

	<p style="text-align: center;">Executive 11 February 2013</p> <p style="text-align: center;">Report from the Director of Regeneration and Major Projects</p>
<p style="text-align: right;">Wards affected: Dollis Hill</p>	
<p>Coles Green Court Redevelopment</p>	

Not for publication

Appendices 3, 4 and 5 are exempt from publication under Schedule 12A(1,2,3) of the Local Government Act 1972 as they include Information relating to individuals and likely to reveal the identity of individuals, and information relating to the financial or business affairs of a particular person (including the authority holding that information)"

1.0 Summary

- 1.1 This report concerns the redevelopment of Coles Green Court by Network Housing Group and seeks approval to make a Compulsory Purchase Order to acquire leaseholder interests and other relevant interests at Coles Green Court and authority to take all necessary steps to acquire said interests.

2.0 Recommendations

Executive,

- 2.1 Note the background to Network Housing Group's redevelopment proposals for Coles Green Court and Network's endeavours to negotiate acquisition of leaseholder interests at Coles Green Court.
- 2.2 Subject to Network Housing Group underwriting all costs of such CPO action, authorise the

Making of a Compulsory Purchase Order (CPO) to acquire leaseholder interests and other relevant legal interests in the land which for identification purposes are shown edged red on the plan attached to this report at Appendix 1 ("the CPO Land") under Section 226(1)(a) of the Town and Country Planning Act 1990, to facilitate the carrying out of redevelopment scheme

("the Scheme") and any new rights in the CPO Land which may be required under section 13 of the Local Government (Miscellaneous Provisions) Act 1976.

- 2.3 Submission of the CPO, once made, to the Secretary of State for confirmation, whilst Network Housing Group at the same time seek to acquire the land by private negotiated treaty.
- 2.4 Making of one or more general vesting declaration or service of Notice to Treat and Notice of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively, should the CPO be confirmed, if determined by the Director of Regeneration & Major Projects on the advice of the Director of Legal & Procurement Services, as necessary in order to implement the CPO.
- 2.5 Acquisition (either pursuant to the CPO or by agreement) of the CPO Land by the Council from its owners once the CPO has been confirmed, subject to all costs in connection therewith indemnified and paid by Network Housing Group.
- 2.6 Director of Regeneration & Major Projects to enter into agreements and make undertakings on behalf of the Council with the holders of interests in the CPO Land or parties otherwise affected by the Scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPO, where such agreements are appropriate
- 2.7 Service of all requisite notices on the holders of the CPO Land including rights in the CPO Land relating to the making and confirmation of the CPO
- 2.8 Director of Regeneration & Major Projects to remove from the CPO any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPO (if so advised)
- 2.9 Director of Regeneration and Major Projects within the defined boundary of the CPO Land, to acquire land and/or new rights by agreement either in advance of the confirmation of compulsory purchase powers, if so advised, or following the confirmation of compulsory powers by the Secretary of State
- 2.10 Director of Regeneration & Major Projects, if so advised, to seek to acquire for the Council by agreement any interest in land wholly or partly within the limits of the CPO Land for which a blight notice has been validly served.

3.0 Summary

Coles Green Court is an existing Network Housing Group block of 32 flats (27 x 2 bed and 5 x 3 bed flats) located in the Dollis Hill ward. The block was constructed in the 1930s and modernised in the 1980s. At the rear of the

existing building, there is a large area of open ground and car parking, with 17 unused garages arranged on the western boundary.

In 2009, increasing housing and asset management issues, together with high levels of resident dissatisfaction, prompted Network Housing Group to undertake an options appraisal on Coles Green Court in consultation with residents and the Council. Network Housing Group decided to progress redevelopment of Coles Green Court, submit a planning application to that effect and pursue negotiations to purchase four leasehold interests.

Planning permission for demolition of Coles Green Court and development of 34 flats and 4 houses was granted in June 2012 and Network have a funding allocation to deliver the scheme under the GLA Affordable Homes Programme. Tenants are currently being decanted, however negotiations to acquire three non-resident leasehold interests have, so far, failed. Given the building is at the end of its' useful life and redevelopment will improve the economic, social and environmental well being of the area, officers recommend a Compulsory Purchase Order be made and pursued to acquire the outstanding leasehold interests and all other relevant legal interests at Coles Green Court.

