



Report of: Executive Member for Housing and Development

Meeting of:	Date	Agenda item	Wards
Executive	12 February 2015		Bunhill and Holloway

Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Building more council homes: proposed application for a compulsory purchase order (CPO) in respect of 3 and 5 Rowstock Gardens, Camden Estate, N7 0BG and 8, 9 and 10 Turnpike House, King Square Estate, EC1V 7PB

1. Synopsis

- 1.1 The council is committed to building more new, good quality council homes to help Islington families tackle the cost of living crisis, create more jobs and training opportunities and make the borough a fairer place to live and work
- 1.2 The proposed redevelopment of two small council owned residential blocks at Rowstock Gardens, Camden Estate, N7 0BG and Turnpike House, King Square Estate, EC1V 7PB will help deliver 160 new high quality homes, including larger family sized homes for social rent. The proposals will also bring wider benefits to local residents by way of new and improved community facilities and/or estate improvements.
- 1.3 This report sets out the background to, and seeks the approvals required, to make a Compulsory Purchase Order (CPO) for the acquisition of the leasehold interest in up to five residential premises affected by the proposals for the two estates which are located within the Bunhill and Holloway wards. The details of the properties that need to be acquired to enable the proposed development of new homes to go ahead are set out in the table at 2.1, with site location plans attached at Appendix A for illustrative purposes only.

2. Recommendations

- 2.1 To authorise the Corporate Director for Finance and Resources, in consultation with the Executive member for Housing and Corporate Director for HASS, to take all necessary steps, including the making of Compulsory Purchase Orders (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990, General Vesting Declarations or Notices to Treat to ensure that the leasehold and any other interests in the properties described in the table below where attempts to negotiate a voluntary acquisition of the leasehold interest in accordance with the development timetable have

failed.

Address of premises				Interest to be acquired
Number	Block	Estate	Postcode	
3	Rowstock Gardens	Camden Estate	N7 0BG	Residential long leasehold
5	Rowstock Gardens	Camden Estate	N7 0BG	Residential long leasehold
8	Turnpike House	King Square	EC1V 7PB	Residential long leasehold
9	Turnpike House	King Square	EC1V 7PB	Residential long leasehold
10	Turnpike House	King Square	EC1V 7PB	Residential long leasehold

- 2.2 That, where the Corporate Director of Finance and Resources approves the making of a CPO, the Assistant Chief Executive (Governance and HR) is authorised to take all necessary steps to secure the making, confirmation and implementation of the CPO, including the approval of agreements with the owners and any objectors for the withdrawal of objections to the CPO, the settling of compensation and the acquisition of all interests in the properties on terms recommended by the Corporate Director of Finance and Resources.
- 2.3 To agree that the use of CPO powers in respect of the properties identified in this report is being exercised after balancing the rights of the individual property owners with the requirement to obtain possession of the properties in the public interest.
- 2.4 To agree that the interference with the human rights of the property owners affected by the proposals in this report, and in particular their rights to a home and to the ownership of property, is proportionate, given their rights to object and to compensation, and the benefit to the economic, social and environmental wellbeing of the areas of Islington affected by these proposals.

3. Background

- 3.1 The council is committed to building more new, good quality council homes to help Islington families tackle the cost of living crisis, create more jobs and training opportunities and make the borough a fairer place to live and work.
- 3.2 In identifying opportunities to build new homes we explore the potential for demolition of existing homes which do not meet the needs of our residents to provide more and better quality homes. In all cases we are clear about how existing residents would benefit from the provision of the new homes as enshrined in our New Homes Residents Charter (the Charter).
- 3.4 In many cases the Council needs to acquire ex-Right to Buy (RTB) homes from the current leaseholders on terms acceptable to both parties and this represents one of the key delivery risks.
- 3.5 In every case a voluntary acquisition of a leasehold property is the preferred option but, where all reasonable efforts to reach a satisfactory and timely outcome through negotiation with individual leaseholders have been exhausted, and by way of last resort, the council can make an application for a Compulsory Purchase Order (CPO).

