

MUNICIPAL YEAR 2015/2016 REPORT NO. 9

MEETING TITLE AND DATE:
Cabinet – 17.6.15

REPORT OF:
Director of Regeneration &
Environment

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Agenda – Part: 1

Item: 10

Subject: Small Housing Sites: Compulsory Purchase Orders

Wards: Haselbury, Enfield Lock, and Cockfosters

Key Decision No: KD 4120

Cabinet Member consulted: Cllr Oykenor

1. EXECUTIVE SUMMARY

- 1.1 Enfield Council is committed to delivering new homes through the ambitious housing development and estate renewal programme and we have made considerable progress in the delivery of new homes. However to ensure delivery is not delayed we are seeking early approval to use council powers, if or when required later, in the development process.
- 1.2 As part of the due diligence during the feasibility for a number of the small housing sites' development proposals in the borough, it has become apparent that various property interests will need to be acquired to enable the Council to develop schemes on a number of different sites. These interests include various leasehold pram sheds, access rights, and a small strip of land in unknown ownership which if not resolved early will delay scheme delivery.
- 1.3 Council officers will engage and negotiate with all parties, where known, with property interests to attempt to reach an amicable agreement for the purchase of those interests, but in the event that terms cannot be agreed and to prevent creating a ransom situation it is proposed that the Council resolves to use powers to make Compulsory Purchase Orders to ensure the delivery of much needed new housing.

2. RECOMMENDATIONS

2.1 That Cabinet resolves to use Compulsory Purchase Order powers under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended) and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (if required) to make the following the Compulsory Purchase Orders:

- The London Borough of Enfield (Gatward Green Development) Compulsory Purchase Order 2015
- The London Borough of Enfield (Cedars Court Development) Compulsory Purchase Order 2015
- The London Borough of Enfield (Ordnance Road Development) Compulsory Purchase Order 2015
- The London Borough of Enfield (Lousada Lodge Development) Compulsory Purchase Order 2015

as detailed in the report, in respect of the land shown edged red on the Plans in Appendices 2, 3, 4, and 5 to effect acquisition of land and new rights within the areas on each site described in the report and shown edged red on the Plans "The Order Land".

2. RECOMMENDATIONS

- 2.2** That Cabinet notes the generic draft Statement of Reasons (attached at **Appendix 1**,) which sets out the justification for making the Compulsory Purchase Orders in relation to the Order Land referred to in **Appendices 2, 3, 4, and 5**.
- 2.3** That Cabinet delegates authority to the Director of Regeneration and Environment, acting in consultation with the Director of Finance, Resources and Customer Services, to take all the necessary steps consequent to the making of any Compulsory Purchase Order, on the basis that there is a compelling case in the public interest to make the Order, including:
- a) To publish the draft Compulsory Purchase Orders, referred to within this report, 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 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; 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** In September 2014, Cabinet authorised a budget to progress feasibility work for a large number of sites that have been identified across the borough, for new housing, KD3920. Architects, and other consultants have now been appointed and progress is being made in the preparation of scheme proposals.
- 3.2** At the time of writing, the Council is close to submitting planning applications for four further small housing sites, including the Kettering Hall & former public house site at Ordnance Road (EN3), and three garage sites at Perry Mead, Padstow Road, and Hedge Hill (EN2) which could collectively deliver around thirty new homes.

- 3.3 In excess of thirty more sites have been identified and due diligence and design feasibility is progressing. The intention is to seek further Cabinet approval later this year when scheme design and financial appraisal work has progressed, to make the case for a budget to develop the next package of small housing sites. The intention is that further packages of sites will be proposed, and funding sought from Cabinet over the coming months to deliver more new housing.
- 3.4 Feasibility work is also progressing for a larger redevelopment scheme in Upper Edmonton and a report will go to Cabinet in the coming months, seeking further funding and commitment to delivering a new housing scheme, in conjunction with a Registered Provider Partner.
- 3.5 In the meantime, the due diligence for these sites has identified a number of interests that will need to be acquired by the Council and this report recommends that Cabinet approve a budget to acquire interests and if necessary resolve to use compulsory purchase powers to ensure that the programme for delivery is not delayed.