3.1 Existing Building & Grounds

- 3.1.1 Coles Green Court is in an unacceptable state of repair with all properties failing the Decent Homes Standard. Network Housing Group report that there have been 362 recorded repairs carried out at the building since March 2010, that is, an average of 13 per property. A number of these repairs were stated to relate to the leaking roof, failing electrics, failing water tanks, mould and damp, old kitchens and bathrooms. Repairs carried out on the leaking roof, water pumps and damp patches were stated to not have resolved underlying failings and, for the last 5 years, there is evidence that the roof has leaked and caused considerable damage to homes below. The water pumps were stated to have also failed on a number of occasions in recent years and require complete overhaul. Network also report that environmental and energy performance Standard Assessment Procedure (SAP) ratings on these properties also fall well short of affordable warmth targets and residents have reported very high fuel bills. In 2010 Network Housing Group's Director of Asset Management estimated that all homes are Housing Health & Safety Rating System (HHSRS) class 1 rated, which meant that Network risks being served with notices on all of the homes in Coles Green Court under the Housing Act 2004.
- 3.1.2 Many of the flats at Coles Green Court are seen to experience severe problems with damp and black mould. Over the years, Network Housing Group have taken remedial measures such as installing ventilation systems, which have been effective in removing the smell associated with the damp, but not in combating the damp and mould. The two root causes of the damp were reported to be underlying structural failings: the first being penetrating water from the leaking roof, the second resulting from the single skin brick

construction of the building, which lacks any other form of insulation. In 2012 the condition of the roof was so poor, and the problems it was giving rise to for residents so acute, that even though Network had decided to redevelop Coles Green Court (see section 3.2 below) extensive repairs to the roof were undertaken. There, however, remain numerous problems with the building.

- 3.1.3 In January 2013, Network Housing Group undertook a further condition survey on Coles Green Court at the request of the Council (Appendix 2) which details a number of serious issues, including now severe flooding to the basement, fire escape and fire door risks and poor SAP ratings, which result in high failure against the HHSRS.
- 3.1.3 Coles Green Court is badly designed. Residential space standards and layouts are poor. 2 bedroom 3 person flats have second bedrooms that provide less than 6m² of space and some bedrooms are accessed via other bedrooms or lounge areas. Some kitchens have 3 access doors (1 fire escape, 1 store cupboard, 1 hallway) which limit the amount of usable surfaces for cupboard space and everyday items such as fridge freezers or tumble dryers. Network Housing Group report that this shortfall in design has resulted in residents' belongings spilling out on to rear external fire escapes, creating a health and safety risk in the event of a fire.
- 3.1.4 Communal areas are also problematic. In particular, the garage area is not overlooked by any other buildings and as a consequence Network Housing Group report that the area has become a focus for low level ASB such as fly tipping that is proving difficult to combat, without resorting to costly interventions. Old communal entrance doors, delicate intercoms and fragile back doors fail to provide adequate security to the building and as a result Network Housing Group housing management have received a number of reports of attempted and successful break-ins. The bin area is also stated to be poorly designed and subject to fly tipping, which has pushed up service charges.
- 3.1.5 Resident dissatisfaction has consequentially been high at Coles Green Court. As at March 2010, Network Housing Group report 11 of the 28 tenants living at Coles Green Court had formally registered for transfer from the scheme, compared with a 6% transfer registration rate across Network's wider stock base. Costs for repairs and void loss are also disproportionately high.
- 3.1.7 The Council's Environmental Health Department has received a number of enquiries regarding Coles Green Court, however only twenty records have been found, the earliest dated 1994. The bulk refer to noise, however complaints regarding damp, fly tipping and rodents are noteworthy.

3.2 Network Housing Group Options Appraisal

3.2.1 The final results of the Network Housing Group options appraisal on Coles Green Court were presented to their Scheme Risk Appraisal Panel in March 2010 (Appendix 3).

- Option 1: Minimum repairs and refurbishment: bring the properties up to Decent Homes Standard and make good the communal areas, including replacing the roof, entry-phone systems, communal doors, water pumps and tanks, bin stores, making safe the 17 garages, repairs to the boundary brick wall and cyclical redecorations.
- Option 2: Redesign and refurbishment: including additional 2 new floors, and extension of the back of the building, to provide 16 extra homes, additional three lifts, cycle storage and increased parking levels.
- Option 3: Comprehensive redevelopment: demolition of Coles Green Court and redevelopment to provide 45 residential units.

3.2.2 Network Housing Group rejected Option 1 on the basis that minimum repairs and refurbishment would fail to address the issues of poor layouts and space standards and that a more fundamental intervention would be required to produce sustainable homes that meet modern day requirements. Additionally, Network Housing Group felt that the opportunity would be missed to provide new family homes on land they own, and which is currently underused and giving rise to anti-social behaviour.

