new private, affordable and social homes, which will help to broaden the economic and social mix of the area and create a more balanced and socially diverse community in accord with the Government's mixed communities policy

agenda. The scheme will deliver a tenure mix of 60% private, 40% affordable (70% social rented and 30% intermediate).

## **Re-housing displaced residents and commercial tenants**

### Leaseholders

- 3.14 The Council has sought, to negotiate a settlement with each leaseholder in order that compulsory acquisition is avoided. Resident leaseholders are offered Market Value + up to 10% + Disturbance costs. Non-Resident are offered Market Value + up to 7.5%. To date the Council has agreed through negotiation to complete with 17 of the leaseholders on the Ladderswood estate. Property Services is in dialogue with the remaining 27 leaseholders.

### Secure Tenants

- 3.15 The Council has endeavoured to offer acceptable re-housing options to secure tenants at the Ladderswood estate. Extensive resident consultation and engagement has taken place to agree a re-housing offer for secure tenants on the Ladderswood estate. The Council is currently re-housing those residents who have expressed a preferred option to move permanently away from the estate. Once this has been completed the Council will assess whether a double decant is necessary for tenants wishing to remain on the estate. A double decant is not favoured by the Council or the residents. Once a development partner is procured a detailed phasing plan will be agreed; enabling residents to understand when and where they would be re-housed should they wish to remain on Ladderswood. To date the Council has helped 15 secure tenants move permanently off the estate.

### Commercial Tenants

- 3.16 Discussions with the businesses located on the New Southgate Industrial Estate are held regularly. Agreement has now been reached with the majority of the lessee's on restructuring their leases to allow for the development to proceed when a developer is appointed. Negotiations continue with the remaining lessee's to seek agreement to allow the development to proceed. It is expected that all negotiations will be concluded prior to the appointment of the developer.
- 3.17 The proposals for the new development have included the specification for 3,000 m<sup>2</sup> of commercial space. This amount of space is approximately equal to the area of the existing commercial space and will allow for the relocation of those lessees who are compatible with being located next to residential uses.
- 3.18 Not all of the current commercial uses on the New Southgate Industrial estate are suitable for being located next to residential properties. The Council is also actively pursuing alternative sites in the vicinity to

ensure that if there is a need for relocation that businesses are able to continue to operate during the construction period and for those businesses that will be permanently relocated.

- 3.19 The current plan is that the industrial part is not due for redevelopment until 2013 therefore detailed discussion for these reasons is premature and the contingencies outlined above are being made to cover any eventuality.
- 3.20 However, whilst the Council has worked hard to negotiate settlements for leaseholders and commercial tenants and to secure alternative accommodation for secure tenants it may not be possible to achieve this for all residents or businesses. The Council may not be, therefore, left with any alternative other than to use its compulsory purchase powers to obtain the remaining legal interests at the Ladderswood and New Southgate estates so that the much needed regeneration can begin in a timely fashion.

### **Human Rights**

- 3.21 Whilst the compulsory purchase of the legal interests of the leaseholders, commercial tenants and secure tenants at the Ladderswood estate and New Southgate estate conflicts with those parties human rights, the Council is of the view that there is a compelling case in the public interest and that the provision of new residential accommodation, new commercial facilities and community facilities built to modern standards outweighs the private interests held by the said parties.
- 3.22 The Council also believes that the use of compulsory purchase powers to achieve its regenerative objectives for the Ladderswood estate and New Southgate Industrial estate and its Borough are proportionate to the interference with the above parties' human rights.

### **Planning Position**

- 3.23 The London Borough of Enfield's Core Strategy was adopted at Cabinet in November 2010. The Core Strategy explains that the redevelopment of Ladderswood and the New Southgate Industrial estate is a Council priority.
- 3.24 The New Southgate Masterplan was adopted by Cabinet on the 15<sup>th</sup> December 2010 as a Supplementary Planning Document, providing more information on the regeneration of Ladderswood and the New Southgate area.

### **Resources for land acquisition, delivery and implementation**

- 3.25 The Council is satisfied that the necessary resources are available to achieve the regeneration of the Ladderswood estate and New

Southgate Industrial estate within the proposed timescale. The Council is also satisfied as to the financial viability of the proposed scheme and as to the method of funding available to said scheme.

### **Overcoming physical impediments to the implementation of the Ladderswood and New Southgate Industrial Estate CPO 2011**

3.26 A potential physical impediment to the implementation of the Ladderswood CPO 2011 is the requirement to achieve vacant possession of the site. However the Council is committed to relocating the commercial tenants, re-housing the secure tenants and negotiating an agreement with the leaseholders.

### **LADDERSWOOD SHARED EQUITY OFFER**

3.27 As detailed in section 3.14 the Council has sought, to negotiate a settlement with each leaseholder in order that compulsory acquisition is avoided. Resident leaseholders are offered market value + Home Loss payment of up to 10% of market value + Disturbance costs. Non-Resident leaseholders are offered market value + Home Loss payment of up to 7.5% of market value. To date the Council has agreed through negotiation to complete with 17 of the leaseholders on the Ladderswood estate. Property Services is in dialogue with the remaining 27 leaseholders.

3.28 The Council has recognised that a number of leaseholders wish to remain in the locality. As a result officers have sought to agree alternatives to cash purchase of the leasehold interest.

3.29 The draft Development Agreement's negotiated with the two short-listed bidders includes a requirement for the appointed Developer to provide up to 9 units on a shared-equity basis. It is proposed that these shared-equity units are sold to existing leaseholders on the Ladderswood Estate. This will allow Property Services to offer an alternative to cash purchase of the leases; which will in turn assist in obtaining vacant possession of the estate. There are more leaseholders remaining than shared equity units available and therefore Property Services will allocate them on a fair and transparent basis.

