

1 Aylesbury CPO Public Inquiry Arguments



Aerial view of Phase 1b/1c Order land

1.1 Viability

Show how the figures were fiddled in the AAAP to make it look viable to get it through the examination in public (Toby).

Public sector funding requirement	Total funding shortfall £m	
Land value deficit	76.185	62.98
Infrastructure costs (shortfall after developer contributions)	20.737	3.44
Leasehold acquisitions	130.422	65.73
CPO enquiry costs	1.500	1.50
Re-housing tenants, estate management and community safety	21.853	15.39
Demolition	39.075	11.28
Land disposal and programme management	9.893	9.00
Total	299.665	169.32
Funding Income		86.69
Funding Gap		82.63

Table A7.2: Total funding shortfall

Figure 1:

1.2 Credit rating downgrade

In June 2016 NHHT was [downgraded](#) by credit agency Moodys. The Moodys downgrade mentioned NHHT's significant development pipeline and listed its largest three projects; Aylesbury estate, Canada Water and a scheme in Hounslow. It said that the capital expenditure to revenues ratio would average 49% over the next five years, but this is based on the figure given of 7% social rented tenure. So the replacement 'social' homes on the FDS must have been included in these figures as affordable rent. To conclude: Moody's capex to revenue ratio must have been

based on the provision of affordable rent not social rent. Had it been based on social rent then the capex to revenue ratio would have been much higher. So either Moodys have been given incorrect info on the tenure mix of NHHT's pipeline or the replacement 'social' homes on the Aylesbury will be affordable rent..

Notting Hill's development programme is ambitious for its size and assumes an average of 1,300 new homes will be built per year over the next five years (including uncommitted). Notting Hill has several large London sites in its pipeline, including the Aylesbury Estate, Canada Water, and Lampton Road in Hounslow. The focus on large developments poses some concentration risk, but the phased nature of these developments partially mitigates the exposure. Development will include a variety of tenures, with shared ownership comprising the largest share of total units at 37%, followed by outright sales at 24%, affordable rent at 19%, market rent at 13% and general needs rent at 7%. Net capex to revenues will average 49% over the next five years, compared to an A2-rated FY2015 peer median of 32%.

The development programme is the primary driver behind Notting Hill's substantial debt growth over the next five years, reaching GBP2.3 billion by FYE2021 compared to GBP1.3 million at FYE2016. Although development plans are ambitious, Notting Hill will retain some flexibility in its capital plans, as only 50% of capex in the business plan is committed (as of June 2016).

Figure 2:

1.3 DPA provisions breached

Show how NHHT has breached various provisions in the DPA including its obligation to purchase 5 street properties that it was to offer on shared equity terms to leaseholders in phase 1b/1c.

1.4 NHHT's commitment waivering

In September 2016, Southwark [agreed](#) a number of changes to the development agreement with NHHT. Southwark agreed to forward fund £21m of the ongoing costs of progressing the scheme, that NHHT was originally required to fund under the terms of the Development Partnership Agreement. These comprised:

£16.8m demolition costs for the First Development Site
£0.8m for the demolition of Plot 18
£2m to underwrite the cost of Plot 18's planning application
£2m to underwrite the design fees for phase 2

These costs are in addition to the Council's other costs that it has already agreed to allocate to the scheme. In total the Council is now forecast to spend £52.5m over the next three years on the Aylesbury redevelopment scheme.

Notting Hill Housing's commitment to the scheme is also plainly a concern. The [Cabinet report](#) goes on to say that *'if the scheme has not proceeded in accordance with the DPA (Development Partnership Agreement)'* then *'at that point all design work will pass to the council enabling the council to market the site'* (para. 13) - in plain language: if Notting Hill drops out then Southwark takes over and looks for another developer.

NHHT is also now [reducing](#) the number of affordable units in plot 18, its first phase of development to be completed on the estate. It is moving these to be delivered instead on the FDS. Note that the [9 May Cabinet report](#) announced a change of phasing: the FDS has been swapped with plot 18 - i.e. the FDS will instead be the second phase of development completed by NHHT after plot 18. Fresh planning applications for both sites are expected shortly.

1.5 Deliverability

Show how [Wood Dene estate](#) was demolished in 2007 and how NHHT has [left the site empty](#) for 10 years without building any new homes. This will be the future of phase 1b/1c. Manor Place depot was granted planning permission in 2015 but construction has still not started.



