

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

APP/NPCU/CPO/A5840/74092RD

**UPDATED STATEMENT OF CASE MADE BY THE LONDON BOROUGH OF
SOUTHWARK UNDER RULE 7 OF THE COMPULSORY PURCHASE
(INQUIRIES PROCEDURE) RULES 2007**

NOVEMBER 2017

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1C) COMPULSORY PURCHASE ORDER 2014**

UPDATED STATEMENT OF CASE

NOVEMBER 2017

1 INTRODUCTION

- 1.1 This Updated Statement of Case has been prepared on behalf of the London Borough of Southwark ("the Council") in its capacity as the Acquiring Authority pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and in accordance with the directions issued by the Inspector in a pre-inquiry meeting held on 12 September 2017, as varied by two emails of 9 and 24 November 2017. The Council prepared a Statement of Case in October 2014 which appears in the Core Document bundle at CD 28. An updated Statement of Case was prepared in June 2017 upon arrangements having been made, following the Council's successful judicial review, for a new inquiry into the Order. That updated Statement appears in the Core Document bundle at CD 79. This further update takes account of three submissions received from various statutory and non-statutory objectors. The Council has received an "Amended Case Statement on behalf of Aylesbury Leaseholders' Group" (which, as the Council understands it, includes Agnes Kabuto, Beverley Robinson, both statutory objectors, plus the 35% Campaign Group and various unidentified individuals who object to the confirmation of the order but are not statutory objectors). That document ("ALG's Case Statement") is dated 10 November 2017. The Council has received a "Case Statement" dated 7 November 2017 from Ms Judi Bos, who is a statutory objector. Finally, the Council has received a "Witness

Statement/Statement of Case” from Mr Paul Palley, who is a non-statutory objector. That document is undated but was received on 24 October 2017.

- 1.2 On 23 June 2014 the Council made the London Borough of Southwark (Aylesbury Estate Site 1b – 1c) Compulsory Purchase Order 2014 (“the Order”) pursuant to a resolution of the Council’s Cabinet of 18 March 2014 (report and minutes CD 1). The Order, together with the Council’s Statement of Reasons was submitted to the Secretary of State for Communities and Local Government (“the Secretary of State”) for confirmation on 7 July 2014. Three objection letters and one email of objections to the Order were received by the Secretary of State. A public inquiry was held on 28 April – 1 May, 12 May and 13 – 15 October 2015. The Inspector’s Report dated 29 January 2016 (CD 50) recommended that the Order should not be confirmed, a recommendation that was upheld in the Secretary of State’s decision letter dated 16 September 2016 (CD 51).
- 1.3 The Council issued Judicial Review proceedings in October 2016. Permission was initially refused on the papers but granted at an oral hearing on 18 January 2017 (see Order of Collins J at CD 57). Copies of the Statement of Facts and Grounds, the Council’s witness statement, the grounds of defence, the order refusing permission and the renewal grounds are found at CDs 53 - 57. In May 2017 the Secretary of State consented to judgment and a consent order (CD 52) was agreed between the parties and approved by the Court. That Consent Order quashed the decision of the Secretary of State (see paragraph 1 of the Order). The Consent Order was made on the Secretary of State’s undertaking to arrange for a public inquiry to be held, in order that there be “a full re-hearing of the merits of confirming the Claimant’s CPO”.
- 1.4 The Council is seeking to assemble in its ownership the land and associated rights and interests included in the Order (“the Order Land”) to secure the development and regeneration of this part of the Aylesbury Estate (“the Estate”) in the London Borough of Southwark. The statutory

development plan context for the regeneration of the Estate as a whole ("the Regeneration") is the Aylesbury Area Action Plan 2010 ("AAAP") (CD 2). The vision for the Estate is described within section 1.6: vision and plan objectives. The redevelopment of the Estate is a longstanding political ambition and a priority for the Council, set securely in the statutory development plan for the Borough. The Council's strategy is to improve the physical environment of the Estate dramatically, bring about a substantial increase in the number of dwellings on the Estate and rebalance the tenures within it to create a more mixed community and resulting in a number of social and economic benefits.

- 1.5 The acquisition of the Order Land will enable demolition of the existing buildings in order to replace the 566 existing units of social and privately owned housing with a mixed tenure development comprising 830 homes. Of these, 304 will be social rent, 102 will be intermediate (affordable homes available as shared ownership or shared equity) and 424 will be private (of which 48 will be for open market rent and the remainder for sale). Included in the social rent homes are 50 extra care units and 7 units for people with learning difficulties ("the Scheme"). The current office and commercial space will be replaced with new community and leisure space, and the semi-private land currently on the Order Land will be replaced with public parks and communal private gardens. This will form part of the regeneration of the Estate as a whole which aims to provide a vibrant mixed use and mixed tenure community with high quality homes, community facilities, open spaces and public realm. There is full planning permission for the scheme. Paragraph 7.2 of this further updated statement of case (see below) provides information about an application recently submitted by Notting Hill Housing Trust ("Notting Hill") under section 73 of the Town and Country Planning Act 1990. The purpose of that application is to seek to make minor material amendments to the scheme, including various design refinements; to bring forward additional affordable housing, with a reduction in market housing; and an overall increase in the number of units. Objectors have suggested that the section

73 application proposes substantial amendments to the planning permission and suggests that a full planning application might be required (ALG Statement of Case p.13 para. 33). This is a matter which the Council will address in its evidence.

- 1.6 The Council seeks to bring forward the redevelopment of the Order Land by way of the grant of a long lease of the Order Land to the Council's development partner, Notting Hill following Notting Hill having obtained planning permission for the Scheme. That planning permission was informed by and judged consistent with national, London Plan and local development plan policies, in particular with the policies set out in the AAAP which provide strategic and detailed guidance for the regeneration of the Estate including the Order Land. A redacted copy of the agreement between the Council and Notting Hill which sets out the basis for the redevelopment of this and other sites on the Estate (the Development Partnership Agreement – "DPA") is included in the list of documents to be relied on at the inquiry at CD 4. In response to Freedom of Information Act requests some parts of the DPA that were redacted in the earlier version have since been made public. A further version of the DPA is included at CD 68. The DPA was intended to be a flexible document that would adapt to changes in circumstances and since it was entered into a series of minor variations to the DPA have been agreed. A summary of the effect of these variations is included at CD 69. In the event of further variations prior to the Inquiry the Council will provide updates as appropriate.
- 1.7 Notting Hill were selected as the Council's preferred development partner following an EU procurement process in 2012/13. The Council's Cabinet resolved on 29 January 2014 to appoint Notting Hill (CD 7 – Cabinet report and minutes). Subsequently the Council and Notting Hill entered into the DPA on 28 April 2014. The terms of the DPA provide that Notting Hill will commence the redevelopment after obtaining planning permission for the

demolition of the existing buildings on the Order Land and the construction of new residential and community buildings.

- 1.8 A detailed planning application for the Order Land was submitted on 10 October 2014. At the same time an outline planning application was submitted for the entire remaining development area within the Estate, as broadly delineated by the red line on the plan at CD 5; this sets out parameter plans and a design code, as well as illustrative plans of the area. The planning application for the Order Land and the outline planning application were presented to planning committee on 23 April 2015 and members resolved to grant planning permission subject to conditions and completion of a s106 agreement. Planning permission for the Order Land and the outline application was granted on 5 August 2015 and the permission for the Order Land has been implemented and demolition of unoccupied parts of the Order Land has already commenced in order to maintain momentum for the Scheme. The Scheme for the Order Land is regarded as being in accordance with the statutory development plan as a whole and further details of the detailed planning application are included in Section 7 of this Statement of Case. That section also details various additional benefits proposed through Notting Hill's recently submitted section 73 application.
- 1.9 In order to proceed with the consented Scheme on the Order Land, vacant possession is required, and in addition, the Council is obliged under the terms of the DPA to provide vacant possession of the Order Land, using compulsory purchase powers if necessary.
- 1.10 The Order Land is more fully described in Section 2 of this Statement of Case. The interests and rights comprising the Order Land were identified in the Schedule to the Order ("the Order Schedule") which refers to the map accompanying the Order ("the Order Map") but since the Order was made, the majority of the interests listed in the Order Schedule have been acquired by agreement. This Statement of Case deals with the statutory basis for the CPO in section 3, and in section 4 explains why the Order is

necessary to secure the delivery of the Scheme. Section 5 sets out the efforts the Council has made to acquire the outstanding interests by agreement. The Scheme is described in more detail in section 6 of this Statement and the planning position and the policy context within which the Council's decisions have been taken is set out in section 7. An outline of the implementation and funding of the Scheme is given in section 8. The Council's justification for the use of compulsory purchase powers is explained in section 9. The main objections to the Order are summarised in section 11 together with the Council's initial response to those objections. Other matters referred to in this Statement at Section 10 include human rights and other special considerations. Various new matters have been raised in the recently submitted statements of case, which did not form part of the original objections to the Order. The way in which the Council proposes to address those matters is addressed briefly below.

- 1.11 The Council recognises that a compulsory purchase order should only be made and can only be confirmed where there is a compelling case in the public interest (paragraph 2 of the DCLG Guidance on Compulsory Purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion 2015 ("the Guidance") at CD 58 refers; predecessor guidance Circular 6/2004 was consistent in this respect, both reflect decided cases). Whilst the Order was made prior to publication of the Guidance, the Council considers that the Guidance (and not its predecessor, Circular 2004/06) will apply to the consideration of the merits of the Order now that it has been made. However, it is important to note that (as the Secretary of State has accepted), the steps taken by the Council in relation to its attempts to acquire land by negotiation prior to the publication of the new Guidance, fall to be assessed against Circular 06/2004 (CD 30). It is considered for the reasons set out in this Statement that in this instance there is a compelling case in the public interest for the confirmation of the CPO.

- 1.12 If the Order is confirmed the Council currently intends to execute one or more General Vesting Declarations, in order to secure unencumbered title to the Order Land.

2 DESCRIPTION OF THE ORDER LAND

- 2.1 Full details of the Order Land appear in the Order Schedule but in summary it comprises land and buildings known as Arklow House, Bradenham, Chartridge and Chiltern, which are all part of the Estate.
- 2.2 The Council owns the freehold title to all of the Order Land. However, there remain five outstanding leasehold interests which need to be acquired to bring the Order Land within the control of the Council and to allow redevelopment to take place. The outstanding interests all lie within the Order Land.
- 2.3 The Order Land forms part of the Aylesbury Estate Regeneration Area and falls within the area covered by the AAAP. The Order Land is referred to in the AAAP (CD 2) at figure 6 on page 27 as "sites 1b and 1c" – these sites have been designed together and the full planning permission treats them as one development proposal.
- 2.4 The Order Land originally comprised seven residential blocks ranging from four to fourteen storeys with a total of 566 residential units, ground floor garages, vacant commercial and office space, together with open grassed space and a games court.
- 2.5 The Council has already secured vacant possession by agreement of all but 5 of the 566 residential units. That number includes all leasehold interests (the ALG updated Case Statement wrongly asserts that the original 74 leasehold interests were in addition to 566 dwellings paragraph 6, whereas it was 566 in total, of which 74 had been sold pursuant to Right to Buy arrangements and were therefore the subject of long leases). When the Order was made in June 2014 there were 12 secure tenants remaining, 8 non-secure tenants in temporary accommodation, 22 leasehold interests

(out of an initial total of 74), and a commercial occupier (a rooftop telecommunications operator) still in occupation of the site. Since June 2014 all of the remaining secure tenants and all the non-secure tenants in temporary accommodation have moved out and been rehoused, and 17 of the remaining 22 leasehold interests have been acquired by agreement, leaving 5 leasehold interests of which 4 are owner-occupied and 1 is let to tenants. Of those 5 remaining leasehold interests, terms for the acquisition of 2 of the properties (one owner-occupied and the let investment) have been agreed and the sales of the properties to the Council are in solicitors' hands. On completion of those acquisitions there will be 3 owner-occupiers left in occupation of the Order Land. Of the 3 remaining owner-occupiers one has only recently moved into her property. Although she had lived there in the past, it had until recently been rented out. The leaseholder, Ms Bos, does not at present qualify for re-housing assistance, having not lived at the property for a 12 month period. The qualifications for rehousing assistance are set out in the Council's executive report of 26 September 2006 (CD15) at paragraph 47. The rooftop telecommunications operator has surrendered its leasehold interest by agreement with the Council.

