
AGENDA ITEM: 11 Pages 57 – 70

Meeting	Cabinet Resources Committee
Date	24 May 2011
Subject	Stonegrove & Spur Road Estates Regeneration
Report of	Cabinet Member for Housing, Planning and Regeneration
Summary	To seek approval to vary the Principal Development Agreement and to report on the latest financial position on the business case. To approve the making of discretionary payments, in lieu of Home Loss and Disturbance payments, to secure tenants who transfer to Phase 2 of the regeneration

Officer Contributors	Stewart Murray, Director Planning, Housing and Regeneration; Tony Westbrook, Principal Project Manager Strategic Planning and Regeneration; Susan Botcherby, Senior Project Manager, Strategic Planning and Regeneration
Status (public or exempt)	Public – with separate exempt report
Wards affected	Edgware
Enclosures	Appendix 1 – HCA Conditions of Funding Appendix 2 – Financial Reconciliation
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	N/A

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1. RECOMMENDATION

- 1.1 That the Cabinet Resources Committee note the financial position of the Stonegrove and Spur Road Estate Regeneration (SGSR) programme as outlined in this report.
- 1.2 That Officers are authorised to negotiate changes to the Principal Development Agreement enabling the Council to comply with the Homes and Communities Agency (HCA) funding conditions (as set out in this report and the exempt report).
- 1.3 That the deferral of a £5m capital receipt (as set out in paragraph 6.12) and other proposed changes to the Principal Development Agreement as set out in this and exempt report, be approved subject to the Council's legal advisers, Nabarro LLP, being satisfied that the final form of the legal documents reflects the revised terms.
- 1.4 That approval be given to the making of a discretionary payments in lieu of Home Loss and Disturbance payments being made to the secure tenants from the existing rented accommodation on the Stonegrove and Spur Road housing estates when they either move into new rented units in phase 2 (Sterling Green) of the development or voluntarily move off the estate.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 18 June 2007 (Decision 6): Resolved (amongst other issues):
 - i. That the masterplan prepared by Barratt Homes Ltd is approved by Cabinet acting for the Council
 - ii. That the terms of the Principle Development Agreement (PDA) be entered into with the consortium of Family Mosaic Housing, Unitary and Barratt Homes Limited (subject to the approval of the final business plan by Cabinet Resources Committee)
 - iii. That (subject to the satisfactory resolution of the above two issues, the submission of a planning application and the Council entering into a Compulsory Purchase Order Indemnity Agreement), the Council makes a Compulsory Purchase Order for the acquisition of all non-Council owned property and other property in the Regeneration area
 - iv. That (subject to the Principal Development Agreement becoming unconditional), Chief Officers be instructed to appropriate the Council owned lands within the Stonegrove and Spur Road Regeneration Area from existing uses to planning purposes
- 2.2 Planning & Environment Committee, 3 March 2008 (Decision 7) the Committee approved the outline planning permission for the Stonegrove & Spur Road Regeneration Scheme of 937 units subject to the completion of a Section 106 Agreement.
- 2.3 Cabinet Resources Committee, 25 March 2008 (Decision 4) - Resolved that the financial provisions and other proposed changes to the Principal Development Agreement as set out in the Cabinet Members' report be approved.
- 2.4 Cabinet Resources Committee, 2 September 2009 (Decision 12). Resolved:
 - i. That approval is given to the expenditure of £3.46m on the acquisition of leases required to progress the next phases of the SGSR regeneration programme.

- ii. That approval is given to the expenditure of £1.192m revenue funding to progress the next phases of the SGSR regeneration programme.
- iii. That officers are authorised to negotiate the proposed acquisitions in accordance with the Council's advance buyback scheme.

2.5 Planning & Environment Committee, 16 March 2011 (Decision 6) – approved the Reserved matters application for scale, external appearance and landscaping in relation to Development Phase 2 (comprising part of Character Zones 2 and 4) of the redevelopment of SGSR, comprising 107 residential units, including 19 houses, pursuant to Condition 3 of outline planning permission reference dated 06/10/2008.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The SGSR regeneration project contributes to the delivery of the Corporate Plan 2010/2013 priority of a successful London Suburb. A strategic objective under the above priority is: 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.

