



Report for:
ACTION

Item Number:

14

Contains Confidential or Exempt Information	No
Title	Housing Regeneration and New Build Update – Green Man Lane Phase 3 and 4 Compulsory Purchase Order
Responsible Officer(s)	Pat Hayes, Executive Director of Regeneration and Housing ext 9120
Author(s)	David Baptiste Head of Housing Development ext 6858 Peter Gaffikin, Housing Regeneration Manager ext 9274
Portfolio(s)	Cllr Anand, Housing
For Consideration By	Cabinet
Date to be considered	12 th July 2016
Implementation Date if Not Called In	25 th July 2016
Affected Wards	Elthorne
Keywords/Index	Housing, Regeneration, Green Man Lane, CPO

Purpose of Report:

This report provides an update to members on the progress made to date on the Green Man Lane estate regeneration scheme and makes recommendations to approve revised areas of land for Phases 3 and 4 to enable appropriation for planning purposes and to make a compulsory purchase orders.

1 Recommendations

That Cabinet agrees to:

- 1.1 The making of Compulsory Purchase Order/s in principle in respect of Phases 3 and 4 of the Green Man Lane Estate Project (as shown on the plan in Appendix 1) generally under the Acquisition of Land Act 1981 and specifically under Section 226(1) (a) of the Town and Country Planning Act 1990 which will be funded from Green Man Lane Estate Project existing approved capital budget as detailed in section 4.4.
- 1.2 The compulsory acquisition of all rights over the land by the creation of new rights pursuant to Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (as required).
- 1.3 Authorise the Executive Director for Regeneration and Housing to take any steps, procedures and measures necessary to discharge all rights, easements, liberties, privileges, advantages and incidents to which the land may be subject.
- 1.4 Delegate authority to the Executive Director for Regeneration and Housing to make the final decision to authorise the making of the necessary Compulsory Purchase Order/s when required and as appropriate

- 1.5 Delegate authority to the Executive Director for Regeneration and Housing, both in advance of and after the making and confirmation of any compulsory purchase order, to negotiate with the owners of interests and rights in the CPO land with a view to acquiring those interests and rights by agreement, to conclude such acquisitions by agreement, and to pay such compensation for the acquisition of the interests and rights as may be proper and reasonable.
- 1.6
 - a. Agree the appropriation of Housing land in principle pursuant to Section 19 of the Housing Act 1985 for planning purposes prior to the transfer of land outlined at Appendix 1 in Phases 3 & 4 and the remainder of 2B, subject to the consent of the Secretary of State if required and .
 - b. Delegate authority to the Executive Director of Regeneration and Housing to finalise the appropriation process when appropriate.
- 1.7 Authorise the Executive Director for Regeneration and Housing to dispose of land to the developer partner under Section 233 of the Planning Act 1990 as required in accordance with the terms of the Principal Development Agreement (as varied).
- 1.8 Authorise the Executive Director for Regeneration and Housing to amend phasing and /or the boundary of the land to be acquired by CPO or agreement or appropriated as necessary following consultation with the Portfolio Holder.
- 1.9 Authorise the Executive Director of Housing and Regeneration to take all steps, procedures and measures including seeking statutory consents and enter into any arrangements necessary for the implementation of the scheme as outlined in this report.
- 1.10 Authorise the Director of Legal and Democratic Services to seek all necessary statutory consents in order to facilitate the redevelopment scheme and authorise the Executive Director for Regeneration and Housing to undertake consultations necessary prior to seeking such consents.

2 Reason for Decision and Options Considered

- 2.1 Further to a report to Cabinet on 14th June 2014, which authorised the promotion of a CPO for Phases 3 and 4 of the Green Man Lane estate regeneration scheme, this report seeks approval to a revised drawing showing a new layout for the areas to be considered as Phase 3 and Phase 4.

3 Key Implications

- 3.1 Phase 1 new build completed in April 2014 and contains 162 new homes (92 for social rent, 49 for shared ownership, 8 for private rent and 13 for private sale). All social rent homes have been tenanted by ex-council tenants. As residents move into new homes on the Estate they will become tenants of A2dominion.
- 3.2 Phase 2A, a small phase containing 10 flats and 4 houses, was completed in July 2012. These 14 social rent homes were tenanted by ex-council tenants.
- 3.3 Phase 2B decant area containing 157 properties in 3 blocks of flats and a terrace of houses has been emptied and demolished. The detailed plans for Phase 2B of the scheme now has Planning Committee approval and is currently under construction and on target to complete in the summer of 2017. It will contain 188 new homes (61 for social rent and 127 for private sale).

