

AGENDA ITEM: 11

Pages 59 – 67

Meeting	Cabinet Resources Committee
Date	28 July 2011
Subject	Stonegrove & Spur Road Estates Regeneration
Report of	Leader of the Council
Summary	This report seeks a resolution from the Committee to make a Compulsory Purchase Order (CPO) in respect of all third party property and other proprietary interests in the Stonegrove & Spur Road (SGSR) Regeneration Area as shown edged red on the attached plan and to approve the use of the Ground 10A procedure to recover possession of properties within the area that are occupied by secure tenants.

Officer Contributors	Susan Botcherby (Regeneration), Tony Westbrook (Regeneration), Tobenna Erojikwe (Legal)
Status (public or exempt)	Public
Wards affected	Edgware
Enclosures	Appendix 1 – Plan of CPO area (Drawing no: 24332)
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

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1. RECOMMENDATIONS

1.1 That:

i. a Compulsory Purchase Order (CPO) be made pursuant to the powers contained in Section 226 (1) (a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 in respect of all third party property and other proprietary interests in the Stonegrove & Spur Road Regeneration Area as shown outlined in red on drawing no: 10930_MP_54.

ii the appropriate Chief Officers be authorised to take all necessary action to secure the confirmation and implementation of the CPO.

1.2 That the appropriate Chief Officers be authorised to carry out the necessary consultation required by Part 11 of Schedule 2 of the Housing Act 1985 and seek the Secretary of State's approval of the SGSR scheme for the purpose Ground 10A of Part 11 of Schedule 2 of the Housing Act 1985 (Ground 10A) and to use Ground 10A to obtain vacant possession of Council owned dwellings that are occupied by secure tenants.

1.3 That the appropriate Chief Officer be authorised to approve the service of Initial and Final Demolition Notices as required within the programme for deliver of the regeneration project, pursuant to schedule 9 and section 182 of the 2004 Housing Act to suspend the right to buy on properties due for demolition on the Stonegrove and Spur Road Estates.

2. RELEVANT PREVIOUS DECISIONS

2.1 Cabinet, 18 June 2007, Stonegrove & Spur Road Regeneration Scheme (main terms of the PDA, Masterplan etc) - Decision 6 (resolved)

2.2 Planning and Environment Committee, 3 March 2008, outline planning application for the redevelopment of the Stonegrove & Spur Road Estates - Decision 7 (approved)

2.3 Cabinet Resources Committee, 25 March 2008, Stonegrove & Spur Road Estates (to seek approval of the Principal Development Agreement financial terms), Decision 4 (resolved)

2.4 Cabinet Resources Committee, 2 September 2009, Stonegrove & Spur Road (change to financial terms and other matters), Decision 12 (resolved)

2.5 Cabinet Resources Committee, 24 May 2011, Stonegrove & Spur Road Estates Regeneration (to seek approval to vary the Principal Development Agreement, Decision 11 (resolved)

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The SGSR regeneration project contributes to the delivery of the Corporate Plan 2011-2013 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 The One Barnet A Sustainable Community Strategy for Barnet (2010-2020) – Growing Successfully – the SGSR Regeneration Scheme will 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). The scheme will establish a new and sustainable neighbourhood in which people want to live, work and prosper within a growing, mixed strong community.

4. RISK MANAGEMENT ISSUES

- 4.1 At its meeting on 18 June 2007, Cabinet resolved to make a CPO for the acquisition of all non-Council-owned property and other proprietary interests in the Stonegrove & Spur Road Regeneration Area. However advice provided by the council's legal advisors suggests that as the resolution was passed four years ago an updated decision is required taking into account changes since then and issues not covered by the original report.
- 4.2 There is a good case for the regeneration and replacement of the current housing stock. Delays in or a failure to secure a CPO at the appropriate time could impact on the financial viability of the scheme, and/or in delays to the project. A CPO could fail if the council has failed to follow the proper statutory procedures and/or failed to make its case properly. These risks will be minimised by the use of specialised consultants to provide advice on making and promoting the Order. In addition to the PDA, the Compulsory Purchase Indemnity Agreement (CPOIA) completed on 30 June 2011 between Barratt Evolution Limited and the Council will indemnify the Council against all statutory (including the costs of acquisition of land interest and compensation) costs incurred in making, seeking confirmation of and implementing the CPO as well as other Council costs, in the manner explained at paragraph 6.3 below.
- 4.3 The Council's costs will be met by the Developer in accordance with the CPOIA and the agreed provision on this is explained in paragraph 6.3 below. The Council will be putting procedures in place to monitor costs against the agreed Estimate to ensure that the Council seeks approval from Barratt Evolution Limited to incur any further costs before the Estimate is exceeded.

