



ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER

In consultation with the Chairman of the Assets, Regeneration & Growth Committee

Title	Dollis Valley Regeneration – Phase 2 A. Appropriation of Phase 2a to Planning purposes B. Entering into a deed of variation to enable the grant of the Phase 2a Development Lease C. Entering into Phase 2 Shared Equity Mortgages
Report of	Strategic Director for Commissioning
Wards	Underhill
Status	Public
Enclosures	Plan H000373-CON-103
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Summary

Phase 1 of the Dollis Valley regeneration scheme is now nearing completion. In accordance with the decision of Assets, Regeneration and Growth Committee of 8th September 2015 the Council needs to hand over the next development phase, known as Phase 2a. This will be achieved by entering into a deed of variation of the Development Agreement to provide for the grant of a development Lease of Phase 2a, being land which is not currently subject to residential occupation. The development lease of phase 2b will be completed once vacant possession of that additional land is obtained, it is anticipated towards the end of 2015.

Associated with the hand over of this phase, the council needs to obtain vacant possession of a block of residential properties, 1 to 15 The Ridge. The acquisition of these houses is underwritten by a Compulsory Purchase Order with a vesting date of 30th March 2015.

Under the terms of the Development Agreement leaseholders on the estate have been offered the option of reinvesting the value of their existing properties into a shared equity purchase of a new home on the estate, under which agreement the Council would purchase and hold the balance of the equity.

In Phase 2 five leaseholders have opted to take up the Council's offer and the Council now needs to provide the funding of the equity that it will retain in these five homes so that Countryside can complete the sales and move the leaseholders out of the homes which will need to be demolished for the next phase.

Prior to the grant of the Development Lease of phase 2a the Council needs to extinguish any private rights over the land that may exist in order to enable the development to proceed in accordance with the planning permission.

The majority of this land was formerly public Highway with the remainder being predominantly amenity land associated with the Estate. When the Council promoted the Stopping up Order only one party claimed any private rights and that party has already agreed a deed of release. The Council is not aware of any other private rights but it needs to appropriate this land to Planning prior to completing the Development Lease so that any that may exist are extinguished and they will not hinder implementation of the planning permission.

Following completion of the appropriation the Council will enter into the Development lease of Phase 2a which will also enable Countryside to construct the social housing needed to rehouse Council Tenants in the remaining phases.

Decisions

1. **That in accordance with the resolution of the Cabinet Resources Committee, 4 April 2012 and the provisions of Section 122 of the Local Government Act 1972, the land shown outlined red on the attached plan H000373-CON-103 is hereby appropriated to planning purposes.**
2. **8.2 That in accordance with the resolution of Assets Regeneration and Growth Committee dated 8th September 2014 and the terms of the Development Agreement dated 1st October 2012 between the Council and Countryside Properties (UK) Limited, the Council consents to varying the development Agreement to document the agreement between the parties to split phase two into two sub-phases and to entering into the Development Lease of the land shown outline red on the attached plan H000373-CON-103 to Countryside Properties (UK) Limited**
3. **That in accordance with the resolution of Assets Regeneration and Growth Committee dated 8th September 2014 and the terms of the Development Agreement dated 1st October 2012 between the Council and Countryside Properties (UK) Limited, the Council agrees enter into shared equity mortgages in respect of the five newly constructed properties on the redeveloped estate identified at paragraph 1.10 below**

1. WHY THIS REPORT IS NEEDED

- 1.1 The council is working with its Development Partner, Countryside Properties (UK) Limited (CPUK) to deliver the Regeneration Scheme at Dollis Valley.
- 1.2 The Dollis Valley Regeneration Agreement became unconditional on the 4th February 2014, and sets out the proposed development to be constructed over 5 Phases and is estimated to be completed within 7 years.
- 1.3 Under the terms of this Regeneration Agreement the council has committed to enter into Development Leases with CPUK which transfer the land needed to deliver the agreed regeneration Project and to support this development through a shared Equity Offer to existing, qualifying leaseholders on the estate.