Gatward Green

- 3.6 Three sites in the Gatward Green area, in Haselbury ward, have been identified for new housing.
- 3.7 On one of the sites, 'Gatward Green Garages (21-36) and Land' shown at Appendix 2, a number of existing land interests would limit the design of a new scheme, and constrain the development of the land.
- 3.8 The Council freehold block of flats at 58-88 Church Street, contains a number of leasehold properties which include pram sheds within the leases. Up to six pram sheds have been identified which are included as part of residential leases.
- 3.9 The pram sheds are located within the area identified as being suitable for redevelopment as shown outlined in red on the plan at Appendix 2 and it is proposed that these would be demolished as part of a housing development scheme. The Council would need to negotiate with the pram shed lessees to acquire their interests. There are 16 pram sheds in total. It is proposed that replacement pram sheds or communal storage could be offered as part of a new development, if there is demand.
- 3.10 Eastern Power Networks Plc (previously Eastern Electricity Board) own a transformer chamber at the very north-east corner of the same site. Sufficient distances will need to be retained from this equipment, and operational access will need to be retained along the route of the apparatus underground (EPN have access rights running northwards from the transformer chamber across the rear garden access route for 55-88 Church Street). However, EPN have some access rights over

garages forecourt land to the south of the transformer chamber, on the proposed development site. The Council will attempt to negotiate with EPN to acquire or renegotiate non-operational access to ensure that development of the site can be effective. In the event that the Council cannot negotiate an improved position to enable the development, this report recommends that Compulsory Purchase Order powers are sought.

Cedars Court

- 3.11 The Council freehold block of flats, 1-40 Cedars Court, contains a number of leasehold properties which include pram sheds within the leases. The pram sheds are located within the area outlined in red on the plan at Appendix 3, abutting the garages. It is proposed that both pram sheds and garages would be demolished as part of a residential development scheme.
- 3.12 Up to eight pram sheds have been identified which are included as part of residential leases. The Council would need to negotiate with the pram shed lessees to acquire their interests, and demolition of the garages to enable the development is dependent on this. There are 23 pram sheds in total abutting the garages, and another 16 pram sheds within a communal area to the south of the garages. All of these pram sheds are located within the proposed Order Land on the attached plan at Appendix 3. It is proposed that new pram sheds or replacement communal storage could be offered on the estate in a more suitable location.

Lousada Lodge

- 3.13 In addition to the above sites, a block of garages at Lousada Lodge (1-20) and surrounding land, offers potential for new housing. The row of 18 pram sheds abuts the block of garages, so redevelopment of the site is dependent on the acquisition of any interests. It is proposed that new pram sheds or replacement communal storage could be offered on the estate in a suitable location, subject to consultation.
- 3.14 A capacity study by Urban Design officers indicated that up to five family sized homes might be acceptable in planning terms.
- 3.15 This site could be included as part of the New Avenue scheme, and Countryside Properties, the appointed development partner for New Avenue has instructed their architects HTA to design a new scheme. Indicative capacity work undertaken by them indicates that up to eleven flats may be feasible on the site.

- 3.16 If Countryside Properties do not wish to take the scheme forward then the site could be included as part of the Small Housing Sites Rolling Programme.

Former public house & Kettering Hall land, Ordnance Road

- 3.17 Cabinet authorised the inclusion of this site in the Small Housing Sites Phase 1 project. The Council has appropriated all land within its ownership for planning purposes after Cabinet approval in March 2015, however a very small patch of land at this site is not owned by the Council. The title to the land is unregistered but the land cannot be claimed by the Council under adverse possession because it has been used as a right of way. Acquisition of this small patch of unregistered land will not have an impact on the timescales for delivery, because it is on the very south west edge of the site that would be part of a new mews, used for parking.
- 3.18 The entire alleyway is included within the scheme design to ensure that the scheme complies with Secure By Design principles, improves surveillance, and makes the most efficient use of the Council's land.

