

MUNICIPAL YEAR 2013/2014 REPORT NO. 164

MEETING TITLE AND DATE:

Cabinet – 22nd January 2014

JOINT REPORT OF:

Ray James, Director of Health, Housing and Adult Social Care and James Rolfe, Director of Finance, Resources & Customer Services

Agenda - Part: 1

Item: 9

Subject: Alma Estate Regeneration Compulsory Purchase Order

Wards: Ponders End

Cabinet Member consulted: Councillor Oykenner

Contact officer and telephone number:

Peter George (x3318), Nick Fletcher (x1781)

Email: peter.george@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 The purpose of the report is to recommend that Cabinet resolves to use CPO powers under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended) and authorises the preparatory work, including drafting Statement of Reasons and all other necessary documentation for the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014, (the indicative extent of the land is shown edged red (bold) on the Plan ('the Plan') attached at Appendix 1).
- 1.2 The use of the CPO powers is required to ensure that the Council can obtain vacant possession of the development site to enable the demolition and comprehensive redevelopment of the Alma Estate. The intention is that the CPO is used as a measure of last resort should the Council fail to reach a negotiated settlement with leaseholders and commercial lessees.
- 1.3 The Council has now selected Countryside Properties as the Council's development partner to redevelop the Alma Estate. The Council is obligated, under the contract with Countryside Properties, to achieve vacant possession on a phased basis.
- 1.4 This report should be read in conjunction with the *Estate Renewal Leaseholder Framework Report* on the same Cabinet Agenda. The report sets out governing principles which will determine the options available to leaseholders on regeneration estates such as Alma. This greater choice is intended to mitigate the need to resort to using CPO powers.
- 1.5 Separate meetings are being held with the commercial lessees on South Street. Cabinet has already given a commitment that these lessees should have first right of refusal on the new commercial premises.

2. RECOMMENDATIONS

2.1 That Cabinet:

2.2 Resolves to use CPO powers and authorises officers to carry out all CPO preparatory work for the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014 to effect acquisition of land and new rights within the areas described in the report and shown edged red (bold) on the Plan (the proposed 'Order Land'). The Council being of the view that the proposed acquisition of the Order Land will:

- a) facilitate the carrying out of the development/redevelopment or improvement on or in relation to the Order Land; and
- b) will contribute to the promotion or improvement of the economic, social and environmental well-being of the Borough.

2.3 Cabinet is requested to note that a further report will follow later in 2014, attaching the draft Order and Statement of Reasons, seeking a resolution from Cabinet at that future point in time that the Council proceed to make the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014.

2.4 Delegates to the Director of Health, Housing and Adult Social Care with the approval of the Assistant Director of Finance Resources and Customer Services (Property Services), whereby the level and terms of such approval may be agreed in accordance with the Property Procedure Rules:

- a) to prepare a Statement of Reasons based on the purpose and justification set out in this report, finalise the Order Plan and effect any other procedural and/or preparatory requirements.
- b) to acquire any interests in land within the Order Land by agreement and the making of payments equivalent to the market value of the property interest being acquired plus any statutory payments and disturbance compensation or the provision of property or services in lieu of the market value of the property interest being acquired and any statutory payments and disturbance compensation, in contemplation of the Order being made.