3.30 The leaseholders will hold an interest in the new property equivalent in value to their equity in their existing property. The balance of the equity in the property will be owned by the Registered Provider (formerly RSL).

3.31 The Council has a statutory liability in respect of homeowner leaseholders where the Council re-acquires properties under a CPO or shadow of a CPO. The Council is required under the s39 Land Compensation Act to secure that any person displaced from residential

accommodation be provided with suitable alternative accommodation where this is not otherwise available on reasonable terms.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 An alternative option considered is for the Council not to make a CPO for Ladderswood and the New Southgate Industrial estate. The development partner would then lead on leasehold buybacks. Two major risks with this approach are that firstly, the development partner may have to pay above market rate to complete negotiations with individual leaseholders and secondly, that there will remain a high risk that negotiation with all the remaining leaseholders might not be successful and vacant possession cannot be secured.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 To provide the Council with a legal option to ensure that vacant possession of the site can be achieved to enable the regeneration of the area can take place.
- 5.2 The bidding consortia would expect the Council to make the Ladderswood and New Southgate Industrial estate CPO 2011 in order to reduce the risk of not achieving Vacant Possession. If the Council did not progress the making of the CPO then this may have a negative impact on the Bidder's confidence.
- 5.3 The recommendation for a shared equity option, used on a discretionary basis by Property Services, will enable the Council to fulfil its statutory obligations as set out in 3.31 and support the delivery of the regeneration of Ladderswood by reducing the risks involved in securing vacant possession.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

- 6.1.1 The Council initially agreed a sum of £2.5m from the Growth Area Fund to initiate the buyback of leasehold properties on Ladderswood. Property Services has completed 17 leasehold buybacks at a cost of approximately £2m. The Development Agreement with the Bidder stipulates that the cost of all future leasehold buybacks, to be funded by the Council through the HRA, will be reimbursed by the development partner. The cost of compensating commercial tenants will cost the Council £400k. This will be funded from the General Fund budget. The Council costs for both compensating residential leaseholders and commercial tenants will be reimbursed by the Developer through the payment of a capital receipt.



- 6.1.2 The estimated cost to the Council for adopting the CPO route is £96k in legal fees if a public enquiry was required. In addition to the legal fees the Council will incur other costs associated with organising a public enquiry. The CPO costs and other associated costs will initially be funded from the HRA general balance. These costs will subsequently be reimbursed by the Developer through capital receipt.
- 6.1.3 It is expected that a CPO route would result in a higher cost to the Council compared to a non CPO route.

## **6.2 Legal Implications**

- 6.2.1 Under section 226 (1) (a) of the Town and Country Planning Act 1990 a local authority has a general power to make a compulsory acquisition of any land in their area in order to facilitate the carrying out of development, redevelopment or improvement in relation to the land.
- 6.2.2 In order to exercise the s.226 powers the local authority must demonstrate that the proposed development/improvement is likely to contribute towards any of the following objects, namely the promotion or improvement of the economic or social or environmental well being of their area. The Statement of Reasons attached to this report sets out in detail the justification and legal framework behind the making of the order.
- 6.2.3 For the purposes of the CPO it is immaterial by whom the redevelopment is to be carried out, i.e. the Council does not need to undertake the development itself.
- 6.2.4 In accordance with the Council's Property Procedure Rules, where a CPO is recommended approval must be sought from the Full Council.

## **6.3 Property Implications**

- 6.3.1 It is essential that a CPO is put in place to support, and as a backstop, to the negotiations for obtaining vacant possession of the Ladderswood development site. Without the guarantee of obtaining vacant possession there will always be a risk of the developer being prevented from starting on site.
- 6.3.1 If the decision is made not to proceed with the proposed development after the CPO has been put in place the Council may be forced to buy out remaining interests in the development site. It is considered that the risk of a decision not to be proceed as being very low risk.

6.3.2 Property Services support the recommendation to seek a CPO.

## **7. KEY RISKS**

7.1 The primary risk related to the contents of this report is the risk of delay to the Ladderswood project if the Council is unable to achieve vacant possession.

7.2 There is a risk that there will be objections or a Public Enquiry to the CPO. This risk is assessed as being medium impact but low likelihood. The development strategy for Ladderswood is set out in the Core Strategy and the New Southgate Masterplan which have both been endorsed.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The Ladderswood Place Shaping Programme contributes to this aim by tackling inequality and access to social housing by providing new homes, a mix of tenure and employment opportunities in the New Southgate Masterplan area.

### **8.2 Growth and Sustainability**

The Ladderswood Place Shaping Programme contributes to this priority by building strong and sustainable futures for our residents. The scheme attracts investment from the private sector, empowers the voluntary and community sector and promotes business growth by re-providing B1 commercial space. It is the flagship project in the New Southgate Masterplan and is the first step towards delivering the planned regeneration of the New Southgate Priority Area, and housing growth, as set out in the Masterplan and the Core Strategy.

### **8.3 Strong Communities**

The Ladderswood Resident Panel plays a central role in driving forward change and regeneration in the local area to create a stronger community in the New Southgate Masterplan area.

## **9. PERFORMANCE MANAGEMENT IMPLICATIONS**

This report does not recommend a change of service of implementation of new practices and therefore Performance Management Implications are not required.

## **10. HEALTH AND SAFETY IMPLICATIONS**

Not applicable.

### **Background Papers**

Appendix 1 – Ladderswood CPO line drawing

Appendix 2 – CPO Process flow-chart

Appendix 3 – Ladderswood CPO timeline