Figure 3:

The DPA says that the FDS will be completed by 2021? but NHHT have now put that back to 2024 <http://moderngov.southwark.gov.uk/documents/s68300/Appendix%202%20Draft%20development%20agreement.pdf>

Circular ODPM/2005 says that there needs to be evidence that the scheme underlying the Order will be completed in a 'reasonable' time period; seven years for a development of just 840 homes is not a reasonable time period.

1.6 Tenure switch

Submit copy of [Southwark's evidence](#) from previous Inquiry where they claim to have robust S106 monitoring procedures.

S106 Monitoring

8. The Council aims to review compliance of the major aspects of each S106 obligation (payments, Affordable Housing provision and works in kind) every 12-18 months. Should any concerns arise the following process should be followed:
 - **Stage 1**, monitor the obligations / respond to any concerns raised.
 - **Stage 2**, investigate concerns and identify potential remedies.
 - **Stage 3**, negotiate compliance in full; or seek legal / court action (subject to Head of Development Management approval); or agree an alternative provision through a Deed of Variation (subject to an application made under S106A or S106BA and Head of Development Management approval).

Ex-

tract from Southwark's [evidence to first Inquiry](#)

Submit copy of [Ombudsman decision](#) and Sunday Times [article](#) showing Southwark's failure to monitor S106 AH tenure delivery because it doesn't actually have any monitoring procedures and therefore misled the previous Inquiry.

Highlight NHHT's other developments where social rent intended but affordable rent delivered - i.e. the one in Lambeth delivered on the [Claremont East estate](#). Show how the breach at Bermondsey Spa hasn't been resolved, i.e. the Council hasn't taken effective action to recover the SR homes - i.e. there still remains a net loss across the Bermondsey Spa and Manor Place Depot sites.

Re-run all of our previous criticisms of Kate Davies and her predilection for affordable rent and privatisation. Include also Steve Hilditch's recent [article](#) criticising Davies and Notting Hill (Hilditch is a former board member).



Figure 4:

2.7 We propose that the law should be changed so that councils and housing associations are free to let social homes on whatever terms they judge most appropriate to meet the particular needs of incoming tenants.

Figure 5:

1.7 Bashing NHHT

[Southwark News article](#) on rent hikes and evictions MP Neil Coyle's criticisms and Cllr Pollak's quote saying NHHT is acting like a 'predatory landlord'.

Wood Dene estate and Decathlon sites appear to have stalled. Point out affordable scandal at the Decathlon site (blog post to be drafted still) and the low level of social rented housing at the Wood Dene site. Make the point that



Figure 6:

NHHT successfully argued (using viability assessments) that it wasn't viable to provide more than the pitiful 15% (avg) social rented housing across both sites. So how can it be possible that the FDS site can viably provide over 40% social rented?

Silwood estate - 3 missing social rented housing units.

Manor Place Depot?

Show HCA/GLA stats showing how many thousands of homes they have converted to affordable rent.

1.8 Refurb/Alternative to scheme underlying the CPO



Figure 7:

[This report](#) describes different funding for DHS works, including the 'GLA Backlog fund' and the [accompanying](#)

[appendices](#) show that the Four Squares estate (a High Investment Needs estate) was brought up to DHS for just £12m. Work out how much this is per unit and also show similar comparables.

On the question of sources of funding a refurb scheme, one could also include the Section 106 off-site pooled funding and that set aside for new Council homes.

This Cabinet item from 2011 gives details of 'High Investment Needs estates' and gives cost estimates of DHS works: <http://moderngov.southwark.gov.uk/ieIssueDetails.aspx?IID=11030&Opt=3>

Appendix 6 shows the Aylesbury as not being the most costly of the estates. We could find out the actual costs of other estates on the list and do a comparison. Link to appendix 6: <http://moderngov.southwark.gov.uk/documents/s19628/Appendix%20>

Southwark has in any case already [committed £12.5m to Major Works](#) bringing homes on the estate up to Decent Homes Standard.

