



Aylesbury Estate CPO ruling: What went wrong?

28 September 2016 By [Ella Bradwood](#), Jim Dunton



NEWS ANALYSIS: Who com pulsory purchases blocked by com m uis society Sajil Javid, who does ls leave Southwak Council's Estates Regeneration scheme e?

The move has been described as a 'tearaway' by campaign groups and residents of council estate residents for the regeneration of the Aylesbury Estate. It is now on hold, [com m uis society Sajil Javid blocked a com pulsory purchase order \(CPO\)](#) for part of Southwark Council's Aylesbury Estate regeneration programme, as planned by HTA Design.

The council working with affordable housing provider North HI Housing wants to replace the 2,700 homes on the estate – selected by Tony Blair in his first speech as prime minister in 1997 – and replace them with 3,500 new homes.

But the council had a problem. Some residents didn't want to leave. Leaseholders in the property came together and across seven estate blocks on the estate, they objected to the CPO, which would make way for the so-called regeneration.

And now Southwark has an even bigger problem, because that CPO was refused.

Javid ruled that those item among new occupiers who had refused to accept below-market rents for whom Southwark Council should not be fully itemoved ([see below for an extract of his letter](#)).

The decision made the council [which protested](#), saying last week that it could scupper the whole £315 million development on the 1970s south London estate. The authority said it would challenge the decision in the courts than pay the new occupiers more.



Aylesbury estate 62

Source: *Ella Braidwood*

Fistborcom municipal access

[zoom in zoom out](#)

Javid's decision – concerning the human rights of leaseholders – cracks open an unexpected fissure in the government's Estates Regeneration Program – one of former PM David Cameron's flagship schemes. [On 6 January](#), Cameron claimed the plan would bring about the upgrade of 100 neighbourhoods across the country under the stewardship of Lord Heseltine.

This decision puts Southwark and all councils which are trying to build new homes for residents between a rock and hard place

Why, then, did Javid issue his ruling? And what questions does it pose over future estate regeneration plans?

Javid's decision rests on a report by planning inspector Lesley Coffey over phase 1 at Aylesbury – actually the first of the wider scheme to be brought forward, which will deliver a consented 830-homes scheme by HTA Design.



Project 169 3D sketch

In April Aylesbury estate as part of a plan application, design and access statement

z oom rizoom ou

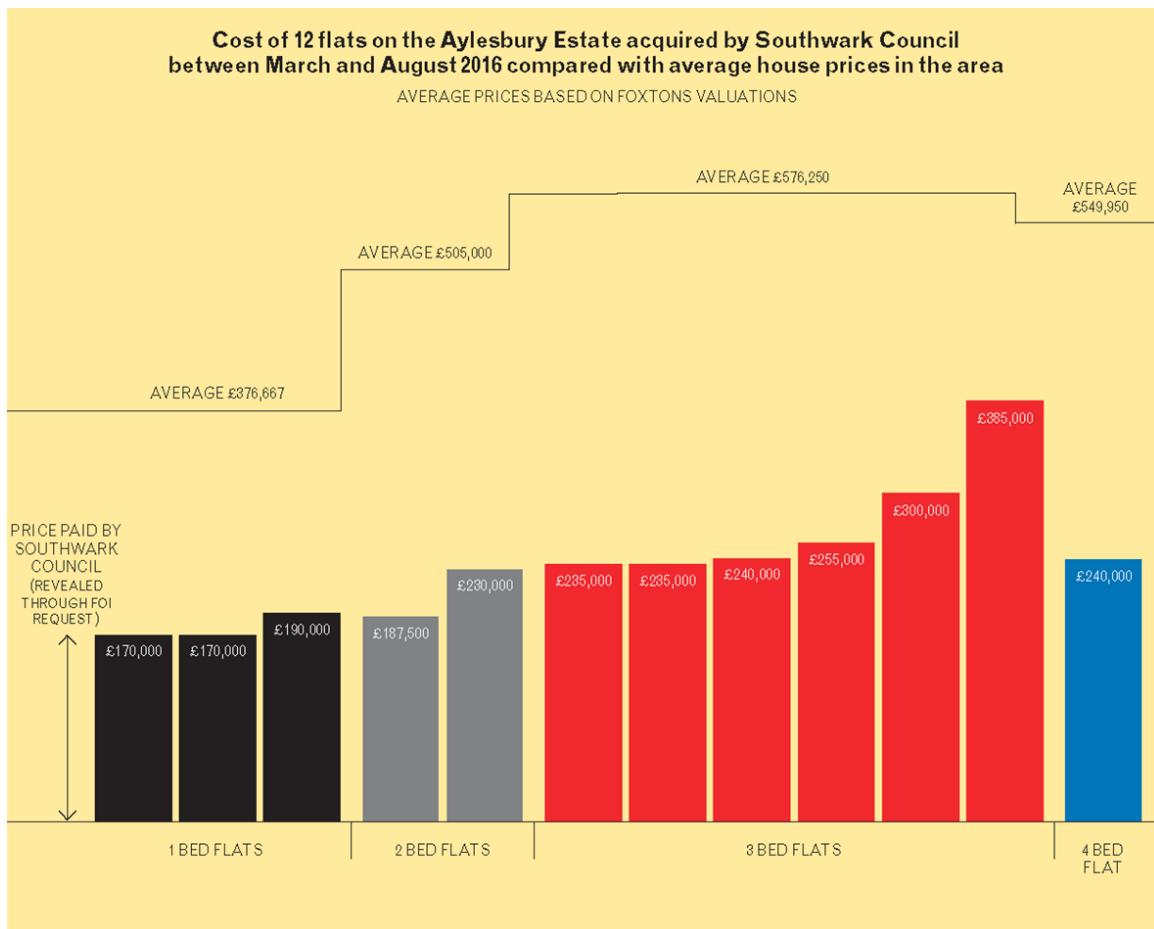
Coffey's report – which in January but only published after the Javid decision – highlighted how the CPO would contravene the human rights of those leaseholders, since the purchase of this made by Southwark was unlikely to be enough to buy a property on the open market in the south London area.