4. Delivering new homes on approved redevelopment schemes

- 4.1 In November 2013 the Executive approved recommendations for the necessary delegated approvals to enable the voluntary acquisition of leasehold properties in blocks or estates where a redevelopment scheme has been approved.

4.2 In November 2014 the Executive delegated authority to the Corporate Director for Finance and Resources, in consultation with the Executive member for Housing and Corporate Director for HASS, to take all necessary steps, including the making of Compulsory Purchase Orders (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990, General Vesting Declarations or Notices to Treat to ensure that the leasehold and any other interests in properties located on three proposed redevelopment schemes at Telfer House, Charles Simmons House and Redbrick Estate in the Bunhill and Clerkenwell wards.

4.3 There are two further new build schemes which have reached a key stage in the development process and approvals are being sought to make an application for a CPO in the event that we cannot reach agreement with some or all of the remaining leaseholders to enable the schemes to be progressed in a timely manner. A summary of each of these two schemes is set out below.

4.4 **Rowstock Gardens, Camden Estate**

The proposal is to demolish an existing block of 6 rented and 2 leasehold properties comprising of bedsits as well as 22 garages. A new building is to be constructed on the site of the existing block with 16 new 1 and 2 bedroom homes, of which 8 will be social rent and 8 will be open market sale. The 22 garages will be replaced with 4 new 3 bedroom homes all for social rent. A planning application is due to be submitted in early 2015.

The negotiations with the home owners, one of which is a buy to let investor and the other has recently returned to live at the property having formerly let the property, are progressing well and it is anticipated that an agreement can be reached to enable a purchase to be completed on mutually acceptable terms. However, in the event that negotiations are not satisfactorily concluded a CPO application may yet be required as an option of last resort.

4.5 **Turnpike House, King Square Estate**

The proposals for the estate include building 140 new homes, including 93 for social rent, a new community centre, improved nursery facilities and estate improvements alongside the provision of a new Moreland School. The plans include the demolition of an existing single storey block of 6 rented and 3 leasehold properties which comprise bedsit type accommodation. A new 3/4 storey building is to be constructed on the site of the existing block with 23 new one and two bedroom homes including 4 ground floor wheelchair accessible units. A planning application was submitted in December 2014 which is due to be determined by Planning Committee in March/April 2015.

The negotiations with the current home owners, all of whom reside in the affected premises as their only or principal home, are ongoing. At this stage we have reached agreement in principle with one of the three homeowners to purchase their home on mutually acceptable terms. We may, therefore, need to make an application for a CPO in respect of some or all of these properties, subject to the outcome of the negotiations and as an option of last resort.

5. **Acquiring leasehold properties: issues**

5.1 With regards to the schemes outlined above negotiations have been ongoing with the leaseholders, having full regard to their legal rights as set out in the **Compulsory Purchase and Compensation Booklets: Business Owners and Occupiers (No 2) and Residential Owners and Occupiers (No 4)** published by the Department and Communities and Local Government on their website at www.communities.gov.uk/publications.

5.2 A residential occupier is entitled to compensation based on the market value of their property, a statutory home-loss and a disturbance payment which reflects the reasonable expenses incurred in moving from and/or selling their home.

5.3 For the most part the right to compensation is restricted to occupiers. There is, however, a limited right for investment owners to recover costs of reinvestment in a replacement property of a similar

value in certain circumstances.

- 5.4 The District Valuation Service (DVS) would typically be instructed by the Council to provide an independent market valuation and the appropriate level of home loss and/or disturbance payment would be negotiated in accordance with relevant CLG guidance and the Charter a summary of which can be found on the council's website at http://www.islington.gov.uk/services/housing/newbuildimprovinghomes/housing_development/new-build/Pages/default.aspx
- 5.5 Where no suitable alternative accommodation is available on reasonable terms then there would be duty to rehouse a resident whose home has been compulsorily acquired provided they were in occupation on the date the notice of making the CPO was published. This rehousing duty could apply to tenants of buy to let investors. They would also be entitled to compensation for disturbance which would typically include removal and other reasonable costs of moving home.
- 5.6 To date we have not been able to reach agreement for a voluntary acquisition and, if we cannot satisfactorily conclude all the individual negotiations, the development plans will be stalled to the detriment of other residents of the blocks/estate and the wider local community who will derive benefits, including jobs, from the proposals to build new homes.
- 5.7 In those circumstances it is considered reasonable to apply for a CPO in respect of properties still to be acquired at Rowstock Gardens and Turnpike House. Whilst the CPO process can be both lengthy and costly these risks are outweighed by the financial and other implications of not being able to proceed with proposals to build new homes. We would, however, continue the negotiation process alongside the CPO process with a view to concluding a voluntary acquisition on a mutually acceptable basis without having to complete the full CPO process wherever possible.
- 5.8 Once homes are acquired on a voluntary or compulsory basis, they can be used to provide much needed and good quality temporary accommodation for homeless families within the borough to ensure that they would not remain empty pending the commencement of the development.