1.9 PSED

The only Equalities Assessment conducted on the scheme to date (the [2009 EqIA which accompanied the AAAP](#)), relied upon the mitigation measures in place at the time for leaseholders- i.e. the rehousing options enshrined in the Council's [2006 rehousing policy](#) which included the like-for-like 'property swap' for leaseholders. The 2006 policy and the Council's [Handbook for leaseholders](#) clearly state the 'property swap' as one of the available rehousing options:

On September 26, 2006 Southwark Council adopted a comprehensive policy for home owners. This was developed in consultation with the Aylesbury Leaseholder Group, a resident based group established to represent home owners interests.

The following options are available for home owners:

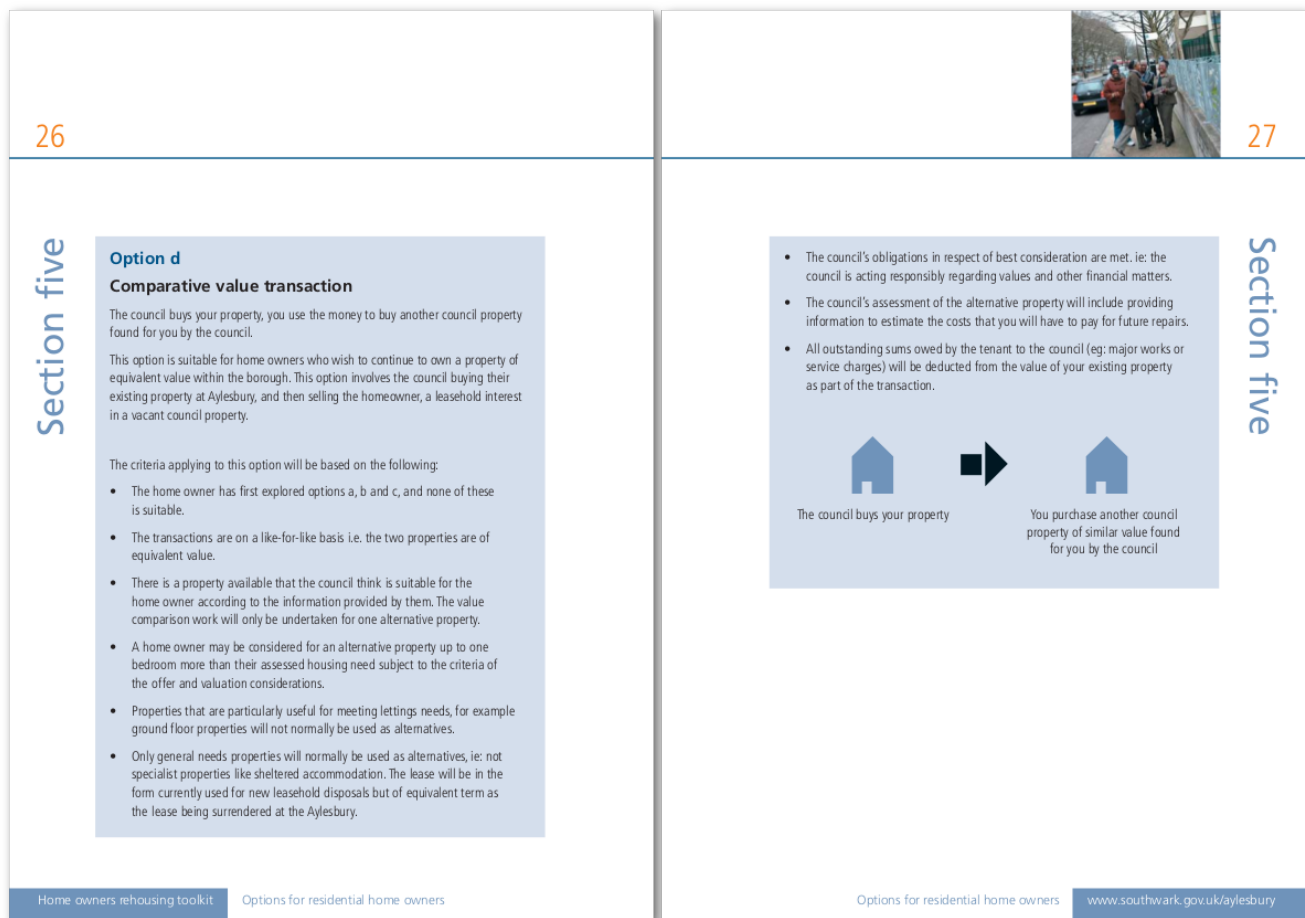
- (a) Buying a property on the open market – the 'do it yourself' option
- (b) Buying a shared ownership unit – the part buy / part rent option
- (c) Buying a retained equity unit – the part buy option
- (d) Comparative value transaction – the 'property swap' option
- (e) Sitting tenant option – the 'below market value' option
- (f) Becoming an RSL or council tenant – the 'safety net' option