Rejecting the CPO, Javid said: 'The proposed purpose of the order will have considerable economic and social dis-benefits in terms of consequences for those leaseholders living in the order area.'

Specifically, Coffey's comments referred to Articles 1 and 8 of the European Convention on Human Rights (ECHR), which cover people's entitlement to 'peaceful enjoyment of their possessions, and 'respect for private and family life, home and correspondence'.

Coffey's findings were supported by Javid in relation to potential disadvantages faced by leaseholders – seen as being particularly negative for the elderly and for school-age children – under the Public Sector Equality Duty requirements of the Equality Act 2010.

Coffey wrote in her report: 'The CPO would not only deprive them of their right to also financial security. If they chose not to pursue its option, they would inevitably need to leave the area and it would have implications for them individually, including the lives of those dependent on them. I consider that interference with human rights would not be proportionate, having regard to the level of interference and the public benefit that the scheme would bring.'



zoom_in zoom_out

The Aylesbury Leaseholders Group told City that Southwark's average offer members had been £187,000 per home. Freedom of Information requests seen by the AJ appear confirm the group's report.

In August this year, the council completed the purchase of a two-bed flat at Chalcots House, a block in the Aylesbury Estate, for the bargain basement price of £187,000, while a three-bed went for £255,000. Back in March 2015, a five-bed flat on the estate was purchased for £160,000. Then again, leaseholders involved in the purchases did not receive professional help from a surveyor against the government's advice for dealing with CPOs.

In comparison, the price of a privately listed, ex-council three-bed flat – sold as it need of 'improvement' – in the nearby Penrose Houses currently lists at £435,000, according to property website Zoopla. Meanwhile, the price of a new build three-bed at the Elephant Park development on the same site is £1.5 million.

Lord Lees, a professor of Human Geography at the University of Leicester who gave evidence at the public inquiry into Aylesbury Estate last year, says there is a danger such dubious compulsory purchases will force low-income groups to the outskirts of the capital.

She says: 'These council estates are a real barrier to the completion of regeneration in London and further out in London. They're really in point because, once they're gone, they're gone.'

'Many of the people on these estates are in their 50s and 60s, so trying to move to the same areas when you're in your 20s.'

She adds: 'There are also repercussions for children who have to be placed in new schools, and he ~~driven~~ ~~in~~ hates what if you were previously able to come in ~~use~~ to your job, once you've moved there [it] may not be possible. There are repercussions for you every day.'

'These coundies ~~are~~ ~~also~~ ~~a~~ ~~terrible~~ ~~bait~~ ~~to~~ ~~the~~ ~~com~~ ~~plete~~ ~~on~~ ~~in~~ ~~of~~
inner London'

Lord Lees

Supports the Estates Recovery Program, views Jacob's decision as a setback.