- 2.6 None of the Order Land is in commercial use other than the infrastructure of statutory utilities. Parts of the Site are occupied by Notting Hill's demolition contractor, Erith, who have commenced soft strip and demolition works on those blocks which are entirely vacant, where this can safely be done. A plan showing the areas so occupied is included as CD 59.
- 2.7 Immediately adjoining the Order Land there is a hostel known as Ellison House which is leased to the National Offender Management Service (an office of the Ministry of Justice) and used as accommodation for men who have recently been released from prison. This is Crown Land and as such has not been included within the Order Land although it is part of Sites 1b

and 1c. More detail about this land is included at paragraphs 5.20 – 5.21 of this Statement of Case.

3 EXPLANATION OF THE USE OF THE TOWN AND COUNTRY PLANNING ACT POWERS

3.1 The Order was made pursuant to the provisions of Section 226(1)(a) of the Town and Country Planning Act 1990 (“the 1990 Act”), as amended by Section 99 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”), to facilitate the carrying out of the redevelopment of the Order Land pursuant to the Scheme as part of the Regeneration.

3.2 Section 226(1)(a) empowers local authorities on being authorised by the Secretary of State to acquire land compulsorily for the purposes of development, redevelopment or improvement where it is not certain that they will be able to acquire the land by agreement and where they think that :

1. The acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to that land; and

2. The development, redevelopment or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of their area.

The Council believes that the acquisition of the Order Land will facilitate the redevelopment of the Order Land as part of the redevelopment of the Estate as a whole and that the resulting redevelopment will result in an improvement to the environmental, social and economic well-being of the Estate and the London Borough of Southwark as a whole. The Council is utilising its powers under section 226(1)(a) because it is not certain that it will be possible to acquire the necessary interests by agreement although efforts are continuing and will continue in parallel with this process. These efforts include new offers of alternative accommodation on shared ownership and shared equity terms, and an offer of mediation.

- 3.3 The redevelopment on or in relation to the Order Land is detailed in various sections of this Statement.
- 3.4 The ways in which the redevelopment is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the area are stated in section 6 below and analysed in section 9.
- 3.5 The ALG Amended Case Statement introduces 14 separate planning criticisms of the Scheme the subject of the CPO; and asserts that it does not comply with the statutory development plan. The fact that the Scheme has full planning permission seems not to have weighed particularly in the detailed analysis, nor has the Case Statement treated the scope of the original objections as posing any constraint to the wide ranging planning criticisms levelled. These matters, together with responses to the substantive points, will be addressed as judged necessary in the Council's evidence.

4 THE PURPOSE OF AND BACKGROUND TO THE ORDER

- 4.1 The purpose of the Order is to acquire all interests not already in Council ownership where agreement to acquire cannot be reached, in order to achieve delivery of the Scheme and the provision of a new mixed tenure neighbourhood. The Council is the freehold owner of all of the Order Land. Extensive negotiations with leaseholders to date have indicated that it is necessary to pursue powers of compulsory acquisition in parallel with further negotiations, in order to ensure that the remaining interests are secured.
- 4.2 In 1999 local residents started lobbying the Council to regenerate the Estate. The Council considered various options including refurbishment to respond to the concerns expressed by residents. Refurbishment options were dismissed on value for money and feasibility grounds, as a result of the complexity and magnitude of the structural, electrical and mechanical works required.

- 4.3 In 2001 the Council proposed a stock transfer to Faraday Homes which would have been a new resident majority housing association created as part of the Horizon Housing Association group. If the ballot had been successful Faraday would have invested significant resources into the redevelopment of the Estate. The ballot result was 73% vote against the stock transfer on a 73% turnout. The 2001 ballot will be considered in evidence.
- 4.4 Between 2001 and 2005 the Council carried out work to consider whether the refurbishment of the Estate would be feasible and deliverable, and whether refurbishment would address satisfactorily the physical shortcomings of the Estate. The conclusion reached was that it would not. The three submitted updated case statements from statutory objectors and others each suggest (whether directly or indirectly) that the refurbishment of the Estate is a better alternative than the Scheme. This is not the case. There has been no substantive change since 2015: there is no realistic alternative to the Scheme capable of being delivered at all, still less capable of delivering the benefits sought by the CPO. This is a matter which will be addressed in the Council's evidence.
- 4.5 The Council resolved to rebuild the Estate in 2005 (report and minutes of Council's Executive - CD 8). Among other sites in the Council's portfolio, the Estate as a whole and the Order Land in particular are seen as a very high priority and have cross-party political support. The redevelopment of the Estate is also seen as a pan London priority by the Greater London Authority ("GLA"). The GLA referred to the Estate by name in a press release issued after the 2014 budget announcement relating to funding for regeneration schemes (CD 9). Both the Council and Notting Hill have been involved in discussions with the GLA about the proposals for the Estate.
- 4.6 Following that 2005 decision the Council's plan for the Estate has been for wholesale redevelopment to achieve the regeneration of the area, a vision established in the AAP and followed through ever since. That vision states: "We want the Aylesbury area to be known for high quality social

rented and private homes that address a variety of local needs, including those of the elderly and vulnerable. We also want to be known for an outstanding environment with excellent parks and great streets which are accessible for all. We want residents to choose to stay in the area because of the quality of its schools and community facilities. Overall we want to create a place with a strong sense of community.” The GLA has acknowledged that although in some situations refurbishment may be all that needs to be done to protect and improve estates, in other cases more ambitious regeneration plans may be required, particularly when landlords lack the financial resources to deal with issues of historic poor build quality or the consequences of outdated and unsafe design. The GLA recognises that such regeneration plans offer improvements not only to the quality of the housing but also to local facilities, community safety, public space, and training and employment opportunities.

- 4.7 Two areas of the Estate have already been brought forward for redevelopment by London & Quadrant Housing Trust (“L&Q”), one of the UK’s largest registered providers of social housing, the first in relation to Site 1a (AAAP designation) in the south western corner of the Estate, shown on the location plan (CD 5) and the second in relation to Site 7 in the north eastern corner. The development at Site 1a includes 261 homes (51% affordable), retail space and a community resource centre. Development of this site was completed in 2013.
- 4.8 A compulsory purchase order was made and confirmed under section 14a of the Acquisition of Land Act 1981 (ie confirmed by the Council in the absence of any objections) for the land associated with Site 1a in January 2010. The development of Site 1a is considered to have been very successful with the properties winning several design awards. Many of the social rented units and some of the intermediate units in Site 1a have been occupied by residents from elsewhere on the Estate, including from Site 7. All resident leaseholders from the Order Land were offered a new apartment within the new development at Site 1a. One leaseholder

accepted that offer and qualified for a secure tenancy within that development.

- 4.9 The Council's Executive resolved on 9 February 2010 (Executive report and minutes – CD 10) to make necessary Compulsory Purchase Orders to acquire interests in land within the Estate including the Order Land and Site 7, for the purpose of securing the continuing regeneration of the Estate in accordance with the provisions of the AAAP.
- 4.10 In July 2012 the Council made a compulsory purchase order in respect of the land known as site 7 in the AAAP (shown marked site 7 on the location map at CD 5). The Order was confirmed in May 2013. A copy of the Order, the Inspector's Report (the "Site 7 CPO Inspector's Report") and the Secretary of State's decision letter (the "Site 7 Decision Letter") are found at CD 11.
- 4.11 At paragraph 2.6 of the Site 7 CPO Inspector's Report the inspector concluded that the buildings on site 7 were "...beyond economic repair and even if they were repaired and refurbished they would retain their appearance and they would remain in conflict with modern building standards." The Secretary of State agreed with the inspector's conclusions (in paragraph 8 of the Site 7 Decision Letter).
- 4.12 L&Q, who had been appointed following a competitive tender process to develop Site 7, carried out the development on the site which comprises 147 homes of which 58% (based on number of habitable rooms) are affordable. The development is now completed and fully sold and let. As part of the process for obtaining vacant possession of Site 7, three leaseholder households from Site 7 moved to new homes on site 1a. New properties on Site 7 were offered to all resident leaseholders on the Estate including all the resident leaseholders on the Order Land (approximately 135 households) in December 2015. Two leaseholders took up this offer and have moved to the new properties on shared equity terms. In

addition 34 tenants from the Estate have moved to Site 7 to social rent properties.

- 4.13 As well as residential development, the Council has completed a major investment programme in local schools, with three complete new builds on the Estate: Walworth Academy was completed in 2010; Michael Faraday Primary School was completed in 2011; and Aylesbury New School (a brand new secondary school for the area, now called University Academy of Engineering, South Bank) was completed in August 2012. To the south of and overlooked by the Order Land a major investment programme has been carried out in Burgess Park, which was completed in summer 2012.
- 4.14 Following the successful redevelopment of Sites 1a and 7 the Council is keen to maintain momentum with the redevelopment of the Order Land in order to facilitate the improvements not only to dwellings on the Estate but to the public environment, and the urban features of the proposed new development, and the provision of improved community facilities, all of which will be presented in detail at the Inquiry. The Council considers that maintaining momentum in relation to the redevelopment of the Estate is also important in order to maximise the opportunities for existing residents to make one move into a new home in the new development, and it is necessary to maintain that momentum to ensure that the AAP's vision is not frustrated. Substantial delay has arisen in relation to the redevelopment of Sites 1b and 1c, which has left those remaining on that land in an uncertain position; and has hampered the Council's ability to decant within the Estate.

5 EFFORTS TO ACQUIRE BY AGREEMENT

- 5.1 The Council would prefer not to rely on the confirmation of compulsory purchase powers in order to successfully gain vacant possession of the properties occupied by leaseholders on the Order Land and has worked to gain as many negotiated agreements for lease surrender or repurchase as possible. This is in accordance with the old guidance, Circular 06/2004,

and paragraph 2 of the Guidance. However that paragraph of the Guidance does recognise that it "... may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to :

- Plan a compulsory purchase timetable as a contingency measure; and
- Initiate formal procedures."

5.2 The Council instigated negotiations to try to acquire the interests in the Order Land by agreement rather than by compulsory acquisition in October 2008. There have been extensive negotiations with all leaseholders on the Order Land since that date. When the Order was made, this was so that the CPO process and negotiations could run in parallel. Negotiations have continued since the Order was made and will continue throughout the CPO process. This includes a recent offer of mediation made to leaseholders on the Order Land. Evidence of those negotiations will be presented in detail to the Inquiry. The Council wishes to ensure that the CPO process continues even while those negotiations are ongoing to ensure that the redevelopment of the Order Land is not unduly delayed should agreement with remaining residents not be achievable. One of the four remaining resident leaseholders on the Order Land has recently agreed terms with the Council for the sale of their property and the matter is now in solicitors' hands. It is anticipated that this will be resolved by the time of the Inquiry, but an update will be provided as necessary. The non-resident leaseholder has also agreed terms. Completion of that acquisition is dependent on their tenants vacating; again an update will be provided to the Inquiry.