- 1.3.1 Cabinet Resources Committee, 4 April 2012 (Item/Decision 6 – Date of publication 12/04/2012 & Date of coming into force 19/04/2012) resolved/approved inter alia:

"That, subject to the prior grant of the planning permission for the regeneration of the Dollis Valley Regeneration Area ("Regeneration Area"), the appropriate Chief Officers be authorised:

"Subject to any relevant consents of the Secretary of State being obtained, to appropriate to planning purposes, the Housing, Highway, education and any land held for any other purpose of the Council, within the regeneration area, prior to the disposal of such lands"

- 1.3.2 Assets Regeneration and Growth Committee, 8 September 2014 (Item/Decision 11 – Date of publication 16/09/2014) resolved that:

1. "The Committee note the progress to date and approve the bringing forward of Phase 2 of the Dollis Valley Estate Regeneration Scheme.
2. The Committee delegate authority to the Strategic Director, Growth & Environment, acting in consultation with the Chairman of the Assets, Regeneration & Growth Committee, to agree and enter into a variation of the Dollis Valley Regeneration Agreement, and any other associated documents, including building licences, that may be required, to accommodate these proposals."

- 1.4 This DPR seeking authority for the Council:

- 1.4.1 To appropriate the land identified on the attached plan H000373-CON-103 to Planning
- 1.4.2 To enter into a variation of the Development Agreement to provide for the grant of the Development Lease for Phase 2a with CPUK to enable them to complete the transfers of the Social Housing and the sales of homes in the market.
 - 1.4.3 To enter into shared equity mortgages in respect of the five newly constructed properties on the redeveloped estate identified at paragraph 1.10 below.
- 1.5 The land required for in the development of the Estate will be drawn down by CPUK in accordance with terms of the Development Agreement dated 1st October 2012 (DA), which includes the payment for the land. Prior to that drawdown the Council needs to appropriate the land to planning purposes to extinguish any private rights that may exist over the land using powers under section 237 of the Town and Country Planning Act 1990 (as amended), and to enable the implementation of the planning permission.
- 1.6 CPUK is requesting a drawdown of the land in Phase 2a, as shown on the appended plan H000373-CON-103. This DPR confirms that, in accordance with the resolution of Cabinet Resources Committee of 4th April the June 2012 and the provisions of Section 122 of the Local Government Act 1972, the land shown outlined red on the attached H000373-CON-103 is hereby appropriated to planning purposes, and that the Council may complete the development lease for the land shown outlined red on the same plan.
- 1.7 The Development agreement will be varied to provide for the grant of separate leases of Phase 2a, which is not subject to residential occupation, and Phase 2b. The development lease of Phase 2b will be granted at a later date once the residential occupiers of that land have vacated. The minimum land value payable to the Council which is attributable to Phase 2 as a whole under the development agreement (£1.475m) will be apportioned pro rata between phase 2a and 2b in accordance with the number of units to be constructed on each sub-phase.
- 1.8 The Development Agreement dated 1st October 2012 sets out the agreed offer to leaseholders who will be required to relinquish their existing properties as part of the development of the Dollis Valley Estate, which includes a shared equity option intended to allow existing owner occupiers, who meet the residence qualification criteria, to purchase a new property

on the redeveloped estate.

- 1.9 The terms of the shared equity offer provide for CPUK to purchase the leaseholder's existing property at market value. The leaseholder must then invest, into a new property on the redeveloped estate (which must have no more bedrooms than their existing property), the full sale proceeds from their existing home. The balance of the value of the new property is provided by way of an equity loan funded by Barnet Council. The new properties will be owned by the leaseholders but the council will take an equity charge over each of the properties securing to the Council a % share in the future value of the properties.
- 1.10 Five leaseholders on Phase 2 of the development have now decided to take up the shared equity offer and authority is now sought to enter into the shared equity mortgages.
- 1.11 The new properties to be purchased, over each of which the Council will take an equity mortgage, are as follows:

Property Address	Council's Estimated Equity Share
Plot 44, 37 Sphinx Close, Barnet, EN5 2FG	59%
Plot 45, 35 Sphinx Close, Barnet, EN5 2FG	57%
Plot 31, 20 Minerva Way, Barnet EN5 2FJ	52%
Plot 96, 11 Minerva Way, Barnet EN5 2FJ	60%
Plot 41, 2 Hera Avenue, Barnet EN5 2FH	69%

- 1.12 The council's estimated equity share is calculated on the current proposed sale prices of the new units and may alter slightly on completion. Based upon the current values, the Council's total loan / share of the value in these five properties is £1.6 million. This sum will be funded by setting it against the minimum land payments payable by CPUK to the Council, in accordance with the terms of the Development Agreement.
- 1.13 The key commercial terms of the mortgage are as follows:
- 1.13.1 The equity mortgage is only available to resident leaseholders and it is a condition of the loan that the property must be occupied by the borrower as their only or principal home and is not to be

leased out.

