

MUNICIPAL YEAR 2015/2016 REPORT NO. 59

MEETING TITLE AND DATE:

Cabinet – 16th September 2015

JOINT REPORT OF:

Ian Davis, Director of Environment & Regeneration and James Rolfe, Director of Finance, Resources & Customer Services

Agenda - Part: 1

Item: 11

Subject: New Avenue Estate Regeneration Compulsory Purchase Order

Ward: Cockfosters

Key Decision No: KD4136

Cabinet Member consulted: Cllr Ahmet Oykenner, Cabinet Member for Housing & Housing Regeneration

Contact officer and telephone number: Geoff Richards (0208 379 2179)

Email: geoffrey.richards@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 Enfield Council is committed to delivering new homes through the ambitious housing development and estate renewal programme has 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 when required in the development process.
- 1.2 The purpose of the report is to recommend that Cabinet resolves to make a Compulsory Purchase Order (CPO) under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended) and authorises the preparatory work, including the drafting of the Statement of Reasons and all other necessary documentation for the London Borough of Enfield (New Avenue Estate Regeneration) Compulsory Purchase Order 2015, (the indicative extent of the land is shown edged red on the Plan (attached at **Appendix 1**).
- 1.3 The use of the CPO powers is required to ensure that the Council can obtain vacant possession of the development site at New Avenue to enable the demolition and comprehensive redevelopment of the development site. The intention is that the CPO is used as a measure of last resort should the Council fail to reach a negotiated settlement with all those parties with property interests in the development site.
- 1.4 Options of support, based on the principles outlined in the Estate Renewal Leaseholder Framework Report (KD3773) approved in January 2014, will be offered to leaseholders living on the New Avenue estate. Providing leaseholders with more choice is intended to mitigate the need to resort to using CPO powers.

2. RECOMMENDATIONS

- 2.1 That Cabinet resolves to make a Compulsory Purchase Order under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended). The London Borough of Enfield (New Avenue Estate Regeneration) Compulsory Purchase Order 2015, to effect acquisition of land and new rights in respect of the land detailed in the report and shown outlined in red on the plan in **Appendix 1**.
- 2.2 That Cabinet notes the generic draft Statement of Reasons (attached at **Appendix 2**) which sets out the justification for making the Compulsory Purchase Order in relation to the Order Land referred to in **Appendix 1**.
- 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 necessary steps consequent to the making of a 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 Order, referred to within this report, to seek confirmation of the Secretary of State and if confirmed, implement the Order;
 - b) To modify the 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 Councils 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 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 New Avenue Estate Regeneration project land is located off Avenue Road in the Cockfosters ward of the Borough. The development site is 3.6 hectares including land that is presently designated as highway.
- 3.2 The New Avenue development site, referred to in this report, includes the housing blocks to Beardow Grove, Oakwood Lodge and Shepcot House; the maisonettes to Coverack Close; and Hood Avenue open space. At the start of the project there were 171 residential units in total within the development red-line boundary of which 130 homes were

tenanted, and 41 homes were leasehold. In addition there is a nursery and a freehold interest not in the Council's ownership.

- 3.3 The New Avenue Regeneration Programme was approved by Cabinet on 18 July 2012. The July 2012 Cabinet Report explained that the New Avenue Estate was identified as an estate renewal project following an objective analysis of the Council's housing estates. In October 2014, Cabinet approved the recommendation to appoint Countryside Properties as the developer partner to comprehensively redevelop the estate. Countryside Properties and their architects (HTA Design) are now working towards the submission of a planning application to redevelop the development site.
- 3.4 The Council intends to exchange a contract with Countryside Properties this autumn 2015. One of the Council's obligations under the development agreement will be to offer up vacant possession of the development site on a phase by phase basis to Countryside Properties so that they can start construction on that phase. If the Council does not complete vacant possession within particular timescales then Countryside Properties has an ability to terminate 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 New Avenue 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 last test of opinion was carried out, over 70% of New Avenue Estate residents were in favour of the regeneration going ahead.
- 3.6 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 41 residential leasehold properties
- 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. To date, 11 (27%) of the 41 leaseholders have agreed to sell their property back to the Council. Eight of the purchases have been completed and the remaining three are with legal.
- 3.8 In July 2012, Cabinet approved a budget for the Council to buy back all of the leasehold interests on the New Avenue 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 resident leaseholders to minimise the possibility that a CPO will ever have to be used to force a purchase of a property interest.
- 3.11 A scoping exercise is currently being undertaken to help the Council to understand how best it can best meet its commitment to support resident leaseholders who wanted to remain on the estate.
- 3.12 This information coupled to the overarching principles of the Estate Renewal Leaseholder Framework report will govern the options offered to residential leaseholders to enable them to continue living in the New Avenue area should they choose to.