- 4.4 A CPO is essential for site assembly and thus to enable satisfactory completion of the project. Whilst it is hoped that all outstanding property interests can be acquired by negotiation, the project cannot proceed with the risk that negotiations may not prove successful in all cases and the scheme could be brought to a halt. To avoid this potential risk to the financial viability of the scheme it is necessary to seek the approval of a CPO. If the order is not confirmed, or is significantly amended the project would be undeliverable or only marginally deliverable. A CPO would ensure that the costs of CPO can be realistically estimated using recognised procedures to determine compensation.
- 4.5 The CPO will ensure that a clean title is obtained for the site and that an injunction cannot be obtained by an objector to delay or prevent the development.
- 4.6 If the CPO is not confirmed it is possible that the Council will not be able to assemble land in line with the acquisition and decant strategies programmed to ensure that a) all affordable housing to be provided within the scheme is delivered by 2016 and b) the entire scheme is completed by 2018. The effect of not being able to meet these deadlines is a loss of HCA funding as well as the risk of not delivering the scheme.
- 4.7 The CPO when confirmed must be implemented within three years (this period can be extended to a further three years (making a total of six years) by the service of notice to treat on the interests). A delay to the scheme may mean that a further CPO may be required if implementation is not carried out either through a General Vesting declaration or Service of notice to treat. Progress on the scheme would be closely monitored and if any further action is required it would be taken at the appropriate time.
- 4.8 Formal statutory consultation with the secure tenants will be required in respect of Ground 10a proceedings to secure possession of Council properties within the SGSR regeneration area which are occupied by secure tenants. This process will be programmed and managed in such a way as to minimise delays which in turn could impact on the commercial and financial viability of the project. The secure tenants within the scheme would also be included within the CPO. This will ensure that if the Secretary of state does not approve the scheme for the purpose of Ground 10 A, the Council can rely on the CPO to recover possession from the secure tenants.
- 4.9 A continuing risk to the viability of the project is the possibility that more of the secure tenants will exercise the Right to Buy. This leads to increased acquisition costs and could result in a delay to the overall programme which ultimately could threaten the financial viability of the project. It is proposed that that demolition Notices which were introduced in the Housing Act 2004, be served to suspend the Right to Buy within the scheme.

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)

- 6.1 The Council had incurred historical CPO costs of £265,000; £100,000 of this was recovered from Barratt Evolution Limited when all the conditions of the Principal Development Agreement were satisfied. The remainder of this sum (£165,000) is now due and provisions for its recovery are covered by the Strategic Indemnity Agreement (one of the supplemental agreements to the Principal Development Agreement for the scheme).
- 6.2 On 30 June 2011 the Council entered into an Indemnity agreement known as the CPOIA with Barratt Evolution Limited. The indemnity places an obligation on Barratt Evolution Limited to pay the CPO costs incurred or to be incurred by the Council within 20 working days after receipt of a written demand but shall not demand any payment of CPO costs more than 15 working days prior to such costs being incurred or becoming due for payment pursuant to an agreed Acquisition Strategy. The Council will make provision in its budgets, each financial year, to cover the cost of the CPO should there be a need to cover some costs for a period of time. The annual budgets will cover the potential costs of any acquisitions as well as the Council's costs, if required.
- 6.3 The CPOIA requires that the Council and Barratt Evolution Limited agree an Estimate of the Council's internal and external professional costs (but not land acquisition costs or statutory compensation costs) before the CPO is made. If that Estimate is exceeded by more than 10 per cent Barratt will not be liable for the excess unless its approval has been obtained before the costs are incurred. This does not apply to costs which the Council is under a statutory obligation to incur.
- 6.4 The Cost of implementing the Ground 10A exercise and all incidental costs as well as the cost of serving the demolition notices will be borne by the Developer in accordance with the relevant provisions of the PDA.

7. LEGAL ISSUES

- 7.1 The Council has the power through various enactments to make a Compulsory Order and to apply to the Secretary of State for confirmation of the order.
- 7.2 Section 226(1) (a) of the Town and Country Planning Act 1990, as amended by the Town and Country Planning Act 2004, provides that a local authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area if they are satisfied that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. However the power must not be exercised unless the authority thinks that the development is likely to contribute to the achievement of the economic, social and environmental well-being of the area.

