



Aylesbury Estate CPO ruling: What went wrong?

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



NEWS ANALYSIS: With compulsory purchases blocked by communities secretary Sajid Javid, where does this leave Southwark Council's Estates Regeneration scheme?

The move has been described as a 'rare victory' by campaigners battling for the rights of council estate residents facing the juggernaut of wholesale redevelopment. Earlier this month, [communities secretary Sajid Javid blocked a compulsory purchase order](#) (CPO) for part of Southwark Council's Aylesbury Estate regeneration programme, masterplanned by HTA Design.

The council, working with affordable housing provider Notting Hill Housing, wants to flatten the 2,700-home estate – selected by Tony Blair as the site for his first speech as prime minister in 1997 – and replace it with 3,500 new homes.

But the council had a problem. Some residents didn't want to leave. Leaseholders in eight properties earmarked for demolition across seven different blocks on the estate objected to the CPO, which would make way for the so-called 'first development site'.

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

Javid ruled that those eight remaining owner-occupiers who had refused to accept below-market-rate offers for their homes from Southwark Council should not be forcibly removed ([see below for an extract of his letter](#)).

The decision infuriated the council, [which protested](#), saying last week that the move could scupper the whole £315 million redevelopment of the 1970s south London estate. The authority said it would rather challenge the decision in the courts than pay the owner-occupiers more.



Aylesbury estate 062

Source: Ella Braidwood

First floor communal access

[zoom in](#)[zoom out](#)

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

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Why, then, did Javid issue this ruling? And what questions does this 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 third site of the wider scheme to be brought forward, which will deliver a consented 830-home scheme by HTA Design.



Projects 169 3 large sketch

Image from Aylesbury estate masterplan application, design and access statement

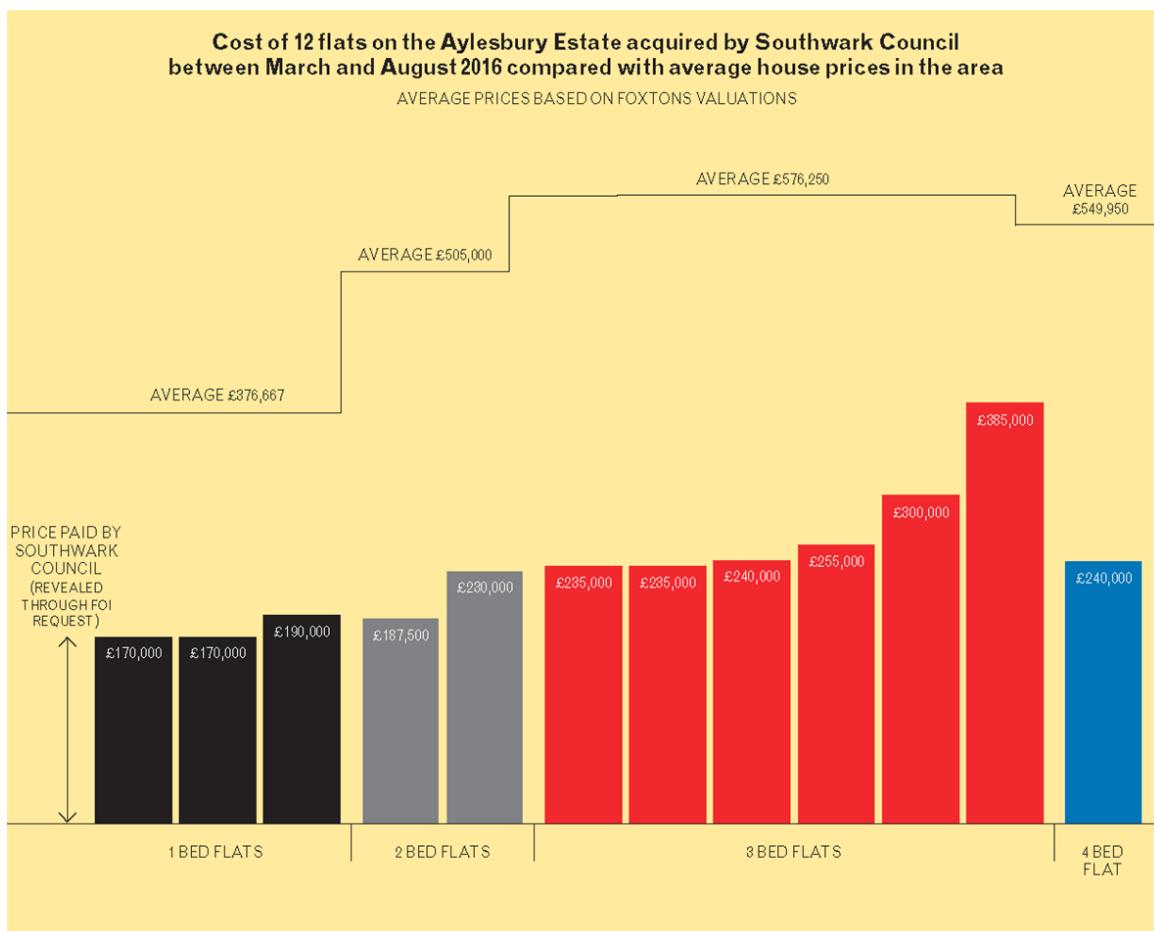
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Coffey's report – written in January but only published after the Javid decision – highlighted how the CPO would contravene the human rights of those leaseholders, since the purchase offers made by Southwark were unlikely to be enough to buy a property 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 remaining on the order land.'