3.2.3 Network Housing Group also rejected Option 2 due to a number of concerns:

- The refurbishment scheme introduces an element of 1 bed affordable rented housing which is not a priority local housing need.
- Remodelled homes would still lack their own private amenity space.
- Family homes would be located above 4th floor.
- Introduction of three lifts would push up service charge.
- There would still be a good deal of underutilised space and a number of unresolved issues such as the location of refuse facilities and heating and power systems.
- Refurbishment costs were estimated to be similar to those associated with redevelopment, but with redevelopment providing a higher standard of residential accommodation.

3.2.4 Network Housing Group selected Option 3, redevelopment, as the preferred option. Redevelopment was considered to provide the more rational design and better value for money solutions, and the best approach to addressing the problems at Coles Green Court. Additionally, redevelopment was seen as an opportunity to make more efficient use of the land at Coles Green Court, with an increase in the amount of residential accommodation on the site allowing for the introduction of larger family accommodation, as well as the introduction of a greater mix of tenures on the scheme.

- 3.2.5 Network Housing Group submitted a full planning application in April 2012 (ref. 12/0871) to demolish Coles Green Court and the ancillary garages, and redevelop the site for 34 flats and 4 houses. Planning Committee decided to grant permission 20th June 2012. Network also secured funding under the GLA Affordable Housing Programme 2011-15 to deliver the scheme.
- 3.2.6 Network Housing Group subsequently started to decant tenants in August 2012 and to date 20 of the 28 tenants have moved out of Coles Green Court, with all 8 remaining tenants under offer (Appendix 5). Network will invite their tenants to express any interest in returning to the redeveloped Coles Green Court, however Network cannot provide a guarantee and their tenants have no right to return.

3.3 Leasehold Interests at Coles Green Court

- 3.3.1 Network Housing Group made initial offers to the four leasehold interests in May 2009 in an attempt to agree terms on the basis of valuation advice from GL Hearn, plus an allowance equivalent to statutory compensation through disturbance entitlements. Network continued to correspond with leaseholders in an effort to acquire the properties and further valuation advice was sought in 2010 and 2012. Network's most recent offers to leaseholders were made in December 2012.
- 3.3.2 To date, Network Housing Group have been successful in agreeing terms and completing the acquisition of one leaseholder. The remaining three leaseholders are non-resident leaseholders, who are renting out their flats, Network are establishing the status of the residents occupying these flats.

Of the three remaining non-resident leaseholders:

- (1) one leasehold flat is occupied under a licence to Brent Council which can be terminated within 28 days by either party;
 - (2) one leasehold flat is occupied by secure tenant who are protected by the Rent Act 1977. Network state that they are actively working with the leaseholder and tenant of the flat to find alternative accommodation for said tenant.
 - (3) one leasehold flat is vacant.
- 3.3.3 Network Housing Group are committed to continuing to negotiate with the three remaining leaseholders and are prepared to offer equivalent to the Open Market Valuation (OMV) of the properties, plus an additional 7.5% of OMV, plus valuation and legal costs for disposal. However, given that the latest offers from Network have been rejected, Network take the not unreasonable view that a negotiated settlement may not be reached with leaseholders who may be seeking to extract an excessive value for their flats. In these circumstances, Network Housing Group have asked for the Council to use their Compulsory Purchase Order powers to acquire the leaseholder interests and other relevant interests at Coles Green Court. Further details on the status of the Coles Green Court leasehold properties are appended to this report (Appendix 4).

- 3.3.4 Network Housing Group own all the garages at Coles Green Court and state that all licences for use by tenants at Coles Green Court have now been extinguished.

