

BASILDON BOROUGH COUNCIL

SECTION 226(1)(a) OF THE TOWN AND COUNTRY PLANNING ACT 1990

AND THE ACQUISITION OF LAND ACT 1981

**THE BASILDON BOROUGH COUNCIL
(FRYERNS and CRAYLANDS) (PHASE NORTH)
COMPULSORY PURCHASE ORDER 2020
STATEMENT OF REASONS**

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STATEMENT OF REASONS - (FRYERNS and CRAYLANDS) (PHASE NORTH) COMPULSORY PURCHASE ORDER 2020

Introduction

Basildon Borough Council (“the Council”) has made the Basildon Borough Council (Fryerns and Craylands) (Phase North) Compulsory Purchase Order 2020 (“the Order”) pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981.

This Statement of Reasons is a non-statutory statement provided in compliance with paragraph 196 of the Ministry of Housing, Communities & Local Government Guidance on Compulsory purchase process and the Crichel Down Rules (2019) (“the 2019 Guidance”).

The Council’s purpose in making the Order, and seeking its confirmation is to enable the Council to acquire compulsorily the land the subject of the Order (“the Order land”), which is described below, in order to facilitate the delivery of the next (third) phase of the comprehensive redevelopment and renewal of the Craylands Estate in Basildon (“the Estate”). The planning permission for the project as a whole approves 994 new dwellings, 534 original properties demolished, 429 retained with 298 (30%) of the new dwellings being affordable. The Scheme for the Order land is the third phase of the project, described as the “North phase”, which relates to 8.49 hectares of the Estate.

The planning position for the project as a whole is considered below. The Council granted full planning permission in respect of the North phase, on 22 March 2017. The report to committee (4 October 2016) considers the details of the proposal. See Document 2 decision notice, Document 3 for the report. The North phase permission approves 96 new dwellings, of which a minimum of 33 are affordable; it involves the demolition of 105 original properties. The Scheme forms part of the wider comprehensive redevelopment and renewal of the Estate, but is being progressed independently.

The Scheme will be delivered by the Council’s development partner, Swan Housing Association, a registered social landlord with a good track record of delivery.

Power

The Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 (“s.226”) and the Acquisition of Land Act 1981. A copy of the Order, Schedule and Order Plan is at Document 1.

The reason the Order was made under s.226 is because the land is required in order to facilitate the carrying out of development on the Order land, for which planning permission has been granted, and it is not certain that the Council will be able to acquire the land by agreement. The Council considers that the Scheme will contribute significantly to improving the social, economic and environmental well-being of the area.

Reliance has been placed on the Acquisition of Land Act 1981 as providing the procedures by which the Order has been made and will be progressed to confirmation.

Order land and interests to be acquired

The application boundary for the North phase of the redevelopment of the Estate extended to 8.49 hectares, but within that larger area, five smaller “intervention areas” were defined. See the report to Planning Committee on 4 October 2016, Document 3 (under the heading “the detailed elements of the application”). The intervention areas were identified so as to provide for the replacement of sub-standard accommodation, including unpopular existing maisonette blocks and underused parking areas. The demolition includes the removal of 7 (seven) existing four storey maisonette blocks and 14 (fourteen) two storey houses. The intervention areas are these:

- Fowley Way
- Lincoln Road
- Chichester Close
- Lincoln Road/Glyne Way.

Of the 105 properties to be acquired, 74 were occupied by Council tenants and have been rehoused. 31 were owned either on a freehold or leasehold basis. Of those 31 properties, 20 have been acquired and therefore 11 remain to be acquired and are listed in the CPO Schedule. The Order land is therefore these 11 properties on the estate.

Purpose in seeking to acquire the land: the Scheme

Following demolition of the 105 properties, there is planning permission in place to construct 96 new dwellings, with associated access, car parking and landscaping (ref 16/00898/OUT). The Scheme proposes development in accordance with the planning permission which will be implemented by March 2020. Non-material amendments to the existing planning permission will be required, as well as a full plans submission for a replacement electrical substation that had not previously been identified. A mix of accommodation will be provided: 88 (eighty eight) houses and 8 (eight) flats, ranging in size from one bedroom flats to four bedroom houses. Of the 96 new homes, a minimum of 15 (fifteen) are required to be affordable, amounting to 16%, although across the project as a whole, 30% affordable housing is provided. However, the agreed tenure mix between Swan and Basildon Council for this phase north provides 33 affordable homes, amounting to 34%. Therefore, the accommodation schedule is:

Tenure Type	Unit Type	Phase North
Social Rented	3 bed house	3
Social Rented	2 bed house	12
Social Rented	1 bed flat	8
Shared Ownership	3 bed house	10
Private Sale	4 bed house	8
Private Sale	3 bed house	35
Private Sale	2 bed house	20
Total		96

The aim of the Scheme is to deliver clearer vehicular and pedestrian routes through this part of the Estate, making it more permeable and easier to navigate. The most significant change is the opening up of a north/south route running from Peterborough Way to Britten Avenue. Lighting and landscaping will be improved too, making the routes more attractive. The siting

of the new buildings has been considered carefully in order to make a more traditional street pattern, improving passive surveillance. Car parking is provided closer to where people live. As is set out below (under the heading well-being benefits), the Council's aim in making the order is to deliver significant benefits to the area by addressing the original poor design of parts of the Estate.

The wider project

The aims of the Scheme, and the wider project, are founded in the priorities within the Community Action Plan for Craylands 2008-2011. This was a community focused multi-agency project, driven by a community action group, the Craylands "Action Plan Delivery Group" which sought to identify the problems on the Estate and how to tackle them. The Community Action Plan is at Document 4. Whilst the proposals for the area considerably pre-date the advice in the Government's Estate Regeneration National Strategy, it is clear that the wider project, and the CPO scheme, are founded in what residents want for their area, and have sought to deliver in accordance with their priorities, protecting the interests of the existing community.

In the Action Plan, Craylands was identified as the most deprived neighbourhood in Basildon, and was recognised to be a priority area for regeneration and redevelopment. The physical re-development of the Estate was thought to be necessary, to address its poor design and layout. The Fryern and Craylands Renewal Scheme had secured funding via a 2003 ODPM initiative, securing £18.5m for the remodelling of the Estate and the redevelopment of a former school site to create a new, sustainable community. The project was originally led by English Partnerships, in partnership with Swan and the Council. The administrative arrangements then changed when the Homes and Communities Agency came into being, but the aims of the scheme remained consistent.

Extensive consultation undertaken with and for local partners, groups and residents took place over a period of three years between 2004 and 2007. The identified priorities for local people were: better facilities and local services, better design and housing standards, better environment, less crime and anti-social behaviour, more resident and community involvement, and an integrated and active community.

The original Estate was based on the “Radburn” design principles, which include separating pedestrians and vehicles. On this Estate, that did not lead to a successful design. It was characterised by cul-de-sacs, parking courts and alleyways between houses. It had little in the way of usable green spaces, being largely urban with the exception of small private gardens and some quite poor communal areas. Its layout and form seems to have lent itself to opportunistic crime and anti-social behaviour, with limited passive surveillance. It was not a legible Estate, and it proved unpopular, as the Action Plan demonstrates: local people wanted to see improvement.

Planning permission was granted originally in 2008 (under reference 06/00873/OUT for the redevelopment of the Craylands Estate and Fryerns School site, to provide 1,400 new dwellings. That was followed by subsequent reserved matters applications for the first phases of development, which resulted in 201 dwellings in the first phase (completed in 2012) and 206 in the second phase (completed in 2018). Following extensive consultation with local residents, and a review of the condition of some of the properties scheduled to be demolished under the terms of the original consent, a revised outline planning permission (and full application in respect of the North phase) was submitted in 2016 and has been described above.

Whilst every effort has been made to retain existing buildings where possible, as has been noted above, the wider project entails the provision of substantial demolition, and new dwellings it is necessary to make the Order now, so as to maintain momentum in the redevelopment and renewal, providing new properties for people to move to.

The selection of a development partner (procurement, decision making, the development agreement)

English Partnership as the leading partner led an OJEU compliant procurement process in 2007 that resulted in the selection of Swan Housing Association as the development partner. Swan and the Council entered into a Development Agreement with Homes England (then English Partnerships) on the 14 November 2008, as subsequently varied. This agreement provides for the redevelopment of the Craylands Estate in phases. Swan is obliged to obtain the planning permissions and to carry out the works of redevelopment. There are pre conditions including the making of a CPO by the Council. Swan will be

required to confirm that it has funding and that the overall scheme remains viable, known as the Watershed Condition. Once the pre conditions have been met and vacant possession of the phase had been obtained the Council is obliged to transfer the land required to Swan. The agreement includes nomination rights for the Council in the completed scheme and fifty per cent of any profit to Swan at the end of the development is to be applied to affordable housing in the Borough. A summary of the agreement is attached as document 12.