3.2 Under the One Barnet A Sustainable Community Strategy for Barnet (2010-2020) – *Growing Successfully*
The SGSR Regeneration Scheme provide 937 new homes designed to a high standard as well as quality open spaces, improved parking provision, a community hall and employment opportunities (through the Section 106 contribution). Thus the scheme is not solely concerned with the provision of new housing, but with the establishment of a new and sustainable neighbourhood in which people will want to live, work and prosper within a growing, mixed strong community.

4. RISK MANAGEMENT ISSUES

4.1 Regeneration to date has been secured at SGSR by a contribution of private sector, RSL, Council and Government funding injections. Beyond the phases currently under construction the next phase of the scheme is currently unviable. Failure to agree to vary the Principal Development Agreement (PDA) in line with the Heads of Terms as set out in the exempt report would mean that scheme progress will cease after June 2012 and the Homes and Community Agency (HCA) National Affordable Housing Programme (NAHP) funding agreed for the scheme would need to be repaid or returned to the HCA. The NAHP model of funding ceased as of end of March 2011. This type of funding will not become available again.

4.2 The proposed change, from the current PDA provisions, to the payment of the Council's land receipts as set out in the exempt report may mean that if market conditions do not improve the Council may not fully realise the full monetary value of the land receipts as set out in the PDA. The HCA conditions also mean that the Council's expected land receipts will be deferred until the end of the project. It will also risk the regeneration programme stalling mid-point with all the consequences that that would present, including potential blight and resident uncertainty.

4.2 In the event that the agreement with Barratt Homes Ltd is terminated the Council will retain ownership of the remaining (i.e. non re-developed) land and buildings. This will place the Council in a position to recover investment in the scheme through development of new proposals.

- 4.3 Previous reports noted that in the event that the scheme fails to proceed, any acquired properties could be sold and the Council's investment recovered. In the current market, however, this is unlikely to be feasible, due to the general decline in property values in the last 2-3 years, though this has not been quantified.
- 4.4 Should the scheme be delayed the Council will need to consider extending the current unsecured tenancy arrangements for properties purchased for hardship purposes. This may prove unpopular with existing residents and result in the estate housing increasing numbers of tenants in non-secure homes, exacerbating transience and related problems.
- 4.5 Failure to approve funding would leave the Council unable to fulfil its obligations under the terms of the revised Principal Development Agreement (PDA), as set out in Clause 6. This may leave the Council open to legal action from Barratt Homes Ltd and Family Mosaic for breach of contract.
- 4.6 Failure to approve funding would threaten the momentum of the scheme. Given the current economic climate, maintaining progress and minimising delays is critical to keeping down costs and ensuring the development progresses. Under these proposals, the developers, Barratt Homes Ltd, will agree to work with the Council to help implement any Council CPO, and enter into the Strategic Indemnity Agreement, as previously approved by the Council, which will give certainty to assembling the rest of the site.
- 4.7 Providing the scheme was viable the Council had certainty that the remaining land receipt of £5m would be paid in line with the PDA. The proposed new arrangements, as set out in the Heads of Terms, defers the land receipts to overage. There is a risk that if the scheme does not generate a sufficient profit that the Council will not receive the £5m in lieu of the land receipts.
- 4.8 There is a risk that continued economic downturn will put further pressure on the viability of the scheme and the scheme financial model will require regular monitoring and review by the project board.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 SGSR will deliver a mix of 937 affordable, intermediate and private sale flats and houses which will enhance the community cohesion in an area with a highly diverse population. Delivery of the Regeneration scheme is being conducted in consultation with the SGSR Partnership Board which represents the interests of all residents of the Stonegrove and Spur Road Estates. The Partnership Board is consulted on all aspects of delivery including the planning process, scheme design, decanting and estate management issues.

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

Background

- 6.1 This report has been prepared to provide an update on the ongoing financial situation of SGSR, and to explain the changes required to the PDA as a result of the HCA funding. So far, £8m Housing Revenue Account capital provision to support advanced and hardship acquisitions was agreed by Cabinet Resources Committee on 16 June 2005. This funding has been utilised to purchase 16 'advanced' and 13 'hardship' properties.