- 7.3 The CPO will assist in the completion of the on going land assembly exercise being carried out as part of the regeneration of the Stonegrove and Spur Road regeneration area. The CPO will enable the regeneration to take place in accordance with the Master Programme and the Acquisition Strategy for the area and will provide certainty for the site assembly and the implementation of the scheme, thus enabling the Council's objectives to be achieved in respect of the land, the subject of the CPO. It is considered that there is a compelling case in the public interest for the use of compulsory purchase powers. The resource implications of the proposals have also been considered and the Council is satisfied that the necessary resources are available to achieve the regeneration of the land, the subject of the CPO, within the proposed timescale. It is considered that the development will so contribute.
- 7.4 Consideration has been given to the provisions of the Human Rights Act 1998, including Article 8 (respect for private and family life and home) and Article 1 of the First Protocol (right to peaceful enjoyment of possessions). A decision to make a CPO must strike a fair balance between the public interest in the regeneration of the land and interference with private property rights. Bearing in mind the provisions for compensation to be payable and the compelling case in the public interest for the acquisition of the interest, it is considered that the interference with private property rights is proportionate and strikes a fair balance between the public interest and the interest of the objectors in compliance with the requirements of Article 1 of the First Protocol. Outline Planning Permission was granted on 3 March 2008.
- 7.5 Section 9 of the Housing and Planning Act 1986 inserted new grounds for possession , Ground 10A into Part 11 of Schedule 2 to the Housing Act 1985(grounds on which the court may order possession if suitable alternative accommodation is available). It also introduced a new Part V (Approval of Redevelopment schemes for the Purposes of Ground 10A). It enables the Council to seek possession of dwellings where there is an approved development scheme involving disposal of all or part of the dwelling, either before or after the redevelopment has taken. The Council would have to carry out the necessary consultation and seek the approval of the secretary of state in accordance with the Department of Environments guidance contained in circular 14/87.
- 7.6 Section 138A and Schedule 5A of the Housing Act 1985 as inserted by clause 182 of the Housing Act 2004 empowers the Council to serve demolition notices to suspend the right of secure tenants to exercise there Right to Buy. These notices must be served in accordance with the statutory provision in order to be effective.

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.
- 8.2 Constitution - Council Procedure Rules – Management of Real Estate Property and Land.

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 Limited (Unitary) as its partners in 2001. Following an acquisition by Barratt Group, Unitary became a subsidiary of the group and Unitary has since changed its name to Barratts Evolution Limited, and the purchaser was confirmed as the Council's private sector partner in 2006. The Masterplan and the principal terms of the Principal Development Agreement (PDA) for the re-development of the estate were approved by Cabinet in June 2007 and the PDA entered into by Council 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 in 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 £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.
- 9.6 The Council also acquired the lease on the All Souls Land. This land was purchased to facilitate the relocation 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.
- 9.7 The development costs associated with the scheme will be recovered from Barratt Evolution Limited as per the terms of the PDA. The PDA was approved by Cabinet on 18 June 2007 and was varied by a Deed of Variation on 25 March 2008.
- 9.8 Phase 4 (Sterling Court) was deemed financially unviable. The Council entered into negotiations with its partners, Family Mosaic and Barratt Evolution Limited to seek solutions to bridge what was initially a £17m funding gap.
- 9.9 Barratt Evolution Limited and Family Mosaic successfully submitted an application to the HCA for funding under the National Affordable Housing Programme (NAHP) and have been allocated £9.65m. The Homes and Communities Agency (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.