5.3 In the submitted updated case statements, various criticisms are made in relation to the steps the Council has taken to seek to acquire the land by agreement; and the means by which it has sought to mitigate the impact of the CPO. Some points, in particular about the disadvantages of the

shared equity arrangements, are entirely new and as far as the Council has understood it, have not formed any part of the reasons why either Ms Robinson or Ms Kabuto have refused the numerous offers made to them, of properties on/near the Estate. The long and detailed history of negotiations from 2008 to 2017 will be addressed in evidence to the extent judged likely to help the Inspector report and the Secretary of State conclude about those matters. Ms Bos's submitted case statement is highly critical of the Council's decision making in 2005. This is a matter that occupied a very substantial amount of inquiry time in 2015 and was not judged to make any difference to the merit of the CPO. Although the Council is concerned about further public expenditure being incurred dealing with the same points again, its evidence will address these matters to the extent it judges proportionate. Ms Bos does not believe that she is being offered enough money for her leasehold interest. She has in the past been entirely candid: that if she was offered enough money, she would not be pursuing an objection. Her arguments will have to be considered in this context.

Leaseholder Options

- 5.4 By the time the Order was made in 2014, 52 of the original 74 leasehold interests had been acquired by agreement and that number has now increased to 69. Leaseholders receive market value compensation for their properties in line with the Compensation Code, together with additional payments of 10% of the market value for home loss (7.5% basic loss in the case of non-resident leaseholders), disturbance costs and reimbursement of their legal and surveyors' fees. No fewer than 4 financial offers have been made to each of the remaining leaseholders and in some cases many more than this. In addition, the Council has offered "alternative dispute resolution" by way of mediation. None of the remaining leaseholders has taken up that option. Ms Bos has indicated that she would like to, but there is a joint-owner who has not agreed to

participate and that has meant that mediation could not be taken forward for her.

- 5.5 In May 2014 two compensation references in respect of acquisitions by the Council on the Estate were heard by the Upper Tribunal (Lands Chamber). The Tribunal issued its determinations in November and December 2014. The valuation principles applied by the Tribunal in its decisions on those two references have informed the subsequent offers made in relation to all remaining leasehold interests on the Order Land.
- 5.6 It is acknowledged that the market value compensation for properties on the Estate is sometimes insufficient to buy outright a comparable non-Estate property in the area, and the Council has opted to ensure that its re-housing policies are more generous than the statutory minimum duty per the Land Compensation Act 1973. A summary of the evolution of the Council's rehousing policies and procedures is set out below.
- 5.7 On 26th September 2006 the Council resolved to offer an enhanced re-housing package to affected homeowners on the Estate and in particular those living in the blocks in the first phases scheduled for demolition and regeneration (Executive report and minutes – CD 13). This offer was subject to certain qualification criteria, based, among other things, on when the right to buy the affected property was exercised or when it was purchased if via open market sale and the occupation status and the financial position of the homeowner.
- 5.8 On the 14th December 2010, the Council agreed the set of fully worked re-housing offers along with their particular qualification criteria for all resident homeowners affected by regeneration on the Aylesbury Estate, including those owning property on the Order Land (Cabinet report and minutes CD 14).
- 5.9 On 18 March 2014 the Council agreed a further policy paper under which a new model of home ownership – shared equity – is now being offered (Cabinet report and minutes at CD 15). This model was introduced in

response to the lack of interest of some homeowners in the shared ownership model whereby rent is payable on the retained share of the shared ownership property. With shared equity, no rent is payable on the retained portion. The new shared equity model is available, subject to financial qualification, to all leaseholders on the Estate when they become eligible for re-housing assistance, and has been offered to several leaseholders on the Order Land.

- 5.10 On 8 December 2015 the Council's Cabinet approved a revised financial appraisal process to determine the appropriate re-housing options for individual leaseholders affected by regeneration schemes including the Aylesbury Estate (Cabinet report and minutes at CD 60). This provided that leaseholders who had their own savings no longer had to put the majority of their savings towards the purchase of a new property. This replaced the previous policy which required leaseholders to use all but £16,000 of their savings towards the purchase of their new property.
- 5.11 If a resident homeowner can, subject to an assessment made by the Council, afford some level of ongoing home ownership, they may purchase a suitable alternative property from the Council on full or shared ownership (including shared equity) terms. The re-housing offers made by the Council are such that where a resident homeowner cannot afford any ongoing form of home ownership, they may be re-housed as a Council tenant or as a tenant of a registered provider. This is a route to re-housing that has been followed by several leaseholders on the Order Land. Only where a resident homeowner can afford to purchase a suitable alternative property on the open market without assistance is access to the enhanced re-housing package restricted.
- 5.12 Applications for re-housing assistance were made in seven cases in respect of the Order Land, some of which are still in progress. The outcomes of those re-housing assistance applications differed according to individual circumstances but have included one leaseholder being rehoused as a Council tenant, several leaseholders acquiring a property via Notting Hill's

shared ownership schemes and others acquiring properties via the Council's shared ownership scheme. The way in which Council re-housing assistance can be accessed is via a dedicated team of Council officers based on the Estate who offer one to one meetings and advice on a regular basis, including in leaseholders' own homes if required. The housing office also hosts regular drop in sessions to provide information and advice, and these sessions are advertised periodically to encourage homeowners to engage with officers and access assistance.

- 5.13 The financial assessment process, which some leaseholders have described as "intrusive" serves a dual purpose; firstly to ensure that the subsidy or financial benefit arising as a result of the re-housing assistance on offer is allocated based on need, and secondly to ensure that a leaseholder will be able to afford the costs of ongoing home ownership including, where applicable, the payment of rent or a mortgage. As such the Council considers that financial assessment is both necessary and appropriate. Similar financial assessments are carried out by RPs to ensure both eligibility and affordability for their affordable housing. In any event, all of the qualifying leaseholders remaining on the Order Land have now had a financial assessment and been notified of the outcomes, so in terms of considering the impact of the CPO the concern is not one with any practical implication.
- 5.14 In addition to the re-housing offers that can be provided by the Council, officers have tailored their assistance to help resident leaseholders simultaneously to explore other re-housing options such as shared ownership and shared equity products available from other registered providers including Notting Hill and L&Q and purchases on the open market.
- 5.15 Other support services have also been facilitated through a community development trust (Creation Trust) working solely with Aylesbury Estate residents. These support services have included an independent money advice service and advocacy and support specifically targeted at more

elderly residents. The Council has produced a series of leaseholder guides for residents and a copy of the most up to date version can be found at CD 16. Creation Trust's work is described in an advertisement in that guide as "a dedicated service for any resident needing some support around issues such as benefits advice, housing, self-esteem, leaseholder support and health issues. All our services are free, confidential and available to anyone living on the Aylesbury." Support is provided through a dedicated leaseholder website, information sessions and one to one support via Creation's officers who are based on the Estate. As a company and charity, it is independent of the Council, although one of its trustees is a member of the Council's cabinet, and it does receive funding from the Council and from Notting Hill to enable it to carry out its work. It also receives funding from other sources, including from L&Q. The help it has given tenants and leaseholders has been criticised by objectors. The work of the Creation Trust will be addressed in the Council's evidence.

- 5.16 As part of its selection under the EU procurement process, Notting Hill was required to put forward its proposals to assist the Council with its re-housing process. It agreed to make available up to 15 of its newly built properties on other schemes within the Borough for residents of the Order Land. These were offered on affordable shared ownership and shared equity terms, with no rent or a reduced rent payable depending on individual financial circumstances. The availability of this alternative housing, which comprises a range of flats of different sizes at Edmund Street London SE5 in close proximity to the Order Land, was intended to assist with the re-housing process. A map showing the respective locations of these properties and the Order Land is found at CD 17. Properties in this development were offered to all of the resident leaseholders on the Order Land and two of the leaseholders previously living on the Order Land have acquired properties here on shared ownership terms. Other leaseholders previously living on the Order Land have acquired properties elsewhere in London on shared ownership terms, facilitated by Notting Hill, including where Notting Hill purchased a

property in an area of the leaseholder's choosing on the open market and then sold it to a leaseholder on shared equity terms. A similar offer (the purchase of a property on the open market by Notting Hill, being sold on to a leaseholder on shared equity terms) was made to two of the three remaining resident leaseholders on the Order Land and is being considered by them. Detailed information about the relocation of leaseholders will be presented to the Inquiry.

- 5.17 When the Order was made the Guidance had not been published, and in her report (CD 50 at paragraph 34), the Inspector agreed that it should not be applied retrospectively. Since the Guidance was published in October 2015 the Council has complied with its recommendations. Paragraph 16 of the Guidance provides that "acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted." The Council will show at Inquiry that officers have regularly corresponded with, met with, held discussions with and sought to negotiate with leaseholders both before and after the Order was made. That only 5 leaseholders out of an initial total of 74 remain on the Estate, with 71 having reached agreement, is testament to this. As noted above, most recently the Council has offered ADR by way of mediation to resident and some non-resident leaseholders on the Order Land. To date none have taken up that offer, but it remains open.
- 5.18 Paragraph 3 of the Guidance says that "acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase." In light of the more flexible approach set out in the Guidance, the Council has made enhanced offers to the remaining leaseholders and these efforts have led to further acquisitions. Nonetheless, the confirmation of the Order remains necessary.
- 5.19 In light of the objectors' amended case statements, it would appear to be necessary for the Council's evidence to provide an explanation of the

provisions of the Compensation Code and other relevant statutory responsibilities, together with analysis of available guidance.

Tenant negotiations and support

- 5.20 As part of its evidence to the previous public inquiry the Council explained how it had an active programme of re-housing the secure tenants on the Order Land which has been running since October 2009. As all of the secure tenants have now been successfully rehoused the Council does not intend to repeat that evidence here, save to reject allegations made by Ms Bos that tenants were treated improperly. In summary secure tenants bid for properties via the Council's choice-based lettings system. This entitles them to choose Council properties, and all properties provided by any RP in the borough (including but not limited to Notting Hill and L&Q). Some choose to stay in the local area, others choose to move to other parts of the borough. The Council will provide evidence to the Inquiry of the location of the properties to which tenants moved. Tenants also have a right to return to a new property on the footprint of the Estate, should they so wish.
- 5.21 That 561 of the 566 dwellings on the Order Land are now vacant is evidence that the Council's re-housing offers and associated negotiations, whether to tenants or to leaseholders, have largely been effective. It is the Council's view, supported by independent reviews, that the Council's rehousing offers are similar to those made by other acquiring authorities. Shared ownership or shared equity is the main assistance route offered by other London boroughs. The Council's evidence will address this comparison.

Other matters affecting the Order Land

- 5.22 In relation to the property known as Ellison House, immediately adjacent to the Order Land, the Ministry of Justice (the tenant of Ellison House) has agreed with the Council that it will not be able to continue to occupy those premises as the redevelopment progresses and accepts that vacant

possession of Ellison House will be required in order that the redevelopment of the Order Land can proceed.

5.23 Agreement has been reached with the Ministry of Justice to re-provide a new, larger, state of the art facility elsewhere on the Estate and planning permission for this replacement facility was granted on 7 April 2017 following extensive consultation with local residents. Construction work will start in summer 2018 after the building contract is let in late Spring 2018 such that vacant possession of the site of Ellison House can be obtained by winter 2019. The programme of construction works for the Order Land has been designed so that this site can safely be demolished and rebuilt after works have started elsewhere on the site.

5.24 The facility itself can be constructed on land available now. In order to provide access, additional land is required. That additional land is occupied by part of a Council-owned block of maisonettes (Foxcote) and part of a freehold property (140 Albany Road). The Council is in negotiations with the occupiers of these properties with a view to obtaining vacant possession as soon as possible. Should it prove necessary to do so, the Council will use compulsory purchase powers to obtain vacant possession of the two remaining leasehold properties in Foxcote and the freehold property at 140 Albany Road. The Council's Cabinet resolved on 31 October 2017 to use CPO powers to obtain vacant possession if necessary, and a copy of the report and minutes is at CD 80. Further updates will be provided to the inquiry in evidence.