3. BACKGROUND

- 3.1 The Alma Estate Regeneration project land is located in the South Street area of the Ponders End ward. The project land is adjacent to Ponders End station which is served by the West Anglia line that provides trains into London Liverpool Street. The development site is 6.9 hectares including land that is presently designated as highway.
- 3.2 The Alma development site, referred to in this report, includes the following housing blocks: the four Alma towers; the maisonettes and shops on South Street; the Alma Road blocks; the Napier Road blocks, Scotland Green Road block and Fairfield Close. At the start of the project there were 717 residential units in total on the estate of which 547 were tenanted and 170 were leasehold.
- 3.3 The Alma Regeneration Programme was approved by Cabinet on 18 July 2012. The July 2012 Cabinet Report explained that the Alma Estate was identified as an estate renewal project following an objective analysis of the Council's housing estates. In September 2013, Cabinet approved the recommendation to appoint Countryside Properties as the developer partner to comprehensively redevelop the estate. Countryside Properties and their architects, Pollard Thomas Edwards Architects (PTEa) are now working towards the submission of an outline planning application and a detailed planning application for Phase 1 of the regeneration.
- 3.4 The Council intends to exchange a contract with Countryside Properties in early 2014. One of the Council's obligations under the development agreement is to achieve vacant possession of the development site on a phase by phase basis. If the Council does not complete vacant possession within particular timescales then Countryside Properties has an ability to exit the agreement. To mitigate the risk of not obtaining vacant possession and delivery of the programme, the Council needs to obtain CPO powers.
- 3.5 The Council can seek to obtain CPO powers to ensure that it obtains vacant possession. The compulsory purchase of any interest in a property on the Alma Estate would be a measure of last resort should the Council fail to reach agreement with the beneficiary of the interest in a property. When the most recent test of opinion was carried out in 2012, approximately 78% of Alma Estate residents were in favour of the regeneration going ahead. A majority of leaseholders were also in favour of the comprehensive redevelopment of the estate.
- 3.6 The Compulsory Purchase Order is specifically required in relation to all land interests within the red-line (bold-line) (attached at **Appendix 1**), of which at the time of writing includes:
 - 135 residential leasehold properties
 - 12 commercial premises

- 3.7 It should be noted that the Council has sent written correspondence to all leaseholders on the estate regarding its intention to purchase leasehold properties to facilitate the regeneration. The Council has now completed the purchase of 35 leasehold properties on the Alma Estate and a further 15 leaseholders have accepted offers.
- 3.8 In July 2012, Cabinet approved a budget for the Council to buy back all of the 170 leasehold interests on the Alma Estate, within the Red Line Plan at **Appendix 1**. This responds to the issue of blight.
- 3.9 The leasehold properties have been purchased in accordance with CLG guidance and best practice. The Council has and continues to offer leaseholders the following;
- Purchase of the property at an agreed market value; the market value is determined by the appointment of an independent RICS Registered Valuer to conduct a valuation survey, paid for by the Council,
 - Where the initial valuation does not result in an agreed market value a second valuation (instructed by the leaseholder with the fees reimbursed by the Council) is obtained.
 - Fees for subsequent re-valuations are to be reimbursed where the leaseholder has not caused the purchase of a property to stall.
 - For resident leaseholders, +10% of the market value as a homeloss payment.
 - For non-resident leaseholders, +7.5% of the market value as a basic loss payment.
 - Disturbance compensation that includes all reasonable fees associated with moving home; including legal, surveying, removal costs, and mortgage redemption fees and SDLT on the purchase of an equivalent valued property purchased within a year of their property being purchased by the Council.
- 3.10 The above offer aligns with the minimum offer to leaseholders required under statute. The Council is proposing to increase the range of options available to leaseholders to minimise the possibility that a CPO will ever have to be completed.
- 3.11 This report should therefore be read in conjunction with the *Estate Renewal Leaseholder Framework* report which is on the same Cabinet Agenda. The report sets out a number of overarching principles which will govern the options offered to residential leaseholders.
- 3.12 A draft Alma Leaseholder Information Booklet has been prepared and the Council are currently consulting Alma leaseholders on the booklet. The booklet will increase the range of options available to residential leaseholders on the Alma Estate including shared equity options which provide an affordable means for resident leaseholders to remain living in the Alma area.

- 3.13 Separate meetings are being held with the commercial lessees on South Street. Cabinet has already given a commitment that these lessees should have first right of refusal on the new commercial premises.

CPO Strategy

- 3.14 The proposed CPO strategy is one CPO for all the Alma Estate land to underline the Council's commitment to the comprehensive regeneration of the Alma Estate.

