

## BASILDON BOROUGH COUNCIL

**Report to:** Cabinet  
9 February 2017

### **BEECHWOOD VILLAGE (FRYERNS AND CRAYLANDS) REGENERATION SCHEME LAND COMPULSORY PURCHASE ORDER (CPO)**

**Report by:** Leader of the Council

**Supported by:** Kieran Carrigan, Commissioning Director – Resources and Place Shaping, [kieran.carrigan@basildon.gov.uk](mailto:kieran.carrigan@basildon.gov.uk), 01268 208182

**Enclosures:** Enclosure No. 1 - Risk Management Implications  
Enclosure No. 2 - Plan of affected areas (North Phase)  
Enclosure No. 3 - Plan of affected areas (West Phase)  
Enclosure No. 4 - Indices of Multiple Deprivation  
Enclosure No. 5 - Plan of overall development

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#### **EXECUTIVE SUMMARY:**

The purpose of this report is to seek Cabinet approval to:

(i) Make two Compulsory Purchase Orders (CPOs) pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 with respect to land and property edged red on the plans attached (Enclosure No. 2 and 3) so as to enable the north and west phases of the Fryerns & Craylands Regeneration scheme to proceed; and

(ii) Give the Commissioning Director – Resources and Place Shaping delegated authority to make any necessary minor modifications to the CPO land to be acquired to finalise the development site for the north and west phases of the project and progress the CPOs.

Compulsory purchase action is required to ensure the successful progression of the redevelopment of the Fryerns & Craylands area.

#### **CORPORATE PLAN PROMISES AND CORE PRINCIPLES:**

##### Corporate Plan Promises

- We will support residents to develop stronger communities
- We will enhance and build pride in the local environment
- We will enable regeneration and secure homes
- We will help grow the local economy
- We will endeavour to keep communities safe and healthy

##### Core Principles

- Get the basics right
- Value for money and strong governance
- Working with others

**WARD(S):**

Fryerns

**RECOMMENDATIONS:**

- 1. That subject to a suitable indemnity agreement being entered into between the parties, two compulsory purchase orders (CPOs) are made in respect of the land and property shown edged red on the plans attached to this report (Enclosures 2 and 3) pursuant to section 226(1)(a) of the Town and Country Planning Act 1990.**
  - 2. That the Commissioning Director – Resources and Place Shaping is given delegated authority to make any necessary minor modifications to the CPO land to be acquired.**
  - 3. That the Commissioning Director – Resources and Place Shaping is given delegated authority to settle the statement of reasons and take all other action necessary to secure confirmed Orders.**
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**BACKGROUND****The original regeneration proposals**

The original Fryerns and Craylands regeneration scheme, which is a partnership between the Council, the Homes and Community Agency (HCA) and Swan Housing Association, was approved by Cabinet in June 2007 (min 405/2007).

The report outlined the reasons for the need to regenerate the Craylands estate by highlighting the poor condition of the housing stock and the high levels of social deprivation prevailing there. In particular, the estate has many maisonette blocks which are very unpopular and difficult to manage and, because the estate was built using the Radburn principle of estate design, the parking areas are separate and remote from the residential properties which causes safety and security problems for residents. The maisonettes in particular are of poor quality and would require high levels of investment if retained.

In order to put together a viable regeneration scheme, the adjoining redundant Fryerns School site was purchased from Essex County Council (ECC) by the HCA and included in the area of development. A comprehensive regeneration scheme was then put together following extensive resident consultation and engagement, approved by all the partners in 2006 and development works commenced in 2008

During the first phase of the regeneration scheme, 161 properties were demolished and 407 new properties are being built. This phase is due to complete during 2017. Consultation with residents resulted in a decision to name the regenerated estate Beechwood Village.

## **The revised regeneration proposals**

The original masterplan granted planning permission under reference 06/00873/OUT. The 'Original Permission' for the scheme proposed the demolition of up to 700 properties and their replacement with up to 1400 new homes.