6 PROPOSED USE OF THE ORDER LAND

6.1 The Council's evidence to the Inquiry will address the details of the proposals. The principal elements of Notting Hill's permitted Scheme for the development of the Order Land are as follows:

6.1.1 The replacement of the existing 566 residential units with 830 new residential units, comprising a range of sizes, from

1-bedroom units to 5-bedroom units, and a range of dwelling typologies (including flats, maisonettes and houses). This range of unit sizes and dwelling types will be provided across the tenures (social rent, intermediate and private for sale and rent), to ensure the potential for a fully mixed community.

6.1.2 All the tenures are distributed across the site, securing park frontage views to tenants as well as private homeowners.

6.1.3 304 units will be social rented units, meeting the needs of existing secure tenants on other parts of the Estate, thus facilitating regeneration of the Estate as a whole.

6.1.4 102 units will be intermediate units, which will go towards meeting the needs of existing leaseholders on other parts of the Estate, and thus facilitating regeneration of the Estate as a whole.

6.1.5 424 units will be private for sale or open market rent, which will contribute to the delivery of new homes to meet both Southwark's and London-wide housing needs and targets.

6.1.6 The proposals include 50 Extra Care units which will be a mixture of social rent, and intermediate and 7 units for people with learning difficulties at social rent. These 7 units will be provided as a facility with support spaces for medical staff.

6.1.7 Overall the split between affordable and private units based on the number of habitable rooms is 50% affordable, excluding the extra care units, (75% social rent and 24% intermediate and 1% learning difficulties units at affordable rent) and 50% private.

- 6.1.8 6% of the units provided will be mixed tenure houses, providing family homes with four bedrooms or more. Every dwelling type (maisonette, house, flat) will have private outside space with either a balcony or garden. For the dwellings provided in the apartment blocks there will also be access to communal amenity space.
- 6.1.9 There will be a high quality architecture throughout, with a great deal of variety between buildings, whilst the defined parameters and design code will ensure this is delivered within a cohesive whole. There will be no outward distinction between the different tenure types. The London Vernacular of predominantly brick clad buildings has been adapted by the architects, with varied types and colours of bricks, rich detailing and the use of alternative accent materials.
- 6.1.10 Well distributed internal dwelling layouts will be provided, incorporating well sized and proportioned rooms, good circulation areas and ample storage. All units will be designed to generous space standards that meet or exceed those set out in the AAAP. The social rented homes are designed to be 10% and the shared ownership homes 5% larger than the Parker Morris standards. All homes will be built to lifetime homes standards and the London Housing Design Guide as updated by the London Plan 2016 and the Housing SPG 2016, providing flexibility to residents as their needs change over time.
- 6.1.11 A high percentage (69%) of homes will be dual-aspect. The new development will meet current building standards in terms of sound separation and thermal performance and other sustainable design features. In terms of fire safety, while all buildings have been designed to comply with current legal requirements, the design team has been asked to review

the this aspect of the design so that specific evidence can be provided to the Inspector on this matter.

6.1.12 Parking will be provided at a ratio of 0.38 spaces per dwelling, either off-street (within the podium) or on-street; car club spaces will also be provided. Cycle storage will be provided ensuring at least one cycle storage space per dwelling with two spaces for all three bedroom or larger dwellings.

6.1.13 The development proposals are consistent with the policies set out in the AAAP and adhere to the design guidance support documents, in terms of quality, range and character.

6.2 The masterplan aims to create a new part of the city that will remove the physical and psychological barriers that currently form the edges of the Estate. The new layout is based around a new street network that connects into the surrounding neighbourhood and provides safer, more attractive and more convenient access to the new homes. The new street pattern will provide better links to surrounding communities and to the amenities of Walworth Road to the west, the Old Kent Road to the east, Burgess Park to the south and transport connections at Elephant and Castle to the north. There will be active building frontages incorporating generous pavements, streets and parking. This will help make travel more appealing to cyclists and pedestrians. Safe streets will be a key feature of the development, with numerous front doors at street level ensuring high footfall and windows to principal rooms providing animation and passive surveillance.

6.3 A second key masterplan principle is the creation of a network of green spaces linked to each other and to other public spaces within the surrounding area, in particular to the major open space of Burgess Park. The streets have been designed to draw Burgess Park into the masterplan, promoting the use of leisure and recreational facilities on the doorstep.

Distinctive new squares and pocket parks form the focal points of the diverse neighbourhoods and each open space has its own identity and purpose. These are varied in size, form and character, forming focal points of the new neighbourhood, located to ensure ease of access for everyone and offering a wide range of amenities to suit the community, including a wide range of play equipment for children of all ages along with furniture, fountains and planting that brings colour and shelter as well as character to each space.

- 6.4 To accommodate an increase in density across the site the urban design strategy is based on perimeter blocks that front onto the streets, increasing public activity and passive surveillance, whilst providing shared secure space within the centre of the blocks. The block typologies include lower density terraced housing generally located adjacent to the existing low rise neighbourhoods with a limited number of taller buildings (around 20 storeys) at the southern boundary of the masterplan including the Order Land to benefit from the south facing views over Burgess Park.
- 6.5 Buildings vary in size but each has its own entrance to reinforce a sense of address and to create a greater sense of identity for the new homes.
- 6.6 All buildings are designed to optimise the benefits of daylight and sunlight, as well as views from every home to the many new open spaces. The orientation of the blocks and the building heights in relation to public open spaces and shared internal courtyards have all been tested to ensure they enjoy appropriate levels of sunlight during daylight hours.
- 6.7 All of these carefully considered design features will contribute to an overall improvement in the built environment of the area with benefits being delivered not only in terms of the buildings themselves but the open spaces and the streetscape, and the manner in which the new development will fit in with the surrounding area in a way that the existing Estate does not.

7. PLANNING POSITION OF THE ORDER LAND

- 7.1 The planning application in respect of the Order Land was considered by Planning Committee on 23 April 2015 and was approved subject to conditions and completion of a s106 agreement. On 5 August 2015 the s106 agreement was completed (CD 64) and the planning permission for the Order Land together with planning permission for the outline application was granted subject to conditions (CD 62). As well as benefitting from planning permission the Scheme is considered to be in line with national, regional and local plan policies, in particular the requirements of the AAAP.
- 7.2 More recently, Notting Hill submitted an application under section 73 of the Town and Country Planning Act 1990 to make some beneficial changes to the permitted scheme, as heralded in the Cabinet report dated 9 May 2017 (CD 67). The application is made together with a reserved matters application for Plot 18 and asks that they be considered together. The section 73 application relates to the Order Land. Its aim is to make various detailed design refinements, in particular, it aims to increase the number of units overall. It includes bringing forward the early delivery of additional affordable housing: an additional 37 affordable housing units at social rent and an additional 117 Shared Ownership units with a reduction of 144 units in the number of Private Units. The application was validated by the Council on the 26 October 2017. The application will be addressed in the Council's evidence.
- 7.3 The Order Land falls within allocated proposals site AAAP P1. Appendix 5 of the AAAP (page 106 CD 2) sets out the Schedule of proposals sites. It sets out the proposed uses (figures are all approximate) for the whole of AAAP P1, the sizes of homes (studio, 1 bed etc), the type of homes (flats, maisonettes and houses) and the anticipated phasing. It also sets out indicative development sub totals for each of the blocks. In reference to the Order Land and in terms of proposed use (all figures are approximate) it sets out:

1b: 408 homes (C3 Use Class), 250sqm retail uses (A Use Classes)

1c: 472 homes (C3 Use Class)

7.4 Further planning policy designations, as shown on the Adopted Policies Map (2012) (CD 20) apply to the site:

- Urban Density Zone
- Aylesbury Action Area Core
- Air Quality Management Area

7.5 The following also apply which have planning implications:

- Flood Risk Zone under the Southwark Core Strategy 2011
- Public Transport Accessibility Level (PTAL) of 3, which indicates moderate access to public transport.

7.6 The AAAP was deemed sound and in general conformity with national policy, London Plan policies and higher level policies of the local development plan by the AAAP Inspector in 2009. Since 2009 the Council has adopted its Core Strategy (2011) (CD 21) and the Mayor has updated the London Plan in 2011 and 2013 (CD 22) and in 2016 (CD 71). Some of the London-wide and borough-wide standards are now different to the standards set out in the AAAP. For example the AAAP has larger residential floorspace standards for social rented units and housing typology mix to the London Plan and Southwark borough-wide policies and SPDs. In these cases, the AAAP guidance will generally take priority since it provides policy specific to this location to best meet the needs of the regeneration of the Estate. Both the London Plan and Southwark borough-wide policies and SPDs acknowledge that there may be area specific variations to the overarching standards.

7.7 As noted above, the Scheme layout seeks to create a new network of streets and public open spaces with buildings addressing the street

frontages. The proposed buildings are arranged as four perimeter residential apartment blocks set around landscaped courtyard areas and two blocks of terraced houses. It is proposed that the homes and community facility / early years centre or gym will be delivered in a variety of building types with heights ranging from 3 to 20 storeys. The apartment blocks range between 5 and 20 storeys in height (20 storeys at the corner of Albany Road and Portland Street) and the terraced houses are 3 and 4 storeys high. The site layout also incorporates one public square (Westmoreland Square) and two pocket parks (Westmoreland Park and Portland Park). Where possible existing trees have been retained along Westmoreland Road, Portland Street and Albany Road.

7.8 The Scheme meets the Council's development objectives for the regeneration of the Order Land and the Estate and the S106 secures the following:

7.8.1 50% affordable housing (75% social rent, 24% intermediate and 1% affordable rent for adults with learning difficulties) based on habitable rooms (52% affordable housing including extra care);

7.8.2 the provision of three public open spaces: public square (Westmoreland Square) and two neighbourhood play areas (Westmoreland Park and Portland Park); both of these will include children's play space and play equipment;

7.8.3 the provision of an enhanced public realm to create new streets and upgrade existing ones including extensive new tree planting;

7.8.4 a financial contribution towards education, employment during construction, sports development, strategic transport and health;

7.8.5 The provision of 3 car club bays within the development.

- 7.9 The appointment of Notting Hill as developer partner for the delivery of the Order Land and the wider area has superseded Policy D2 of the AAAP. This provides a tariff system of financial obligations to be paid by separate developers to ensure both the delivery of key infrastructure and the Master Plan for the Estate and the mitigation of adverse planning impacts “the Aylesbury Infrastructure Tariff”). As set out in the DPA, Notting Hill will now be responsible for the delivery of the key infrastructure and the Master Plan for the Estate, including the Order Land. This is considered acceptable in planning policy terms; the s106 provision will continue to meet the aspirations of the tariff and this, along with the provisions of the DPA, is broader of scope and purpose to ensure wider mitigation.
- 7.10 In addition to the s106 provision for the Order Land and the Estate, the Notting Hill provision through the DPA (set out in Schedule 3 of the DPA (CD 68) – Minimum Requirements) includes:
- 7.10.1 Within the Scheme: 50 social rent tenure extra care units, 7 units for people with learning difficulties and 250m² community space delivered as part of the development;
- 7.10.2 Within the master plan for the Estate: a workplace coordinator to deliver an extensive programme of employment and training and £1.25m of funding to the local community trust over the next five years.
- 7.11 The implementation of the Scheme will result in the replacement of the existing residential accommodation with new affordable units, to deliver an overall gain in affordable accommodation of 3,232m² (including extra care this would deliver an overall gain of affordable accommodation of 9,910m²). Saved policy 4.6 ‘Loss of residential accommodation’ of the Southwark Plan 2007 (CD 23) seeks to resist the net loss of residential floor space. Policy 3.14 ‘Existing Housing’ of the London Plan 2013 (CD 22) also resists the loss of affordable housing. In the case of an estate renewal, where redevelopment of affordable housing is proposed, it should not be permitted unless it is replaced by better quality accommodation,

providing at least an equivalent floor space of affordable housing. The Scheme will deliver good quality, generous sized homes that will meet or exceed the space standards set out in the AAAP and incorporate the latest standards of sustainable design.

