

**ACADEMY STREET DEVELOPMENT:
COMPULSORY PURCHASE ORDER
DRAFT STATEMENT OF REASONS**

1. INTRODUCTION AND SUMMARY

- 1.1 The London Borough of Enfield (the Council) seeks an order under the Town and Country Planning Act 1990 (the Act) to use compulsory purchase powers to acquire third party land and access pursuant to a decision by Cabinet on the 10th July 2013 referred to in section 2 below (the Order Land) for the purposes of the Academy Street Development Scheme, near South Street, Ponders End, in the London Borough of Enfield.
- 1.2 The proposed order gives the Council the power to acquire the freehold interest of part of the land subject to the Order and to acquire a 'clean' title to the land of which it is already the freehold owner.
- 1.3 The Academy Street site is held for Housing purposes within the HRA portfolio.
- 1.4 In July 2012, Cabinet approved the Alma Estate Regeneration Programme which includes the Academy Street development (Key decision reference: 3510) that endorsed the development strategy for the scheme.
- 1.5 The Local Planning Authority recently granted detailed planning consent for the Academy Street development after a decision at Planning Committee, where local residents attended in support of the scheme.
- 1.6 The site for the proposed Academy Street Development is located in Ponders End in the north-east of the London Borough of Enfield. The North East Area Action Plan is in draft stage and sets out Council objectives for this site as part of the South Street Campus area and the wider regeneration of the area.
- 1.7 Ponders End is one of the Council's Regeneration Priority Areas. The Academy Street scheme is part of the Alma Estate Regeneration Programme which is located in this Regeneration Priority Area and is a project of key strategic importance to the Council, and established as a development opportunity by the Enfield Core Strategy, adopted in November 2010.
- 1.8 The development of this brownfield site will see a new mews street with 38 new homes, and high quality public realm. The vision is to create a truly attractive residential development that sets the benchmark for future development in this priority area.
- 1.9 The design team presented their draft proposals at a resident consultation event held on 11th December 2012 at Ponders End Youth Centre. This event was well attended by Alma residents and of the 48 questionnaires that were returned, 90% were in favour of the site being

developed for new housing. There were no objections to the proposals from any residents including those living adjacent to the site on Falcon Crescent, who were also invited to attend.

- 1.10 Letters have since been sent to residents on Falcon Crescent, whose rear gardens back onto the Public Right of Way that is subject to the Council's attempts to adopt and permanently divert through the new scheme and two positive responses to the Council's proposals have been received.
- 1.11 The Schedule to the proposed Order lists the third party interests. In addition it also lists other parties with a qualifying interest in the Order Land where known. Where beneficiaries of these interests have been identified they will be served with notice of the making of the Proposed Order. It is intended that, unless the land and access rights can be acquired by private negotiations, the Council shall acquire them under the Order if confirmed.
- 1.12 Following confirmation of the proposed order, the Council will execute a General Vesting Order Declaration, the result of which will be to vest the Order Land in the Council.
- 1.13 The Secretary of State recognises in Circular 06/04 (paragraph 24) that there are situations where it is appropriate to make a compulsory purchase order at the same time as seeking to purchase land by agreement.
"Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority's intention clear at the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations."
- 1.14 The Council has made, and is continuing to make reasonable attempts to acquire outstanding interests by private treaty and is pursuing the proposed order to ensure that the proposed development can proceed. Discussions will however continue with the owners of the relevant interests to seek to acquire the Order Properties by agreement with a view to limiting the number of interests which need to be compulsorily acquired.
- 1.15 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest (paragraph 17 of circular 06/04) which justifies the overriding of private rights in the land sought to be acquired. It is considered that a clear and compelling case exists in this case.

2. Enabling Powers

- 2.1. The Order is made under Section 226(1)(a) of the Town and Country Planning Act 1990 (the Act), which confers power on the local authority to acquire land for planning purposes.
- 2.2. The Council thinks that the acquisition of the Order Land will facilitate the carrying out of development of new housing on the Academy Street site and bring significant community benefit and improvement on the Order Land.
- 2.3. The Council thinks that the proposed development is likely to contribute to achieving the improvement of the economic, social and environmental well-being of the area for which it has administrative responsibility.