Land which is the Subject of the Alma Estate Regeneration CPO

- 3.15 The land to be included in the CPO includes:
- All land included in the red line drawing attached to this report (**Appendix 1**)

Description of the proposed Alma Development

- 3.16 Ponders End is a priority regeneration area for the Council and the Alma Estate Regeneration Programme is the largest estate renewal scheme currently being undertaken by the borough.
- 3.17 After a competitive dialogue procurement process and subsequent Cabinet approval in September, Enfield Council appointed Countryside Properties as the developer partner to carry out the regeneration of the Alma Estate. Newlon Housing Trust will own the shared ownership homes.
- 3.18 The proposal from Countryside Properties will provide, subject to planning consent, circa 794 new homes. The proposed tenure mix slightly exceeds the Council's Core Strategy requirement with 468 of the homes for private sale (59%) with the remaining 324 affordable homes (41%) split between the 200 Council rented homes and 126 shared ownership homes.

Purpose and Justification for seeking to compulsorily acquire the Legal interests in the Alma Estate Regeneration boundary

- 3.19 The Alma Regeneration Programme was approved by Cabinet on 18 July 2012. The July 2012 Cabinet Report explained that the Alma Estate was identified as an estate renewal project following an objective analysis of the Council's housing estates.
- 3.20 Compulsory purchase of the legal interests of the third party landowners will enable the development of the site to provide new

homes, which will re-house tenants and leaseholders affected by the Alma Estate Regeneration and support the Council to achieve vacant possession if negotiations are unsuccessful.

- 3.21 It is acknowledged that whilst the compulsory purchase of the legal interests conflicts with the human rights of parties with land interests in the Order Land, the Council is of the view that there is a compelling case in the public interest, necessary to deliver the development 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 Alma are proportionate to the interference with the above parties' human rights.

Planning Position

- 3.23 Countryside Properties will submit an outline planning application for the Alma Estate, along with a detailed planning application for each phase of the development. Both planning applications will involve extensive consultation with affected residents.
- 3.24 The London Borough of Enfield's Core Strategy was adopted at Cabinet in November 2010. The Core Strategy sets out the spatial planning framework for the long term development of the borough for the next 15-20 years. Paragraph 9.35 states that Ponders End is seen as an area with considerable potential, "...given its location so close to the Lea Valley Regional Park, strong transport routes including Southbury and Ponders End railway stations and Picket Lock to the south". The Core Strategy explains that the development of the key opportunity sites in Ponders End and particularly the former gasholder site within the South Street area is a Council priority.
- 3.25 **Core Policy 4** sets out the policy for New Housing and Housing Renewal in Enfield and refers to the Estates Investment Management Strategy which was undertaken to inform the future management and priorities for investment across the Council's own housing stock. As part of this strategy, the Alma Estate scored highest in an objective exercise to identify the Council's next housing estate renewal scheme.
- 3.26 **Core Policy 41** explains that 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. The Alma Estate scheme will contribute to a net increase in the number of homes.
- 3.27 The North East Enfield Area Action Plan (NEEAAP) is currently being drafted and the Alma Estate regeneration is a key site identified within

the document. Policy 11.1 of the draft NEEAAP sets out that the Alma Estate regeneration should;

- provide a minimum of 717 new homes, of which a minimum of 40% are affordable;
- provide a mix of dwelling types, including homes for families;
- provide a new health centre on the South Street frontage;
- locate any commercial mixed-uses (which may be retail (A1, A3) and leisure (D2) on the South Street frontage close to the station; and
- achieve Building for Life 'Gold' standard;

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 An alternative option would be for the Council to draw up one CPO for Phase 1 and another for Phases 2-4. As explained above this strategy would weaken the Council's case at a public inquiry.
- 4.2 If the Council decided not to seek CPO powers, the delivery of the whole regeneration would be significantly undermined as there would be a very high risk that vacant possession would not be achieved within the timescales as leaseholders might decide to not sell back, or hold out for unreasonable and unrealistic offers from the Council.

