

MUNICIPAL YEAR 2014/2015 REPORT NO. **130**

MEETING TITLE AND DATE:
Cabinet: 10th December 2014

JOINT REPORT OF:
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Agenda - Part: 1	Item: 11
Subject: Alma Estate Regeneration Compulsory Purchase Order and Additional Land	
Wards: Ponders End	
Cabinet Member consulted: Councillor Oykener	

1. EXECUTIVE SUMMARY

- 1.1 This report is supplemental to and should be read together with both the Alma Compulsory Purchase Order ("CPO") Cabinet report dated 22 January 2014 (KD3800) ("The January Report"), and the Alma Developer Partner Selection Report dated 18 September 2013 (KD 3769). The purpose and contents of the previous reports remain unchanged.
- 1.2 Since the January Report, the Council has prepared a draft Statement of Reasons and has commenced the land referencing process to ascertain the interests within the proposed Order Land.
- 1.3 During 2014, progress has been made with both the preparation of an outline planning application for the whole development and a detailed application for Phase 1 of the new Alma development and both are due to be submitted by Countryside Properties to the Local Planning Authority early next year. Residents have been actively involved in the design panel workshops to inform the design proposals and have had a genuine and positive impact.
- 1.4 As part of the design process it has become evident that a more comprehensive development that helps achieve greater regeneration benefits including additional housing would be possible with the inclusion of a number of adjoining sites. Since the competitive dialogue process, the draft Development Agreement has included the option of including additional sites, subject to Cabinet approval. This report seeks approval from Cabinet to the inclusion of five additional land parcels, which are shown hatched green on the Plan attached at Appendix 3 to form part of the Alma Estate development.
- 1.5 The Council has now entered into the Development Agreement with Countryside Properties, who have been appointed as the development partner to redevelop the Alma Estate. The Council is obligated, under this Development Agreement to achieve vacant possession on a phased basis.

2. RECOMMENDATIONS

That Cabinet:

- 2.1 Approve the inclusion of five additional land parcels to form part of the Alma Estate development, which are shown hatched Green on the Plan attached at **Appendix 3**.
- 2.2 Subject to 2.1, to approve the boundary of the CPO plan attached at **Appendix 1** to include these five additional parcels within the Order Land;
- 2.3 Note the draft Statement of Reasons (attached at **Appendix 2**) which sets out the justification for making the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014 in relation to the Order Land.
- 2.4 Resolves to use Compulsory Purchase Order powers under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended) to make the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014 in respect of the land shown edged red on the Plan ('the Plan') attached at Appendix 1 to effect acquisition of land and new rights within the areas described in the report and shown edged red 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.
- 2.5 Delegates authority to the Director of Health, Housing and Adult Social Care, acting in consultation with the Director of Finance Resources and Customer Services, to take all the necessary steps consequent to the making of the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014 on the basis that there is a compelling case in the public interest to make the Order, including:
 - a) To publish the draft London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014, to seek confirmation of the Secretary of State and if confirmed, implement the Order;
 - b) To modify the draft Statement of Reasons and the Order Plan and effect any other procedural requirements including (but not limited to) the publication and service of all notices and the presentation of the Council's case at any public inquiry;
 - c) To acquire any interests in land within the Order area 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; and
 - d) If and when the Order is confirmed then to acquire by compulsion and make payments of statutory compensation, if voluntary agreements cannot be reached.

3. BACKGROUND

- 3.1 The Alma Regeneration land is located in the South Street area of the Ponders End ward. The land comprises of predominantly residential land use and includes the Alma Estate which was built in the late 1960s.
- 3.2 The Alma Regeneration land, referred to in this report, currently includes the following housing blocks: the four Alma towers (Kestrel House, Cormorant House, Merlin House, Curlew House); 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 Estate 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 In January 2014 Cabinet delegated authority to undertake preparatory work in readiness for the Compulsory Purchase Order, including preparing the Statement of Reasons and finalising the Order Plan and to also to acquire any interests in the Order Land by agreement, in contemplation of the Order being made.
- 3.5 Since the January report, the Council has prepared a draft Statement of Reasons which justifies the use of CPO powers to deliver the Alma Regeneration Scheme. The justification within the draft Statement of Reasons will be rationalised once the planning applications have been prepared.
- 3.6 In addition, land ownership information is being checked by use of the statutory requisition procedure and final details of affected interests will be determined before the proposed CPO is made (to be listed in the Schedule to the Order).
- 3.7 The Council exchanged the Development Agreement with Countryside Properties on 13th November 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. To mitigate the risk of not obtaining vacant possession and delivery of the programme, the Council needs to obtain CPO powers as a fall-back position where agreement cannot be reached.