3.4 Case for Compulsory Purchase Order (CPO)

- 3.4.1 Circular 06/2004 issued by the Office of The Deputy Prime Minister states that a CPO should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a CPO sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.
- 3.4.2 Officers propose a CPO be made to acquire leaseholder interests and all other relevant legal interests at Coles Green Court under Section 226(1)(a) of the Town and Country Planning Act 1990 on the basis that redevelopment of the scheme will improve the economic, social and environmental well being of the area.
- 3.4.3 As outlined above, Coles Green Court is at the end of its' useful life. Accommodation fails to meet Decent Homes Standards and does not meet the statutory health and safety rating system standards, but is also badly designed in terms of space standards, internal layouts, communal areas and in lacking dedicated private amenity space. Underlying structural failings, specifically the leaking roof and single skin brick construction, have lead to damp, mould and associated problems, which result in repeated reactive repairs. The inherent poor design of the properties and communal areas has also created housing management and anti-social behaviour problems, which have had negative impacts on the quality of life of residents at Coles Green Court.
- 3.4.4 Redevelopment offers both the more rational design and the better value for money solutions, and is considered the best approach to addressing the problems at Coles Green Court. Redevelopment will not only provide housing that meets current standards, but also provide the opportunity to make better and more efficient use of the land at Coles Green Court. Network Housing Group's permitted scheme would increase the number of homes on the site, and include the introduction of larger 4 bedroom affordable family accommodation for which there is a pressing need in the borough. Moreover, the scheme allows for the introduction of a greater mix of tenures, which is considered supportive of regeneration objectives to create more balanced and sustainable communities. The Council will have 100% nomination rights to the new affordable rented properties.

UNIT TYPE	TOTAL				AFFORDABLE RENT				INTERMEDIATE				PRIVATE			
	No. Units	Hab Rms	People	W/C	No. Units	Hab Rms	People	W/C	No. Units	Hab Rms	People	W/C	No. Units	Hab Rms	People	W/C
1B [2P]*	8	16	16	4	0	0	0		5	10	10	2	3	6	6	2
2B [4P]*	20	60	80		4	12	16		8	24	32		8	24	32	
3B [5P]	6	30	30		6	30	30		0	0	0		0	0	0	
4B [7P] HOUSE	4	24	28		4	24	28		0	0	0		0	0	0	
TOTAL	38	130	154	4	14	66	74		13	34	42	2	11	30	38	2
TENURE SPLIT (by hab room)					51%				26%				23%			

- 3.4.5 Notwithstanding the remaining leaseholder interests, the scheme is in all other respects deliverable, with Network having secured GLA funding to deliver the affordable housing element of the proposed scheme under the Affordable Homes Programme, to be completed by March 2015. Should the process of acquiring the remaining leaseholders impact timescales such that delivery under the Affordable Homes Programme 2011-15 is not feasible, Network are in any case committed to funding the redevelopment of Coles Green Court through their reserves.
- 3.4.6 The redevelopment of poor quality and badly designed housing for a new build housing scheme, which meets modern standards and which will increase the amount and improve the mix of housing on a currently under utilised site, will improve the social, environmental and economic well being of the area and is considered sufficient justification for interfering with the human rights of those with an interest in the CPO Land.
- 3.4.7 Circular 06/2004 also states that before embarking on compulsory purchase, and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail.
- 3.4.8 Network Housing Group have been in negotiation with leaseholders at Coles Green Court since 2009 and are committed to continue that negotiation throughout the proposed CPO process. Compulsory purchase is seen very much as a last resort, and will be used only if and when all reasonable endeavours to reach an agreement with leaseholders have failed.
- 3.4.9 Circular 06/2004 also requires acquiring authorities, in demonstrating that there is a reasonable prospect of the scheme going ahead, to show that the scheme is unlikely to be blocked by any impediments to implementation. Officers take the view that this is the case at Coles Green Court:
- Full planning permission (ref. 12/0871) for redevelopment was granted by Planning Committee 20th June 2012, with the S106 Agreement and Decision Notice signed 2nd July 2012.
 - Resources: Network Housing Group have secured GLA funding to deliver the affordable housing element of the proposed scheme under the Affordable Homes Programme 2011-15. Private finance will be raised on the security of the rental income and receipts generated from the private sale units. Network Housing Group are committed to the redevelopment of

Coles Green Court, irrespective of the grant allocation, and will fund the redevelopment from reserves if required.

- Period for completing development: Network Housing Group have confirmed that they will complete redevelopment of Coles Green Court within 3 years of the date of acquisition of the CPO Land as normally required by the Secretary of State.

4.0 Legal Implications

4.1 The Council has power to make a compulsory purchase order under section 226(1)(a) of the Town and Country Planning Act 1990 if it thinks that the acquisition will “facilitate the carrying out of development, redevelopment or improvement or in relation to the land”. Under section 226(1)(a) the Council must not exercise the power under sub paragraph (a) unless it thinks that the development, redevelopment 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 wellbeing of their area; (b) the promotion or improvement of the social wellbeing of their area; (c) the promotion or improvement of the environmental wellbeing of their area.

4.2 Compulsory purchase orders must only be made if the Council is satisfied that there is a compelling public interest to do so. Para. 17 of Part 1 of the Memorandum to ODPM Circular 06/2004 states:

“A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.”

