

AGENDA ITEM: 9 Pages 78 – 83

Meeting	Cabinet Resources Committee
Date	19 October 2010
Subject	Stonegrove Spur Road Housing Regeneration – Advance disposal of land in Phase 5
Report of	Cabinet Member for Resources and Performance
Summary	The report seeks approval for the appropriation from housing purpose to planning purposes and to the subsequent disposal of two parcels of land shown hatched blue on drawing no: 24146/2 which is currently held in Phase 5 of the Stonegrove Regeneration Scheme.

Officer Contributors	Siobhan O'Donoghue- Principal Valuer Susan Botcherby – Senior Project Manager Tony Westwood – Principal Project Manger
Status (public or exempt)	Public (with a separate exempt report)
Wards affected	Edgware
Enclosures	Drawing no: 24146/2
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Siobhan O'Donoghue, Property Services, 020 8359 7360.

1. RECOMMENDATIONS

- 1.1 That pursuant to the provisions of Section 122 of the Local Government Act 1972 the appropriate Chief officer be authorised to appropriate to planning purposes the land shown on Drawing no: 24146/2 attached to this report, which is presently held by the Council as Housing Land, prior to the disposal of the land.**
- 1.2 That the Council enters into a deed of variation of the Principal Development Agreement (the PDA) to give effect to the exclusion of the land the subject of this report from the Phase 5 of the regeneration scheme and to remove it from the operation of the provisions of the PDA.**
- 1.3 That subsequent to 1.1 and 1.2 above and subject to any necessary consent of the Secretary of State, the freehold transfer of land in Council ownership as shown hatched blue on drawing no: 24146/2 attached to this report, to Barratt Evolution Limited be approved, on the basis of the terms set out in the accompanying exempt report.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 27 February 2006 (Decision item 4) – resolved to:
 - (a) proceed to develop proposals for the regeneration of the Stonegrove Spur Road estates;
 - (b) approved Heads of Terms for a Preliminary Development Agreement (negotiation agreement) between the Council, Family Mosaic Housing Association and Unitary Ltd; and
 - (c) delegated approval of the final arrangements to the Cabinet Member for Regeneration.
- 2.2 Cabinet Member for Regeneration and Development approved by delegated powers on 6 April 2006 the Heads of Terms for a Negotiation Agreement between the Council and its partners.
- 2.3 Cabinet, 18 June 2007 (Decision item 6) – approved that the final terms of the Principal Development Agreement and legal arrangements be approved by the Cabinet Member for Regeneration and Development under Delegated Powers.
- 2.4 Cabinet Resources Committee, 2 September 2008 (Decision item 11) – approved amendments to the previously agreed financial provisions and other relevant matters in the Principal Development Agreement.
- 2.5 Cabinet Member for Community Services approved by delegated powers (DPR 895) on 17 September 2009 a deed of variation to the Principal Development Agreement (PDA) that would enable the PDA to become unconditional on or before the first anniversary of entering into the PDA due on 24 September 2009.
- 2.6 Cabinet Member for Community Services approved by delegated powers (DPR 900) on 23 September 2009 an extension to the First Expiry Date as defined in the PDA.
- 2.7 Cabinet Member for Community Services approved by delegated powers (DPR 906) on 28 October 2010 a further extension to the First Expiry Date as defined in the PDA.

- 2.8 Cabinet Member for Community Services approved by delegated powers (DPR 942) on 24 November 2009 the final terms of the PDA as varied in a deed of variation dated 1 October 2009. The Cabinet Member also agreed the execution of the following documents:
- (i) Estate Management Deed;
 - (ii) Strategic Indemnity Agreement (SIA) known in the PDA as the CPO Indemnity Agreement;
 - (iii) transfer of affordable development stage 1a to Family Mosaic Housing and stage 1b and 1c to Unitary Ltd;
 - (iv) Supplemental Agreement to the Section 106; and
 - (v) PDA becoming unconditional in order that the Stonegrove and Spur Road Estates Regeneration scheme may proceed.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The re-development of Stonegrove and Spur Road Estate is in accordance with the ambitions and policy objectives of The London Plan and the Barnet Unitary Development Plan.
- 3.2 The regeneration and development supports the Council's Corporate Plan 2010 – 2013 priority 'A Successful London Suburb' through the strategic objective "to ensure residents continue to feel that Barnet is a place where people from different communities get on together, including through effective management of our regeneration programmes".
- 3.3 This scheme will make a significant contribution to the Council's Local Area Agreement housing targets and underpins the ambition and policy objectives of the Council's Housing Strategy to provide additional homes.