3. DESCRIPTION OF THE SCHEME AND NEW RIGHTS

- 3.1 The Academy Street site is a Council owned site located in Ponders End, on the former National Grid owned site off South Street. In July 2012, Cabinet approved the development of the site for a 100% affordable housing scheme to re-house Alma Estate residents affected by the regeneration.
- 3.2 The site used to be part of the wider National Grid site that contained the large gasholders; and of which the majority has been redeveloped by Oasis Hadley for a new all through Academy school. The remaining land, which is approximately 0.5 hectares and owned by the London Borough of Enfield, has been earmarked for residential development by the Council in planning policy documents and as part of the Alma Estate Regeneration Programme. The full extent of the site subject to this CPO includes the proposed vehicular access along Gardiner Close and the Public Right of Way is approximately 0.6 hectares.
- 3.3 The development land is currently a cleared site. It comes with a number of constraints and the Council and their design team have had to find solutions to address these constraints in the design proposal.
- 3.4 The development of this site was always predicated on vehicular access coming from Gardiner Close. However, alternative options were explored by the design team including vehicular access coming from Falcon Road Spur to the North of the site but these were discounted due to both technical issues and due to road safety issues.
- 3.5 Following publication of the contract notice on 25th February 2013, the Council conducted a pre-qualification process to select potential Bidders ('Bidders') for the role of the Building Contractor. Subsequently the Council has entered into an OJEU Restricted Procedure tendering process with the five short listed Bidders. It is anticipated that the preferred Building Contractor will be appointed in September 2013 with start on site expected in November 2013.

4. THE PURPOSE OF THE PROPOSED ORDER AND THE NEED FOR CPO

- 4.1 Government guidance on the use of Compulsory Purchase Orders is provided in the Circular 06/04, which states that a CPO should only be made where there is a compelling case in the public interest.
- 4.2 The Council acts in an enabling role to ensure that housing development meets housing need in the Borough across all developments, but has a particular role in Estate Renewal projects when they are existing Council freehold owned sites, such as the Alma Estate (Core Strategy Core Policy 4).
- 4.3 This CPO will enable the site to be brought forward as a new residential scheme with thirty eight new affordable homes which is essential for the decant/re-housing of Alma Estate residents who are being forced to move by the regeneration scheme. It will address the current need for quality affordable and predominantly family sized housing. This development helps the Council ensure vacant possession of Phase 1 of the Alma Estate, particularly due to the existing strain on available tenanted properties, and reduces the risk to the Council of this deadline not being achieved.
- 4.4 The CPO is specifically required in relation to two third party owned land interests:
- The carriageway running through Gardiner Close
 - The public right of way on the western edge of the Academy Street site
- 4.5 Development of the Academy Street site has always been on the premise that the Council can agree both permanent vehicular access for prospective residents and temporary construction vehicle access along Gardiner Close, which runs through the Robbins Hall site to the immediate south west of the Academy Street site.
- 4.6 The Council is negotiating with representatives of Viridian, the landowner of the Robbins Hall site, and negotiations are on-going. The Council is seeking to acquire the freehold of the carriageway, or alternatively a right of access over the carriageway to enable vehicular access into the Academy Street site.
- 4.7 The Council is also negotiating with those adjoining owners and third parties who have a registered interest in the land over which the public right of way exists. The intention is to incorporate the land over which the public right of way exists and to relocate the public right of way along the new road constructed on Academy Street or via Nelson Road and Gardiner Close. An order for the extinguishment of the right of way

will be sought by the Council either under section 32 of the Acquisition of Land Act 1981 or sections 251 or 258 of the Town and Country Planning Act 1990 in order to enable this and the land will need to be appropriated for planning purposes to extinguish third party rights.

4.8 The CPO of the section of the public right of way is part of the scheme which has achieved planning consent; this land was required to make a scheme with properties on both side of a street acceptable in planning terms.

4.9 The Council's aspirations for the site are as follows:-

- High quality of design
- Addressing deprivation
- Designing out crime
- Encouraging social mobility
- Environmentally sustainable
- All affordable housing
- A large percentage of family accommodation
- Reimbursement of future project costs and greatest benefit to the Council

Timescale for Delivery

Planning application submitted	March 2013
Planning permission Granted	May 2013
Cabinet approve preferred Building Contractor	September 2013
Start on site	November 2013
First units completed	May 2014
Entire scheme completed	November 2014

5. NEGOTIATIONS RECORD

5.1 The Council has been in talks with Viridian for over 1.5 years and has previously made an offer for the Robbins Hall site.