For the reasons set out in this report it is considered that there is such a compelling case for properties and that the public interest requires that the order be made in order to carry through the necessary redevelopment of the CPO Land.

4.3 Further, in making the order there should be no impediments to its eventual implementation. Para’s 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/2004 advise (in part):

“22. In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or license. Where planning

permission will be required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld...

Members will note in section 3.4.8 that Network Housing Group have full planning permission for the redevelopment of Coles Green Court, as well as the resources and commitment to do so.

4.4 It is necessary to consider the human rights implications of making CPOs. The Convention Rights applicable to the making of any CPO orders are Articles, 6 and 8 and Articles 1 of the First Protocol. The position is summarised in para. 17 of Part 1 of the Memorandum to ODPM Circular 06/2004.

4.5 Article 6 provides that:

"In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law"

4.6 All those affected by the Orders will be informed and will have the right to make representations to the Secretary of State and to be heard at a Public Inquiry. Those directly affected by the Order will also be entitled to compensation for any losses that they may incur as a result of the acquisition.

4.7 Article 1 of the First Protocol states that:

"Every natural or legal person is entitled to peaceful enjoyment of his possessions" and "(n)o one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...."

4.8 Whilst occupiers and owners will be deprived of their property if an Order is confirmed, this will be done in accordance with the law. It is being done in the public interest as required by Article 1 of the First Protocol. The reasons for this are set out in this Report

4.9 Members need to ensure that there is a reasonable prospect of the Scheme underpinning the CPO proceeding. This is addressed in paragraph 3.4.8 above

4.10 The consequences of abandoning a confirmed CPO depends on:

- (a) whether a notice to treat or entry has been served on the owner of the land or not; and
- (b) whether the Council has entered the land following the service of the notice or made a General Vesting Declaration in respect of the land.

- 4.11 The passing of a resolution to make a CPO does not trigger the right to serve a blight notice. However, residential occupiers could claim blight after a CPO has been submitted to the Secretary of State for confirmation and notices have been served on owners and occupiers.
- 4.12 If the CPO is not acted upon at all, then no compensation is payable. Where notice to treat and entry have been served, and then not acted upon, the Council is under an obligation to inform the owner of the withdrawal of the notices or expiry as the case may be (as notice to treat has a life span of three years from date of service) and will be liable to pay compensation to the owner for all losses and expenses occasioned to him by the giving of the notice and its ceasing to have effect. The amount of compensation shall in default of agreement be assessed by the Lands Tribunal. Interest is payable on the compensation.
- 4.13 The acquisition procedure is governed by the Acquisition of Land Act 1981, the Compulsory Purchase of Land Regulations 2004 and the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990.
- 4.14 The CPO must be advertised locally and copies served on any owners, lessees, tenants (whatever the tenancy period), occupiers, all persons interested in, or having power to sell and convey or release, the land subject to the CPO. In addition the CPO must be served on persons whose land is not acquired under the CPO but nevertheless may have a claim for injurious affection under Section 10 of the Compulsory Purchase Act 1965, such as owners of rights of access to and from the public highway, easements and covenants that are affected by the CPO. Officers will prepare a detailed Statement of Reasons setting out the justification for compulsory acquisition. This statement will cover all the issues set out in this Report.
- 4.15 If any duly made objections are not withdrawn, the Secretary of State must hold an Inquiry and consider the conclusions and recommendations of the Inspector before confirming the Order.
- 4.16 Before and during the compulsory acquisition process, the Council requires Network Housing Group to continue the process of seeking to acquire the properties sought by negotiation and private agreement: see Part 1 of the Memorandum to Circular 06/2004 Paras. 24 and 25. Para. 25 notes that “undertaking informal negotiations in parallel with making preparations for a compulsory purchase order can help to build up a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect...”.
- 4.17 Any dispute as to the amount of compensation to be paid is referred to the Lands Tribunal for determination.

5.0 Financial Implications

Network Housing Group have agreed to underwrite all Council costs, which will predominantly be legal costs, but also administrative, and the acquisition of any of the leasehold interests at Coles Green Court. Network Housing Group will sign an indemnity agreement to that effect. As such there will be no financial impact on the Council.

6.0 Diversity Implications

The proposed redevelopment of Coles Green Court will provide homes which are designed to meet Lifetime Homes, allowing adaptability for future needs, and include four homes which are easily adaptable to full wheelchair use.

7.0 Staffing/Accommodation Implications (if appropriate)

There are no specific staffing implications arising from this report.

Background Papers

None

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