- 1.13.2 No rent or interest is paid to the Council on the loan, but on the sale of the property the Council becomes entitled to a proportion of the sale value of the property, in accordance with its % equity share. The Council therefore shares the risk of fluctuation in the property market with the leaseholder. If property prices rise, the value of the Council's share increases, if they fall, it reduces.
- 1.13.3 The loan will be secured by charge registered at the Land Registry. In cases where the leaseholders currently have a mortgage on their home with a third party provider they will be able to take out a mortgage on the new property. This mortgage will have priority over the Council's charge but only in respect of the initial advance, which shall not be more than the sum secured by the mortgage on their existing property, and any other advances expressly approved by the Council.
- 1.13.4 The Council may wish to transfer the benefit of the mortgage to a third party in due course and in accordance with section 7 of the Local Government Act 1986 it will require the consent of the borrowers.
- 1.13.5 The loan remains in place until the death of the original borrower or (if later) the death of any nominated successors (being persons currently living in the existing property with the borrower, and who are still resident in the property on the current borrower's death and who inherit the original borrower's title to the property). The loan will also fall due to be redeemed on the insolvency of the existing borrower, or in the event of a continued breach of the mortgage terms, for example a breach of the letting restriction.
- 1.13.6 The borrower may voluntarily redeem the loan in whole or in part, in which case the amount to be repaid will be determined by reference to valuation evidence at that time. There are provisions for independent valuation in the event of dispute. The costs of valuations are to be met by the borrower.

2. REASONS FOR DECISIONS

- 2.1 Under the terms of the Development Agreement dated 1st October 2012 the Council is required to grant development lease when land is drawn down in accordance with the terms of the development Agreement. This decision implements the resolution of Assets Regeneration and Growth Committee of 8th September 2014 by enabling the development of part of Phase 2 to be brought forward, which will also accelerate the delivery of a number of new affordable housing units.

- 2.2 Prior to the grant of a development lease the Council needs to appropriate the land to planning purposes to extinguish any private rights of way that may exist. The land comprised in Phase 2a was formerly principally highway land and estate amenity land.
- 2.3 On publication of the Stopping Up Order only one party claimed a right of way. This was for a garden gate access from 113 Mays Lane and a Deed of Release was agreed and executed between the Council and the property owner removing the right of way. The council is not aware of any other private rights that will be extinguished but the appropriation is required to override any that may exist.
- 2.4 The Shared Equity Mortgages are required to enable the lease holders in Phase 2 who have taken up the Council's Shared Equity Offer to complete their purchases of properties in Phase 1 of the development.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 This decision implements earlier member decisions and delivers the parties' obligations under the Development Agreement. There are no alternative options under the delegated authority.

4. POST DECISION IMPLEMENTATION

- 4.1 Following the decision the land will have been appropriated to Planning and the Council's Solicitors, HB Public Law will complete the required variation, development lease and equity mortgage.
- 4.2 The council will be required to advance the relevant mortgage payments on completion of the shared equity purchases of each of the properties, although these sums will in practice be set against other sums due from CPUK, in accordance with the terms of the Development Agreement. Several completions are due imminently with the others due over the next three months.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Dollis Valley Regeneration Scheme supports the Corporate Plan 2013-2016 priority 'To maintain the right environment for a strong diverse local economy' and the strategic objective under this priority is to sustain Barnet by 'promoting growth, development and success

across the borough’.