4. RISK MANAGEMENT ISSUES

- 4.1 Without the additional land, Phase 2a of the Stonegrove Regeneration Scheme cannot be delivered in accordance with the planning permission as this land is required to provide the proposed access road entrance. Without this land the design for this phase will need to be re-visited and this would cause a risk to its deliverability which could impact negatively on the delivery of subsequent phases.
- 4.2 A disposal at less than best consideration would require consent from the Secretary of State.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Stonegrove and Spur Road Regeneration Scheme will replace 603 homes and provide 999 new homes to deliver a mix of 339 general needs rent, 140 low cost home ownership and 520 private sale as well as a new community centre. The Council will have 100% nomination rights to the new affordable housing units and re-housing offers will be made to all the existing secure tenants on the estates. Thus, the regeneration scheme will provide a new area of mixed tenure housing and will make this part of the Borough a better place to live, leading to improved community cohesion in an area with a highly diverse population.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 As there is no guarantee that the Stonegrove Spur Road regeneration will be delivered in its entirety, Barratt Evolution Limited have agreed to pay a capital receipt for the advance acquisition of the additional land as showing on drawing no: 24146/2. Full details are set out in the accompanying exempt report.
- 6.2 There are no procurement, performance and value for money, staffing, IT or sustainability implications. The financial and property implications are set out below.

7. LEGAL ISSUES

- 7.1 The Council has the power to dispose of land held for housing purposes under section 32 of the Housing Act 1985 and further the power to dispose of non housing Land under the provisions of Section 123 of the Local Government Act 1972 as amended (LGA1972).
- 7.2 The Secretary of State has set out General consents for the disposal of both housing and non housing land; however, if the transaction does not fall within the relevant general consent, the Council would have to seek specific consent from the secretary of state for the disposal. If the land is appropriated to planning purposes as recommended by this report, then, the land would not be treated as housing land at disposal and would be dealt with having regard to the provisions of section 233 of the Town and Country Planning Act 1990 (TCPA 1990) (which deals with disposal of Land that is held for planning purposes) and the requirement to obtain best consideration for the land or to seek the consent of the Secretary of State for the disposal were, the capital receipt is for less than best consideration reasonably obtainable.
- 7.3 Section 122 of the LGA 1972 provides that a Local Authority may appropriate Land from one purpose to another, when the Land is no longer required for the purpose for which it was previously held.
- 7.4 Section 19 of the Housing Act 1985(HA 1985) as amended provides a restriction on the Local authorities power to exercise the power granted under Section 122 where the land proposed to be disposed of by the Council is held for the purpose of part 11 of the HA 1985 (provision of housing accommodation). Specifically, subsection 2 of section 19 of the HA 1985 provides that a local authority cannot without the consent of the Secretary of State appropriate to other purpose land held for the purpose of part 11 of the HA1985, where the land consists of part of a house or forms part of a house. This consent is not required in this instance, as the land in question does not form part of a house or consist of a house.
- 7.5 If the land is appropriated to planning purposes, regard would have to be given to whether there is a requirement for consent from the Secretary of State pursuant to Section 233 of the TCPA 1990. This consent is required in cases were land that is held for planning purposes is to be disposed of for less than best consideration.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution, in Part 3, Responsibility for Functions, paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