Section five

[ers Handbook](#)

Extract from the [Leasehold-](#)

The handbook gives a detailed description of the property swap policy available to leaseholders:



Extract from the *Leaseholders Handbook*

The EqIA specifically references the 2006 rehousing policy for leaseholders which it says offers leaseholders the 'widest possible choice of rehousing opportunities':

develop an ethos of partnership. This spirit of cooperation and partnership was evident when stakeholders developed the re-housing policy framework for leaseholders and tenants in November 2006. This document helped to identify the priorities for the redevelopment.

Figure 8:

Given that the 'property swap' option was subsequently withdrawn in 2010, it can be argued that the scheme doesn't comply with the PSED because one of the mitigation measures set out in the EqIA which underlies the AAAP have been withdrawn. Indeed it was the only mitigation measure that would have enabled leaseholders to remain homeowners in the borough.

Inspector Coffey said that leaseholders are left with two bleak options: moving out of the area or remaining but being impoverished. Like-for-like swap was the only option that would have enabled leaseholders to remain in the area without being impoverished. *We will need to show that the shared equity deal impoverishes leaseholders despite change in the £16k policy*

types of replacement housing and therefore provides an immediate opportunity to respond to the identification of unanticipated adverse impacts on population retention levels. In order to provide opportunities and choice for residents, the options for rehousing will be provided through 4 routes:

- new mixed tenure housing through partnerships with Residential Social Landlords (RSL's);
- by allocating existing Council units to those residents who wish to remain Council tenants;
- by identifying new affordable housing (under the planning obligations) in the redevelopment area which will be available to Aylesbury households;
- and by introducing a package of other measures including compensation for leaseholders to offer the widest possible choice of re-housing opportunities.

Figure 9:

1.10 Non conformity with AAAP

1.10.1 Retail

AAAP policy COM6 says *“Provide 1,750 square metres of new local retail facilities (convenience retail, cafes and restaurants) within the action area core”*.

1.10.2 BRE Sunlight/Daylight

Show in detail how the private high-rise blocks on the park front will seriously affect daylight in the affordable units behind.

Policy A6.7.8 of the AAAP says *“At least 75% of apartments in each development should have dual aspect.”* How many of the homes in the new FDS application are due to be dual aspect?

1.10.3 Sustainable Energy

Show how the sustainable energy requirements of the AAAP are not being adhered to - ie. biomass (see draft blog on phase 1a missing biomass)

AAAP policy BH7 says *“All new homes within the action area core should meet Code for Sustainable Homes Level 4 up to 2016 and Level 6 beyond”*.

[This press release](#) says that biomass was to be provided on phase 1a but we know from classeur blog post that biomass was never provided.

In its [Energy Strategy](#) submitted pursuant to conditions of the S106 agreement, NHHT says that the zero carbon homes requirement has been removed (16/AP/2887).

1.10.4 Cycling Infrastructure

What does the AAAP say about cycling infrastructure and other transport infrastructure?

1.10.5 Open Space/Play Space

Policy 4.5.1 of the AAAP envisages no net loss of open space, but the approved masterplan application (ref:14/AP/3844) acknowledges that there will be a net loss of 1.8 hectares of open space:

provided as part of the FDS (0.39ha). Table 22 below sets out the amount of public open space proposed across the Aylesbury Estate.

Table 22: Public open space provision

	Public accessible open space (Ha)
Existing Housing Green Space baseline	4.8
Early phases	0.12ha
Proposed detailed phase	0.39ha
Proposed Outline phase	2.49ha
Regeneration Programme total	3
net change against AAAP	-1.8ha

157 Whilst it is acknowledged that there will be a reduction in the overall amount of amenity space compared to the existing estate, the AAAP assumed there would be an increase in density and that new spaces would be designed to maximise attractiveness and usability.

Extract from the planning committee report for the masterplan application.