One architect who has involved in a number of other projects, says: 'The message is that this decision sends out a coupled with a new message from the government that buy, sell, let, continue to what is needed for a concerted estates regeneration.

'You have to accept that there is a financial value between a 1970 slate on a dilapidated estate and a new-build home with state-of-the-art facilities and building energy efficiency.'

Southwark Council leader Peter John, who says the authority will take the decision to the High Court appeal. He says: 'This decision puts Southwark and all councils which are trying to build new homes for residents between a rock and a hard place. We can't afford this decision or scrap our plans to regenerate the Aylesbury Estate.'

He adds: 'I honestly don't know what the government's policy is on estates regeneration at any stage, as they say one thing and do another. By this decision they are jeopardising plans for 800 new homes for Londoners.'

'Of course the human aspect of our residents are in point which is why each of the item affected leaseholders has been offered a brand new home in the same area, and with a shared equipment which protects them money they've saved and invested. I'm afraid that we can't just keep off them in one and make up pay as' money.'



Aylesbury estate 0 8 7

Source: *Ella Braidwood*

Painted decoration

zoom in zoom out

It's not just John who believes the design will have wide-ranging consequences. Sam Berry, a Green Party London Assembly member, believes that this 'significant case will have ramifications far beyond' – but adds that may not determine the eventual outcome at Aylesbury. She says: 'Because it's so far along in its case, the council and developers may just tick the box and pay them money.'

'But you're planning schemes that may well change people's approach and make them think about how they can keep more of the building, refurbish them and do more efficient plans.'

She adds: 'Expect residents to develop their own plans as really key to this.'

Yvette Williams, a campaigner with Action for Social Housing (ASH) says that the decision is 'a victory', given that Javid doesn't properly address the amount of social housing required within the new development.

Although the council says that 50 percent of the new homes will be 'affordable' with three-quarters of those at market rates, there will be a net loss of socially rented homes at the regeneration completion (see [Will there be fewer social rented homes once the regeneration is complete?](#))

ASH's concerns are backed up by precedent. At the neighbouring Elephant Park development from the Heygate Estate, which was controversially demolished in 2014 – only 74 flats out of about 2,700 are planned to be available as social rent according to *Planning Officer*. *The Guardian* measures against the demolition and, according to freedom of information requests made by the AJ, as of October 2015 there were 11,034 households registered on the borough's waiting list for social housing.

Questions have also resulted as to whether demolition of the estate instead of refurbishment and highway diversion.

Questions have also resulted as to whether demolition of the estate instead of refurbishment and highway diversion. The available evidence indicates that those living on the estate want to stay there.

In 2001, around 75 percent of Aylesbury's residents voted on whether the estate should be turned into a housing association – the likely outcome being the removal of the estate – 73 percent voted against.

The AJ reported last year (AJ 19.11.15) that Lewisham drew up cost-comparisons of refurbishing and demolishing the south-west corner of the estate – and that came out as markedly cheaper.

In addition, it has also been noted that Javid's decision only concerns resident leaseholders, and not tenants. But despite the CPO refusal, Javid's overall support for the development at Aylesbury has not faded. And, while Southwark talks about cash concerns, it seems that the decision will not ultimately harm the estate's regeneration.

Javid said the proposals had the potential to bring considerable benefit and that was a good opportunity for the council to work with the remaining leaseholders to 'alleviate the negative aspects' highlighted in his inspector's report. He also referred to the potential for future CPO requests to be submitted.



[zoom](#) [n_zoom](#) [ou](#)

Industry insiders have also told the AJ they do not expect the estate's development phases to be scrapped because of the need to make arrangements for buy outs to the leaseholders.

CPO expert Richard Lloyd, a partner at law firm Eversheds, says that while Javid's decision will 'send waves around the regeneration world' – he does not expect the decision to signal the start of a series of legal challenges to CPOs being blocked.

He says: 'This case turned on the specific brand of scheme of planning very significantly on their part of the scheme on a site by site basis of leaseholders, when one considers the size of the area.'

'It is by no means clear that his approach – or the secretary of state – will take a similar approach on other green belt CPOs. Often, a broader view is taken, where the general public benefit is weighed against the impact on the individual's human rights. This was a very sensitive approach. However, each CPO is considered on its own facts and merits.'

Paul Karkusevi, partner at Karkusevi Cason Architects, says he believes most estate regeneration projects already sought to encourage deals to ensure leaseholders were supported to acquire new homes and remain in the same neighbourhood.