5.2 The Council has made contact with the third party interests in relation to the public right of way.

6. RELEVANT POLICY CONSIDERATIONS

National Planning Policy Framework (NPPF)

6.1 The overarching planning principle set out in the NPPF is “a presumption in favour of sustainable development” and reflects the provisions in the London Plan.

6.2 The Council is seeking “to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

7. LONDON BOROUGH OF ENFIELD ADOPTED CORE STRATEGY

Core Policy 4 sets out the policy for New Housing and Housing Renewal in Enfield.

New Housing - The new Academy Street development will include approximately 38 all affordable (50% Council rented / 50% shared equity) residential properties which exceeds the Core Strategy requirements for tenure provision. The Academy Street Development is committed to excellence in design quality and sustainability in line with the Core Strategy. As a new housing development it takes account of the design and construction policies and sustainable design and construction guidance set out in the London Plan. The new homes will be built to Lifetime Homes standards and all will achieve at least Code for Sustainable Homes Level 4, with four achieving Code for Sustainable Homes Level 5.

Housing Renewal - The Alma Estate Regeneration Programme was identified in the Council's Estate Renewal Strategy which was undertaken to inform the future management and priorities for investment across the Council's own housing stock. The Academy Street is a key development as part of Phase 1 of the regeneration to enable the Council to meet deadlines for vacant possession.

Core Policy 5 sets out the policy for Housing Types. The Academy Street scheme broadly accords with the Core Strategy unit mix requirements, although it does provide a greater number of larger 3-bed plus units because in addition to policy considerations, the mix has also been influenced by the needs of the Alma Estate decant. The estate currently accommodates a significant number of 3-bed leasehold properties (113 in total), and the proposed 3 and 4-bed intermediate units will be offered to such leaseholders from the Alma Estate. Furthermore, many of the existing 1 and 2 bedroom properties within the estate are overcrowded, and therefore the provision of a significant number of 3 and 4-bed units within the Academy Street development will offer these families the opportunity to move into accommodation which better meets their needs.

Core Policy 9 supports area based policy interventions relating to the place shaping agenda which seek to tackle social disadvantage;

Core Policy 40 – North East Enfield

In the North East Enfield Area, there is scope to develop 1000 new homes. The focus for change and development, and hence the majority of these new homes, will be in Ponders End. In the middle (of Ponders End), along South Street, there are opportunities at the gasholder site on South Street, around Ponders End railway station, and at Alma Estate. This collection of sites is referred to as "Ponders End South Street Campus".

Core Policy 41 – Ponders End

The objectives of new development in Ponders End will be to create: Up to 1,000 new homes up to 2026, with a range of sizes and tenures, including affordable homes.

8. OTHER POLICIES

Community Strategy

8.1

The Council's purpose in making the Order is to achieve the key community priorities as set out in the Council's Community Strategy:

8.2

The Council's vision for the borough is for a healthy, prosperous and cohesive society that is safe, clean and green.

8.3

The Council is committed to improving the quality of life through: Employment and Enterprise; Environment; Housing; Leisure and Culture

- The development will be promoted to produce the highest quality architectural and urban environment.
- *Improving health, housing and social care* - This will be achieved by the new development supplying higher quality social housing stock in line with the Decent Homes Standard, as defined by the Department for Communities and Local Government.
- *Safer and stronger Communities*
 - To implement a place-shaping approach to underpin the creation of a more prosperous borough
 - To enhance the health and vitality of town centres to meet the needs of the communities they serve
 - To increase the number of new businesses setting up and coming to the area and sustaining their development
 - To deliver the housing element of place shaping and achieve sustainable housing growth
 - To improve housing conditions and prevent homelessness

