

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting15th March 2007

1. Title of Item/Report

Hardwick Redevelopment

2. Record of the Decision

Members considered a report relating to the redevelopment of the Hardwick Estate.

Members were reminded of previous reports Cabinet had considered on this matter and noted the key features of the scheme.

Details of some of the progress on the ground was provided and it was explained that extensive community consultation had been central to the redevelopment proposals for the area:

This report sought to move the scheme forward by:

- Authorising the signing of the Development Agreement – a legally binding contract which, details the obligations of all partners in the delivery of the scheme of which the main terms are set out later in the report.
- Appropriating the land for planning purposes – the formal decision to apply the land for development purposes, which also has the effect of ensuring that all third party rights on the land are overridden.
- Seeking Cabinet authority to make Compulsory Purchase Orders – powers used to buy back properties where owners do not sell by agreement.
- Seeking Cabinet authority to undertake road closures – powers used by the Council to close adopted highways.
- Extending the boundary of the redevelopment area to include three blocks of flats (11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk) and approving a decant and demolition programme to commence in partnership with Tristar Homes Ltd.

The proposed Development Agreement would be a three way legally binding agreement, which regulated the transactions between Stockton-on-Tees Borough Council (SBC), Endeavour Housing Association (EHA) and Barrat Homes Limited (BH), committing each party to obligations contained within the agreement. The framework of the deal had changed from the original tender, however independent advice from GVA Lamb and Edge and the Council's Auditors had confirmed that the deal represented best consideration for the Council. The detailed agreement was summarised through its main Heads of Terms;

Price and Sale of Land

i) SBC would receive phased capital receipts for the disposal of the land, which will be sold in phases as it becomes vacant through decanting, projected to take a further 3 years. The total sale price for the private housing land was provided to members in an exempt appendix to the report. The price for each phase would be calculated pro rata by reference to the developable area of land sold. A requirement of the agreement was that BH must buy any developable land as it became vacant (provided it was at least one hectare in area) to ensure that SBC had sufficient cash flow to deliver the scheme. The value of the land was set which meant that any future housing market slump and related fall in land values would not lead to a reduction in capital receipts received in later phases. In return for this assumption of risk by BH, and in consideration of the land value negotiated, BH would derive the benefit of any increases in property values during 7 years that the scheme would run.

ii) SBC would receive a net capital receipt at an agreed financial sum to cover construction of the new primary school, acquisition costs for Right to Buys (RTB's), homeownership assistance, cycleway provision and linkages to the Castle Eden Walkway, a contribution to Tees Valley Wildlife Trust and other miscellaneous costs and overheads related to the delivery of the scheme.

iii) BH would cover the cost of all the abnormal costs relating to the redevelopment which would normally be funded by the Council from the gross capital receipt such as sewer diversions, infrastructure costs (including highway replacement), environmental improvements etc. This meant that the Council was provided with more certainty over the financial elements of the scheme and free of most of the potential risks that could arise from unexpected abnormal costs, which could arise as the scheme progressed. There was still a small financial risk surrounding acquisition of Right to Buys as the amount specified had been capped, which meant SBC would need to cover any cost over run.

A contingency had been built into this estimate and any cost over run would be met from the overall scheme costs.

iv) In addition to the net capital receipt, BH would also fund the following:

- a) Traffic light junction on Harrowgate Lane and associated gateway landscaping - £378,313
- b) Improvement works to Durham Road roundabout - £272,100
- c) Provision of protected right turn at the Letch Lane junction on Harrogate lane - £187,135
- d) Improvements to Mile House junction - £70,000
- e) A commuted lump sum for the landscape maintenance of open space provision and all highway verges - £180,000
- f) Cycleway connection to Castle Eden walkway to provide safe links to the new primary school and also Bishopsgarth School - £50,000
- g) Provision of a Multi Use Games Area at the Door Step Green project off High Newham Road - £190,000
- h) Contribution towards the Newham Grange Park masterplan - £50,000

v) SBC would sell the land within the scheme allocated for social housing separately to EHA. EHA will then make a separate arrangement with BH to build properties on their behalf. The land sale price was a sum to be determined by reference to the amount of grant and other funding available to EHA phase by phase, but with a minimum price payable to the Council of £8,250 per plot.