- 7.12 The site accommodated 566 units made up of social rented and private housing. The permitted Scheme delivers 356 affordable housing units (excluding the 50 extra care units) of which 75% (by habitable room) would be social rented accommodation.
- 7.13 Strategic Policy 6 of the Core Strategy 2011 (CD 21), requires a minimum of 35% affordable housing on schemes of 10 units or more. The AAAP outlines that 50% of the new homes will be affordable with a mix of tenures on each development site; it then sets out that the early phases should provide a higher percentage (59%) of new affordable units, the mid phases 50% and the later phases 42%. It is recognised in paragraph 3.3.1 of the Draft Affordable Housing SPD (CD 35) that affordable housing provision should normally be calculated on a habitable room basis. The outline masterplan application indicates an overall 50/50 tenure split.
- 7.14 Excluding the extra care and the units for adults with learning difficulties, the split between the social rented and intermediate accommodation is 76:24 based on habitable rooms. This generally accords with the AAAP which requires a 75:25 split. The Social Rented Units are secured within the s.106 agreement dated 5 August 2015 (CD 64) as amended by a Deed of Clarification dated 14 October 2017 (CD 65) which clearly states that rents for the Social Rented Units will be calculated in accordance with appendix 1 of the Rent Standards Guidance.
- 7.15 The Scheme will provide affordable housing provision that is well above the minimum borough-wide requirements of the Southwark Plan and Core Strategy. Whilst there is a minor divergence from the AAAP phasing percentage requirement, the overall 50% affordable units will be delivered consistently across the master plan, as set out in the outline planning

application proposals. The Scheme will achieve the AAAP aim of a mixed tenure community, whilst re-providing the existing level of social rent housing at the site in line with the requirements of the London Plan.

- 7.16 The AAAP accounts for the playspace needs across the masterplan area and provides indicative locations for doorstep playable space, local playable space, neighbourhood playable space and youth space. The AAAP sets out the requirement for two local areas of local playable space and neighbourhood playable space within the Order Land development and this requirement has been exceeded in the proposals. Two local playable spaces are provided within the perimeter apartment blocks on Albany Road and two neighbourhood play spaces are provided with the provision of the two pocket parks, Westmoreland Park and Portland Park which each include a play park and play equipment for children.
- 7.17 The site is within close proximity of numerous open space facilities including Burgess Park and provides playspace on site for residents of the development and a financial contribution has been made through the s106 towards sports facilities within the vicinity of the Order Land.
- 7.18 The Order Land is situated within the 'Urban Zone' which requires a density of between 200 and 700 habitable rooms per hectare. This is identified in the Core Strategy (CD 21) and the Adopted Policies Map (CD 20). The AAAP has adapted the borough-wide density ranges specific to the Estate (based on the ranges in the Southwark Plan which were broadly taken forward into the Core Strategy). The AAAP outlines a density range of 601-700 habitable rooms per hectare for site 1b and 701-1000 habitable rooms per hectare for site 1c. Based on the Order Land area of 3.9 hectares (AAAP sites 1b and 1c combined) , the development of 2,651 habitable rooms equates to a density of 680 habitable rooms per hectare. The density sits within the required density range, which is considered acceptable in policy terms.

- 7.19 AAAP policy BH4 requires 70% of homes to have 2 or more bedrooms; of these 20% of homes to have 3 bedrooms, 7% of homes to have 4 bedrooms and 3% of homes to have 5 or more bedrooms. The borough-wide Core Strategy mix is less challenging than the AAAP policy with Core Strategy policy 7 requiring at least 60% of units to have 2 or more bedrooms and, within the Urban Zone (within which the Order Land lies), at least 20% 3-, 4-, or 5- bedroom homes. Excluding the extra care units, the Scheme provides 59% of units with 2 or more bedrooms; of these 14% are 3 bedroom units, 4% are 4 bedroom units and 3% are 5 bedroom units. The outline planning permission provides a much higher percentage of larger family homes which is appropriate given the lower density low rise design of much of the later phases of development.
- 7.20 Whilst the unit size mix across the Scheme does not entirely satisfy the requirements of the AAAP, the provision of 21% of 3-, 4- and 5- bedroom units just exceeds the requirements of the Core Strategy. The provision across the Scheme of a higher percentage of smaller units will assist with the process of re-housing from the existing Estate buildings where there is a greater number of one and two bedroom flats. By contrast, the masterplan for the remainder of the development area, as set out in the outline planning application, exceeds the AAAP policy requirements, with the provision of more larger family homes with 35% of 3-, 4- and 5 bedroom units, appropriate to the lower density, low rise areas. Overall the scheme will deliver a good proportion of large family sized homes and a good mix of bed-size units across the Order Land which accords with the aspirations of the AAAP.
- 7.21 Appendix 5 of the AAAP: Schedule of proposals sites estimates that the mix of types of housing on sites 1b and 1c that could be provided on these sites will be 67% flats, 27% maisonettes and 6% houses. The Scheme will deliver 84% flats (including 50 extra care flats and 6 learning disabilities flats), 10% maisonettes and 6% houses. The Scheme exceeds the percentage for flats and exceeds the percentage for houses, although, due

to the constraints of the site, falls below the percentage of maisonettes as set out in the AAAP. However, in line with the AAAP, there are maisonettes located on the ground floor of all the residential apartment blocks, as well as a number of duplex flats at higher level, and this provision, which amounts to 13% of the total of all new properties, is considered acceptable.

- 7.22 Policy 4.3 of the Southwark Plan 2007 (CD 23) requires 10% of residential units to be provided as wheelchair accessible fitted out for occupation. Of the 40 wheelchair accessible units (of which 53% are affordable) there are 14 one bedroom flats (of which 10 are affordable), 23 two bedroom flats (of which 8 are affordable) and 3 three bedroom flats (all of which are affordable) including 1 three bedroom ground floor maisonette (with internal platform lift) with a private garden. A total of 40 wheelchair accessible car parking spaces are provided off-street in the podium parking in close proximity to the wheelchair units. The provision is acceptable in accordance with policy, and provides good quality wheelchair accessible housing.
- 7.23 The Scheme layout, scale, massing and design approach responds to the context surrounding the site and accords with the aims of the AAAP. The concentration of height across the Order Land is considered appropriate given the existing context and accords with the guidance within the AAAP. Further details regarding materials, detailed finishes and landscaping are secured by condition to ensure the anticipated and required design quality to guarantee the scheme is a success, is achieved.
- 7.24 The overall internal space standards for all dwellings accord with the minimum floor areas set out within the AAAP (CD 2), the Southwark Residential Design Standards SPD 2011 (CD 24) and the London Plan 2013 (CD 22), whichever are the greater. In addition, overall, 69% of units would have a dual aspect and all units have internal storage space and private amenity space in the form of either a balcony or private garden. Four communal courtyard gardens are to be provided for residents. In the

four courtyard blocks all apartment units have access into the communal amenity space.

- 7.25 The scheme proposes parking at a ratio of 0.38 spaces per unit, which is in line with the AAAP expectations. This is provided by means of on-street parking for the affordable tenure and some of the larger private tenure units, and by off-street parking for the remainder of the private tenure units and the wheelchair accessible units. A total of 123 off-street parking spaces would be provided in the podia of two of the perimeter apartment blocks, 40 of which would be wheelchair accessible spaces.
- 7.26 The AAAP sets an aspiration for there to be no net growth of carbon emissions from the Estate despite the increase in the number of new dwellings as new homes are expected to be highly energy efficient. A reduction in carbon dioxide emissions of at least 35% against part L of the 2013 Building Regulations is the relevant London Plan target for this Scheme. In line with this target the Scheme will achieve the required carbon reductions which is considered to be a further positive aspect of the Scheme.
- 7.27 The new development provides primarily residential use with 260m² of non-residential use (community or leisure space). This is considered appropriate in land use terms and in accordance with the requirements of the AAAP. The buildings remaining on the Order Land are currently primarily in residential use with some (disused) office accommodation, and the surrounding uses are predominately residential. It is considered that it will provide an appropriate sustainable development providing much needed housing in the borough and a high proportion of affordable housing at social target rent levels. The housing proposed is considered to be of good quality, with a mix of dwelling sizes and housing types across the Order Land, addressing recognised housing need.

SUMMARY OF PLANNING POLICIES

The London Plan March 2016

- 7.28 The London Plan sets out the Mayor's objectives and policies for London. His objectives include ensuring that the city meets the challenges of economic and population growth in ways that ensure a sustainable, good and improving quality of life and sufficient high quality homes and neighbourhoods for Londoners.
- 7.29 Of particular relevance to the Aylesbury Estate, London Plan Policy 2.14 emphasises that within the Areas of Regeneration, which include Walworth and the Aylesbury Estate, the Mayor will work with strategic and local partners to co-ordinate sustained renewal.
- 7.30 Policy 3.8 indicates that Londoners should have a choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings. Policy 3.9 provides support for building mixed and balanced communities which include a range of dwelling types and tenures. Policy 3.14 advises that loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace.
- 7.31 Southwark's Local Development Framework is consistent with these policies. The Mayor has formally confirmed that Southwark's Core Strategy and the AAAP, which in particular demonstrates how London Plan policy 3.14 is met, are in general conformity with the London Plan.

Local development framework

- 7.32 The redevelopment and regeneration of Aylesbury area has been an objective of the Council since the 1990s and the Council adopted the AAAP for the area in 2010. The following documents set out the Council's policies for this area:

- Aylesbury Area Action Plan 2010

- The Core Strategy 2011
- The Adopted Policies Map 2012
- Southwark Plan 2007 (Saved Policies)
- New Southwark Plan February 2017 (at proposed submission stage)

These policy documents can be found at CD 2, CD 20 to CD 23 and CD70.

The Core Strategy 2011

- 7.33 The Core Strategy provides the overarching planning framework for the borough. It contains a vision and strategy for each area of the borough. The vision for Aylesbury in the AAAP (CD 2 foreword page 3) states that the Council will use the guidance in the AAAP to work with stakeholders to achieve a phased redevelopment of the Aylesbury Estate which delivers 4,200 new homes over the 15 year life-time of the core strategy.
- 7.34 The target for new homes on the estate is reiterated in Core Strategy (CD 21) policy 5 (Providing new homes). The same policy indicates that residential density should generally be up to 700 habitable rooms per hectare. However it notes that within Core Areas (of which the Aylesbury estate is one), this density can be exceeded when developments are of an exemplary standard of design.
- 7.35 Core strategy policy 6 states that across the Aylesbury Action Area as a whole around 50% of homes should be affordable, of which 75% should be social rented and 25% intermediate. A mix of homes is required by Core Strategy policy 7, including provision of 30% of homes with three bedrooms or more in the AAAP area. The policy is aimed at ensuring a mixed community.

The Adopted Policies Map 2012

- 7.36 The Aylesbury Estate is designated as a Core Area on the Adopted Proposals Map (CD 20). As is noted above, this designation allows

provision for the potential of a higher density, subject to high quality design. The Order Land falls within an allocated proposals site (AAAP P1) on the Adopted Policies Map. The allocation for the site is set out in the AAAP.

The Southwark Plan

- 7.37 The Southwark Plan (CD 23) was formally adopted by the Council in July 2007. The majority of policies were saved in 2010 and continue to be used. Some policies have since been superseded or supplemented by the Core Strategy and Aylesbury AAAP. In particular policies 4.1 (Density of residential development) and parts of 4.3 (Mix of dwellings) and 4.4 (Affordable Housing) have been replaced by Core Strategy and AAAP policies.