- 5.1.2 The scheme also supports the corporate priorities and the Sustainable Community Strategy 2010-2020 through the following core values:

‘Sharing opportunities for success’ and ‘choice and responsibility’ – the new development will provide good quality homes. The development will also offer more choice by providing a number of different housing options, such as shared equity, shared ownership and private homes for sale to residents and those in the wider community

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Finance

- 5.2.1.1 The shared equity loans will be funded by the Council setting the total estimated advances of £1.6 million against the land payments payable by Countryside Properties (UK) Limited to the Council for phases 1 and 2. This is in accordance with the terms of the Development Agreement.
- 5.2.1.2 The Council minimum land value for Phase 2 as a whole is £1,475,000. Under the terms of the proposed variation to provide for the grant of two separate development leases of this phase, the minimum land value will be apportioned £624,386.50 as to phase 2a (69 units) and £850,613.50 as to phase 2b (94 units).

5.3 Legal and Constitutional References

- 5.3.1 The council has the power to enter into the regeneration agreements and associated land disposals and charges of land in accordance with a number of statutory powers including s1 of the Localism Act 2011 and s123 of the Local Government Act 1972.
- 5.3.2 Section 122 of the Local Government Act 1972 empowers a local authority to appropriate land held by it from one statutory purpose to another if it considers that the land is no longer required for the purpose for which it is currently held.
- 5.3.3 The Council has carried out an internal consultation with respective departments regarding the use and requirement of the land shown on the attached plan as Housing land, highways and amenity land benefitting the Estate and has decided that the land is no longer required for these purposes and should now be appropriated to

planning purposes in order to continue the development the Dollis Valley Estate in accordance with planning consents. S237 of the Town and Country Planning Act 1990 provides for a development of land which has been appropriated to planning purposes to proceed in accordance with planning permission, even where it interferes with private rights over that land. Persons so affected may be entitled to compensation for the loss of their rights.

- 5.3.4 The approval of the Secretary of State is required under s 19 of the Housing Act 1985 to the appropriation of housing land which contains dwelling houses to other uses. No housing land within the Phase 2a appropriation proposed by this report has dwelling houses situated upon it and this consent is therefore not required. The land within Phase 2a will be subject to an application for consent in due course.
- 5.3.5 Appropriation of land from one purpose to another was a function of the Council's Executive. Under the approval granted by the Cabinet Resources Committee, 4 April 2012 (Item/Decision 6 – Date of publication 12/04/2012 & Date of coming into force 19/04/2012) the appropriate Chief Officers were authorised, Subject to any relevant consents of the secretary of state being obtained, to appropriate to planning purposes, the Housing, Highway, education and any land held for any other purpose of the Council, within the regeneration area, prior to the disposal of such lands.
- 5.3.6 In accordance with the decision of Assets Regeneration and Growth Committee, 8 September 2014 (Item/Decision 11 – Date of publication 16/09/2014), authority was delegated to the Strategic Director, Growth & Environment, acting in consultation with the Chairman of the Assets, Regeneration & Growth Committee, to agree and enter into all documents that were required to bring forward Phase 2. Following an internal restructure it was resolved by a decision of the chief executive dated 19th December 2014 (published on 22nd February 2015) that the responsibilities of the Strategic Director for Growth and Environment are discharged for an interim period by the Strategic Director for Commissioning.

5.4 Risk Management

- 5.4.1 CPUK are actively engaged in the voluntary acquisition of land interests in Phase 2. However acquisition of the land in the all remaining phases is also underwritten by an approved CPO. Transfer of any land to CPUK which is subject to interests that have not been acquired successfully by negotiation can only take place following the making of the General Vesting Declaration (GVD) for each of the phases. Under the CPO the Council is exposed to potential compensation payments for acquired properties. An indemnity agreement has been entered into between the Council and Countryside properties (UK) Ltd whereby

CPUK indemnifies the Council against any payments made following a blight notice. Additionally, the CPO Indemnity Agreement provides for full reimbursement of Council costs in promoting and implementing the CPO, including professional fees incurred to date.

5.5 Equalities and Diversity

- 5.5.1 The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, social and community life of the borough. The Dollis Valley Regeneration Scheme will provide a mix of affordable and private sale properties. The new mixed tenure housing will improve the community cohesion in an area with a highly diverse population. It will provide increased choice and opportunity for Barnet residents. This supports the overall aim of the Council's Equalities Policy and the Council's duties under the Equality Act 2010.
- 5.5.2 The Dollis Valley regeneration will deliver 631 new homes, 250 affordable and 381 private for sale which should assist in fostering community cohesion. The delivery of the regeneration scheme is being conducted in consultation with the Dollis Valley Partnership Board which represents the interests of the residents on the Estate.