However, the project experienced difficulties during the worldwide recession from 2008 onwards and paused for some time because of poor market conditions. As a result of the changed market conditions both nationally and locally, it was considered that the scheme proposals needed to be fundamentally changed. What was planned to be a mostly flatted scheme has been changed to one that is predominantly low level family houses. The proposals to change the scheme were received favourably by residents during consultation which took place during 2015/16 and, in 2016, Cabinet approved the necessary changes to the Fryerns and Craylands Comprehensive Development Agreement to enable the scheme to be revised (min 279/2016).

The new plans were given planning consent recently under reference 16/00898/OUT. The overall scheme will see 521 properties demolished (including the unpopular maisonette blocks) and up to 994 new homes will be built.

Fewer houses will be demolished in the revised scheme but all the Council owned maisonette blocks will still be demolished. The retained Council homes are benefitting from substantial investment through the Council's Housing Revenue Account capital programme. The whole estate is benefitting from investment in the infrastructure of the estate through the provision of re-surfaced pavements, roads, green areas and new street furniture.

The final phases of the scheme are programmed to start in 2017 and are due to complete in 2024. The proposed development is fully in accordance with both local and national planning policies in that it is proposing housing within an existing urban area and seeking to regenerate and improve an area that has become very dilapidated over the years. National planning policy, as expressed through the National Planning Policy Framework, encourages local authorities to significantly boost the supply of housing and to provide a mix of housing to meet the needs of different groups within the community. The regeneration of the former Craylands estate has already commenced and to date 407 dwellings have been built under the Original and the Full Permission, or are near completion.

The CPOs are required to enable the re-development of the north and west phases of the development.

The financial viability of the entire project has been scrutinised by an external organisation and has been assessed as viable. The Comprehensive Development Agreement (CDA) between the partners requires this viability test to be passed as a prerequisite for embarking on the next phase of development.

## **Why CPO action is considered necessary to deliver the original and revised proposals**

It is accepted practice to ensure CPOs are in place when radical changes are being made to the layout of existing estates, especially when the demolition of homes is required. Failure to secure the land required for the development in time can stop developments from progressing and developers normally require assurances regarding this prior to

entering into contracts. A CPO ensures that timing can be controlled and that risks in relation to land assembly are managed. Swan will not be able to secure funding for the development without such control and assurances being available.

It was originally planned that the HCA would make the CPO on behalf of the partnership, but, in response to the introduction of the Localism Act 2011, the HCA decided to withdraw from CPO activity in these matters nationally and pass them to the Local Authority. As a result of this, Cabinet agreed, in principle, to make a CPO, should one be required (Cabinet 7<sup>th</sup> February 2013 – min 84/2013).

The north and south phases of the redevelopment will each require their own CPO due to the lengthy nature of the regeneration scheme. Approval for the CPO for the south phase will be sought at a later date. In addition to the CPO for the north phase, a CPO is also required in relation to some unregistered land required for the development of the west phase, see below. The west phase is predominantly the redundant Fryerns School site that is now in the ownership of the HCA, but it also includes unregistered land on the western periphery of the school site.

### **The land to be included in the CPO for the north phase**

It is intended that the north phase CPO will cover all the land and properties within the red line boundaries as shown in **Enclosure No. 2** and these consist of 33 properties that are privately owned or are owned by Housing Associations and 74 properties owned and let by the Council on secure or short term arrangements. Once these are demolished the sites will be developed for new housing.

### **The land to be included in the CPO for the west phase**

The land required for the west phase comprises small areas of unregistered land adjacent to the western boundary of the redundant Fryerns school site. Although these parcels of land are small, they are required for the new development as approved by the Council's Planning Committee. These small pieces of land are unregistered, in unknown ownership and unoccupied. It is probable that there was an error on first registration of title with the Land Registry when Basildon Development Corporation and Essex County Council registered their land ownership of the Fryerns Estate and the Fryerns School Site. The land is required by Swan (the developer) to fulfil the garden area requirements of the planning permission. There are timing advantages in pursuing a separate CPO for these small pieces in advance of the CPO for the majority of the land within the redevelopment area, as they are needed earlier.