7.38 New Southwark Plan (draft)

The Council's New Southwark Plan is currently at proposed submission stage and currently draft policy AV14.1.3 states that the Aylesbury Estate in Walworth has the potential to provide over 4000 new homes (CD 70).

Aylesbury Area Action Plan (AAAP)

- 7.39 Detail of the adoption of the AAAP is set out at paragraph 7.6 of this Statement of Case. The AAAP was prepared by a multi-disciplinary team and adopted following a long period of consultation with residents and stakeholders in the wider community. A fuller description of the consultation process can be found at paragraph 1.3 of and appendix 1 to the AAAP (CD 2). The policies in the AAAP reflect the overall aspiration for a balanced community where people would choose to live. These policies were supported by 82% of the residents who attended the final exhibition of the plans. The AAAP identified and labelled a number of sites for regeneration on the Estate and the site in which the Order Land is located was labelled Site 1b – 1c.

- 7.40 The AAAP provides a vision, objectives and detailed policies to guide the redevelopment of the estate. This emphasises the aim of providing around 4,200 new homes, with a mix of tenures and dwelling sizes. Policy MP1 states that development should be in general compliance with the masterplan. Policy MP2 states that proposals sites have been designated and that planning permission will be granted for proposals in accordance with the Adopted Proposals (now Policies) Map and appendix 5 of the AAAP. The adopted land allocation for sites which include the Order Land is for around 4,200 new homes (approximately one fifth of which are on the Order Land itself) with a mix of tenures and dwelling sizes, 4,000m² health and social care space, 2,500m² employment space, 1,150m² education and learning space, 500m² community space and 1,750m² of retail space.
- 7.41 The AAAP is intended to provide greater certainty for developers and the community as to what form of development would be acceptable. The AAAP has been subjected to extensive public consultation, and an Examination in Public. After being found to be sound, and adopted by the Council (with modifications), it provides clear and up to date guidance, and is in itself in conformity with the strategic policies of the London Plan.

Community Infrastructure Levy

- 7.42 The Council's Section 106 Planning Obligations and Community Infrastructure Levy (CIL) SPD was adopted in April 2015 and an addendum to the SPD was adopted in January 2017. The council plans to report the Revised CIL Charging Schedule to council assembly on 29 November 2017. Subject to approval by council assembly, it is anticipated that the Revised CIL Charging Schedule will be brought into effect on 1 December 2017.

National Planning Policy Framework 2012

- 7.43 The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development and encourages Local Planning Authorities to approach decision making in a positive way and seek

solutions to enable appropriate sustainable development to be brought forward.

7.44 The NPPF sets out guidance on delivering a wide choice of high quality homes. This includes guidance for local authorities to use their evidence base to ensure their local plan meets the full, objectively assessed needs for market and affordable housing, including identifying the size, type, tenure and range of housing that is required in particular locations.

7.45 The NPPF also sets out national guidance on decision-taking including setting out that the planning system is plan-led and that in assessing applications, local authorities should apply the presumption in favour of sustainable development.

National Planning Practice Guidance

7.46 The National Planning Practice Guidance (NPPG) provides further information on implementing the guidance in the NPPF. This includes guidance on the importance of good design, determining planning applications, and housing.

Other Guidance

7.47 The Council will address all relevant national, regional and local guidance, including emerging guidance in its evidence.

Policy Conclusions

7.48 Together, the London Plan, the Core Strategy, relevant saved Southwark Plan policies, the Adopted Policies Map and the AAAP comprise Southwark's Development Plan. The NPPF and NPPG provide the national guidance. Southwark's development plan is consistent with the aspirations and policies in this national guidance.

- 7.49 Consistent with Section 38 (6) of the 2004 Act, planning applications should be determined in accordance with the Development Plan, unless material considerations indicate otherwise. It is therefore considered that any development which comes forward and conforms with the requirements of these documents (or can provide clearly argued justifications for any deviations) will have a high degree of certainty of achieving planning permission and a low risk of a potential challenge to any positive decision.
- 7.50 The Council believes that, following detailed review of the Scheme to be brought forward by Notting Hill, the proposals for the Order Land are materially in accordance with these policies and the development plan as a whole. Furthermore, there is full planning permission for the development of the Order Land and as such there is no planning impediment to the delivery of the Scheme.

8 IMPLEMENTATION AND FUNDING OF THE SCHEME

Delivery

- 8.1 The Council is confident that the selection of Notting Hill for the development of the Order Land will ensure that the Scheme is delivered within proposed timescales based on their financial strength and their performance since appointment in 2014.
- 8.2 Notting Hill is a major charitable housing association in London with a strong reputation for innovation, high quality management and an established track record of constructing, maintaining and managing good quality new homes for Londoners since its formation in 1963. At 31 March 2017 Notting Hill managed 31,864 homes, of which over 31,000 are located in London. They are one of the GLA's largest partners with the financial capacity to undertake major projects and the experience to deliver on time.

- 8.3 Notting Hill's programme of developing new homes is one of the largest amongst affordable housing providers in London. In the year to 31 March 2017, 1,152 newly built homes were completed of which 81% were affordable, and 1,720 homes were improved as part of Notting Hill's cyclical maintenance programme within an £18.7m investment budget in their existing housing stock. During the year, 3,102 plots were acquired for development, and construction works commenced on 2,425 new homes, of which 61% are affordable. In 2016/17 this was the largest development pipeline of London homes by any registered provider based on figures provided by the G15 group of the largest London registered providers.
- 8.4 Notting Hill has to date spent £14.5m in progressing its proposals for the redevelopment of the Order Land, securing planning approval and undertaking the diversion of utilities (telecommunications, electricity, gas, water) currently serving the Order Land, and progressing the detailed design. Further funds are committed to enable the redevelopment to proceed once vacant possession has been obtained.
- 8.5 Notting Hill is confident that the construction of the new development on the Order Land can be implemented once vacant possession is secured. Working jointly with the Council, they have let demolition contracts for those areas of the Order Land which are vacant. This work is proceeding to programme with all necessary arrangements in place to safeguard residents remaining on the Order Land.
- 8.6 Notting Hill has secured planning consent on behalf of the Council for a replacement facility for Ellison House, currently located adjacent to the Order Land. They are proceeding to procure and appoint a contractor to construct this facility to enable the full redevelopment of the First Development Site. In the meantime utility diversion works and isolation of Ellison House from the Estate district heating system have been undertaken so that this will not be an impediment to commencing demolition and construction.

- 8.7 The DPA provides the contractual commitment whereby Notting Hill will deliver the Regeneration. This is set out in broad terms in the Objectives in the DPA (CD 68 at clause 2) and the minimum requirements in Schedule 3, with the mechanism for delivery being set out in clauses 4 and 5.
- 8.8 Notting Hill's long term commitment is also evident in the resources they have invested in securing detailed planning consent and progressing Plot 18, the Community Hub elsewhere on the Estate.
- 8.9 Despite delays Notting Hill have also maintained their financial commitment to securing wider social and economic benefits for Aylesbury residents and other Southwark residents. More detail on this can be found at section 9 of this Statement and this is a matter which will be addressed in evidence.

Funding

- 8.10 Funding for the redevelopment of the Order Land is in place. Notting Hill has housing property assets of £3.4bn financed by loans, and £2.1bn of reserves built from a history of strong financial performance. For the year ending 31 March 2016 Notting Hill made a surplus of £125m from turnover of £415m with an operating margin of 34%, all of which is reinvested in providing good quality homes for those who could not otherwise afford them.
- 8.11 The market value on a vacant possession basis of Notting Hill's housing assets is estimated at £11.5bn. As at 24 November 2017 the Notting Hill Group has in place at the current time loan facilities totalling £2.3bn, of which £571m is unutilised and available for drawing. Group cash held as either cash in bank or on deposit totals £138m, meaning that immediately available liquidity (within 48 hours) equals £709m.
- 8.12 The strength and robustness of Notting Hill's financial standing is demonstrated by its external credit rating. Notting Hill is rated by Moody's Investor Services as A2 (negative) and by Standard and Poors as A+

(negative). These are upper-medium grade ratings showing Notting Hill is of low credit risk and indicative of Notting Hill's strong capacity to meet its financial commitments. The negative qualifier to the Standard and Poors Global rating means there is a possibility that rating may be lowered in future. This mirrors the negative outlook that agency currently ascribes to the UK Government and the rest of the housing association sector. It reflects the agencies' assessment of the potential negative impact of Government policies and the risks of Brexit.

- 8.13 Notting Hill carried the highest ratings of G1 for governance and V1 for viability from the social housing provider regulator, the Homes and Communities Agency. Furthermore, Notting Hill retains a significant number of financially unencumbered properties, underpinning the ability to secure funding for its development pipeline and growth aspirations.
- 8.14 Notting Hill is an established partner of the GLA. They have been allocated £172,599,343 to support the building of 5,262 homes across London as part of a Strategic Partnership agreement for the Mayor's 2016-21 Affordable Housing Programme. Some of this funding will contribute to the capital cost of providing new homes on the Order Land.
- 8.15 In addition the Council has already made provision in its current five year housing investment programme of £76.7m. This means that the Council has sufficient funds for site assembly on the Order Land and phase 2 of the Regeneration (as set out in the AAAP). This includes budgeted demolition costs for the Order Land of £16.8m. Further funding for future phases will be allocated in the housing investment programme at a later date. In addition £32.4m has been allocated in the Council Capital Programme for the community facilities including the new library at Plot 18.
- 8.16 The Council believes that the requirements of paragraph 14 of the Guidance are satisfied and this is a matter which will be addressed in evidence. Objectors have raised doubts about the viability and funding for

the Scheme, in particular with regard to the costs of demolition. Further evidence will be provided to the inquiry in respect of funding generally. The funding of the demolition works is covered in the Council's cabinet report from September 2016 (CD66).

Construction

- 8.17 Notting Hill has a recently renewed framework of contractors, fully operational from May 2017 by a selection process compliant with EU procurement regulations. 23 contractors have passed Notting Hill's financial and quality assessment and consequently there is a wide pool of suitable contractors who are regarded as capable of undertaking the construction work on the Order Land. A competitive process, supervised by Notting Hill's consultant surveyors, will be employed to select which of these contractors will be employed to redevelop the site.

9 JUSTIFICATION FOR THE ORDER

- 9.1 The Council will demonstrate at the Public Inquiry that there is a compelling case in the public interest for the confirmation of the CPO.
- 9.2 The Council recognises that s226 (1A) of the 1990 Act provides that a local authority must not exercise its compulsory purchase power under paragraph (a) of subsection 226(1) unless it thinks that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects:
- (a) The promotion or improvement of the economic well-being of their area;
 - (b) The promotion or improvement of the social well-being of their area;
 - (c) The promotion or improvement of the environmental well-being of their area.

- 9.3 The Council considers that each of the well-being objects would be met by the redevelopment of the Order Land in the manner proposed. The Council's evidence will deal with this issue in detail. This Statement of Case has set out the proposals for the Order Land. The following additional summary points are relevant here.
- 9.4 The redevelopment of the Order Land will enable the Council to provide a new high quality sustainable development, which will meet the needs of existing residents and the future needs of the area. The AAAP Inspector's Report (CD 3) found that there were 'fundamental shortcomings' in the existing blocks on the estate and that 'refurbishment would be unlikely to achieve satisfactory living conditions in the longer term' (at paragraph 3.4).
- 9.5 The Site 7 CPO Inspector's Report (CD 11) concluded (at paragraph 26) that 'the urban design and landscape of the estate is less than poor'. The report further concluded that '[The Buildings] are beyond economic repair and even if they were repaired and refurbished they would retain their appearance and they would remain in conflict with modern building standards.' The aim of the redevelopment is to carry out wholesale changes to the dwellings and the urban landscape surrounding them to improve the whole environment of the Estate.
- 9.6 The new dwellings will be of high quality and design and will comply with current environmental standards. More detail of the Scheme has been given at sections 6 and 7 of this Statement of Case, and the Council believes that the Scheme will, through the provision of a mixed tenure development with new homes and open spaces, contribute to the improvement of the social and environmental well being of the area. The benefits of the Scheme are much wider than just the replacement of dwellings.
- 9.7 The new development will attract investment to the area and deliver significant benefits for the Borough's community in the medium to long

term. These include new public realm, community facilities including a new library, and employment and training opportunities as well as the new residential units, secured by the DPA.