5.6 Consultation and Engagement

- 5.6.1 The Council together with its Regeneration Agreement partners have now met on several occasions and have discussed the proposals at length with HB Public Law, LBB Planning & Highways, and others including Barnet Homes, and next steps have been agreed between the parties to progress the proposal of bringing forward Phase 2.
- 5.6.2 The proposals have also been discussed at the Dollis Valley Partnership Board, which comprises of several estate residents who also represent the estate's residents, representatives from the Council, and its Regeneration Agreement partners.
- 5.6.3 This Board is very supportive of these proposals, and the earlier loss of grassed areas which are not used for recreational purposes, together with disused garages, will not be missed. The wishes of the Dollis Valley Partnership Board are for the regeneration project to be completed as soon as practicably possible, and support escalating the project as proposed.
- 5.6.4 Amendments to the Dollis Valley Regeneration Agreement will need to be formally agreed by all the Dollis Valley Regeneration Agreement partners.

6. BACKGROUND PAPERS

6.1 In 2011, following a competitive dialogue process, Countryside Properties (UK) Limited (CP) (the partner) and London & Quadrant Housing Trust (L&Q) (the RP) were selected as Barnet Council's preferred development partners.

6.2 Cabinet Resources Committee, 7 November 2011 (Decision 5) approved amongst others:

Countryside Properties (UK) Limited, London & Quadrant Housing Trust as the Council's preferred development partner for the regeneration of the Dollis Valley Estate; and authorised entering into a Regeneration Agreement between partners for the Dollis Valley Scheme.

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201111071900/Agenda/Document%202.pdf>

6.3 Cabinet Resources Committee, 4 April 2012 (Decision 6) approved amongst other items the appropriation of land on the Dollis Valley site to planning purposes.

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201204042000/Agenda/Document%202.pdf>

6.4 Assets Regeneration and Growth Committee, 8 September 2014 (Item 11) approved the bringing forward of Phase 2 of the Dollis Valley regeneration scheme.

<http://barnet.moderngov.co.uk/documents/s17306/Dollis%20Valley%20Estate%20Regeneration%20Scheme%20-%20Bring%20Forward%20of%20Phase%202.pdf>

7. DECISION TAKER'S STATEMENT

7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

8. OFFICER'S DECISION

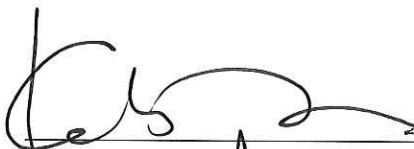
I authorise the following action

- 8.1 That in accordance with the resolution of the Cabinet Resources Committee, 4 April 2012 and the provisions of Section 122 of the Local Government Act 1972, the land shown outlined red on the attached plan H000373-CON-103 is hereby appropriated to planning purposes.
- 8.2 That in accordance with the resolution of Assets Regeneration and Growth Committee dated 8th September 2014 and the terms of the Development Agreement dated 1st October 2012 between the Council and Countryside Properties (UK) Limited, the Council consents to varying the development Agreement to document the agreement between the parties to split phase two into two sub-phases and to entering into the Development Lease of the land shown outline red on the attached plan H000373-CON-103 to Countryside Properties (UK) Limited.
- 8.3 That in accordance with the resolution of Assets Regeneration and Growth Committee dated 8th September 2014 and the terms of the Development Agreement dated 1st October 2012 between the Council and Countryside Properties (UK) Limited, the Council agrees enter into shared equity mortgages in respect of the following five newly constructed properties:

Plot 44, 37 Sphinx Close, Barnet, EN5 2FG
Plot 45, 35 Sphinx Close, Barnet, EN5 2FG
Plot 31, 20 Minerva Way, Barnet EN5 2FJ
Plot 96, 11 Minerva Way, Barnet EN5 2FJ
Plot 41, 2 Hera Avenue, Barnet EN5 2FH

Signed

Date


29th April 2015