- To ensure that residents have the opportunity to live in a decent home they can afford
- To protect and improve the quality of built and open environment
- To promote sustainable development and support residents and businesses to preserve natural resources, become energy efficient, conserve water, reduce pollution and address the causes of global warming
- To increase biodiversity in order to provide a local distinctive natural identity
- To make Enfield a place which residents can identify with and feel proud of, and where people from different backgrounds feel valued and can develop positive relationships with their local community
- To promote social inclusion so that all sections of the community are able to access opportunities, services and improve their quality of life overview

9. HUMAN RIGHTS

- 9.1** The Council, as a public body, is under a duty to consider whether the exercise of its powers interacts with rights protected by the European Convention on Human Rights (the **Convention**). Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way, which is incompatible with those rights. Various Convention rights may be engaged in the process of making and considering the CPO, in particular those under Article 8 of the Convention and Article 1 of the First Protocol to the Convention.
- 9.2** Article 8(1) protects an individual's right to private and family life, home and correspondence. Interference with these interests can only be justified if it is done in accordance with the law and if it is necessary in the interests of national security, public safety or the economic well-being of the country.
- 9.3** Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions, and that no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law. Those with interests in the Order Land will be deprived of their property, if the Order is confirmed but this will be done in accordance with the law and in the public interest

- 9.4 The European Court of Human Rights has recognised in the context of Article 8 that "*regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole*". Any interference with Article 8 rights must be "*necessary in a democratic society*". In each case the interference with Convention rights must be proportionate. In pursuing a compulsory purchase order, the Council has to consider carefully the balance to be struck between individual rights and the wider public interest,.
- 9.5 The Council has been conscious of the need to strike a balance between the rights of the individual (including the owners of properties falling within the Order Lands) and the interests of the public. In the light of the significant public benefit that would arise from the redevelopment of the Order Lands, the Council has concluded that it would be appropriate to make the Order, and that the Order will not result in any unlawful interference with Convention rights. At all times, the Council has been aware that the Order Lands include homes, balancing this with the need to secure the regeneration of this area and the provision of new houses.
- 9.6 The opportunity has been given to landowners to make representations regarding the Council's policies that underpin the proposed Order. Objections can also be made to the Order, which will then have to be considered by the Secretary of State before he decides whether or not to confirm the Order. Those directly affected by the Order will also be entitled to compensation proportionate to any losses that they may incur as a result of the acquisition.

10. **CONCLUSION**

The Council is of the view that the part of Ponders End comprised in the Order Land, should be improved to the general benefit of all who live or visit the local area. In order to achieve this, action is required; necessitating the assembly of the Order Land to facilitate the proposed scheme should negotiation not result in an outcome that enables the satisfactory development of the site, according with the planning permission.

The proposed development is the product of an intensive pre-application process and represents an opportunity to unlock the potential of a key site within this area of Ponders End and deliver a number of significant environmental, economic and social benefits.

Specifically, the development will:

- Bring back into effective use an unused brownfield site, through the provision of a comprehensive residential development;

- Provide a substantial and meaningful contribution towards housing delivery within the Borough and enhance the overall land use mix within the locality;
- Provide a mix of housing tailored towards meeting the needs of those families vacating the existing Alma Estate;
- Deliver a high quality development that will enhance the overall sense of place through the creation of a coherent route and spaces that integrate the development into its surrounding;
- Deliver a high quality public realm of new links and spaces;
- Significantly enhance the ecological and biodiversity value of the site.
- Encourage the use of sustainable transport modes through enhancing the pedestrian and cycle network;
- Deliver an exemplar sustainable development that will minimise resource use, water and waste and maximise the use of natural systems; and
- Ensure that the environmental impacts of the proposals are minimised and mitigated.

The Council believes that the scheme it is promoting represents a positive step towards the following objectives:-

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

Having considered the relevant national policy guidance and Core Strategy Policies the Council is satisfied that there is a compelling public interest for compulsory powers to be sought in order to secure the proposed new development for the economic, social and environmental improvement of the area .The Council is therefore pursuing the compulsory purchase order and requests that the Secretary of State confirms the Order.

11. LIST OF DOCUMENTS TO WHICH THE COUNCIL MAY REFER

Part 1 – Academy Street: Compulsory Purchase Order Report – 10th July 2013

Part 1: Appendix 1 – Academy Street CPO red-line

Part 1: Appendix 2 – CPO Process flow-chart

Part 1: Appendix 3 – Academy Street CPO timeline