9.8 In the “minimum requirements” section of the DPA (CD 68 - Schedule 3) there is provision for four full time equivalent posts to support community involvement and initiatives geared towards addressing worklessness. In addition there is a commitment for Notting Hill to provide employment and training opportunities during the redevelopment process. These initiatives are already contributing to the improvement of the economic and social well being of the area.

9.9 To date the regeneration and the development partnership with Notting Hill has provided :

- 65 job starts for Southwark residents not previously in employment;
- 35 Southwark residents supported into sustained employment (6 months plus);
- 21 Southwark residents into apprenticeships or equivalent traineeships at level 2 or above;
- 97 Southwark residents receiving pre- or post-employment training and support;
- 125 Working Communities bursaries granted – these are support packages of up to £250 per individual to support Southwark residents in gaining employment, paying for travel costs, new clothing for interviews etc.

9.10 Notting Hill provide two rounds of community grants per year, totalling £7,500 per funding round. The fifth round of Aylesbury Community Grants has recently been announced and the following local groups will benefit from a share of the total £7,500 awarded :

- Inspire children and young people's sports activities;
- Happy Badders children's badminton group;
- Latin American Multicultural Group women and children's football sessions;
- University Academy of Engineering South Bank's adult exercise class;
- Surrey Square Primary School gardening project;
- Uncle Aug's Walworth Volunteers project.

The beneficiaries of previous rounds of funding have included Aylesbury Tenants' and Residents' Association, Afro Brazilian Arts, Burgess Sports and Silverfit, with over 576 Southwark residents benefitting to date, 472 of whom live on the Estate.

9.11 As far as consultation and community involvement is concerned, extensive consultation took place with local residents on the regeneration options and the AAP from 1999 to 2009. The AAP Inspector's report (CD 3) found at paragraph 2.9 that 'the methods used in preparing the AAP were sufficient to ensure a reasonable opportunity for residents of the AAP area and surrounding communities to make their views known.' Consultation on the AAP met and exceeded the minimum Regulations at the time and the requirements of the Council's Statement of Community Involvement (2008) ("SCI"), which sets out the minimum and expected consultation requirements on area action plans. The AAP Inspector's Report concluded at paragraph 2.10 that the AAP 'was prepared in compliance with the SCI after it [ie the SCI] had been approved by the Council, and before that in compliance with the minimum requirements set out in the 2004 Regulations'.

9.12 Consultation has continued on the specific design proposals for the Order Land. Resident feedback was obtained on the proposals for the Scheme

throughout the EU procurement process with regular stakeholder meetings being held with residents. Their feedback informed the development of the Council's requirements at every stage of the procurement process. A focus group consisting of five local residents and the director of the Creation Trust was involved at all stages and their role included meeting with bidders to help them better understand community issues and perspectives. This consultation also went beyond design issues and included discussions about the employment opportunities on offer, and other aspects of the regeneration process.

- 9.13 Since the selection of Notting Hill was finalised, the dialogue with the focus group has continued. This is in addition to the specific consultation carried out prior to the submission of the planning application and in accordance with the statutory planning process. Details of the consultation process around the planning application are set out in the Statement of Community Involvement (CD 12) submitted as part of the planning application. As well as large scale exhibitions there have been smaller more focussed topic based workshops which have helped to shape detailed elements of the proposals. Residents have engaged in designing flat layouts and in shaping building heights and the location of open spaces. In summary there have been over 21 consultation events including public exhibitions and workshops. Regular updates are provided to all residents through newsletters, a magazine and the Council's website and Notting Hill's website.
- 9.14 The redevelopment of the Order Land will provide some of the additional rented and intermediate properties required to provide re-housing opportunities for the tenants and leaseholders of blocks in future phases so that these blocks can be redeveloped in the next phases of the Estate redevelopment.
- 9.15 The factors which a Secretary of State can be expected to take into account in deciding whether to confirm an order made under s226(1)(a) are set out at paragraph 76 of the Guidance and include :

- Whether the purpose for which the land is being acquired fits with the adopted Local Plan for the area;
- The extent to which the Scheme would contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area;
- Whether the purpose for which the proposed land is to be acquired could be achieved by any other means.

9.16 As set out in section 7 the Council is satisfied that the proposals are grounded in the statutory development plan for the area.

9.17 The Council believes that the development of the Scheme will contribute to the achievement of the promotion of improvement of the economic, social AND environmental well-being of the area.

9.18 The purpose for which the proposed land is to be acquired could not be achieved by any other means. In order to satisfy the vision set out in the AAAP and the aims of regeneration and redevelopment that have been actively pursued by the Council since 2005 it is necessary to obtain vacant possession of the remaining five leasehold interests in order that the existing blocks can be demolished and new construction can begin without delay.

9.19 The objectors maintain that the position of the long leaseholders militates against confirmation of the CPO. However most of the dwellings on the Order Land have already been acquired by the Council and are now vacant. Where entire blocks are vacant, demolition works have commenced. It is important that the Council is able to secure vacant possession within a reasonable timescale to limit the risks inherent in having a small number of occupiers remaining in mainly empty blocks. There have been instances of anti-social behaviour on the Order Land, including rough sleeping, fly tipping and an attempted break in at one of the residential properties. Parts of the Site were the subject of

unauthorised occupation in 2015 and 2017. Aylesbury community wardens have increased the frequency of their patrols around the area to mitigate these risks and there is a security presence on the Order Land 24 hours a day. Significant delays to the programme and consequent cost increases have already resulted from the previous public inquiry, the delay in a decision being issued by the Secretary of State and the subsequent JR proceedings.

9.20 In order that the benefits of the Scheme can be realised, there will inevitably be people who are disadvantaged by the Scheme, not least because they will have to leave their homes. However as set out elsewhere in this Statement and as will be addressed in evidence, the Council has taken steps to ensure that the effect on individuals is mitigated. It has acknowledged the issues faced by occupiers on the Estate, and sought to address these where possible. The success of this is borne out by the numbers of tenants and leaseholders rehoused from the Order Land. Those parts of the Estate where redevelopment has already taken place: site 1a and site 7 illustrate the significant benefits that redevelopment of the Order land would bring.

9.21 Section 8 of this Statement covers the funding position, satisfying paragraph 14 of the Guidance. In relation to paragraph 15 of the Guidance the Council does not believe that there are any other physical or legal impediments to implementation of the Scheme.

10 HUMAN RIGHTS AND OTHER SPECIAL CONSIDERATIONS

10.1 The Human Rights Act 1998 ("the **1998 Act**") incorporates into domestic law the European Convention on Human Rights ("the **Convention**").

10.2 A compulsory purchase order will only be made and confirmed where there is a compelling case in the public interest (paragraph 2 of the Guidance). The Guidance confirms that acquiring authorities should be sure "that the

purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.” This echoes section 6 of the 1998 Act. In making this Compulsory Purchase Order (and any associated decisions) the Council has duly considered the human rights of the property owners of the Order Land.

10.3 In the Council’s view the Order engages certain human rights under the 1998 Act. The term ‘engage’ simply means that human rights may be affected or relevant matters for consideration.

10.4 In the case of the Order a number of rights are potentially engaged and the Council has given these matters due consideration, namely:

- Article 6 : Right to a fair trial/hearing – in the determination of an individual’s civil rights Article 6 gives an entitlement to “a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. The process of making and confirming the Order engages these rights.
- Article 8 : The right to respect for private and family life – the Aylesbury AAP proposes to demolish and regenerate the Aylesbury Estate. The Scheme would result in demolition and redevelopment of the Order Land leading to the re-provision of new homes and the relocation and potential loss of some others; and
- Article 1, Protocol 1 : Protection of Property – Article 1 protects the right of individuals to the peaceful enjoyment of possessions. No individual can be deprived of his/her possessions except in the public interest and subject to the relevant national and international law. The Council recognises the potential for interference with individuals’ right to peaceful enjoyment of existing and future homes upon the confirmation and implementation of the Order.

- 10.5 Notably, not all human rights operate in the same way. Few rights are absolute and thus cannot be interfered with under any circumstances. Other 'qualified' rights, including the aforementioned Article 6, Article 8 and Protocol 1 rights, can lawfully be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority in seeking to bring about regeneration in the public interest against potential interference with individual human rights. It is acceptable for the Council in making the Order and the Secretary of State in confirming it to strike a balance between the legitimate aim of regeneration for the benefit of the community as a whole against potential interference with some individual rights.
- 10.6 The Council believes that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would be necessary, proportionate and would strike an appropriate balance between public and private interests. The Council is of the view that the Order would be lawful, in the public interest, necessary and proportionate.
- 10.7 The basis on which the Council has reached this conclusion is that the advantages and benefits of regeneration for the wider community substantially outweigh the acknowledged disadvantages to those who, will be dispossessed of their rights in the Order Land if the Order is confirmed.
- 10.8 The Council is under a duty pursuant to the Equalities Act 2010 ("the 2010 Act") to have regard to the advancement of equality in the exercise of its powers, including planning powers, and including the exercise of CPO powers pursuant to s226(1)(a) of the Town and Country Planning Act 1990 (as amended). An Equalities Impact Assessment was carried out as part of the background to the AAAP and the findings of that assessment have been kept under review throughout the process. The statutory regard was applied in the consideration of the planning applications.

- 10.9 The Council has kept and continues to keep detailed records about the owners and occupiers of the interests in the Order Land, specifically in relation to age, household composition and ethnicity. In addition the Council has commissioned further assessments to be carried out to ensure that the information which it holds is up to date and accurate. This information helps to inform the Council when it is making offers of replacement properties to leaseholders, for example offers of properties that are suitable for wheelchair users, or the elderly who may require accommodation suitable for their particular needs.

11 OBJECTIONS AND THE COUNCIL'S RESPONSE

- 11.1 The initial objections to the making of the Order in 2014 were set out in the original statement of case (CD 28). Further objections were made prior to, during and after the 2015 Inquiry. Rebuttal evidence was put forward at the Inquiry by the Council.

- 11.2 The main categories of objections can broadly be summarised, and responded to, as follows.

- 11.2.1 *Objectors are happy with their existing properties which are built to generous space standards.*

As set out in the AAAP and the planning permission all proposed new units will be built as a minimum to Parker Morris space standards +10% for the social rented units; Parker Morris space standards +5% for the intermediate units ; Parker Morris space standards for the private units; or for each tenure the current Southwark borough-wide standard, whichever is the greater.

- 11.2.2 *Refurbishment as an option should be given greater consideration.*

The option to refurbish was considered but the Council decided in favour of demolition and development. This decision as set out in the AAAP was

made on the basis of the structural position of the Estate buildings, the quality of the built environment, and the costs of refurbishment. The Council's approach has been supported by the AAAP Inspector's report (CD 3), the Site 7 CPO Inspector's report and the Site 7 Decision Letter (CD 11) and was upheld by the Inspector in the recent public inquiry (Inspector's Report, CD 50 paragraphs 386 and 418). Objectors are keen to reopen the debate into whether or not refurbishment is a realistic alternative, but for the reasons set out in this Statement, the Council maintains the view that it is not. This is a topic to which the objectors return in all three statements of case. The Council will provide evidence to the Inquiry in this regard.