Acquiring Right to Buys (RTB's)

i) SBC will be obliged under the agreement to deliver vacant possession of the land, if necessary, using Compulsory Purchase Orders (CPO) if the properties cannot be acquired by agreement.

ii) In order to stop the Council being obliged to sell under the Right to Buy (and subsequently have to repurchase) any of the properties within the scheme boundary, approval was sought to serve Initial Demolition Notices (IDN) under schedule 5A to the Housing Act 1985. The effect of an IDN was to suspend the Right to Buy for a period to be specified in the notice (maximum 5 years) as being the period within which the Council intended to demolish the property. For any of the properties where a RTB application had been made at the time of the issue of an IDN the legislation entitled the applicant to compensation for abortive costs incurred in the application. At the date of this report there was 1 pending application that would be suspended by the IDN. The serving of the IDN also gave the Council certainty on the number of RTB properties that it

would have to acquire and the subsequent funding needed to acquire them.

Timescales

BH anticipate start on site April 2007, the tender to construct the new school would go out in April/May 2007, scheduled to be ready for occupation in September 2008.

Equity Shares

The Development Agreement puts a requirement on BH to provide up to £500,000 for equity share properties for local residents. This had been a significant national policy shift for both companies and first trialled for both companies at Mandale. BH would retain a 25% share in 12 new homes, which would enable local residents of Hardwick to purchase one of the new homes for 75% of its value the remaining 25% was only repaid when the property was sold. The equity share properties would be ring fenced initially for homeowners within the demolition area and any remaining would become available for the wider Hardwick community.

With regard to Planning Appropriation the Council's legal advisers for the scheme advised that before disposal the land was appropriated for planning and development purposes. Appropriation involved recognition that the land was no longer required for the purpose for which it was held immediately before the appropriation. Appropriation to planning and development purposes had the effect that any covenants, easements or third party rights that may be held over the land could not be enforced so as to prevent the carrying out of development on it. Once appropriated, the land was to be held and in due course disposed of under Part 9 of the Town and Country Planning Act 1990.

To apply this to the site:

i) The housing, which, had been or would be demolished was of poor quality and the area had experienced a spiral of socio economic decline. The Housing Business Plan and the Hardwick Visioning Exercise 2003 both identified this housing as non-sustainable, which meant that investment would not bring those properties up to the Government's Decent Homes Standard and therefore demolition had been identified as the only option. The needs of the community for social rented housing could be better met by the disposal of this land to EHA to allow modern, high quality homes for rent to be built.

ii) Hardwick Primary School playing field would be disposed of once the

school had relocated to its new site. The Department for Education and Skills (DfES) had given consent to dispose of the existing playing field and re-provide at the English Martyrs site. Sport England had also given their consent to the disposal of this school playing field on the basis that community use playing fields at the new school, and on the land to the south of High Newham Road, would be provided along with a Multi Use Games Area.

Before it could appropriate or dispose of any land forming part of open space, SBC was required to advertise its proposals and consider any objections. 'Open space' included land in the Council's ownership, which was used for public recreation. The area of open space bordering the school playing field/Harrowgate Lane and Embleton Walk and those areas on Whitburn Road and Willington Road were used for such purposes on an informal basis. The proposal to appropriate the land for development purposes and dispose of it was advertised in the Evening Gazette on the 24th and 31st January 2006. No objections were received. In view of the measures noted above, and the other benefits flowing from the development. Members were invited to conclude that the loss of amenity associated with the loss of informal recreational open space was outweighed by the scheme benefits, and to agree to the appropriation and disposal of the open space land along with the rest of the site as and when appropriate. Whilst some time had elapsed since the notice procedures were undertaken, there had been no material change in circumstances since that time.

Legal limitations on the Council's power to appropriate houses meant that the formal decision to appropriate the land should only be taken after the houses had been demolished. Approval in principle to appropriate the land in due course was therefore sought, together with approval for the Corporate Director for Development and Neighbourhood Services to be delegated the ability to make the formal decision to appropriate the land for planning purposes after the remaining Council-owned houses have been demolished.

The re-purchase by agreement of those properties that were sold under the Right to Buy and remained in private ownership, and of other outstanding land interests within the redevelopment site, should be made using the Council's powers under section 227 Town and Country Planning Act 1990 to acquire land for planning/development purposes. Clearly this was the intended purpose of the acquisitions, and formal resolution to that effect would also ensure the benefits described above in overriding covenants and third party rights, were extended to the lands to be re-purchased.

Members considered Compulsory Purchase issues and it was explained that in addition to the land owned by SBC there were currently 28 RTB's still to acquire. This number should now remain static with the serving of the Initial Demolition Notice on those properties within the boundary of the scheme that were still in the Council's ownership. Every effort would be made to secure acquisition by agreement and a range of financial and relocation packages had been introduced to facilitate this. Negotiations were ongoing, however, in order to ensure that the scheme proceeded the Council, needed to be prepared if required, to use its CPO powers. Authority was therefore sought to proceed with CPO's. The draft Statement of Reasons was provided to Members. Members were requested to approve the making of the compulsory purchase orders and to delegate to the Corporate Director for Development and Neighbourhood Services in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport authority to approve amendments to the Statement of Reasons, if required, setting out the justification for CPO in more detail for consideration by the First Secretary of State.

The making of a CPO would need to be confirmed. If objections were received the Secretary of State would make arrangements for a Public Inquiry to be held to consider the objections, before the Secretary of State decided whether or not to confirm the Order. The timescales for making an Order, having it confirmed and bringing it into effect were variable but could be up to 18 months due to pressures at the Planning Inspectorate who conduct the Inquiry.

It was proposed to include an obligation within the Development Agreement to use the Council's CPO powers to acquire the Right to Buy properties and any other land required to facilitate the development. The Council should be satisfied that before the making of the Order that there were no planning barriers to the scheme. These matters were covered in some detail in the Statement of Reasons, but could be summarised as:

- . The existing Local Plan, which was adopted in 1997, prior to the introduction of the new Government agenda of housing market renewal, gave no specific land-use allocations to the Hardwick redevelopment, however, there were a significant number of policies relating to new housing developments within the limits to development. The Local Authority was working on the new Local Development Framework and this document would make reference to this development.
- . The redevelopment was in accordance with a range of other national, regional and local plans and strategies including National Planning Guidance (PPG3 Housing), and new Planning Policy Statement

3 (PPS3 Housing) ODPM Action Plan – ‘Sustainable communities in the North East: Building for the Future’ (ODPM 2003), Regional Planning Guidance for the North East – RPG1 (2002), the Tees Valley Structure Plan and SBC’s Housing Strategy.

. The full planning application had been approved by the Council’s Planning Committee on the 14th March 2007.

Delegated Authority was requested that amendments to be made to the Statement of Reasons be approved by the Corporate Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport.

In arriving at any decision to make a CPO, and thereby depriving a person of their interest in and in most cases, occupation of property, the Council should be satisfied that there was clear evidence that the public benefit would outweigh private loss.

The public benefits of the scheme lay in the regeneration of an area resulting from the redevelopment through the provision of modern, attractive homes for rent and sale, attractive open space areas and the construction of a new replacement school for the estate. Secondary benefits included employment opportunities for local people, which would in turn boost the local economy.

It was important that the Council’s proposals incorporated a re-housing strategy, which ensured that residents were successfully relocated to a permanent home and not disadvantaged financially. In this regard;

All private tenants, Council tenants and homeowners were offered either a new Endeavour Housing Association property (subject to tenancy referencing) or an alternative Council home.

In addition to the above homeowners were offered a range of schemes to assist them to purchase an alternative home and remain in homeownership.

The statement of reasons demonstrated that the scheme was financially viable.

In light of the above, officers were satisfied that it could be demonstrated that the public benefits from any of the CPO’s that may be required would outweigh the private loss.

To enable the Council to obtain title to the land to allow redevelopment to

begin without undue delay it was recommended that once any CPO was confirmed use was made of the powers to make a General Vesting Declaration (GVD). On such a declaration coming into effect the Council obtained title of the land included in the order without having to follow normal conveyance practice. Payments for compensation were dealt with after the GVD has taken effect.

Members considered necessary Road Closure Orders and noted that the Council would be obliged to use reasonable endeavours to obtain Road Closure Orders (RCO's) over several small sections of existing adopted highways within the scheme under the Highways Act 1980 Sec 116. Before seeking an order under from the Magistrates' Court, the Council in its capacity as Highway Authority should be satisfied that the highways were unnecessary and that there were no other reasons why they should remain open. The highways in question were detailed on a plan provided to Members. They had served former housing now demolished, were not required to be retained as part of the redevelopment proposals, and were not needed in connection with access to any other land. There were no other reasons for their retention, and their stopping-up would facilitate the redevelopment proposals in accordance with BH's planning permission. The plan also identified sections of highway for which RCO's would be sought at an appropriate time, once the housing had been demolished.

Cabinet noted that over recent years the flats at 11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk had become increasing unpopular and suffered from increasing levels of antisocial behaviour. As a result one a forth block (2-24 Elwick Gardens) was demolished in January 2005 and of the 34 remaining units 14 are already void. A recent feasibility study into the future of these flats had revealed there was overwhelming support from the tenants of the flats and the local Ward Members to demolish them. Approval was therefore sought to demolish the remaining flats and the site to be developed and included within the wider scheme.

RESOLVED that

1. Approve the terms for the proposed Development Agreement set out in the report and delegate to the Corporate Director for Development and Neighbourhood Services and Corporate Director for Resources in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport all powers necessary to carry out the Council's obligations under the Development Agreement.

2. Approve the financial appraisal of the scheme at Appendix 2 and that the net capital receipt is sufficient to deliver the scheme (please note Appendix 2 is exempt).

3. Approve the policy of using any surpluses that may arise within the scheme to be used in the first instance to balance shortfalls within other major housing regeneration schemes and authorise the Corporate Director for Development and Neighbourhood Services and Corporate Director for Resources in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport to approve any subsequent transfers of funding between the schemes.

4. Agree that the capital receipt from the Housing land identified in Appendix 1 be used in the first instance to fund the construction of the replacement Hardwick Primary School and then repaid from the capital receipt from the land following the sale of the current Hardwick Primary School site to the developers upon relocation.

5. Agree that all the land identified at Appendix 1, which is currently owned by the Council, be declared as surplus for the purpose for which it is currently held and delegate to the Corporate Director for Development and Neighbourhood Services in conjunction with Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport the ability to make the formal decision to appropriate the land for planning purposes at the appropriate time.

6. Agree that all subsequent purchases by agreement of properties and interests in properties within the land at Appendix 1 are to be made under section 227 of the Town and Country Planning Act 1990, for inclusion in the re-development scheme.

7. In relation to the Compulsory Purchase Orders Members agree:

- That the redevelopment of the land shown on the plan at Appendix 1 will improve the economic, social, and environmental well-being of the area;

- That the acquisition of all interests in that area of land which are not already in Council ownership will facilitate the carrying out of its redevelopment;

- In principle that the Council makes a Compulsory Purchase Order in respect of the area indicated as the CPO boundary shown at Appendix 1 pursuant to Section 226 (1) (a) of the Town and Country Planning Act 1990 as amended by Section 99 of the Planning and Compulsory Purchase Act 2004;

- That the Corporate Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to authorise the making of the CPO and amend, if required, the detailed Statement of Reasons required for the CPO, which will set out the Council's justification for the use of CPO powers, the draft of which is appended to this report (appendix 4);

- That the Director for Law and Democracy be authorised to publish and serve all necessary notices consequent upon the making of the Orders and submit the Orders to the Secretary of State for confirmation;

- That if the Compulsory Purchase Orders are confirmed, then upon such confirmation, the Director for Law and Democracy be authorised to publish and serve all necessary Notices, consequent upon the confirmation, and required in connection with the making of the general vesting declarations relating to the land included in the confirmed Orders in accordance with Part 2 of the Compulsory Purchase (Vesting Declaration) Act 1981;

- That the Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to authorise the making of the General Vesting Declarations or serve Notices to Treat at the appropriate time and take all necessary steps to bring the land within the ownership of the Council.

8. Approve applications for the closure of sections of adopted highway within the boundary of the scheme under the Highways Act 1980 section 116 as shown at appendix 3, on the grounds that they are unnecessary.

9. Approve the serving of Initial Demolition Notices in order to suspend the Right to Buy in the area already approved for demolition and within the boundary of the scheme, in accordance with Schedule 5A of the Housing Act 1985 as amended by S.183 of the Housing Act 2004, and delegate to the Corporate Director for Development and Neighbourhood Services in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport authority to determine the period to be specified in the initial demolition notices having regard to the programme of phased development of the site.

10. Authorise the Corporate Director for Development and

Neighbourhood Services in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to serve the final demolition notices at the appropriate time.

11. Agree to extend the boundary of the redevelopment area to include 3 blocks of flats for demolition and redevelopment within the E's section of the estate (11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk) as indicated at Appendix 1 plan.

3. Reasons for the Decision

The actions recommended are essential to continue facilitating the redevelopment of Hardwick, creating a high quality sustainable community.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

None

7. Date and Time by which Call In must be executed

Midnight on Friday 23rd March 2007

Proper Officer
19 March 2007