- 6.2 The Council also acquired the lease on the All Souls Land. This land was purchased to facilitate the re-siting of the old Edgware School Playing Fields, allowing for the London Academy to be built and freeing up the old school grounds for development as Phase 1 of the Stonegrove programme
- 6.3 The development costs associated with the scheme will be recovered from Barratt Homes Ltd as per the terms of the PDA. The PDA was approved by Cabinet on 18 June 2007 and amendments to it on 25 March 2008.
- 6.4 Phase 4 (Sterling Court) was deemed financially unviable. The Council entered into negotiations with its partners, Family Mosaic and Barratt Homes Ltd to seek solutions to bridge what was initially a £17m funding gap.
- 6.5 All partners made a contribution to reduce the funding gap with the Council agreeing to reduce its costs under the PDA by £1m, Family Mosaic contributing £2m and Barratt Homes Ltd adjusting its minimum prior return.
- 6.6 Barratt Homes Ltd and Family Mosaic successfully submitted a bid to the HCA for £11m under the National Affordable Housing Programme. An allocation of £9.65m has been made subject to conditions as detailed in the exempt report. The funding will secure the remainder of the total development of 656 homes with Phase 4 (Sterling Court) providing 107 affordable homes, 19 of which will be houses.
- 6.7 The HCA made it a pre-condition of grant drawdown that the Council, Barratt Homes Ltd, Family Mosaic agree Heads of Terms to vary the PDA by 31 March 2011. The Heads of Terms are included in the exempt report. These were agreed by the deadline, but are subject to formal committee approval by the Council.
- 6.8 The Council was originally due a land receipt totalling £6m, with £1m already received for Phase 1. This report seeks Cabinet Resources Committee approval for the deferral of £1.35m for Phase 2 (Sterling Green) and £3.65m for Phase 4 (Sterling Court) to overage as detailed in the Exempt Report.
- 6.9 To complete the scheme under the proposed new arrangements the PDA will need to be varied as follows:
- Barratt will be obliged to complete the whole scheme by September 2018;
 - A CPO will be pursued for the whole scheme;
 - A detailed planning application for the remainder of the scheme will be submitted to the Council;
 - Barratts will be under obligation to build the remaining affordable housing (63 Social Rent and 74 Shared Ownership) achieving practical completion by March 2016.
- 6.10 Under the Heads of Terms, which are subject to contract, the parties have agreed to negotiate the detail and enter into formal legal agreements by 31 May 2011 with a long stop date of 30 June 2011. The outcome of the negotiations will require a variation to the PDA with the removal of viability testing, revision of the Master Plan to reflect the change in phasing and other financial matters as detailed in the exempt report.
- 6.11 One of the provisions of the Heads of Terms is that Family Mosaic and Barratt have entered into a revised Affordable Housing Agreement. The existing agreement regulates matters between Barratt Homes Ltd and Family Mosaic in relation to cross subsidy and the arrangements for construction and transfer of affordable housing. The revised agreement sets out the basis on which they are committed to the completion of the

scheme. This does not affect the decanting provisions for the existing secure tenants or leaseholders on the estate.

Financial Issues

- 6.12 The HCA Conditions of Funding are that none of the £9.65m HCA grant shall be used as land receipts payments by the Council. The effect of this is that £5m of land receipts will be deferred until 2017, the expected completion date
- The Council will need to refund £1.35m of land receipts received from Barratt Homes in March 2011
 - The Council will defer receipt of future land receipts of £3.65m, until the end of the project (currently payable part way through the project)
 - This total sum of £5m will be the subject of an Overage Agreement, the details of which are included in the exempt report

These sums are receipts for the General Fund. This report seeks Cabinet Resources Committee approval for the deferral of these receipts as set out above.