11.2.3 *Right to return is required*

The remaining qualifying resident leaseholders from the Order Land have been given the opportunity to acquire new homes on the footprint of the Estate (Site 1a and Site 7) on shared ownership/shared equity terms but have chosen not to pursue that option. These sites are located within a ten minute walk of the Order Land.

11.2.4 *Re-housing options are unclear*

The Council has sought to make the re-housing options clear and the process has been explained in homeowner guides and in meetings and was set out in detail in the previous statement of case, in evidence and in oral evidence given at the inquiry. The remaining resident leaseholders have been in regular contact with council officers and full details of that contact, meetings, telephone conversations, properties offered and financial offers made will be provided to the Inquiry.

11.2.5 *No consideration has been given to the social cost of breaking up the community – "Social Cleansing" – "Gentrification"*

The Council does not accept that it has failed to consider the effect of the Scheme on the community and its evidence will demonstrate that it has

considered these effects. The central purpose of the Order is to deliver very significant benefits to the community in terms of the re-knitting of the land with its surrounding area, the creation of new housing and the replacement of the existing buildings. The Council has gone to considerable time and trouble to ensure that leaseholders living on the Order land have been given the opportunity to relocate within the Estate (to Site 1a and to Site 7) or to nearby Edmund Street properties. In taking the decision to phase the development of the redevelopment the Council is creating the opportunity for tenants and leaseholders to maintain links with their communities by being re-housed near to one another and in the same area as at present, wherever possible. This is evidenced by the fact that many tenants and several leaseholders have taken up the option to acquire a new property on the footprint of the Estate. The question of community is one that the Council and its partners takes seriously. It should be acknowledged as well, however, that some people have good reasons for wanting to move away from the Estate, including wanting to be near family who live elsewhere in Southwark or even outside the Borough. The options available to tenants and leaseholders aim to provide as much choice as possible in terms of re-housing options and locations and further evidence on this topic will be presented at inquiry.

11.2.6 *No detail given in respect of the cost of the Scheme and how it will be funded, and it is not deliverable*

The cost of the Scheme is covered in the DPA which requires Notting Hill to make a fixed price payment for the Order Land – this phase of the development is not subject to viability testing. The Council retains the financial responsibility for land assembly and the delivery of vacant possession and this cost has been the subject of various cabinet reports (see CD 61 - chronology of decisions). Section 8 of this Statement provides details of the funding for the Scheme and further evidence will be provided at the Inquiry. In her report at paragraph 391 (CD 50) the

Inspector concluded that the Scheme would comply with paragraph 15 of the Guidance (which deals with likely impediments) and there is no good reason to disagree with that conclusion. In view of the delays to the Scheme to date, further up to date evidence will be provided to the Inquiry in support of that conclusion.

11.2.7 *The current poor condition of the properties is due to the Council's own lack of investment, this is deliberate and causes blight and forces people to move out*

There is an ongoing maintenance, repair and replacement programme for all the dwellings on the Estate. The Council acknowledges that there is a balance to be struck between maintaining the dwellings to a reasonable standard and carrying out major repairs, for which leaseholders would have to pay pursuant to the terms of their leases. A number of disrepair claims have recently been brought against the Council in respect of some of the dwellings on the Order Land. The majority of these have already settled.

11.2.8 *The Council has failed to address human rights issues and the proportionality of making the CPO*

This Statement addresses human rights issues and explains the balance that needs to be struck between the rights of individuals whose lives and property rights are affected by the CPO and the benefits of the Scheme to the wider community and the borough as a whole.

11.2.9 *There have been no attempts by the Council to negotiate*

As set out elsewhere in this statement there have been numerous attempts to negotiate with leaseholders about the acquisition of their properties and the fact that only five leaseholders remain, of whom two have agreed terms with the Council, is testament to the success of those negotiations. Evidence of the negotiations with the remaining leaseholders

will be presented to the Inquiry. A lack of a final agreed position should not be taken as evidence as a failure to negotiate.

11.2.10 *The proposed scheme will not enhance the environment and is too dense and will result in overshadowing*

The benefits of the Scheme have been set out elsewhere in this Statement. In terms of density, the proposals are in line with the AAP density bands, which are themselves in line with National and London Plan policies. The planning committee considered the impact of the Scheme on sunlight and daylight levels and these were found to be within reasonable tolerances. Further evidence on sunlight and daylight issues will be presented at the Inquiry. To the extent necessary, the further detailed planning criticisms newly made on behalf of objectors will be dealt with in evidence.

11.2.11 *Leaseholders as compared with tenants are treated unfairly, they are means tested and they will not be able to keep their life savings*

The statutory obligations placed on acquiring authorities are different for tenants and leaseholders. It is not appropriate to treat them identically, and this is not a discrimination issue. This Statement deals with the issue of means testing above. The Council has now changed its policy to enable leaseholders to opt not to invest their savings in their replacement property, if that is what they prefer.

11.2.12 *The affordable housing will not be truly affordable*

The affordable housing requirements of the Scheme are set out in the DPA and delivery is secured via the s106 Agreement. The definitions and parameters for social and affordable housing are based on national guidance produced by the Homes and Communities Agency. As a result of

lobbying by local campaign groups a deed clarifying the references to that guidance was entered into by the Council.

- 11.3 The Council is proposing to call witnesses to provide evidence in support of the contents of this Statement and in response to the objections made to the Order and reserves the right to call rebuttal evidence.
- 11.4 The Council does not consider that the issues raised in the objections materially affect or undermine the compelling case in the public interest for confirmation of the Order.

12 ADDITIONAL INFORMATION

- 12.1 Additional information about the regeneration of the Aylesbury Estate as it progresses is available on www.southwark.gov.uk and on Notting Hill's website at www.aylesburynow.london . In addition an inquiry website has been set up which can be found at <http://aylesbury-estate.persona-pi.com/index>
- 12.2 A copy of the Order, the Order Map and this Statement of Case and supporting documents can be inspected at the Council's offices at 160 Tooley Street, London SE1 2QH between 9.30am and 5pm, Mondays to Fridays (excluding bank holidays).
- 12.3 Persons requiring information about the Scheme should contact

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Email: aylesburyteam@southwark.gov.uk

13 LIST OF DOCUMENTS FOR THE INQUIRY

CORE DOCUMENTS

Core Document Bundle 1

- CD1 Cabinet Report & Minutes (agenda item 17) 18 March 2014 (re making of CPO)
- CD2 AAAP
- CD3 AAAP Inspector's Report 12 November 2009
- CD4 Redacted Development Partnership Agreement (DPA)
- CD5 Location Plan
- CD5A Land Registry Plan showing open space land
- CD6 Advert placed in OJEU
- CD7 Cabinet Report & Minutes (agenda item 9) 28 January 2014 (selection of development partner)
- CD8 Executive Report & Minutes (agenda item 7) 27 September 2005 (Aylesbury Estate revised strategy)
- CD9 GLA Press release
- CD10 Executive Report & Minutes (agenda item 15) 9 February 2010 (Aylesbury Estate Phase 1 CPOs)
- CD11 Site 7 Order, CPO Inspector's Report and Decision Letter
- CD12 Statement of Community Involvement

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- CD13 Executive Report & Minutes (agenda item 15) 26 September 2006
Rehousing of tenants and homeowners
- CD14 Cabinet Report & Minutes (agenda item 9) 14 December 2010 Amending the rehousing policy
- CD15 Cabinet Report & Minutes (agenda item 16) 18 March 2014 Shared equity
- CD16 Homeowners guide
- CD17 Map showing location of NHHT Edmund Street ("Camberwell Fields") housing sites
- CD18 Council Tenants' Guide
- CD19 Planning Application – Design & Access Statement plus Addendum
- CD20 Adopted Policies Map
- CD21 Core Strategy 2011

CD22 London Plan (2011 and 2013)
CD23 Southwark Plan 2007 – saved policies
CD24 Southwark Residential Design Standards SPD 2011
CD25 2004 Conisbee Report
CD26 Paul Palley response

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CD27 Council's Statement of Reasons
CD28 Council's Statement of Case (2014)
CD29 Proofs of evidence from Inquiry into the London Borough of Southwark (Aylesbury Estate Wolverton 1-59)(No. 2) Compulsory Purchase Order 2012 (Site 7)
CD30 Circular 06/2004 – Compulsory Purchase and the Crichel Down Rules
CD31 Development Partnership Agreement – Business Plan (extracts)
CD32 Cabinet Report and Minutes (agenda item 12) – Aylesbury Regeneration Programme Update
CD33 National Planning Policy Framework (NPPF) 2012
CD34 National Planning Practice Guidance (extracts)
CD35 Draft Affordable Housing SPD 2011
CD36 Mayoral Community Infrastructure Levy SPG 2013
CD37 Mayoral Housing SPG 2012 (extracts)
CD38 The London Plan – The Spatial Development Strategy for London Consolidated with Alterations since 2011 - March 2015
CD39 Southwark Section 106 Planning Obligations/Community Infrastructure Levy SPD 2015
CD40 Planning Application Drawings revised
CD41 Planning Application Environmental Statement plus Addendum
CD42 Planning Application Landscape Statement plus Addendum
CD43 Planning Application – (outline scheme) Design and Access Statement plus Addendum
CD44 Planning Application – (outline scheme) Landscape Statement plus Addendum
CD45 Planning Application – Revised Affordable Housing Statement
CD46 Planning Application – Planning Statement
CD47 Southwark Statement of Community Involvement
CD48 Southwark's Community Infrastructure Levy

CD49 Energy Strategy

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CD50 Inspector's Report January 2016

CD51 Decision Letter September 2016

CD52 Consent Order May 2017

CD53 Statement of Facts and Grounds 27 October 2016

CD54 Witness Statement of Neil Kirby 27 October 2016

CD55 Grounds of Defence:

- Defendant's Summary Grounds of Defence 23 November 2016;
- Interested Parties' Summary Grounds of Defence (incorrectly dated) 21 November 2017;
- Defendant's Detailed Grounds of Defence 21 February 2017;

CD55A Dove J Order 19 December 2016

CD56 Renewal Grounds 9 January 2017

CD57 Collins J Order 18 January 2017

CD58 CPO Guidance October 2015

CD59 Plan of Order Land showing current works, hoardings, layouts etc

CD60 Cabinet Report and Minutes 8 December 2015 – Changes to financial offer to leaseholders

CD61 Chronology of decisions

CD62 Planning permissions 14/AP/3843 (FDS) and 14/AP/3844(Outline)

CD63 Planning officer's reports dated 23 April 2015 and 30 July 2015

CD64 Section 106 Agreement for the Scheme (5 August 2015)

CD65 Deed of clarification to s106 Agreement (14 October 2015)

CD66 Cabinet report and Supplemental Report and minutes 20 September 2016 (programme update)

CD67 Cabinet report and Supplemental Report and minutes 9 May 2017 (further update)

CD68 DPA (redacted as at June 2017)

CD69 Summary of effect of variations to DPA

CD70 New Southwark Plan – Preferred Option February 2017 (extract)

CD71 London Plan 2016 (extracts)

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CD72 Section 226 of the Town and Country Planning Act 1990 (as amended)

CD73 DCLG Estate Regeneration National Strategy 8 December 2016

CD74 Mayor of London – Homes for Londoners – Draft Good Practice Guide to Estate Regeneration December 2016

CD75 Mayor of London - Homes for Londoners – Affordable Housing and Viability Supplementary Planning Guidance August 2017

CD76 Mayor of London - Housing Supplementary Planning Guidance March 2016

CD77 Planning officer's report dated 23 April 2015 (Outline)

CD78 Supporting Statement October 2017 – Section 73 application 17/AP/3885

CD79 Council's Updated statement of case (June 2017)

CD80 Cabinet report and minutes re CPO for Ellison House replacement site 31 October 2017