Consultation

- 3.19 Pram shed lessees will be contacted by the Council formally to notify them of the Council's intention to redevelop the adjacent land for new housing, and to make them an offer for their pram shed. These lessees will also be invited to attend consultation events for the design of new housing developments, which will also include wider landscaping and estate improvements.
- 3.20 If Compulsory Purchase Orders are made, the Council is under a legal obligation to serve notice of the Orders upon those interested in the land and to advertise that the Orders have been made. There is also a statutory consultation period of a minimum of 21 days during which those affected can lodge objections.
- 3.21 In accordance with good practice, negotiations with lessees will continue in tandem with progressing the Compulsory Purchase Order.

Statement of Reasons

- 3.22 A Statement of Reasons will set out the full justification for each separate proposed Compulsory Purchase Order. A generic draft Statement of Reasons is attached for information and delegated authority is sought to modify this document, to relate to each scheme as relevant.

Programme

- 3.23 The anticipated timescales for making the respective Compulsory Purchase Orders vary on each site, as will the timescales for implementing a CPO.
- 3.24 The unregistered land at Ordnance Road is the highest priority due to the programmed start on site for winter 15/16, however as mentioned previously acquisition of this land would not adversely impact the timescales for construction of the homes. The Compulsory Purchase Order and an application to the Secretary of State to confirm the Order would be made soon after submission of the planning application this summer.
- 3.25 For the Gatward Green and Cedars Court sites, the anticipated timescales for making then applying for confirmation of a Compulsory Purchase Order would be in line with submission of planning applications, which would be subject to further Cabinet approval of funding and the development strategy, later this year.
- 3.26 The timescales for a Compulsory Purchase Order on the Lousada Lodge site would be linked to the submission of a planning application, either by the Council or Countryside Properties, and again, subject to further Cabinet approval.

4. ALTERNATIVE OPTIONS CONSIDERED

Ordnance Road

- 4.1 No alternative option has been considered. Without obtaining the title to the unregistered land, the Council would not have the right to include the unregistered land in the scheme.

Gatward Green

- 4.2 No alternative option has been considered. Without compulsory purchase order powers redevelopment of this site might not be possible, as it would depend entirely on successful negotiations between the Council, a utilities provider, and residential lessees.

Cedars Court

- 4.3 No alternative option has been considered. Without compulsory purchase order powers redevelopment of this site might not be possible, as it would depend entirely on successful negotiations between the Council and residential lessees.

Lousada Lodge

- 4.4 No alternative option has been considered. Without compulsory purchase order powers redevelopment of this site might not be possible, as it would depend entirely on successful negotiations between the Council and residential lessees.

5. REASONS FOR RECOMMENDATIONS

- 5.1 It is recommended that Cabinet resolves to use Compulsory Purchase Order powers to enable the development of four sites. The Council being of the view that the proposed acquisition of the Order Land will:
- facilitate the carrying out of the development/redevelopment or improvement on or in relation to the Order Land; and
 - contribute to the promotion or improvement of the economic, social and environmental well-being of the Borough.

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

6.1 Financial Implications

- 6.1.1 This Compulsory Purchase Order is required to provide the Council with a legal option to enable the Council to achieve vacant possession on a number of different sites.
- 6.1.2 The estimated cost to the Council for adopting the CPO route will be an additional cost in legal fees if a public inquiry was required. In addition to the legal fees, the Council will incur other costs associated with organising a public enquiry.
- 6.1.3 The CPO costs and associated costs will be included within the project costs and funded from the HRA. It is expected that a CPO would result in a higher cost to the Council when 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.
- 6.2.3 Notice of the CPO must be given to each owner or leaseholder of land affected by it. The CPO must also be advertised in a local newspaper which covers the area where the land is situated. Persons affected have the opportunity to object to the CPO. If objections are raised these must be referred to the Department for Communities and Local Government who may decide to hold a public inquiry. The DCLG would take note of the Council's Statement of Reasons for making the CPO and consider the objections then decide whether or not the CPO should be confirmed.
- 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.