- 3.4 Properties in Phase 4A were emptied and have been demolished enabling the construction of the new St John's primary school. This well underway and is on course to complete in 2017.
- 3.5 All secure tenants in Phase 3 have been awarded decant status and all leaseholders contacted to value their properties for the Council to buy them back. A CPO is being prepared and the land in Phase 3 will be appropriated for planning purposes and ultimately, if all conditions are met, transferred to the developer in accordance with the Principal Development Agreement between the Council and the developer.
- 3.6 Negotiations are also continuing with the owners of Dean Hall about re-provision of their building. The current approved masterplan shows Dean Hall located in Phase 3 of the programme and a re-provided hall being located in the block next to the new school which includes the new community centre and the children's centre which is associated with St Johns School. A review of the programme has enabled the demolition of Dean Hall to be included in Phase 4 thereby giving more time to negotiate a move to a new location.
- 3.7 If the revised area of land to be included in the CPO for Phase 4 is approved as proposed, this will provide the Council with a suitable opportunity to enable it to ensure that if a negotiated settlement cannot be reached with the owners of Dean Hall then it can be acquired by use of a CPO within necessary timescales.
- 3.8 Future programme

Phase 2 is due for completion by the middle of 2017

Phase 3 is due for completion by the end of 2019

Phase 4 is due for completion by the end of 2022

4 Financial

- 4.1 The council's development partner has valued the acquisition land of Phase 3 at £1.113m and Phase 4 at £2.724m. There are provisions within the PDA to obtain the land back at Fair Value should the developer default or is declared bankrupt.
- 4.2 In terms of rent loss for the properties, this is an ongoing reduction in the HRA revenue (rental income), which has been accounted for within the HRA revenue budget and build into the HRA Business Plan going forward. The total for Phase 3 and 4 of the decant phase is a reduction in income received of £0.257m per year. The costs of the decant phases are built into the HRA Capital budget relating to Green Man Land regeneration project, reflected in Table 4.3
- 4.3 The current allocation of resources in the approved capital programme is as follows:

HRA Capital Programme	Approved Budget 2016/17	Approved Budget 2017/18	Approved Budget 2018/19	Approved Budget 2019/20	Total Budget
	£m	£m	£m	£m	£m
Green Man Lane	2.572	1.268	1.995	1.412	7.247
Total Expenditure Budget	2.572	1.268	1.995	1.412	7.247
Funded by:					
Capital receipts*	2.572	1.268	1.995	1.412	7.247
Mainstream Funding	-	-	-	-	-
S106	-	-	-	-	-
Total Funding	2.572	1.268	1.995	1.412	7.247

*The funding will come from the developer's contribution which will pay back to the Council its costs of producing vacant possession for each phase

5 Legal Implications

- 5.1 The redevelopment and regeneration of the Green Man Lane Estate is dependent upon the Council being able to transfer land to its developer partner with vacant possession and unencumbered by any legal rights or interests. To that end a compulsory purchase order is necessary to ensure that all such rights and interests may be acquired by the Council prior to the transfer to the developer partner.
- 5.2 The most appropriate enabling power is Section 226(1)(a) of the Town and Country Planning Act 1990 whereby a local authority has the power to acquire compulsorily any land in their area if the authority thinks that the acquisition will facilitate the carrying out of a development, re-development or improvement on, or in relation to, the land and thinks also that this will help to promote or improve the economic, social or environmental well-being of the area. The recommendations above also allows for residual action to acquire rights and interests whether by the creation of new rights under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 or otherwise.
- 5.3 Upon the completion of a compulsory acquisition of land under Section 226 (i) (a) of the 1990 Act (as will be the case here) all private rights of way are extinguished.
- 5.4 Under section 122 of the Local Government Act 1972 the Council has the power appropriate land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation;
- 5.5 Where the land is acquired or appropriated for planning purposes, it will then be held by the Council within Part 9 of the Town and Country Planning Act 1990. The significance is that by virtue of Section 237 of the 1990 Act any erection, construction or carrying out of any maintenance of any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are undertaken in accordance with planning permission, even if they interfere with third part rights.
- 5.6 The purpose of Section 237 is to ensure that where the land has been appropriated for planning purposes, the existing rights, which could otherwise prevent the development of that land from proceeding in accordance with the planning permission, can be overridden. The rights will be overridden whether the Council or a party deriving title from us undertakes the development.
- 5.7 The power contained in Section 237 does not remove the legitimate rights of parties to compensation, which may arise from the interference with their rights, but it does remove the potential for such parties to frustrate the development by obtaining an injunction to prevent the interference with their rights.
- 5.8 If any affected parties claim compensation, then the Council will be liable to pay such compensation.
- 5.9 Under section 233 of the 1990 Act the Council has powers to dispose of land that is held by the Council for planning purposes.

