

**THE LONDON BOROUGH OF SOUTHWARK**

**TOWN AND COUNTRY PLANNING ACT 1990**

**AND ACQUISITION OF LAND ACT 1981**

**THE LONDON BOROUGH OF SOUTHWARK (AYLESBURY ESTATE SITES 1B-1C)  
COMPULSORY PURCHASE ORDER 2014**

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**UPDATE STATEMENT**

**SUBMITTED BY THE LONDON BOROUGH OF SOUTHWARK**

**22 September 2015**

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**THE LONDON BOROUGH OF SOUTHWARK (AYLESBURY ESTATE SITES 1B/1C)**

**COMPULSORY PURCHASE ORDER 2014**

**COUNCIL'S UPDATE STATEMENT – 22 SEPTEMBER 2015**

**1. INTRODUCTION**

1.1 This statement ("Update Statement") has been prepared on behalf of the London Borough of Southwark ("the Council") in its capacity as the Acquiring Authority.

1.2 The purpose of this Update Statement is to provide the Inspector with an update in relation to matters that have occurred since the Inquiry adjourned on 12 May 2015. Where relevant the Update refers to the document submitted on behalf of the Objectors on 14 August 2015, which provided a list of submissions to be made by counsel and an indication that the Objectors wish to call further oral evidence ("the Objectors' list of issues").

**2. THE DEVELOPMENT PARTNERSHIP AGREEMENT**

2.1 A redacted version of the Development Partnership Agreement ("DPA") appears in Core Document bundle 1 at CD4. Reference is made to the DPA in paragraph 4 of the Objectors' list of issues. Since the second adjournment of the Inquiry, the Council and Notting Hill have reviewed their position, with a view to considering what, if anything further, could be disclosed consistent with their own interests, applying the relevant legal principles and having regard to recent decisions issued by the Information Commissioner's Office. A note explaining the position is provided as appendix US1 to this Update Statement.

2.2 A revised version of the DPA, with some redactions removed, is provided as appendix US2.

2.3 Since the second adjournment of the Inquiry, the Council and Notting Hill have entered into a deed of variation, varying certain aspects of the DPA. A summary of those variations is provided as US3.

**3. DECISION MAKING**

3.1 At the Inquiry it was suggested that it would be helpful to have a chronology dealing with the Council's decision making in relation to the Aylesbury Estate. A chronology has been produced and is appended as US4.

3.2 Paragraph 5 of the Objectors' list of issues refers to a point already made at some length at the previous sessions of the inquiry: whether there was an adequate cost/benefit analysis back in 2005 when the Council made the in principle decision to regenerate rather than refurbish the

Aylesbury Estate. As the Inspector will be well aware, that decision was taken before the production, consultation on and examination of the Aylesbury Area Action Plan (“AAAP”), which forms part of the statutory development plan for the area and which seeks the redevelopment of the Aylesbury Estate.<sup>1</sup> While the Acquiring Authority is not convinced that further detailed consideration of this history is a good use of inquiry time in the circumstances, this Update Statement explains what information has been provided to the Objectors – at their request – and when. It should be noted that the Acquiring Authority has not provided this level of detail in its evidence to date and does not consider it necessary to do so now. For that reason, it does not adduce the material, with the exception of providing a legible version of a page already within the core documents (please see below).

### **3.3 The Consibee Report 2004**

- 3.3.1 The Consibee Report 2004 can be found in Core Document bundle 2 at CD 25. It is an appendix to a larger report entitled “Stage E Status Report, Aylesbury SW Corner, Volumes 1 and 2” by Levitt Bernstein Architects, PTEa and BPTW, dated July 2005 (“the Stage E Report”).
- 3.3.2 The Consibee Report 2004 appendix appears in the wider Stage E report as Volume 2, Section 11.2, entitled “Briefing Report on Structural Robustness of 5 and 6 Storey Jespersion Blocks”; this is by Conisbee, BPTW and Levitt Bernstein Architects, dated November 2004.

### **3.4 Related Reports issued to objectors**

The following reports have been provided on request, without concession as to their relevance:

- 3.4.1 The whole of the Stage E Report (which is a very large document) was provided in hard copy to Judi Bos on Friday 1 May 2015. The Executive Summary and section 8 of the report were submitted as inquiry documents and Professor Rendall answered questions about them in cross examination.
- 3.4.2 A separate report entitled “Total Estate Cost Review Report” by Frost Associates dated 6 May 2005 (“the Frost Report”) was provided in hard copy to Judi Bos on 12 May. This document is not part of the July 2005 Stage E Report, although it is referred to in Section 11.8 of that report.
- 3.4.3 The following documents were issued electronically to Professor Jane Rendall on 21 May 2015 in response to an FOI request dated 6 May 2015:
  - a) Volume 2 section 11.8 of the July 2005 Stage E Report (Report on Estimated Costs for Estate Wide Refurbishment Options)
  - b) Volume 2 section 11.4 of the July 2005 Stage E Report (Proposed New Housing Sites Options Appraisal)
- 3.4.4 The spreadsheet forming part of the Consibee Report 2004 was issued electronically to Beverley Robinson on 30 July 2015 in response to an FOI request. Copies of this spreadsheet which forms part of CD25 were also provided to the other objectors and to the Inspector on 30 July and it is attached as US 5.

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<sup>1</sup> See the “Context” section, pp.2-3 of the Acquiring Authority’s Opening Statement dated 27 April 2015.

### 3.5 What relevance does this material have?

Objectors have not so far sought to submit the majority of this information to the inquiry, despite having been provided with copies as listed above. The Acquiring Authority will not itself be adducing what it considers to be a large volume of irrelevant material. Criticisms have been made about the adequacy of cost/benefit analysis in 2005, which the Acquiring Authority does not accept. The Acquiring Authority is content to deal with the matter in submissions, save to the extent that further evidence is deemed appropriate and further cross examination is necessary.

### 3.6 Why was the table in the Conisbee Report 2004 not legible and why was a legible copy only issued when it was ?

The pdf version of the Conisbee Report 2004 in the Council's archives and originally included in CD25 includes a table of figures (page 10 of the report, page 1762 of the Core Document Bundle) which is not legible. The Council sought unsuccessfully to find a legible version of the table within its own archives. The Council asked BPTW, the original authors of the table, to search their own archives, also without success. Given the amount of interest in the table at the previous sessions of the inquiry, the Council then reconsidered whether there was any other way of finding the table. BPTW then asked their co-consultants Levitt Bernstein Architects to search their own archives and at this point a legible copy of the table was found. This was circulated to the objectors and to the Inspector on 30 July 2015.

### 3.7 What was the purpose of the Conisbee Report 2004 ?

The report addressed the issue of the structural strengthening works that might be required to the 5 and 6 storey Jespersen blocks on the Estate. It then set out options for these blocks: 5 options are given, of which 3 are refurbishment options and 2 are rebuild options.

The report offers recommendations: refurbishment option 3 (full strengthening) or either of the two rebuild options.

### 3.8 Content of figures in the spreadsheet in the Conisbee Report 2004

Within the Conisbee Report 2004 the spreadsheet by BPTW sets out costs for each of the 5 options.

<b>Comparative costs</b>	<b>£m</b>
Refurb option 1 'do nothing option'	27.5
Refurb option 2 'do nothing plus gas removal'	27.7
Refurb option 3 'do nothing plus gas removal plus structural strengthening'	38.2
Rebuild option 4 'like for like basis	107
Rebuild option 5 'added value'	159.2

The reference to "do nothing" in the table above means "do nothing in terms of strengthening works" so that the costs referred to are for general ongoing maintenance. Of the reports set out in the attached summary table US 6 prepared by the Council for the purposes of this update, the Conisbee Report 2004 is the only report that sets out a comparison of refurbishment costs against rebuild costs (to the 5 and 6 storey buildings only). Relative to each other, the figures show that the refurbishment options are less expensive than the rebuild options.

It should also be noted that the full cost of refurbishment was refined between the date of the Conisbee Report 2004 (November 2004) and the figures included in the Executive Report (CD8) in September 2005. Applying those refinements increased the refurbishment costs by:

- Approximately 25% to reflect Decent Homes Plus (and the urban improvement works and planned preventative maintenance)
- Approximately a further 50% of those costs should be added to represent the “whole costs” for refurbishment.

3.9 A summary table of the various costs set out in the documents has been prepared and is attached to this update as US 6. This is provided to assist the Inspector, without concession as to relevance.

## **4 PLANNING**

4.1 Since the Inquiry closed the Council and Notting Hill have signed a section 106 Agreement relating to the Order Land and the wider development area. A copy of that section 106 Agreement appears as appendix US 7.

4.2 The Council notes that Objectors wish to address the s.106 planning obligation not only in submissions, but also in further evidence. While of course it is appropriate to deal with the matter in submissions if necessary, yet further evidence about s.106 matters is unlikely to be a good use of inquiry time, given that the interpretation of a s.106 planning obligation is a matter of law.

4.3 At the Inquiry the Council produced a note about Affordable Rent (“the Affordable Rent Note”) and a further note about s106 monitoring and the Deed of Variation process in Southwark (“the s106 Note”). Table 2 of the Affordable Rent Note contains a typographical error. In the “detailed wording” section of the second row of this table the words “target cost of tent” should read “total cost of rent”.

4.4 The Council said at the Inquiry that it would further investigate the position under the Bermondsey Spa Site C section 106 agreement. The Council has taken legal advice and will not be taking enforcement action.

## **5 ELLISON HOUSE**

5.1 Since the inquiry last sat on 12 May 2015, the Council has been working in partnership with officers at the Ministry of Justice (MoJ) to progress discussions on re-provision of a new ‘approved premises’ within the borough to replace the existing facilities at Ellison House. A series of meetings took place in May 2015 which identified a vacant site within the Aylesbury estate masterplan area on which both Council officers and officials from the MoJ agreed to progress further analysis and discussion. Following agreement with the MoJ, the Council commissioned architects to undertake an initial feasibility study to confirm the suitability and capacity of the proposed site to accommodate an equivalent facility on that site. The study established the accommodation requirements of a replacement facility for Ellison House and confirmed that the site was feasible for a replacement facility, setting out various options for design and massing of new buildings to allow for flexibility of internal layout. Further briefings from the architects followed in July, after which

MoJ officials undertook internal discussions in respect of their design requirements for the new approved premises. Through discussions between the Council and MoJ officials, feedback on design was received in September confirming that there were no major issues with the initial feasibility study and agreeing to progress with more detailed design. The Council and Notting Hill Housing Trust are in the process of appointing architects to enable designs to move forward and for a public consultation process to begin.

5.2 Simultaneously, in August 2015, the Leader of the Council wrote a letter to the Secretary of State asking for confirmation that, following any changes of policy since the general election, it was still the requirement of the MoJ to have a replacement facility for Ellison House in Southwark. That letter is attached at US 8 Confirmation of the MoJ's previous position in terms of re-provision was received by the Council on 22 September and set out in the letter attached at US 9. The Council is now looking to establish an initial consultation event which will identify the proposed site and begin discussions with local residents on re-provision.

## **6 REMAINING INTERESTS AND ESTATE MANAGEMENT**

6.1 Since the Order was made the Council has secured vacant possession of 17 residential properties. There now remain 16 leasehold interests (8 resident leaseholders and 8 non-resident) and 1 secure tenant.

6.2 The tenant has been allocated a new build property that is suitable for their needs and the property is due to be handed over in November 2015. The tenant has been kept fully informed of the position and will be supported in their move by Council staff.

6.3 In Jacqueline Fearon's proof of evidence on pages 9 – 11 at paragraphs 6.11 to 7.3 she refers to the difficulties faced by Council staff in their efforts to manage the blocks on the Order Land. These challenges continue and the Council has received complaints on a number of issues :

- Post not being delivered and concerns from Royal Mail over perceptions about the safety of their staff and the closing down of blocks;
- Complaints in respect of some areas of cleaning and grounds maintenance;
- Residents having difficulty in obtaining successful credit checks using their addresses within the Order Land;
- Residents experiencing difficulties accessing the secure entrance to the Order Land because security guards are allegedly not in attendance 24/7.

6.4 Efforts are being made to address these concerns with one off cleaning and grounds maintenance as necessary in addition to regular cleaning and maintenance cycles. Liaison with Royal Mail is ongoing about the erection of external post boxes adjacent to the secure entrance to resolve the difficulties with postal deliveries. Communications will shortly be delivered to all residents to confirm the arrangements. Warden and officer patrols continue, as well as regular updates to the fire brigade on occupancy and risk assessments.

6.5 A letter was delivered to the remaining residents of the Order Land on 5 August 2015 advising that works would be carried out on the vacant blocks (69-76 Chartridge, 77-105 Chartridge and 106-119 Chartridge) and that this would result in some restrictions to the existing site

movements. Notting Hill followed this up with a further letter. Several leaseholders objected to the start of these works and alleged that the Council and Notting Hill were acting unlawfully.

6.6 The works consist of pre-demolition “soft strip” works ie the removal of fixtures and fittings in the vacant units and, where possible and safe to do so, the removal of asbestos. The works are being carried out by Notting Hill’s contractors under the terms of the Development Partnership Agreement and in line with all relevant health and safety legislation. The works are being carried out now to minimise delays to the construction programme.

6.7 The Council has advised residents that in carrying out these works it is not acting unlawfully and access to the Order Land for current residents living in Bradenham, Arklow, Chiltern and Chartridge would be maintained and monitored. Residents were further advised that the Council’s and Notting Hill’s commitment to progress with the scheme was undiminished. Full planning permission has now been granted, and the Council does not require the CPO to have been confirmed to commence work on these blocks, where full vacant possession has already been obtained through rehousing of tenants and the successful acquisition of all leasehold interests by private treaty. A fence has been erected around the three blocks and works are underway.

6.8 Of the 17 leasehold interests on the Order Land at the time of the Inquiry, one (154 Chiltern, Mr Nyedu) was acquired by agreement on 17 July 2015 leaving 16 leasehold interests remaining. Of these, the Council has determined that eight are owned by resident leaseholders who acquired their properties under the Right to Buy (or bought them from leaseholders who had so acquired them) and eight are owned by non-resident leaseholders.

6.10 The Council has continued to progress negotiations and discussions over rehousing options on an individual basis with all leaseholders on the Order Land. The summary below sets out the progress that has been made with the acquisition of interests since the Inquiry closed in May 2015. As before, in the interests of confidentiality names etc are not disclosed here, instead initials are used. A “key” identifying the individuals from their initials can be made available on request. The Council is concerned to respect privacy, but clearly cannot leave the Inspector with a misleading impression about the efforts it has made to acquire properties by agreement. As mentioned in Mark Maginn’s proof of evidence detailed chronologies of contact are kept listing phone calls, meetings, appointments and correspondence. That record keeping has continued. Again, those records are available on request.

6.11 Of the eight resident leaseholders remaining on the Order Land:

6.11.1 Two (A and B) have agreed values with the Council and are purchasing a low cost home ownership (shared equity) property with Notting Hill Housing Trust at their Camberwell Fields development (further details of which are given in Rosemary Houseman’s proof of evidence at paragraphs 7.2 – 7.5). It is expected that the Council’s acquisition of both of these leasehold interests will be completed by the time the Inquiry resumes and the Council will update the Inquiry when it opens. Neither of these two leaseholders has applied for Council rehousing.

6.11.2 One resident leaseholder (C) has been progressing discussions with Notting Hill Housing Trust with regard to the purchase of a property at Camberwell Fields on a low cost home ownership basis. The leaseholder has reserved a property at the new development but has yet to agree terms

with either the Council for the sale of the leaseholder's existing property or the purchase of the new property. The leaseholder has not applied for Council rehousing.

6.11.3 One resident leaseholder (D) has been progressing discussions with Notting Hill Housing Trust with regard to the purchase of a property at Camberwell Fields on a low cost home ownership basis and has also been taking forward a rehousing application with the Council. The leaseholder has reserved a property at the new development but has yet to agree terms with either the Council for the sale of the leaseholder's existing property or the purchase of the new property.

6.11.4 One resident leaseholder (E) has applied to the Council for rehousing assistance and has received the outcome of their assessment, which is that the Council considers that they qualify for Council rehousing as a tenant. They have successfully bid on a Council property and are likely to be moving to this property within the next two months.

6.11.5 One resident leaseholder (F) has applied to the Council for rehousing assistance and has received the outcome of their assessment, which is that the Council considers that they qualify for rehousing via Council shared equity.

6.11.6 Two resident leaseholders (G and H) have held meetings with the Council since the Inquiry closed and have indicated that they are unlikely to be applying to the Council or to Notting Hill Housing Trust for rehousing assistance.

6.12 Of the eight non-resident leaseholders, four have agreed values with the Council and are in the process of evicting private tenants living in these properties in order to complete the sale of these properties back to the Council with vacant possession. Exchange of contracts and completion can follow as soon as vacant possession is obtained.

6.13 Of the remaining four non-resident leaseholders one (I) met with the Regeneration team in May 2015 after the Inquiry closed. The Council's surveyor last contacted the leaseholder's surveyor in July 2015 and a response is awaited.

6.14 The Council made an offer to meet with one non-resident leaseholder (J) on 3 July 2015 to which no response has been received. The Council's surveyor last contacted the leaseholder's surveyor in August 2015 and a response is awaited.

6.15 With regard to the other two non-resident leaseholders, (K and L) one of which is a corporation, there has been no direct contact with the leaseholders themselves but there has been correspondence from the Council's surveyor in July to the leaseholders' surveyors, in both cases a response is awaited.

22 September 2015