5. REASONS FOR RECOMMENDATIONS

- 5.1 This Compulsory Purchase Order is required to provide the Council with a legal option to ensure that it can commit to obtaining vacant possession of the Alma Estate, as obligated in the Development Agreement, prior to the phased handover to Countryside Properties to commence demolition and construction.
- 5.2 The CPO provides the Council with a fall-back position should it not be able to buy back leasehold interests via negotiation. The CPO will also ensure that public money is spent fairly and consistently.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 Leasehold properties are purchased in accordance with CLG guidance and best practice (see paragraph 3.9 above). The buyback of leasehold properties on the Alma estate is estimated to cost the Council in the region of £24m and this amount is part of the £30m which has already received Cabinet approval in a previous report for the Alma Estate Regeneration (Cabinet

decision 18th July 2012 KD 3769). This will be funded from the HRA and is accounted for in the HRA 30 year Business plan.

- 6.1.2 This Compulsory Purchase Order is required to provide the Council with a legal option to ensure that it can commit to obtaining vacant possession of each phase of the Alma Estate Regeneration. The estimated cost to the Council for adopting the CPO route will be an additional cost 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 are expected to be a maximum of £200k and will be funded from the HRA. It is expected that a CPO would result in a higher cost to the Council compared to a non CPO route.

6.2 Legal Implications

- 6.2.1 The Council proposes to use its compulsory purchase powers to help implement this regeneration scheme. Under section 226 (1) (a) of the Town and Country Planning Act 1990 (as amended) 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.
- 6.2.3 To make a CPO using planning powers, the Council would be required to demonstrate that there is a compelling case in the public interest for acquiring the land compulsorily. This will be set out in the Statement of Reasons when the CPO is made.
- 6.2.4 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.
- 6.2.5 In respect of Human Rights, the Convention rights applicable are Article 1: Protection of Property, Article 6: Right to a Fair Trial and Article 8: Right to Respect Private Life and Family.

6.3 Property Implications

- 6.3.1 Obtaining Compulsory Purchase powers will help support obtaining vacant possession which will in turn assist with enabling the completion of the proposed development.
- 6.3.2 The Council's Property Procedure Rules require that a report recommending a resolution to make a compulsory purchase order is made in consultation with the Director of Finance, Resources and Customer Services; who concurs with this report. Compulsory Purchase powers are essential to ensure the acquisition of leasehold and other property interests on the estate and to obtain vacant possession which is critical to completion of the proposed development.
- 6.3.3 The purchase of property interests must also be in accordance with the Property Procedure Rules which is covered in paragraph 2.4 of this report
- 6.3.4 A number of statutory undertakers have property interests in the site. These property interests are exempt from the usual Compulsory Purchase Order powers. Negotiations are proceeding with the statutory undertakers to reach agreement on relocation of their property interests where this is necessary to enable completion of the proposed development.

7. KEY RISKS

- 7.1 The key risk associated with this report is the Council does not achieve vacant possession by the longstop dates in the development agreement and Countryside Properties exercise their ability to exit the agreement. This risk is mitigated by obtaining and then implementing a CPO.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

- 8.1.1 The Alma Estate Regeneration Programme contributes to this aim by tackling inequality and access to social housing by providing new homes.

8.2 Growth and Sustainability

- 8.2.1 The Alma Estate Regeneration Programme contributes to this priority by building strong and sustainable futures for our residents. The scheme is the one of the first steps towards delivering the planned

regeneration of the Ponders End Priority Area, and housing growth, as set out in the NEEAAP and the Core Strategy.

8.3 Strong Communities

- 8.3.1 The community plays a central role in driving forward change and regeneration in the local area to create a stronger community in the Ponders End area.

9. EQUALITIES IMPACT IMPLICATIONS

- 9.1 An equalities impact assessment is in place for the Alma project.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

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

11. PUBLIC HEALTH IMPLICATIONS

- 11.1 There are no public health implications to consider.

Appendices

Appendix 1 – Red Line Plan for the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014

Appendix 2 – Process for the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014