6 Value For Money

- 6.1 The promotion of a CPO will ensure that the Council can buy back all interests in Phases 3 and 4 at market value.

7 Sustainability

- 7.1 All new estate regeneration schemes are designed to the Council's new build standards including Code Level 4 of the Code for Sustainable Homes; Lifetime Homes, and Secure by Design. Where feasible measures will be included to address fuel poverty.

8 Risk Management

- 8.1 The promotion of a CPO will reduce the risk of the Council having to pay more than market value to secure all the interests in Phases 3 and 4 and secure possession within the appropriate timescales.

9 Community Safety

- 9.1 Improvements to community safety are included in briefs to developer partners where this is identified as a regeneration need on the scheme.

10 Links to the 6 Priorities for the Borough

Prosperous

A comprehensive jobs and skills training programme for local residents is included with each regeneration project to ensure local people have an opportunity to gain from the development through work opportunities.

Safer

A newly designed estate will consist of high quality homes designed to improve safety. The Council is committed to working with the Police to ensure developments are "secure by design".

Healthier

The comprehensive regeneration of estate will improve public health through better design of housing and the alleviation of overcrowding. Provision is made for residents with disabilities and the provision of wheelchair accessible housing.

Cleaner

The incorporation of good design will ensure that hidden and isolated areas will be less likely to suffer from fly tipping.

Fairer

The allocation of new housing on each Estate is managed through a community lettings plan agreed by and with the residents.

Accessible

Comprehensive regeneration of estates will deliver better transport connectivity in the area and provide an updated parking management plan.

11 Equalities, Human Rights and Community Cohesion

- 11.1 Under the Human Rights Act 1998 which came into force on 2nd October 2000 all public authorities must act in accordance with the European Convention on Human Rights. A property owner has the right to respect for his/her private and family life and home and there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary for the economic well-being of the country (Article 8). The exercise of powers of compulsory purchase by the Council in accordance with statute is considered a proportionate course of action to

secure the economic well-being which will follow from the implementation of this major housing scheme.

11.2 A person is entitled to the peaceful enjoyment of his/her possessions and no one shall be deprived of his/her possessions except in the public interest and subject to the conditions provided for by law (Article 1 of the First Protocol). The Council is permitted to control the use of property in accordance with the general interest and the exercise of powers of compulsory purchase in accordance with statute is considered a proportionate course of action to secure in the general interest the implementation of this major regeneration scheme

11.4 The new estate will have homes for affordable rent and outright sale. As such, this project will help reduce inequality for access to good quality housing given they are affordable and will be available to residents of the Borough who are unable to purchase their own homes regardless of age, dependent/caring responsibilities, disability, gender, racial/ethnic group, religion/belief, sexual orientation, transgender or transsexual state.

12 Staffing/Workforce and Accommodation implications:

The current Housing Regeneration Team has the resources to deliver this project but specialist support is required from finance, legal, design and land and property consultants.

13 Property and Assets

Housing regeneration schemes include all housing and non dwelling HRA assets on the estates. The Green Man Lane scheme also includes school land and other non HRA land.

14 Any other implications

None

15 Consultation

The estate residents are consulted on a regular basis. The CPO process includes a specific statutory consultation process

16 Appendices

Appendix 1 - CPO areas for Phases 3 and 4

17. Background Information

Cabinet Reports including October 2014, April 2014, March 2013, December 2010 and October 2009.

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Pat Hayes	Executive Director of Regeneration and Housing	11.06.16		
Jackie Adams	Head of Legal (property & Regulatory)	05.06.16	14.06.16	
Ross Brown Kieran Farrell	Acting Director of Finance Finance Consultancy	05.06.16	12.06.16	
Jasbir Anand	Cabinet Member for: Housing	11.06.16		

1 Report History

Decision type:	2 Urgency item?
Key decision	No
Report no.:	Report author and contact for queries: Peter Gaffikin Housing Regeneration Manager, x9274