### **The Development**

The Development now being advanced, supported by the two linked CPOs, is the north and west phases of the scheme combined. The Development sites are shown on **Enclosure No. 5**

### **Voluntary negotiations, rehousing and compensation**

As is the Council's usual practice, all attempts will be made to reach negotiated purchases with all third parties and work will commence on these negotiations in March. Past experience is that these properties can be bought by agreement if a fair offer is made. The Council has back-up policies to help people should they find it difficult to find alternative homes. Shared equity properties from the developer can be provided for

owner-occupiers by Swan and re-housing advice and support for private tenants is available if required. Council tenants are fully provided for through the Council's "decant" policy. In practice, this means that secure tenants are offered properties suitable for their needs, where possible, in areas of their choice, within the Borough. Statutory Home-loss and Disturbance payments are made to these tenants. Monetary compensation is also available to freeholders and long leaseholders as per statutory requirements. The CPO process ensures all eligible claimants receive commensurate compensation for their loss

Each resident will have the opportunity to discuss their particular circumstances and these will be taken into consideration whilst rehousing options are being considered. In the case of, private owners and non-resident private owners and their tenants, an Independent Resident Advisor will be appointed by the developer to ensure they are aware of their legal entitlements.

Under the terms of the Development Agreement, the developer Swan, is responsible for funding the CPO and will fully indemnify the Council's costs.

## **OPTIONS**

Failure to put a CPO in place could substantially damage the progress of the redevelopment, conceivably allowing individuals to block the development which would prevent the completion of the much-needed regeneration of the estate. The required assurances that the Council's developer partner requires in order to proceed with the redevelopment scheme would not be in place so the scheme would not proceed.

## **LEGISLATION/POLICY**

Section 226(1)(a) of the Town and Country Planning Act 1990 allows a local planning authority to compulsorily acquire land assembling it to enable it to be improved, developed or redeveloped, provided that this will bring about social, economic or environmental benefits. These are as follows:

### Economic Benefits

The Development will enhance and contribute to the local economy by the creation of jobs and training opportunities associated with the construction stages. New residents are also likely to support existing local services and businesses, with a possible increase in local jobs as a result. In addition the new dwellings would offer homes to local residents who would contribute to the labour supply, some of whom would be likely to be local.

Beechwood Village Community Trust has been formed to enhance the life chances of the residents through initiatives providing economic, educational and health interventions on the estate. It is funded in perpetuity through income from the community assets, the shops, and an annual charge to the new homes built on the estate.

### Social Benefits

The proposed housing will provide social benefits and will contribute to the health and vibrancy of the local community by providing towards a supply of good quality homes and open spaces to meet the needs of present and future generations. This will include much needed affordable housing totaling 30% of the new homes.

The Development will provide a mix of housing, particularly with the inclusion of custom build type housing in the West Phase which will allow residents the opportunity to design a house that matches their particular needs and preferences through a wide choice of options regarding the layout of the external and internal houses and the desired finishes to these.

The new residents will have the potential to add to the vibrancy of the area with their new energy and enthusiasm creating and sustaining an invigorated community. They could expand participation in local events and have the potential to introduce new skills and interests. The approved plans provide more community facilities, improve the pedestrian links within the estate and also improve the links to the surrounding areas.

The Development will create a safer more hospitable environment for local residents by opening up parts of the estate and removing some of the inhospitable un-overlooked areas which will improve the perceptions of safety and well-being of local residents.

When the regeneration of Craylands began the Indices of Multiple Deprivation (IMD) ranking for the estate was 3<sup>rd</sup> most deprived in Basildon. Whilst this position has slightly improved to 4<sup>th</sup>, the figures still show a pressing need for intervention. A full list of most recent IMD Analysis (2015) is attached to this report (**Enclosure no. 4**)

### Environmental Benefits

The proposals for the interventions in the north and south phases to remove the existing alleyways and create traditional street patterns to ease safe movement through the estates.

The introduction of a landscaped park area to the centre of the estate and the other areas of landscaping in the west and north phases will make a positive contribution to the environment.