Council's decision to use CPO powers in respect of the CPO Scheme

In June 2007, the Council first approved in principle that it would take steps to regenerate the Estate, see Document 5 which is the report to Cabinet and Minute 405/2007.

In February 2017, the Council considered the use of CPO powers in respect of the Estate, and by a Cabinet decision of 9 February 2017, resolved in favour of the use of such powers, see Document 6 which is the report to Cabinet and Minute 76/2017.

In March 2018, the Council considered the use of CPO powers under section 226 in respect of the North phase, and resolved that subject to a suitable indemnity agreement being entered into between the parties, a CPO should be made in respect of land identified in a plan attached to the report (the North phase land), and delegated authority was granted in relation to matters directed to progressing the CPO. See Document 7 which is the report to Cabinet and Minute 145/2018.

An indemnity agreement was subsequently entered into on 14 May 2018, see Document 8. It provides what the Council regards as an acceptable indemnity in relation to CPO costs, and has allowed the Council to progress the land acquisition programme.

On the 18th December 2019 the Council by its Policy and Resources Committee completed the consideration of its compulsory purchase powers including the public sector equality duty and authorised the making of a compulsory purchase order for the north phase. See Document 12.

Consistency with the planning framework for the area and planning position

The statutory development plan for the area (relevant to the application, i.e. not minerals/waste) consists of the saved policies of the Basildon Local Plan 2007. There are four policies of particular relevance, BAS S5 (affordable housing), BAS R1 (open space), BAS BE12 (development control) and BAS BE24 (crime prevention).

Each of the four relevant policies of the Basildon Local Plan were applied by the Council in its consideration of the application for full planning permission for the North phase of development. The report to committee referred to above (Document 2, report 4 October 2016) considers the development against the policies of the statutory development plan and concluded that the application was in general conformity with them. On that basis, full planning permission was granted. Where planning permission has been granted, a CPO decision maker should not carry out a reassessment of the planning merits in circumstances where there had been no change in circumstances or new evidence on the matter since the planning permission was granted: *Alliance Spring v. First Secretary of State* [2005] EWHC 18 (Admin) (attached), see para. 16 in particular.

Well-being benefits

Environmental

Chief among the environmental benefits of the scheme is the replacement of poor quality, unpopular accommodation with modern accommodation which is better sited and better designed.

In addition to that, the opportunity has been taken to improve the north-south connection within the Estate, making it more functional, more legible, and with better passive surveillance. The improved landscaping will make the area more attractive, with public spaces durable and usable. The alleyways and distant car parking has been replaced with a better layout, which will work well for residents and will offer fewer opportunities for crime and anti-social behaviour.

The removal of the maisonette blocks owned by Basildon Borough Council improves connectivity within and across the north and south phases into the wider development and the new west phase linking into a central hub open space. It will also improve the feeling of safety with physical enhancements such as lighting, traffic calming and better places to park vehicles. The Masterplan was prepared as a direct response to consultation with the local community and local stakeholders.

Social

The mix of housing proposed provides a balance of tenures that helps address the perceived social imbalance on the estate whilst ensuring sufficient new affordable housing. The safer, more legible environment will reduce crime and anti-social behaviour, and will address the perception that the Estate is an unsafe environment.

The wider project links the North phase to an improved selection of local shops and facilities, contributing to the renewal of the Estate as a whole. The Estate has been renamed “Beechwood Village”.

The Council and Swan have helped to facilitate the setting up of the Beechwood Village Community Trust. This is a Trust managed by a board that includes representatives from the local community, and from Swan, the Council and volunteer groups. Its aims are to improve the social wellbeing of the community of the region of Basildon, Essex formerly commonly known as Craylands including that part which has been subject to regeneration and renamed Beechwood Village. The Trust wants to develop a Beechwood Village that: is a united place where different community groups live and work together; is a welcoming and safe space where all generations can live and meet; provides a place where the community can become fully integrated to build a better future for all; and is a supportive and lively place. It receives donations from Swan comprised of net rents from the commercial properties in Phase 1 (from Swan Housing Association), and CDT charges collected from private owners on the redeveloped estate (from Swan New Homes). The Trust aims to capitalise on the redevelopment and renewal of the Estate by building a new and revitalised community, tackling specific problems on the Estate by targeted interventions.