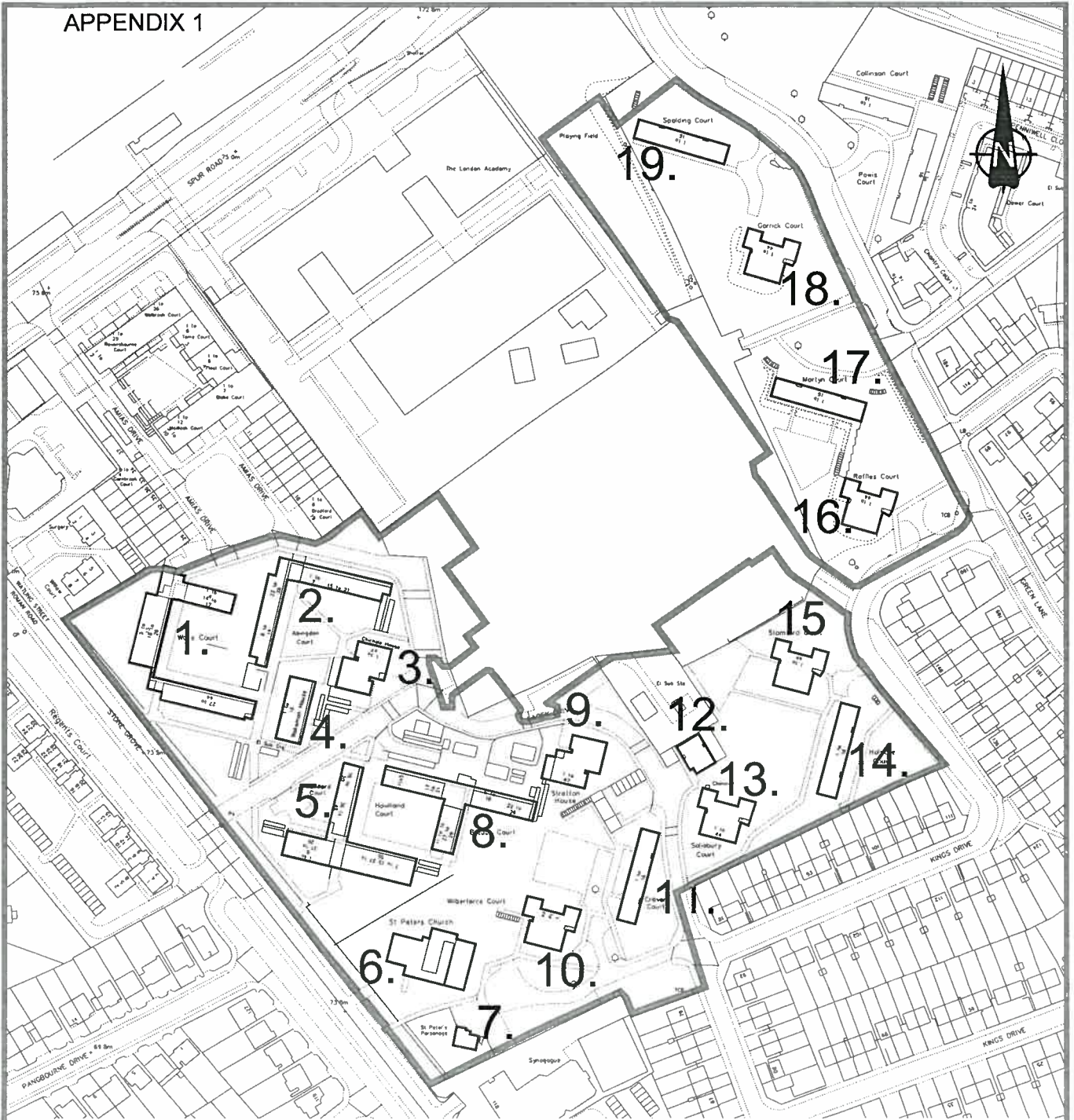
- 9.10 The Council's land receipts in the sum of £5m (£1.35m already received and £3.65m had been due in the future) have been deferred until the end of the project expected in 2018, and will come from an overage agreement which relies on the project making a profit. There is a financial risk to the Council from this deferment, but it does secure the full delivery of one of the Councils premier estate regeneration project. Our development partners, Barratt Evolution Limited, will be incentivised in the revised overage agreement, entered into on 30 June 2011, to achieve the required level of profits to provide the full payment of the agreed land receipts by 2018.
- 9.11 The Committee is asked to note that the Council and its partners successfully varied the PDA on 30 June 2011 to reflect the new arrangements as detailed in the points above, thereby securing the £9.65m capital funding from the HCA for the benefit of the scheme.
- 9.12 The Council entered into the CPOIA on 30 June 2011, which enables all Council's costs in relation to CPO work to be reimbursed. The CPOIA also provides for the Council to be put in funds by our development partner, Barratt Evolution Limited, for all the property purchase costs incurred by the CPO.
- 9.13 The Council will require the approval of the Secretary of State to use Ground 10A of Part 11 of Schedule 2 of the Housing Act 1985 to secure the possession of flats occupied by Secure Tenants. Every effort will be made to secure agreement of such tenants to accept new tenancies from Family Mosaic in the new development. However, without possession granted under Ground 10A, the Council will not be able to secure vacant possession of the property of any secure tenants who refuse to move other than through the use of the CPO which is a more expensive way of recovering possession from secure tenants.

10. LIST OF BACKGROUND PAPERS

- 10.1 None

Legal – MM
CFO – MC/JH

APPENDIX 1



Key to Blocks

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|-------------------------|----------------------------|-------------------------|
| 1. 1-44 Ware Court | 8. 1-35 Bredon Court | 15. 1-44 Stamford Court |
| 2. 1-28 Abingdon Court | 9. 1-47 Stratton House | 16. 1-44 Raffles Court |
| 3. 1-47 Chickle House | 10. 1-44 Wilberforce Court | 17. 1-16 Martyn Court |
| 4. 1-16 Wakeman House | 11. 1-16 Craven Court | 18. 1-44 Garrick Court |
| 5. 1-46 Havilland Court | 12. Disused Shop | 19. 1-16 Spalding Court |
| 6. St. Peter's Church | 13. 1-44 Salisbury Court | |
| 7. St Peter's Parsonage | 14. 1-16 Holgate Court | |

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Initiated by S.O'D.	SCHEME: STONE GROVE REGENERATION AREA	Craig Cooper, Commercial Director.	PROPERTY SERVICES
Drawn by K.E.B.			DRAWING No.
Checked by S.O'D.	TITLE: C.P.O. PLAN	London Borough of Barnet, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NP. Tel: 020 8359 2000	24332
Date 18/07/11	Scales 1:2500		