Specifically, Coffey's comments referred to Articles 1 and 8 of the European Convention on Human Rights (ECHR), which cover people's entitlement to the '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 Equalities Act 2010.

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



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

In August this year, the council completed the purchase of a two-bed flat in Chiltern House, a block in the Aylesbury Estate, for the bargain-base 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. The majority of 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 – stated as 'in need of maintenance' – in the nearby Penrose House is currently listed at £435,000, according to property website Zoopla. Meanwhile, the price of a new build three-bed at the Elephant Park development is on the market at £1.5 million.

Loretta 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 iniquitous compulsory purchases will force low income groups to the outskirts of the capital.

She says: 'These council estates are the final barrier to the complete gentrification of inner London and further afield in London. They're incredibly important because, once they're gone, they're gone.'

'Many of the people on these estates are in their 50s and 60s, so trying to start again is not the same as when you're in your 20s.'

She adds: '[There are] also repercussions for children who have to be placed in new schools, and the disruption that goes with that. If you were previously able to commute to your job, once you've moved that might not be possible [...] there are repercussions for your everyday life.'

'These council estates are the final barrier to the complete gentrification of inner London'

Loretta Lees

Supporters of the Estates Regeneration Programme, view Javid's decision as a setback.

One architect, who is involved in a number of similar projects, says: 'The message that this decision sends out, coupled with renewed interest from the government in right-to-buy, is directly contradictory to what is needed for a concerted estates regeneration drive.

'You have to accept that there is a fundamental difference in value between a 1970s flat on a dilapidated estate and a new-build home with state-of-the-art facilities and built-in energy efficiency.'

Southwark Council leader Peter John, who says the authority will take the decision to the High Court, agrees. He says: 'This decision puts Southwark and all councils which are trying to build new homes for our residents between a rock and hard place. We can either fight 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 estate regeneration any more, 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 rights of our residents are important, which is why each of the remaining resident leaseholders has been offered a brand new home in the same area, rent-free, and with a shared equity arrangement which protects the money they've saved and invested. I'm afraid that we can't just keep offering them more and more taxpayers' money.'



Aylesbury estate 087

Source: *Ella Braidwood*

Painted decoration

[zoom in](#)[zoom out](#)

It is not just John who believes the decision will have wide-ranging consequences. Siân Berry, a Green Party London Assembly member, believes that this ‘significant’ case will have ramifications further afield – but admits that it may not alter the eventual outcome at Aylesbury. She says: ‘Because it’s so far along in this case, [the council and developer] may just take the hit and pay the money.

‘But if you’re planning schemes it may well change people’s approach and make them think about how they can keep more of the buildings, refurbish them and do more infill plans.’

She adds: ‘Expert help for residents to develop their own plans is really key to this.’

Yet, while campaign group Architects for Social Housing (ASH) says that the decision is a ‘rare victory’, it warns that Javid’s rejection doesn’t properly address the amount of social housing required within the new development.

Although the council says that 50 per cent of the new homes built will be ‘affordable’ with three quarters of those at target rent, it appears there will be a net loss of socially rented homes after the regeneration completes (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 – formerly the Heygate Estate, which was controversially demolished in 2014 – only 74 flats out of about 2,700 are planned to be available at a social rent, according to Oliver Wainwright writing for *The Guardian*. Measure this against the demand: according to a freedom of information request made by the AJ, as of October 2015 there were 11,034 households registered on the borough's waiting list for social housing.

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Questions have also resurfaced as to whether demolition of the estate, instead of refurbishment, is the right way forward. The available evidence indicates that most of those living on the estate want to stay there.

In 2001, around 75 per cent of Aylesbury's residents voted on whether the estate should be transferred to a housing association – the likely outcome being the regeneration of the site – 73 per cent voted against it.