- 6.13 The Council has previously agreed to make an £8m contribution to the project. This £8m is referred to as the 'Land Assembly Fund' (LAF). The LAF costs included the costs of negotiating the repurchases of leaseholder properties together with the associated home loss and disturbance payments and stamp duty as applicable and also include the tenant home loss and disturbance payments associated with decanting blocks. Where the costs exceed the £8m LAF, and are not covered by the Strategic Indemnity Agreement, the Council can recover these from the Developer. The PDA therefore enables the Council to recover the following costs:

The LAF currently stands at £8,083,974. The Council is in the process of recovering the extra £83,974 from the Developer.

Project Monitoring costs – the PDA currently allows the Council to reclaim up to £1m with an annual limit of £150,000. Current expenditure stands at £30,539. The Council is in the process of verifying these figures and claiming this sum from the Developer. Under the proposed Heads of Terms this sum will be reduced to £500,000, as part of the £1m savings being offered by the Council, referred to in 6.5.

- 6.14 There are non-recoverable costs of £1,276,136 going back to 2003 relating to historic consultancy fees and independent residents advisor costs incurred prior to the scheme starting on site, and LBB staffing costs, that cannot be reclaimed from the developer. See Appendix 2 for details. However, as part of the Strategic Indemnity Agreement (part of the PDA) a payment of £265,000 was negotiated to go towards LBB's historic costs, of which LBB has received £100,000 to date and £165,000 is yet to be paid.
- 6.15 Under the scheme's PDA the Council is responsible for land assembly with the developer indemnifying the council for associated costs. Below is an estimated list of the costs and when they are expected to be incurred, though they can be claimed from the developer prior to being expended.
- 6.16 During 2011/12 the Council is due to reclaim £670,140 from Barratt Homes Ltd and Family Mosaic (see 6.11).
- 6.17 In line with the PDA the Council envisages claiming the capital and revenue costs from the developer under either the Strategic Indemnity Agreement (SIA) or the PDA for all remaining property acquisition costs as follows:

• 2012/13	£12.324m
• 2013/14/15	£5.047m
• 2015/16	£2.692m
 Total	 £20.063m

This estimate should cover all expected costs, and the SIA provides for the Council to be put in funds by Barratt Homes prior to the money being expended. There may be a need for advance acquisitions on this scheme, and if this is the case, a report will be brought back to Cabinet Resources Committee seeking approval for this.

- 6.18 A full reconciliation exercise of the Council's Historic Costs since 2005 has been carried out in conjunction with the Finance Team, to ensure that the figures reported reflect the correct position, as far as it is possible to ascertain. This financial reconciliation is included in the tables in Appendix 2.

7. LEGAL ISSUES

- 7.1 The proposals in this report would result in further financial assistance and gratuitous benefit to the Scheme. Section 25 of the Local Government Act 1988 requires local authorities to obtain the consent of the Secretary of State in circumstances such as the one proposed by this report.
- 7.2 Nabarro LLP's comments on the proposed Heads of Terms are included in the exempt report.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution, Part 3, Responsibility for Functions, Section 3.6 – Functions delegated to the Cabinet and Resources Committee – includes 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 Plans for the regeneration of Stonegrove and Spur Road Estates have been under development since the Council appointed Family Housing Association and Unitary as its partners in 2001. Unitary were subsequently acquired by Barratt Homes Ltd, and the purchaser was confirmed as the Council's private sector partner in 2006. The Masterplan for the re-development of the estate was approved by Cabinet in June 2007 and the PDA agreed by Cabinet in September 2008.
- 9.2 The pilot phase of 62 new affordable homes (Penniwell Close) was completed in June 2008. These are now occupied by secure tenants decanted from Goldsmith, Collinson and Powis Courts.
- 9.3 The PDA for the main scheme was signed September 2008 and planning consent was issued 6 October 2008.
- 9.4 Progress to date
The scheme will deliver 937 new homes, 417 affordable and 520 private for sale. To date, 116 new homes (Canons Court - 78 affordable, 38 private for sale) have been completed and are fully occupied. 98 homes (Sterling Green - 62 affordable and 34 private for sale) are due for completion by August 2011 and a further 67 (Academy Court - all for private

sale) will be completed in Autumn 2012.