CPO Strategy

- 3.13 The proposed CPO strategy, approved by CMB 21st July 2015) is one CPO for all the New Avenue Estate land to underline the Council's commitment to the comprehensive regeneration of the New Avenue Estate.

Land which is the Subject of the New Avenue Estate Regeneration CPO

- 3.14 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 New Avenue Development

- 3.15 New Avenue is a priority regeneration area for the Council and the New Avenue Estate Regeneration Programme is the third largest estate renewal scheme currently being undertaken in the borough.
- 3.16 After a competitive dialogue procurement process and subsequent Cabinet approval in October 2014, Enfield Council has finalised the Development Agreement contract with our selected developer partner for New Avenue Countryside Properties.
- 3.17 The proposal from Countryside Properties will provide, subject to planning consent, circa 451 new homes. 140 of the new homes will be affordable with the remaining 311 being for private sale. Any future capital receipt will be used to provide additional affordable homes on or off site.

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

- 3.18 The New Avenue Regeneration Programme was approved by Cabinet on 18 July 2012. The July 2012 Cabinet Report explained that the New Avenue Estate was identified as an estate renewal project following an objective analysis of the Council's housing estates.
- 3.19 Compulsory purchase of the legal interests of the third party property owners will enable the development of the site to provide new homes, which will re-house tenants and leaseholders affected by the New Avenue Estate Regeneration and support the Council to achieve vacant possession if negotiations are unsuccessful.
- 3.20 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 and community facilities built to modern standards outweighs the private interests held by the third party property owners.

Planning Position

- 3.21 Countryside Properties will submit a detailed planning application for the whole of the New Avenue Estate. The planning application will involve extensive consultation with affected residents.

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. The Core Strategy provides the policy position to facilitate housing renewal.

3.22 **Core Policy 4 Housing Quality:** 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. In an objective exercise to identify the Council's next housing estate renewal schemes New Avenue was one of the highest scoring estates.

3.23 **Paragraph 5.30 further** explains that the objectives of the Estates Investment Management Strategy indicating a need to look at a full range of options for all estates. The redevelopment option agreed for New Avenue will create up to 451 new homes up to 2023, with a range of sizes and tenures, including affordable homes. The New Avenue Estate scheme will:

- Contribute to a net increase (some 280 units) in the number of homes contributing to Enfield's overall housing supply targets; provide over 400 new homes including a minimum of 140 affordable;
- provide a mix of dwelling types, including homes for families;
- provide a new nursery and community centre;
- provide a new energy centre in association with LVHN; and
- achieve Building for Life 'Gold' standard.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 No alternate option has been considered. Without compulsory purchase order powers the delivery of the whole New Avenue Regeneration Programme would at best be delayed or even put at risk. Depending entirely on successful negotiations between the Council and lessees would make the Council/scheme very vulnerable to a small minority of lessees who might otherwise decide either not to sell or seek to hold the Council/scheme to ransom.

5. REASONS FOR RECOMMENDATIONS

5.1 It is recommended that Cabinet resolves to make a Compulsory Purchase Order to enable the development of New Avenue. The Council being of the view that the proposed acquisition of the Order Land will:

- Facilitate the carrying out of the redevelopment 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.

5.2 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 the New Avenue Estate, as will be obligated in the Development Agreement, prior to the phased handover to Countryside Properties to commence demolition and construction.

- 5.3 The CPO provides the Council with a fall-back position should it not be able to buy back property 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 Properties are purchased in accordance with CLG guidance and best practice (see paragraph 3.9 above). The buyback of property interests and tenant decant costs on the New Avenue estate will be met by the developer up to a pre-agreed total amount. Any cost above the pre-agreed total, as detailed in the Development Agreement, will also be paid by the developer but will be deducted from the capital receipt.

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 New Avenue Estate Regeneration.

6.1.3 The estimated cost to the Council for adopting the CPO route will likely result in an additional cost in legal fees if a public inquiry is required. In addition to the legal fees, the Council will incur other costs associated with organising a public enquiry.

6.1.4 The CPO costs and other associated costs will be included within the total cost being funded by the developer up to the pre-agreed total, any costs above this pre-agreed total will still be funded by the developer but will be deducted from the premium when paid so in effect they will be funded from the HRA.

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.

6.3 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 2.3 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. The developer is responsible for leading on negotiations with the statutory undertakers to reach agreement on relocation of their property interests should this be necessary.

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 New Avenue 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 New Avenue Estate Regeneration Programme contributes to this priority by building strong and sustainable futures for our residents.

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 New Avenue area.

9. EQUALITIES IMPACT IMPLICATIONS

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

10. PERFORMANCE MANAGEMENT IMPLICATIONS

- 10.1 This report does not recommend a change of service or 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.

BACKGROUND PAPERS

None