ADDITIONAL SITES

- 3.8 As part of the development design process it has become evident that an improved design that includes some adjoining land will provide the opportunity for a more comprehensive development that will achieve greater regeneration benefits including the delivery of more homes and hence the change to the Order Plan.
- 3.9 This report therefore recommends that the following sites form part of the Alma Regeneration Scheme, as enabled by a clause in Development Agreement between the Council and Countryside Properties:
- Land at 129-141 South Street “Community Facility Land”, inclusive of the Welcome Point Centre, Ponders End Youth Centre and MUGA
 - Land at 171a South Street (1-16 Silver Birch Court) and 173 South Street
 - 45 Scotland Green Road
 - 5-9 Scotland Green Road
 - 63 Alma Road (1-9)
- 3.10 Proposals for the five additional sites include new housing that could collectively deliver in excess of 200 new homes and new community facilities. Discussions and consultation with key stakeholders will continue to ensure that the local community are able to inform design proposals.
- 3.11 Proposals for the “Community Facility Land” currently includes new housing, and the re-provision of the same gross internal floor area as the existing Youth Centre and Welcome Point Centre facilities, and a replacement MUGA. The Welcome Point facility will be provided temporarily during construction of the new facility, and the Youth Centre facility would be able to move into the replacement facility when completed.

COMPULSORY PURCHASE ORDER

- 3.12 The Council seeks 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.

3.13 The Compulsory Purchase Order is specifically required in relation to all land interests within the red-line (attached at **Appendix 1**), of which at the time of writing includes:

- 119 residential leasehold properties within the Alma Estate blocks
- 366 secure council tenanted properties
- 16 leasehold properties within Silverbirch Court, on 171a South Street
- 12 commercial leases on South Street
- 6 freehold property owners
- All land and interests falling within the red line drawing attached

Secure Tenants

3.14 The Council will grant all secure council tenants who choose to move into a new home on the Estate or Dujardin Mews a “secure” Council tenancy. All council tenants that remain on the Estate will retain their secure tenancy, the new council homes will protect existing tenants’ Right to Buy and the rents for the new homes will be set in line with the government’s national rent setting guidance. Rents will be slightly higher because the new homes will have a higher property value than the existing homes. The Council is keen to encourage the existing community to remain in place and the Council will make every effort to rehouse neighbours together where possible.

3.15 Tenants that do not wish to remain on the estate can, when their phase is active, bid through the Choice Based Lettings system for a home elsewhere in the borough.

Leaseholders and Freeholders

3.16 The Council has contacted all leaseholders on the estate regarding its intention to purchase leasehold properties to facilitate the regeneration. To date, the Council has completed the purchase of 51 leasehold properties on the Alma Estate and a further 15 leaseholders have accepted offers.

3.17 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 original Red Line Plan. This responds to the issue of blight.

3.18 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.

3.19 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.

3.20 This report should therefore be read in conjunction with the *Estate Renewal Leaseholder Framework* report (KD3773) which sets out a number of overarching principles which will govern the options offered to residential leaseholders.

3.21 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.

3.22 All freeholders have been contacted by the Council to instigate negotiations for the acquisition of their property interests.

Land proposed to be part of the London Borough of Enfield (Alma Estate Regeneration) Compulsory Purchase Order 2014

3.23 The land to be included in the CPO includes all land included in the red line drawing attached to this report (**Appendix 1**) which comprises of the following:

- 15-107a Alma Road (odds)
- 63 Alma Road (1-9)
- 11 to 226 Kestrel House
- 11 to 226 Cormorant House
- 11 to 226 Merlin House
- 11 to 226 Curlew House
- 118 to 142 South Street
- Land at 129-141 South Street (“Community Facility Land”)

- 171a South Street (including 1-16 Silver Birch Court)
- 173 South Street
- 11 to 89 Napier Road (odds)
- 1 to 34 Fairfield Close
- 5 to 9 Scotland Green Road (odds)
- 21 to 43 Scotland Green Road (odds)
- 45 Scotland Green Road

Description of the proposed Alma Development

- 3.24 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.
- 3.25 After a competitive dialogue procurement process and subsequent Cabinet approval in September 2013, 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.
- 3.26 The tender stage proposal from Countryside Properties which was the basis of their proposal for the outline master plan was based on circa 794 new homes, with a proposed tenure mix slightly exceeding the Council's Core Strategy requirement with 468 of the homes for private sale (59%) and the remaining 324 affordable homes (41%) split between the 200 Council owned social rented homes (capped rents) and 126 shared ownership homes.
- 3.27 Since tender stage, the proposal has progressed during the Design Team Meetings with Council officers and during the Design Panel Workshops with local stakeholders including residents. Design proposals for the comprehensive redevelopment have been progressed, and the draft outline application for the whole development now proposes in excess of 1000 homes.
- 3.28 Resident consultation has been fundamental to the progression of the design proposals for the draft outline application for the whole development and in particular the detailed application for Phase 1. Design Panel Workshops have been well attended by residents from across the estate, who have had a genuine and positive impact on the detailed design of homes. The internal layouts of individual unit types have been revised directly as a result of resident concerns, including distribution of space, windows being provided in kitchens/bathrooms in particular unit types, and gross internal areas. The Council, the developer and the architects have worked collaboratively to find solutions to satisfy residents' concerns and secure their support for the detailed design of new homes.

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

- 3.29 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.
- 3.30 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.
- 3.31 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.
- 3.32 The Council also believes that the use of compulsory purchase powers to achieve its regeneration objectives for Alma are proportionate to the interference with the above parties' human rights.
- 3.33 The full justification for seeking to compulsorily acquire the legal interests in the Order Land is set out in the attached draft Statement of Reasons at **Appendix 2**. The Statement of Reasons document will be finalised at a later stage in the programme when all of the necessary information is available.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 An alternative option would be for the Council to seek CPO powers for individual phases of the development. This approach doesn't reflect the comprehensive development approach being adopted for the regeneration scheme.
- 4.2 Negotiations to acquire land and property interests have been pursued and will continue to be pursued in tandem with the compulsory purchase process. To protect the Council's position should negotiations become protracted and to ensure vacant possession, it is prudent for the Council to obtain CPO powers.
- 4.3 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 The inclusion of additional sites will enable the Council to achieve more comprehensive regeneration of Ponders End. In addition, the inclusion of these additional sites within the Alma Regeneration Programme can deliver between 200 and 250 additional homes in the Ponders End area and increase the overall Alma development numbers from the previously proposed 794 to in excess of 1000 homes and new community facilities.
- 5.2 The 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 Regeneration Land, as obligated in the Development Agreement, prior to the phased handover to Countryside Properties to commence demolition and construction and ultimately to support delivery of the regeneration scheme.
- 5.3 The CPO provides the Council with a fall-back position should it not be able to buy back leasehold interests via negotiation or reach agreement with other parties with an interest in the Order Land. 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 The Financial Implications are included in Part 2 of this report.

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) ("the 1990 Act") 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 in addition to the above 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

(section 226 (1A) of the 1990 Act) . The Council must therefore be satisfied on both counts.

- 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 Once made, a compulsory purchase order will require confirmation by the Secretary of State to become effective. Notice of the CPO must be given to categories of “qualifying persons”, namely owners, lessees and occupiers (other than monthly or shorter tenants) and publicised in the local newspaper and persons affected have the opportunity to object. If objections are raised they must be referred to the Department for Communities and Local Government who may decide to hold a public inquiry. The Council and all those with valid subsisting objections will be able to present their case to an Inspector at such an Inquiry. The CPO process and other legal mechanisms, converts any rights over the site into an entitlement to compensation.
- 6.2.6 Under section 227 of the 1990 Act the Council has the power to acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land under section 226 of the 1990 Act as aforementioned. Furthermore, the Council has the power under section 120 of the Local Government Act 1972 to buy any land by agreement for the purposes of any of its functions or for the benefit, improvement or development of the borough. When dealing with secure tenants, the Council must also comply with the provisions of the Housing Act 1985.
- 6.2.7 The Council, as a public body is under a duty to consider whether the exercise of its powers interferes with rights protected by the European Convention on Human Rights. 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. As indicated in this report, officers are of the view that there is a compelling case in the public interest for the compulsory acquisition of the Order Land which outweighs the interference with the Convention rights of those affected.
- 6.2.8 The making of the CPO and all acquisitions must comply with the Council’s Property Procedure Rules.
- 6.2.9 All legal agreements to be entered into will need to be in a form approved by the Assistant Director of Legal Services.

6.3 Property Implications

- 6.3.1 The use of (Obtaining) a Compulsory Purchase Order (CPO) will help support obtaining vacant possession as negotiations are presently being undertaken within the shadow of CPO powers. This 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 freehold, leasehold and other property interests on the on the development site and to obtain vacant possession which is critical to completion of the proposed development within the prescribed timescales and budgetary constraints.
- 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, some of which will be led by the developer, 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.
- 6.3.5 Careful consideration will need to be given to the phasing of the development and in particular the requirement to deliver vacant possession (of parts) at pre-determined points within the development. Bearing in mind potentially adverse consequences including delays in the delivery of new homes for the Council for failure to deliver vacant possession, robust programming and governance protocols should be embedded within the project .

7. KEY RISKS

- 7.1 There are a number of risks associated with this report which are all included within the Alma Estate Regeneration Programme Risk Register. The key risk is that 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. Please also refer to the part two report.

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 Please refer to the part 2 report.

Appendices

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

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

Appendix 3 – Alma Regeneration Land (including Additional Land)