6.3 Property Implications

- 6.3.1 Strategic Property Services supports the small sites initiative and the use by the Council of its Compulsory Purchase Powers under the Town and Country Planning Act 1990 where necessary, particularly in circumstances where the Council would otherwise be ransomed or are unable to negotiate acceptable terms in line with Market Values.
- 6.3.2 Careful consideration should be given to the adequacy of the budget for land acquisitions and other compensation payments.
- 6.3.3 In relation to Gatward Green, legal advice should be sought on the legitimacy and practicality of attempting to extinguish or modify existing rights held by a statutory infrastructure provider, the Eastern Electricity Board (or its successor in title) in relation to its property interests.
- 6.3.4 All other property implications are either referred to in the report or are implicit.

7. KEY RISKS

- 7.1 Without using Compulsory Purchase Order powers, development of these sites may not be possible as the Council cannot be sure of agreeing terms with lessees and obtaining vacant possession. If the

Council does not have a Compulsory Purchase Order in place, there is a risk that a lessee could attempt to create a ransom situation.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

8.1.1 Compulsory Purchase Order powers can guarantee the delivery of new housing on a number of sites. New housing for mixed tenure, delivered by the Council can help tackle inequality and provide high quality, affordable and accessible accommodation for Enfield residents.

8.1.2 The Council is taking a consistent approach across the borough to increase the supply of new housing. In this instance, the possible use of Compulsory Purchase Order powers could be considered to serve the 'greater good'.

8.2 Growth and Sustainability

8.2.1 Increasing the supply of new housing can satisfy market demand in the borough for new housing, and help meet the borough's housing needs. The nature of these smaller scale and sporadically located developments are unlikely to have much of an impact on public services such as education and healthcare, and may have a marginally positive impact on local services and enterprise such as retail.

8.2.2 New homes will be designed to meet relatively high standards for sustainability. The Code for Sustainable Homes is being superseded but the Council will insist on Code for Sustainable Homes Level 4 or equivalent for its new developments.

8.3 Strong Communities

8.3.1 The intention is to increase housing supply, design new mixed tenure homes which encourage activity, interaction and community cohesion.

8.3.2 Local residents living in close proximity to proposed developments, and those with interests affected by scheme proposals will be consulted on the design of new housing development proposals.

9. EQUALITIES IMPACT IMPLICATIONS

- 9.1 An Equalities Impact Assessment has been undertaken for the Small Housing Sites project, which includes the development of the Ordnance Road scheme.
- 9.2 An Equalities Impact Assessment for the next small housing sites package will follow in due course.

10. HR IMPLICATIONS

- 10.1 Resources in the Housing Development & Renewal team will progress the negotiation and acquisition for any interests referred to in this report. Resources from Legal Services and Property Services are also likely to be required, and external legal resources from a wider contract for the Small Housing Sites Rolling Programme can also be utilised if necessary.

11. PUBLIC HEALTH IMPLICATIONS

- 11.1 There are a number of public health implications arising from new housing development schemes because housing is a major determinant of health. These implications have been included in the Cabinet report for the Ordnance Road development, and for the other sites referred to in this report, public health implications will be covered in future Cabinet reports for scheme proposals when the design has been progressed in more detail.
- 11.2 There are no noticeable public health implications associated with the acquisition and possible use of Compulsory Purchase Order powers to acquire pram sheds, unregistered and unused land, and access rights for a utility provider.

Background Papers

None

Appendices

Appendix 1 – Generic draft Statement of Reasons

Appendix 2 - Red Line OS Plan for the London Borough of Enfield (Cedars Court Development) Compulsory Purchase Order 2015

Appendix 3 - Red Line OS Plan for the London Borough of Enfield (Ordnance Road Development) Compulsory Purchase Order 2015

Appendix 4 - Red Line OS Plan for the London Borough of Enfield
(Lousada Lodge Development) Compulsory Purchase Order 2015

Appendix 5 - Red Line OS Plan for the London Borough of Enfield
(Gatward Green Development) Compulsory Purchase Order 2015