Work is already underway to ensure areas of the Estate not improved directly by the demolition and rebuild will benefit from the project through investment in the environment through provision of newly surfaced pavements, roads and parking areas as well as replacement street furniture and planting.

The new homes will be built to high standards of sustainability providing affordable warmth for the residents through efficient heating and excellent levels of insulation.

### **Justification for the CPOs**

The test the Secretary of State applies in deciding if a CPO should be confirmed is that of a compelling case in the public interest. This is the test that the Council should similarly apply in considering whether or not to make a CPO. The test is considered to be met in this case because the benefits set out above substantially overcome the deficiencies in the estate and the effect on the people living in it, summarised in the background section and earlier reports.

Any CPO interferes with the human rights of those with an interest in the land. However whenever the compelling case test is met such interference is considered to be proportionate and lawful. The rights potentially affected are Article 1, peaceful enjoyment of possessions and Article 8 respect for private and life and home. Both are qualified rights subject to the public interest and economic benefits. The Council judges the social,

economic and environmental benefits of the Development to outweigh the harm to private interests, taking into account the compensation rights available to the private interests. The UK's CPO procedures have been held compliant with the convention.

## **GENERAL INFORMATION**

### Corporate Plan Promises and Core Principles

Due to the scale and effect of the regeneration scheme, the proposals meet all the Corporate Plan Promises and Core Principles. The best example is the Promise to enable regeneration and provide secure homes. The existing housing is very unpopular and the nature of the build renders it unsustainable in the longer term. The new housing will be of a high standard and the modern methods of construction used will be more energy efficient and will be sustainable in nature.

### Financial Implications

As has already been stated, all costs the Council incurs in exercising its' powers under the CPOs proposed in the report will be met by the developer, Swan. It is not possible to identify the actual sums involved since it is not yet known the extent (if at all) to which the exercise of these powers will be used. The indemnity agreement will provide for the Council to be reimbursed the costs it incurs without any undue delay between the outflow of funds from the Council and reimbursement by the developer and provide for a compensation amount to be paid if such a delay does occur. It is imperative that the Council keeps detailed records of expenditure incurred in respect of any CPO and this should include the cost of officer time spent on the matter.

It is important to determine whether or not the option to tax has been exercised on any of the non-residential land that may be subject to a CPO as this may affect the costs incurred and further advice may be necessary. Where the Council is meeting third party costs, e.g. solicitor's fees, it will not be possible to recover the VAT from HMRC so the costs to be met by the developer is the gross (i.e. including VAT) sum.

The Section 151 Officer is authorised to make any amendments necessary to capital and revenue Budgets to accommodate the financial implications of a CPO under Financial Regulations 7 (5) (iii).

### Risk Management Implications

The risk management implications are set out at **Enclosure No. 1**.

### Inclusion, Diversity and Community Cohesion Implications

A Service Impact Assessment (SIA) has been conducted and this shows that any equalities implications on grounds of ethnicity, gender, disability, age, sexual orientation, religion and any relating to community cohesion based on its' findings can be avoided if Council policies are followed.

In exercising its' compulsory purchase and related powers (e.g. powers of entry) the Council as an acquiring authority will have regard to the effect of any differential impacts on groups with protected characteristics.

Particular care must be taken to ensure anyone who currently has or needs home adaptations to allow them to properly access and enjoy their home is provided with the necessary adaptations and the location of their new home is suitable taking their needs into account.

#### Other Relevant Considerations

The regeneration scheme has benefitted from much public consultation and the design and scope of the development is a product of that.

A Statement of Reasons will be produced to support the CPO.

Compliance with the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010.

In exercising their compulsory purchase and related powers (e.g. powers of entry) the Council as acquiring authority has had and will have regard to the effect of any differential impacts on groups with protected characteristics. In particular the Council has ensured that consultation on the Development has been available to all protected groups. The benefits of the development will apply to all protected groups and the Councils' housing allocation policies are Equality Act compliant.

#### Background Papers

None