Policy PL6 of the AAAP says “All development proposals must provide 10sqm of children’s play space / youth space per child bed space. Doorstep playable space should be provided within each of the housing blocks, whilst larger local playable spaces should be provided within selected housing blocks and within the green fingers and existing local parks, in accordance with Figure 12. New youth space should be provided within the larger areas of public open space.”

What does the new FDS application say about open space and play space?

1.10.6 Density

The AAAP says “The HCA has also recently admitted Aylesbury phases 2 and 3 to round 6 of the government backed Private Finance Initiative (PFI). Under this programme it is proposed that the council will effectively deliver 1000 new homes of which around 400 will be affordable council owned new homes”.

We know that the HCA PFI finance was scrapped shortly after the AAAP was adopted.

The AAAP says that 1419 units are required in phase 1, but given that only 408 units have been delivered on the other phase 1 sites [1a (261 units) & site 7 (147 units)] and only 830 units are proposed in the FDS application then there is a shortfall of 181 between the number of units proposed on the Order Land and the number required by the AAAP.

The AAAP says that the scheme will deliver 1,450 extra new homes to contribute to the London Plan requirement of 16,300 new homes by 2016/2017. We can show that the scheme is providing less than the 1,450 promised and that Southwark has failed miserably to come anywhere near the 16,300 target.

Provide evidence showing the vast gap between the number of units required by more recent planning policy and the numbers being delivered. Show how this is the cause of the current housing crisis.

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Figure 10:

Policy	Target
BH1	<p>To provide approximately 4,200 new homes (1,422 net) within the action area core between 2009 and 2027, including approximately:</p> <ul style="list-style-type: none"> • 1419 units in phase 1 • 645 units in phase 2 • 450 units in phase 3 • 1695 units in phase 4 • and at an average of 221 homes per year

Figure 11:

3.1 Background	REASONS
<p>3.1.1 This section deals with the number of new homes, their size and tenure mix, sustainable construction and use of resources. The focus is on the design of the new homes that will replace the existing Aylesbury Estate but it is also very important that the new development should respect the wider AAP area including preserving and enhancing the nearby conservation areas.</p>	<p>3.1.3 At present there are 2,758 homes in the action area core. The layout of the estate is poor and does not make efficient use of the land.</p>
<p>3.1.2 Under the current re-housing policy existing residents will be given the opportunity to remain in affordable homes in the borough, and return to the action area core following redevelopment if desired.</p>	<p>3.1.4 The London Plan's requirement for Southwark is 16,300 new homes by 2016/2017. The AAP will deliver about 1,450 extra homes to contribute towards this target. The increase in the number of homes will allow new private and intermediate homes to be introduced into the area, contributing to the creation of a mixed community and helping to ensure that the scheme is financially viable.</p>
	<p>3.1.5 The feasibility of accommodating this</p>

Figure 12:

1.11 Room Sizes

The AAAP says that:

Does the accommodation schedule in the new planning application for the FDS conform with these requirements?

1.12 Displacement

How many rehoused on estate footprint as per EqIA and AAAP intention?

Why have only 10 of the estate's 200 leaseholders decanted to date taken up the shared equity offer? Where did the rest of the leaseholders go?

1.13 Compensation issues

The Council acknowledges that the value of homes on the Aylesbury are lower than any other properties in the borough and that their shared ownership options are a recognition of this.

The [minutes of 10/03/2014 Overview and Scrutiny Committee](#) confirm that the Council's principal surveyor said *"The council's ownership schemes were in recognition of the fact that the price offered might not enable a leaseholder to buy another property."*

In his [report](#) to that Committee, the Principal Surveyor said *"Some Councils offer equivalent exchange whereby a leaseholder swaps his/her property for another of the same value. This has been considered but the properties being regenerated in this Borough tend to be at the lowest level of the value scale. There are unlikely to be similar equivalents that aren't part of regeneration schemes so such an offer would be hollow."*

3.4 Size of homes

BH4: Size of homes

The following mix of housing sizes will be provided in the action area core:

- A maximum of 3% studios all in private tenure;
- At least 70% of homes to have two or more bedrooms;
- At least 20% of homes to have three bedrooms;
- At least 7% of homes to have four bedrooms; and
- At least 3% of homes to have five or more bedrooms.

Figure 13: