

**Cabinet – 12 February 2007**

**Joint Report of the Directors of Adult Community and Housing Services and Law and Property**

**North Priory Estate Regeneration Project: Project Update and North Priory Estate Compulsory Purchase Powers**

**Purpose of Report**

1. To update Members on the progress of the North Priory project, to seek authorisation to suspend tenants' right to buy, to pay home loss and disturbance allowances, to commence the acquisition by agreement of property and rights and to consider the use of compulsory purchase powers, if necessary, to facilitate the implementation of the North Priory Estate Regeneration Project.

**Background**

2. The Cabinet at its meeting on 1<sup>st</sup> November 2006 considered a report of the Director of Adult, Community & Housing Services regarding the proposed regeneration of the North Priory estate. The report had identified that the estate was at risk of market decline, experienced deep rooted problems and recommended 100% regeneration of the estate. The recommendations to continue with the project – including the full 100% redevelopment option were approved. This decision was confirmed by full Council on 4<sup>th</sup> December 2006.
3. Progress on the project since approval at full Council has included: developing a plan for the clearance of the estate and the re-housing of residents; developing policies for the payment of Home Loss Payments and disturbance arrangements; reconsidering the project structure; tendering for an Independent Tenants Advisor to provide independent advice during the project; continuing to keep residents informed through a newsletter and an on-going commitment to:
  - be open and honest with residents
  - provide timely information
  - take account of residents' views through on-going dialogue including the residents steering group
  - meet, where possible, the aspirations of residents who want to return to the estate.
4. Home loss payment is available to compensate certain categories of residents who are required to leave their homes permanently because of the regeneration of North Priory. For local authority secure tenants this is set at a statutory level of £4000 and for owners the level is based on a percentage of the market value of their property. A disturbance payment scheme will also be available to compensate displaced residents for the cost of moving from their homes.

5. The project is also now at the stage where we need to suspend secure tenants' right to buy on their current property. A local authority's power to suspend and terminate the right to buy on an existing tenant's property was introduced by the Housing Act 2004. The required notices are referred to in the legislation as 'Demolition Notices'. This power was provided to local authorities to prevent tenants buying their property at a discount in the knowledge that if the proposed regeneration scheme went ahead they would be entitled to full market value for their property plus compensation potentially affecting the financial viability of a scheme. The power will initially suspend a tenant's right to buy on their current property removing any obligation on the Council to convey the property to them.
6. It is intended that we will start re-housing tenants in March / April 07 following the completion of Home Option interviews with all residents. A total of 31 properties on the estate are privately owned initially having been bought under the right to buy. The Council will need to acquire these properties in order for the full regeneration to go ahead and it is our intention that we acquire all the owner occupier properties through negotiation. Owner occupiers will also be offered re-housing by the Council as required under section 39 of the Land Compensation Act 1973.
7. We do recognise, however, that we may not be able to acquire all properties through negotiation and we must assume from the outset that we may ultimately have to use compulsory purchase powers. This process can take a significant amount of time to achieve and it is important that we formulate and seek a compulsory purchase resolution and order early in the process to ensure that the project is not delayed unnecessarily.
8. The North Priory estate consists of 270 houses in Pine Road, Thornhill Road, Primrose Crescent, Fern Road, Heather Road, Berry Road, the north side of Castle Mill Road and a small section of Priory Road (from Castle Mill Road northwards towards the Birmingham New Road). The resolution to use compulsory purchase powers will need to include all premises as shown on the plan at Appendix 1

### **Consultation**

9. There has been extensive consultation with the local community regarding the proposals for the regeneration of North Priory. This included a residents' aspirations survey – undertaken by an independent research company – which achieved a response rate of 82.5%. Most wanted the estate to be completely regenerated (55%).

### **Need for Compulsory Purchase**

10. The Feasibility Study undertaken by Tribal (HCH) identified that the problems of the North Priory were deep rooted and included: high levels of social and economic deprivation; low demand for the existing housing with voids and high turnover; a reputation for crime and anti-social behaviour; a lack of variety in the type and tenure of stock within the estate. The estate's connection with adjoining roads and neighbourhoods is also poor and creates a degree of isolation. It was felt that only transformational change could 'turn the area around' and reverse its decline and the full development option was the preferred option. This option was also supported by North Priory residents. The Council's wishes to proceed on the basis of negotiation with individual owners but in the absence of any CPO individual owners could prevent the full regeneration of the estate. Negotiations will take place with all

affected owners and occupiers as soon as approval is granted under this report with a view to acquiring all required interests by agreement. However, CPO powers are needed as a last resort if the negotiations fail to secure the whole of the site within the timescale required to ensure delivery of the project.

## **Finance**

11. Proposals to incur expenditure in relation to the North Priory Regeneration Project are contained in the report Deployment of Resources Housing Revenue Account and Public-Sector Housing Capital. This expenditure is to be recouped from the sale of the site to a developer partnership. The passing of a resolution to use CPO powers does not in itself commit the Council to acquire premises or proceed to make the actual order. It is, however, a statutory event which permits the service on the Council of Blight Notices by owners of qualifying premises. If a Blight Notice is upheld then the Council will be forced to acquire the premises and any lack of funds is not a valid reason to refuse to accept a Blight Notice.

## **Law**

12. Section 226 (1) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 gives a local planning authority power to acquire compulsorily any land or acquire new rights in their area if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land, and if they think that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of their area.
13. Section 227 of the 1990 Act also confers specific but widely drawn powers on a local planning authority to purchase by agreement any land which is required for development or other planning purposes, as defined by section 226.
14. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides for the creation of new rights to facilitate development or the acquisition of existing rights.
15. The Human Rights Act 1998 implements the European Convention on Human Rights where Article 1 of the First Protocol states:

### **“Article 1 Protection of property**

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 interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

It has been shown in various decided cases that UK compulsory purchase law is compatible with human rights legislation provided that the correct procedures are followed. The right of an individual to peaceful enjoyment of his possessions under that Article is a qualified, rather than an absolute, right and it involves a balancing exercise between the public interest and the individual's right whereby any interference with the individual's right must be necessary and proportionate.

16. The Housing Act 2004 provides for a new exception to the right to buy. Schedule 5A of the Housing Act 1985 describes the nature and effect of demolition notices.
17. Sections 29 and 32 of the Land Compensation Act 1973 provides the Council with both statutory and discretionary powers to make home loss payments.
18. Sections 37(5) of the Land Compensation Act 1973 provides the Council with powers to make statutory and discretionary disturbance payments. Sections 21 and 26 of the Housing Act 1985 provides the Council with general powers to make payments. Section 111 of The Local Government Act 1972 authorises a broad range of actions which further or are incidental to statutory purposes.

### **Equality Impact**

19. It is intended that the regeneration of the North Priory estate will create a mixed, sustainable community providing a wider range of housing tenure and property types than currently provided. This will help to meet both a wider range of housing need and aspirations. The passing of the resolution to use CPO powers will enable this to be achieved.

### **Recommendation**

20. It is recommended that:-

1. the Council makes a Compulsory Purchase Order(s) under Section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land shown on the Plan attached, or the acquisition of new rights, for the purpose of regenerating the North Priory estate.
2. The Directors of Adult, Community and Housing Services and of Law and Property, in consultation with the Cabinet Member for Economic Regeneration, be authorised to: -
  - (i) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order(s) including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
  - (ii) acquire interests in land and new rights within the compulsory purchase order(s) either by agreements or compulsorily; and
  - (iii) approve agreements with land owners setting out the terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land or new rights from the Order and/or making arrangements for relocation of occupiers.
3. The Director of Adult, Community and Housing Services to be authorised to pay home loss payments and disturbance allowances to the residents of the North Priory regeneration scheme.

4. The Director of Adult, Community and Housing Services to be authorised to serve demolition notices on the secure tenants on the North Priory regeneration scheme.

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## List of Background Papers

North Priory Feasibility Study (Tribal HCH, April 2006)  
Decision of the Cabinet on 1<sup>st</sup> November 2006

## Appendix 1 to Report to Cabinet 12 February 2007.