9.5 Barratt Homes and Family Mosaic successfully submitted an application to the HCA for funding under the National Affordable Housing Programme. The HCA allocation of £9.65m will secure delivery of the remaining 656 homes, 277 of which are designated affordable housing. The Developer made a start on site at the end of March 2011 with completion of the new homes due in March 2013. The conditions of funding required that Family Mosaic enter into a conditional building contract with the Developer as well as a revised Affordable Housing Agreement. Family Mosaic had to draw down the funding and the Council had to grant a licence to occupy and carry out the works by 28th March 2011. The Partners have fulfilled these requirements.

9.6 Deferment of the Council's Land Receipts

The key decision being recommended in this report is that the Councils land receipts in the sum of £5m (£1.35m already received and £3.65m due in the future) are to be deferred until the end of the project expected in 2017, and will come from an overage agreement which relies on the project making a profit. The advantage of the proposition is that £9.65m of additional funding is brought into the project now from the HCA, which will secure delivery of the whole regeneration scheme. There is a financial risk to the Council from this deferment, but it does secure the full delivery of one of the Councils premier estate regeneration projects. Our development partners, Barratt Homes, will be incentivised in the revised overage agreement (as set out in the Heads of Terms in the exempt report) to achieve the required level of profits to provide the full payment of the agreed land receipts by 2017.

9.7 Discretionary Payments

Consent is also sought for the making of discretionary payments in lieu of Home Loss and Disturbance payments being made to the secure tenants from the existing rented accommodation on the Stonegrove and Spur Road housing estates when they either move into new rented units in phase 2 (Sterling Green) of the development or voluntarily move off the estate. Approval for the financial aspect of this was received previously in the CRC Decision on September 2009 referred to in section 2.4.

10. LIST OF BACKGROUND PAPERS

10.1 None

Legal – MM/TE

CFO – JH

Appendix 1

HCA Conditions of Funding

Conditions for Stonegrove Start on Site claim March 11

1. All start on site monies claimed by Family Mosaic on completion of the building licence from Barnet Council and the conditional contract between with Barratt Homes will not be paid to Barratt Homes until the overage agreement between HCA and Barratt Homes has been completed. Long stop date for completion and contract going unconditional is the end of Q1 11/12(June 2011)
2. The allocation of £9.65m will be the final allocation of resource to the Stonegrove regeneration project from the HCA and will secure the remainder of the total development (656 homes). For this phase, known as Sterling Court, the HCA will review the completion date of 20. 03.13, with a view to recover subsidy on any slippage. The HCA require a defined monitoring role and assurance through key milestones and completion trajectories for the remainder of the scheme both affordable and private homes.

STONEGROVE AND SPUR ROAD REGENERATION
RECONCILIATION OF EXPENDITURE (2003 – 2011)

CAPITAL COSTS

Year spent	SAP Total	Non-recoverable		Total Non- Recoverable Costs	Recoverable Costs
		Land Assembly Fund (LBB's contribution to the scheme)	Other non-recoverable costs		
2005/06	£373,9593	£783942	£2,955,651 ¹	£3,739,593	None
2006/07	£1,159,098	£746,872	£403,901	£1,150,773	£8,325
2007/08	£1,156,793	£775,758	£89,603	£865,361	£291,432
2008/09	£3,118,826	£2,886,159	None	£2,886,159	£232,667
2009/10	£2,411,085	£2,406,384	None	£2,406,384	£4,700
2010/11	£709,344	£282,424	£2,400	£284,842	£424,520
TOTAL	£12,294739	£7,881,539²	£3,451,555³	£11,333,094	£961,644

Note 1 - Purchase of All Souls land.

Note 2 – Land Assembly Fund is £8 million in total. This figure does not include costs captured in the Revenue Budget.