6. Implications

6.1 Financial implications

- 6.1.1 If a CPO is confirmed and implemented, the Council will be liable to compensate the owners for the compulsory acquisition of their leasehold interest.
- 6.1.2 The Council's approved 3 year (2014-15 to 2016-17) new build programme totals £95.2m. The latest indicative 7 year (2014-15 to 2020-21) new build programme totals £173.5m.
- 6.1.3 The purchase price and associated disturbance and compensation payments incurred in acquiring leasehold interests in former council-owned homes sold under the RTB or commercial leases to facilitate a redevelopment of an existing block/estate are taken into account in the overall financial appraisal to ensure the overall development is affordable and value for money.
- 6.1.4 The cost of the voluntary buy back of the leasehold interests in respect of the 5 properties listed at table 2.1 have been incorporated into the current new homes budget and forecast expenditure but any material increase on buyback costs due to a CPO process would be an additional call on HRA resources.
- 6.1.5 In terms of meeting the total costs associated with buybacks whether voluntary or CPO, the RTB pooling scheme allows 50% of the buyback costs to be off-set against net RTB receipts (i.e. the value of receipts after deducting the Government's share) as long as the 50% buyback cost is no more than or equal to 6.5% of the net RTB receipts in the relevant quarter. In addition there is provision to carry forward any unused buyback allowance to accommodate peaks and troughs in the processing of buy backs.

6.1.6 The redevelopment schemes which form part of the 7 year new homes programme spend profile includes Camden Estate and King Square Estate where schemes could achieve a start on site in 2015/16 subject to acquisition of the remaining leasehold interests.

6.2 Legal Implications

6.2.1 Compulsory Purchase Order (CPO)

This report proposes the making of a CPO for the acquisition of up to 5 residential leasehold interests as described in the table at 2.1 above and shown for illustrative purposes only on the site location plans at Appendix A.

The council has the power under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily any land in its area if it thinks that acquiring the land in question will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired, and if the council thinks that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of its area.

The acquisition of the properties in the table is reasonably required so as to enable the proposed redevelopment schemes. Further, the redevelopments will contribute to the promotion and improvement of the economic, social and environmental well-being of the area and the area and local residents by providing better quality and additional social housing and other benefits for local residents and the wider community, for example environmental improvements and/or new or improved community facilities.

A CPO should only be employed as an option of last resort, and only when all other opportunities to secure the redevelopment of the site have been fully explored and exhausted. However, the Secretary of State has recognised that it is appropriate in some situations to make a CPO at the same time as seeking to purchase by agreement given the amount of time needed to complete a compulsory purchase. Council officers have made strenuous efforts to acquire the properties by agreement and time is now running short in relation to the re-development timescales.

6.2.2 Human Rights

A CPO should only be made where there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired.

In respect of human rights, regard should be had in each case in particular to the provisions of Articles 1, the right to peaceful enjoyment of your possessions, Article 6, the right to a fair and public hearing and Article 8, the right to respect for private and family life, of the First Protocol to the European Convention on Human Rights

In relation to Article 1 whilst owners will be deprived of their property if the CPO is confirmed and implemented, this will be done in accordance with the law and they will receive appropriate compensation for their interests. Further, the right under Article 1 is qualified rather than absolute as it permits the deprivation of an individual's possessions where it is in the public interest.