The Community Centre “The Beech”, which was developed as part of Phase 1 of the regeneration, is used extensively for community activities and events. Regular activities that take place include:

Beechwood Boxercise - Aimed at improving the lives of young people aged 7-15 within Beechwood/Craylands, who are considered to be vulnerable, or at risk, these are weekly sessions using boxing as the vehicle to engage some of our most challenging and disadvantaged young people. Adult classes are now also being delivered, also on a weekly basis.

Youth Club - Weekly sessions aimed at young people from Beechwood/Craylands. Sessions include multisport and arts and crafts amongst other fun activities.

Community Brunch – On the last Saturday of each month there is a community breakfast for all residents to come and socialise over a hot drink and some food.

Parent & Toddler group – Weekly session for local parents and toddlers. Lots of activities and play equipment included for them to use.

Dynamites Club – Friday evening session for local young people.

Martial Arts – Delivered every Sunday from The Beech

Community Fridge – (starting soon) Free food available for the local community to come and collect from The Beech twice weekly. Food provided through partnership with a local Aldi store

Junior Park Run – The BVCT is also funding the set up costs for a junior Park Run at Northlands Park.

One off workshops and courses are also delivered from The Beech. Examples provided so far include:

- CSCS Construction Course
- Beauty Therapy Workshop
- Setting up a Business or Social Enterprise Workshop
- Social Care Careers Advice Day
- Beechwood Food & Fun (Holiday Hunger Programme)
- Parents 4 Parents Workshops

Economic

Swan submitted an Employment and Skills plan to Essex County Council in line with the Section 106 requirements.

The construction phase benefits of the development will be supplemented by the operational phase, in which a thriving community will contribute to supporting the commercial offer within the Estate, and to the local labour supply in Basildon.

Financial viability/funding

A loan agreement dated 31 January 2019 provides funding from Homes England to Swan for the completion of the development. The CPO acquisition costs are met by Swan via an indemnity agreement with the Council.

The delivery of the 96 new residential dwellings, access and landscaping is to be funded by Swan Housing Association. It is an organisation with sufficient funding to deliver Phase north and has committed to a business plan which includes the delivery of Phase north, and specifically note pre-construction expenditure of £920k, see Document 9 for the Swan Housing Association board meeting 13 July 2018 and minute.

The development costs will be funded through Swan's existing loan arrangements, together with retained earnings. Swan has a £30,000,000 loan facility from Homes England and a funding gap agreement to meet the shortfall between the development costs and the development value see the summary at document 12.

Both the Council and Swan Housing Association are fully committed to the delivery of the Phase north project, once vacant possession of the remaining land has been secured.

The Phase North scheme has been viability tested, but is subject to the Watershed Condition in the DA. Once Swan confirm that this condition is met the DA goes fully unconditional at the point Vacant Possession of Phase North is achieved and the Transfer Stage for this phase is met.

Alternatives

The Council and its development partner Swan have collaborated to promote a scheme which includes the minimum redevelopment possible, whilst achieving the objective of addressing the design defects in this part of the Estate (inaccessible layout, poor public realm, poor quality housing). There may be other schemes, such as full redevelopment, which could also achieve that objective, but when full redevelopment was earlier proposed, it proved unviable. It would be highly undesirable to revisit those proposals now given that this is the third phase of the redevelopment and renewal of the Estate, and residents anticipate progress towards completion. As such, the Council considers that there are no realistic, desirable alternatives to the CPO scheme.

No impediments to delivery

The Council is satisfied that the scheme can be delivered without impediments.

Reasonable steps to acquire land by agreement

The Council and Swan have worked together to acquire all freehold and leasehold interests by agreement. That has resulted in measurable success, of 31 original interests, 23 have been acquired by agreement.

A detailed schedule has been kept, recording all contact with the owners of the interests which remain to be acquired. [The following should be noted:

The Council has been prepared to pay for independent advice to be obtained by the owners

At least [two] offers have been made in respect of each property

The Council's valuations have been undertaken by a RICS registered surveyor

Those with an interest have been offered advice and support in relation to rehousing where requested

In order to mitigate the effect of the redevelopment, and to comply with the Estate Regeneration National Strategy, the Council, together with Swan, has ensured that it has offered mechanisms to allow homeowners to remain on or near the Estate. The details are

set out in the Craylands Homeowners Information Booklet (Document 10). That includes five options:

To purchase a property elsewhere, including Beechwood (the new name for the Estate), on the open market;

To move into one of the new homes on Beechwood as a shared equity owner;

To purchase a property on the part of the Estate not due for demolition, or a resale property within the new section of the Estate, as a shared equity owner;

To purchase a property in the Basildon Town area as a shared equity owner;

To purchase a new property on Beechwood as a shared ownership owner.