Note 3 – The council has received £1 million land receipt (Jan 2010) against this cost

STONEGROVE AND SPUR ROAD REGENERATION

REVENUE COSTS

Year spent	SAP Costs	Non SAP Costs	Total revenue Costs	Non-recoverable costs	Recoverable costs
2003/04	None	£51,953	£51,953	None	£51,954
2004/05	None	£386,660	£386,660	£360,618	£26,042
2005/06	£96	£56,156	£56,252	£51,750	£4,502
2006/07	£289,746	None	£289,746	£289,745	None
2007/08	£152,971	None	£152,971	£8,473	£144,498
2008/09	£644,415	None	£644,415	£460,977	£183,437
2009/10	£321,000	None	£321,000	-£45,434 ⁴	£366,434
2010/11	£748,011	None	£748,011	£150,006	£598,004
TOTAL	£2,156,229	£494,769	£2,650,998	£1,276,136⁵	£1,374,871

Note 4 - negative amount due to receipt of funds on the account

Note 5 – this covers old (former scheme) costs and non-recoverable staff costs, fees and other costs

SUMMARY OF RECOVERABLE COSTS (SCHEME START - MARCH 2011) – CAPITAL AND REVENUE COSTS

CAPITAL COSTS TO BE RECOVERED

TOTAL = £961,644

Year spent	Recoverable Costs	Amount	Trigger for recovery	Timing
2005/06	None			
2006/07	Demolition Costs (Edgware School)	£8,325	Transfer of land for Phase 2b	2012
2007/08	Demolition Costs (Edgware School)	£291,432	As above	2012
2008/09	Demolition Costs (Edgware School)	£232,667	As above	2012
2009/10	Discretionary home loss payment	£4,700	Land formally requested by Barratt for development	2014
2010/11	Excess Land Assembly costs (i.e. in excess of £8m Land Assembly Fund)	£83,974	Land formally requested by Barratt for development	Immediate recovery
	Forward acquisition of leasehold properties (Shared Equity moves)	£340,546	Land formally requested by Barratt for development	2014

REVENUE COSTS TO BE RECOVERED

TOTAL = £1,374,871

Year spent	Recoverable Costs	Amount	Trigger for recovery	Timing
2003/04	Historic CPO Legal Costs	£51,954	Part of a payment for historic CPO costs negotiated as part of the CPO indemnity agreement	Payment made in Jan 2010
2004/05	Historic CPO Legal Costs	£26,042	As above	As above
2005/06	Historic CPO Legal Costs	£4,502	As above	As above
2006/7	None			
2007/8	Historic CPO Legal costs	£3,976	As above	As above
	PDA legal costs	£140,522	PDA legal costs are recoverable under the PDA to a maximum of £600,000	Immediate recovery of first instalment (£200K approx)
2008/9	Historic CPO Legal costs	£4,320	Part of a payment for historic CPO costs negotiated as part of the CPO Indemnity Agreement	Payment made in Jan 2010
	PDA legal costs	£163,945	PDA legal costs are recoverable under the PDA to a maximum of £600,000	Immediate recovery of first instalment (£200K approx)
	Consultancy Fees	£15,173	Commencement of development (Jan 2009)	Immediate recovery
2009/10	Historic CPO legal costs	£17,129	Part of a payment for historic CPO costs negotiated as part of the CPO indemnity agreement	Payment made in Jan 2010
	PDA legal costs	£233,346	PDA legal costs are recoverable under the PDA to a maximum of £600,000	Immediate recovery of first instalment (£200K approx)
	Barnet Homes (decant costs)	£9,728	Decant of residents	Immediate recovery
	Consultancy Costs	£50,943	Commencement of development (Jan 2006)	Immediate recovery
	LBB staff costs	£55,288	Feb 2010 (Satisfaction Date)	Immediate recovery

2010/11	PDA legal costs	£62,187	PDA legal costs are recoverable under the PDA to a maximum of £600,000	Immediate recovery of first instalment (£200K approx)
	Barnet Homes (decant costs)	£16,502	Decant of residents	Immediate recovery
	Consultancy (PEP and T & T)	£115,698	Commencement of development (Jan 2009)	Immediate recovery
	LBB staff costs	£37,218	Feb 2010 (Satisfaction Date)	Immediate recovery
	Discretionary homeloss and disturbance payments	£366,399	When land on which dwelling vacated by residents is formally requested by Barratt for development	2014 onwards