The AJ reported last year (AJ 19.11.15) that Levitt Bernstein drew up cost comparisons of refurbishing and demolishing the south-west corner of the estate – and that the former 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 faltered. And, while Southwark talks about its cash concerns, it seems that the decision will not ultimately halt the estate's regeneration.

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



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Industry insiders have also told the AJ they do not expect the estate's first development phase to be scrapped because of the need to make improved buyout offers 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 regeneration CPOs being blocked.

He says: 'This case turned on the inspector and secretary of state placing very significant weight on the impacts of the scheme on a relatively small number of leaseholders, when one considers the size of the area.'

'It is by no means clear that other inspectors – or the secretary of state – will take a similar approach on other regeneration CPOs. Often, a broader view is taken, where the general public benefits as a whole are taken to outweigh the impacts on the individual's human rights. This was a very forensic approach. However, each CPO is considered on its own facts and merits.'

Paul Karakusevic, partner at Karakusevic Carson Architects, says he believes most estate-regeneration projects already sought to strike inclusive 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 leaseholder generally gets a good deal – the quality of the housing is going to be much better and lots of people are delighted with the offer. It might be the case that some regeneration models are set up in a way that is less generous, however.'

Meanwhile Holly Lewis, founding partner of Hackney-based practice We Made That, says whatever architects thought of the Aylesbury scheme or the deal underpinning it, Javid's decision highlights how architects should engage with those living on the estates.

She says: 'By advocating negotiation over compulsion, we hope that the decision will discourage "trigger-happy" CPOs in favour of equitable change. Architects should take a lead role in resident engagement on schemes like this.'

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 offer made by Southwark Council to the eight leaseholders involved.

The shock move raises more questions than it answers. But what is certain that it once again shines the spotlight on the responsibility of architects involved with regeneration schemes to consider the consequences on those already living in Britain's council estates.

Comment

Beverley Robinson is a leaseholder in the Chiltern block of Aylesbury Estate – earmarked for demolition under phase one of the regeneration plans. She lives in one of the eight leaseholds where the Compulsory Purchase Order would have applied if approved.

Robinson 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, Levitt Bernstein was still drawing up costs for the refurbishment of the flats in the south-west corner of the estate where she lives. She says: 'We're elated by the decision that the secretary of state has taken. I made the decision to buy the flat based on the fact that they were going to refurbish the estate and we were going to remain in our homes.'

'It was a shock to me after completing [the purchase] in February 2005 to find out in April 2005 that Southwark Council was no longer going to honour what I bought into.'

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

'Yet every other property around us is moving forward in value and ours is just blighted because of the threat of the regeneration.'

'I want 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 eight of the European Convention on Human Rights (ECHR), the Secretary of State agrees with the inspector's analysis of the impact on leaseholders, namely that in practice the options for most leaseholders are either to leave the area, or to invest the majority of their savings in a new property.

Article one of the First Protocol of the ECHR entitles a person to peaceful enjoyment of their property, but also stipulates that this provision does not impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. As mentioned below, the inspector in this case found that the interference with residents' peaceful enjoyment of their property was not necessary to control the use of property in accordance with the general interest, and accordingly that the interference with article one of the First Protocol was not proportionate.

Elderly residents

For elderly residents, who are of an age where they would probably be unable to obtain a mortgage to make up any shortfall and their future earning potential is likely to be limited, using their savings and other investments would severely limit their ability to choose how they spend their retirement and the use to which they put their savings and investments.

The leaseholders are not obliged to accept either of the 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 of the 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 consequential impacts to family life and, for example, the dislocation from local family, the education of affected children and, potentially, dislocation from their cultural heritage for some residents.

Children

The impact on children's schooling may result in adverse impact on the child's exam performance and their school reports. This is in turn 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 child in terms of their ability to apply successfully for jobs (thus adversely affecting equality of opportunity) and – in terms of uprooting them at a vulnerable stage in their development – a negative impact on the affected child's good relations with their family and extended social contacts.

Black and Minority Ethnic (BME) residents

Given that 67% of the population living on the estate were of BME origin, it is highly likely that there is a potential disproportionate impact on the elderly and children from these groups, who are likely to dominate the profile of those remaining on the estate and who are therefore likely to have to move out of the area if the Order is confirmed.

There is therefore a further dimension to the adverse impacts on these groups, which is that this proposal is likely (given the predominantly BME profile of those resident on the estate) to also have a particularly discriminatory impact on BME children and BME elderly, including both regarding their equality of opportunity (as described above) and in relation to their good relations with other non-protected groups (as described above).