Javid's move is unlikely to halt the regeneration of the Aylesbury Estate

He says: 'In my experience, the leaseholders generally get a good deal – the quality of the housing might be much better and lots of people are delighted with it. In the case that some regeneration in the odds are set up in away that less generous, however'

Meanwhile Holly Lewis, founder of Hackney-based group We Made That, says what architects thought of the Aylesbury scheme or the deal underpinning Javid's decision highlights how architects should engage with those living on the sites.

She says: 'By advocating an overcomplicated solution, we hope that the decision will discourage "unhappy" CPOs from a more equitable change. Architects should take a lead on ensuring regeneration schemes keep it simple.'

While Javid's move has certainly shaken up councils and developers carrying out the government's estate regeneration plans, it is unlikely to halt the regeneration of the Aylesbury Estate, with the probable outcome being a higher purchase price made by Southwark Council to the leaseholders involved.

The shock move raises more questions than answers. But what can happen once again shifts the responsibility of action involved with regeneration schemes to consider the consequences on those already living in the council estates.

Comment

Beverley Robinsons a leaseholder in the Chisenhale block of Aylesbury Estate – and asked for demotion under phase one of the regeneration plans. She lives in one of the few households where the Compulsory Purchase Order would have applied if approved.

Robison has lived on the estate for 29 years. However she decided to purchase her flat under the right-to-buy scheme in 2005. At that time, Lewisham was still drawing up costs for the scheme entitling her to buy the south-west corner of the estate where she lives. She says: 'We delayed by the decision that the society of sites has taken. I made the decision to buy the flat based on the fact that they were going to sell the estate and we were going to stay in our homes.'

'It was a shock to me to come up to purchase it February 2005 and find out April 2005 that Southwark Council was no longer going to honour what they had bought.'

'There's a lot of open space, a lot of the buildings are not on top of each other. I don't see that other building developments over London – they're very much on top of each other.'

'Every other property around us is moving forward in value and ours just didn't because of the location of the regeneration.'

'I wanted to stay in my home, I like this area, and this is where I bought to stay for the rest of my life.'

'It's a very difficult decision to move anywhere else. Why should I have to move from my home, when this is where I've chosen to live?'

Extract from Sajid Javid's decision letter

Human rights

In relation to Article 1 of the European Convention on Human Rights (ECHR), the Society of Sites agrees with the Inspector's analysis of other leaseholders, namely that it is appropriate for leaseholders affected to leave the area or to rehouse them at or other savings in a new property.

Article one of the First Protocol of the ECHR affords a person the peaceful enjoyment of their property, but also stipulates that this provision does not prevent the state from enacting such laws as it deems necessary to control the use of property in accordance with the general interest. As mentioned below, the Inspector in this case found that there was a breach of residents' peaceful enjoyment of their property, but that this was not necessary to control the use of property in accordance with the general interest, and accordingly that there was a breach of Article one of the First Protocol.

Elderly residents

For elderly residents, who are often aged when they would probably be unable to obtain another to make up any shortfall and therefore cannot afford to be independent, using savings and other investments would severely limit their ability to choose how they spend their entitlement and the uses to which they put their savings and investments.

The leaseholders are not obliged to accept these options to them (shared ownership or shared equity) to stay on the estate, and could potentially purchase a property on the open market. However, many other leaseholders will probably be unable to afford these options and will have to move away from the area. The likelihood that leaseholders will have to move away from the area will result in consequent strain on local services, the education system, local economy, the education of children and, potentially, dislocation of local residents.

and

Children

These factors will affect children's schooling by resulting adverse impact on the child's exam performance and school reports. This is likely to result in a lower level of achievement than otherwise might have been the case, which is likely to result in a lower level of opportunity for the affected children to obtain a successful job (thus adversely affecting opportunity) and – in turn – exposing them to a vulnerable stage of development – an negative impact on the child's good relations with family and extended social contacts.

apply

\$.

Black and Minority Ethnic (BME) residents

Given that 67% of the population living on the estate are of BME origin, it is likely that there is a potential disproportionate impact on the elderly and children of these groups, who are likely to dominate the profile of those living on the estate and who are also likely to have to move out of the area. Opportunities are limited.

so highly
from

These factors will also result in adverse impact on these groups, which is likely to also have a particularly discriminatory impact on BME children and BME elderly, including both regarding opportunity (as described above) and in relation to their good relations with other non-protected groups (as described above).

d