Interference with the right to respect for private and family life under Article 8 is justified under the Protocol if this is in accordance with the law and "necessary in a democratic society" for, amongst other things, economic wellbeing. The interference here will be in accordance with UK law (the Town and Country Planning Act 1990). In considering whether the interference with the right is "necessary in a democratic society" it is necessary to consider whether the interference is proportionate. In this context proportionate means that the interference must be no more than necessary to achieve the identified legitimate aim. Here the legitimate aim is the re-development of existing blocks at Rowstock Gardens and Turnpike Houses to provide more and better quality homes.

In relation to Article 6 those affected by the CPO will have the right to make representations to the Secretary of State and to be heard at any public inquiry.

Therefore there must be a balancing exercise between the public interest and the individual's rights whereby the Council must be able to show that the interference with an individuals' rights by the making of a CPO must be necessary and proportionate. The availability of compensation to those deprived of their property rights is of relevance to the issue of proportionality.

The CPO should therefore only be made where there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired. While each case will need to be considered on its merits it is likely that redevelopment to provide better quality and additional social housing and other benefits for local residents and the wider community, for example environmental improvements and/or new or improved community facilities would demonstrate sufficient public interest to justify interfering with the private rights of those with an interest in the leasehold land.

6.3 **Environmental Implications**

6.3.1 An environmental impact scoping exercise has been carried out and it was identified that the specific proposals in this report would have no direct impacts on the following:

- Biodiversity
- Climate change adaptation
- Energy use and carbon emissions
- Pollution
- Travel and transportation
- Use of natural resources
- Waste and recycling.

6.3.2 However, individual council new build schemes, including those proposed for Camden and King Square estates, have potential impacts on all of the above before, during and post-construction. An environmental impact assessment is, therefore, carried out as part of the development of all proposals to build new homes and submitted with the planning application to ensure that the impacts and mitigation measures are adequate and/or appropriate.

6.4 **Resident Impact Assessment (RIA)**

6.4.1 The Council must, in carrying out its functions, have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity in relation to disability, race and gender and the need to take steps to take account of disabilities, even where that involves treating the disabled more favourably than others (section 49A Disability Discrimination Act 1995; section 71 Race Relations Act 1976; section 76A Sex Discrimination Act 1975)

6.4.2 A potential negative impact on individual residential leaseholders has been identified but this is mitigated through the CPO process which ensures that the rights of affected owners and occupiers are protected and that they receive compensation in line with the relevant legislation and statutory guidance. The key principle is that home owners should not be any better or worse off as a result of a making of a CPO.

6.4.3 All other impacts identified from proposals to build new homes are positive as they are aimed at improving the lives and opportunities afforded to residents to access decent and genuinely affordable homes and increase jobs and training opportunities, helping make Islington a fairer place to live and work.

6.4.4 A copy of the RIA completed for each of the new build schemes for which approval is being sought to make an application for a CPO can be obtained from the author of this report.

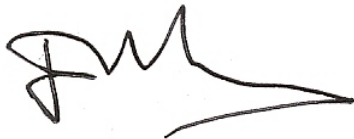
7. Conclusions and reasons for recommendations

- 7.1 The ability to acquire the leasehold interest in homes previously sold under the RTB on estates where proposals to build more high quality homes for local people have been approved is critical to their successful delivery. Given the significant project delivery risks it is preferable to satisfactorily conclude negotiations with leaseholders as early as possible in the development process with voluntary acquisition the preferred option in all cases.
- 7.2 Where it is not possible to voluntarily purchase leasehold interests in residential and commercial premises and, subject to the relevant grounds being established, the option to apply for a CPO should be authorised, subject to the necessary delegated internal approvals. The potential delays and costs associated with the CPO process are outweighed by the benefits to be derived by the wider community from building new homes and the significant investment already committed to bringing forward the proposals. It is therefore considered to be in the public interest for the Council to make an application for a CPO to secure the provision of more and better homes, promote economic, social and environmental wellbeing and contribute to sustainable development in Islington.

Appendices:

Appendix A: Site location plans

Final report clearance:



Signed by: Executive Member for Housing and Development

Date: 27 January 2015

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Date:

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