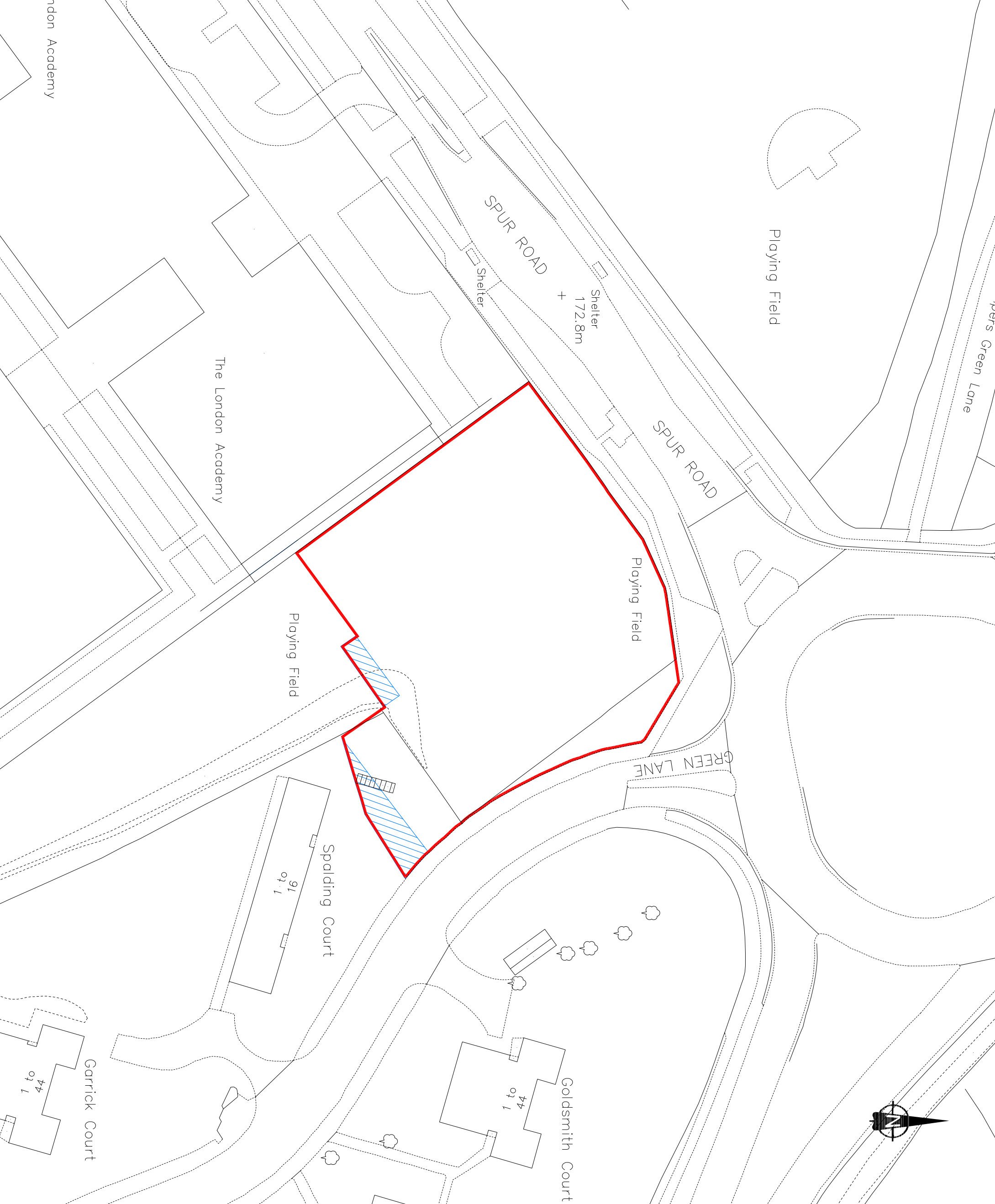
- 9.1 The Council are currently working with their partners, Family Mosaic Housing Association and Barratt Evolution Limited (formerly Unitary Limited) on the Stonegrove Spur Road Regeneration scheme. Phase 1 of the scheme has been transferred to the Council's respective partners and the Council are now working on the next development phase.
- 9.2 The phasing plan was approved as part of the Principal Development Agreement (PDA) and all conditions precedent had been satisfied for Phase 2a of the scheme. However, following detailed planning consent, it was found that the boundary line within the PDA was not in accordance with the planning consent. Therefore, additional land is required to provide part of the proposed access to the new development.
- 9.3 Barratt Evolution Limited is ready to begin on site and require certainty that the additional land will be transferred to them in accordance with their programme. The Council could seek consent from the Secretary of State to dispose of the land in accordance with the PDA, however this is not guaranteed and could cause a further delay fettering the delivery of the Phase 2a. Barratt Evolution Limited has agreed to purchase the land in accordance with the General Consent to mitigate these risks and continue to deliver the Stonegrove project.
- 9.4 The additional land comes within Phase 5 of the regeneration and there is no guarantee that this will be delivered. The PDA provides that the Developer has no obligation to commit to the development of respective phases within the scheme without first carrying out a viability test of the phase. The access provided within Phase 2a will benefit Phase 5 should the project be delivered in its entirety.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal – TE
CFO – CM

NOTES:



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Revision and Date	Description	Initial

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SCHEME:
STONEGROVE REGENERATION
PHASE 2A

TITLE:
PHASE 2A SITE

Scale: 1:500	Date: 28/04/10
Initiated S.O.D.	Drawn: K.E.B.
DRAWING NO: 24146/2	Checked S.O.D.