In all the circumstances, the Council has taken reasonable steps to acquire the necessary land interests by agreement, in accordance with the 2019 Guidance. However, it is not certain that it will be able to acquire all the remaining interests in good time for Phase north to progress. As such, the CPO is needed.

Compelling case in the public interest

Having regard in particular to the benefits to be achieved from the regeneration, the replacement of an illegible layout, with poor quality public realm and poor accommodation with a better layout, more attractive and usable public realm, and well designed new properties, the Council considers the use of compulsory purchase powers to be necessary and justified, and that in all the circumstances there is a compelling case in the public interest to make the Order, in order to facilitate the delivery of Phase north. The Council does not consider that there is a reasonable alternative to delivering Phase north since it forms part of a comprehensive regeneration project for which planning permission has already been granted, and which is already well underway.

Failure to confirm the Order would have the following serious adverse consequences: the loss of an opportunity to continue to regenerate the Estate in accordance with the planning permission and with planning policy; and finally, an important regeneration project would be left only partially complete.

Public sector equality duty

The Council's report on the Equality duty is attached as document 11.

All public authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers the Council as acquiring authority must have regard to the effect of any differential impacts on groups with protected characteristics, namely

- Marital or Civil Partnership Status
- Pregnancy / Maternity
- Sexual Orientation
- Sex
- Gender Reassignment
- Religion or Belief
- Race
- Age
- Disability

As is set out above, the Scheme is supported by a range of planning policies in the Basildon Local Plan, both within the Core Strategy and the saved policies from within the UDP. In promoting the regeneration of the Estate, the Council is committed to improving the quality of life for all and to encouraging wider participation in the economic, educational, cultural, social and community life in the Borough.

The Council has considered the likely impacts of the orders by reference to the requirements of Section 149. The Council considers the Scheme (as well as the wider project) will deliver an attractive neighbourhood in this part of Basildon and will be fully integrated with the wider community. It will make a significant contribution to the provision of high quality private and affordable housing units in the Borough. Physical accessibility and legibility of the area will be improved for pedestrians and vehicle users in a location that is currently very poor.

Of the new housing stock 10% will be wheelchair accessible or adaptable units. Designated disabled car parking spaces will be provided. The Scheme will deliver an inclusive place for people of all ages, with a housing mix that reflects different life stages, a range of housing tenures, as well as public spaces which are accessible to all.

In its Equality Impact assessment, the Council has recognised that there are impacts on the protected groups identified in the report and considers that the measures set out in the report addresses those impacts.

Human Rights

The Human Rights Act 1998 (“the HRA”) incorporated into the UK domestic law the European Convention for the Protection of Human Rights and Fundamental Freedoms (“the ECHR”). Section 6 of the HRA makes it unlawful for a public authority to act in a manner which is incompatible with an ECHR right. The ECHR rights engaged in the context of a compulsory purchase order are Article 1 of the First Protocol and Article 8. Article 1 of the First Protocol reads: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interests and subject to the conditions provided for by law and by the general principles of international law...” Article 8 of the Convention provides: “(1) Everyone has the right to respect for his private and family life, his home and his correspondence. (2) 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 in a democratic society in the interest ofthe economic well-being of the country...”. The Council acknowledges that regard must be had to the fair balance which has to be struck between the competing interests of those whose rights are affected and the community as a whole. Any interference with Article 8 rights must be in accordance with the law and must be necessary and proportionate.

The Council has taken into account the impact of the Order on the rights of those affected by the Order. In view of the matters set out in this Statement of Reasons, the Council considers that the exercise of compulsory purchase powers in this case is justified because it is in the public interest, authorised by law and necessary and proportionate to achieve the benefits sought.

List of documents

Document 1: Compulsory Purchase Order, Schedule & Map

Document 2: Decision notice 22 March 2017

Document 3: Report to committee 4 October 2016

Document 4: Community Action Plan for Craylands 2008-2011

Document 5: June 2007 report to Cabinet and Minute 405/2007

Document 6: February 2017 report to Cabinet and Minute 76/2017

Document 7: March 2018 report to Cabinet and Minute 145/2018

Document 8: Indemnity Agreement 14 May 2018

Document 9: Swan Housing Association board meeting 13 July 2018 and minute

Document 10: Craylands Homeowners Information Booklet

Document 11: Public Sector Equality

Document 12: Summary of DA.

Document 12: 18 December 2019 report to the Policy & Resources Committee and minutes