

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to:	CABINET
Report of:	DIRECTOR OF PLANNING AND REGENERATION
Date of Decision:	26 January 2016
SUBJECT:	CLEARANCE OF PROPERTIES AT THE FORDROUGH / HOULDEY ROAD, NORTHFIELD
Key Decision: Yes	Relevant Forward Plan Ref: 001116/2016
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member(s) or Relevant Executive Member for Local Services:	Councillor Tahir Ali, Development, Transport and the Economy Councillor Stewart Stacey, Commissioning, Contracting and Improvement
Relevant O&S Chairman:	Councillor Victoria Quinn, Economy, Skills and Sustainability, Councillor Waseem Zafar, Corporate Resources.
Wards affected:	Northfield.

1. Purpose of report:

- 1.1 To seek approval for the clearance of non-viable properties as part of an ongoing process of reviewing the sustainability of the Housing Revenue Account (HRA) stock, carrying out clearance where appropriate, and replacing stock through the Council's Birmingham Municipal Housing Trust (BMHT) programme.

2. Decision(s) recommended:

That **Cabinet:**

- 2.1 Approves the Full Business Case at Appendix 1
- 2.2 Approves the clearance of the properties at 1- 9 Houldey Road and 66- 92 The Fordrough
- 2.3 Approves in principle the making of a Compulsory Purchase Order (CPO) under section 17 Housing Act 1985 in respect of the land at The Fordrough and Houldey Road as shown edged black on the plan at Appendix 2.
- 2.4 Delegates approval of making the CPO to the Cabinet Member for Development, Transport and the Economy jointly with the Director of Planning and Regeneration once planning approval for the proposed scheme is in place.
- 2.5 Approves the relocation of the Sub Station currently located within the site shown in black in Appendix 2 to an alternative site on Housing Revenue Account (HRA) land and authorises the Director of Planning and Regeneration to make payments necessary to achieve the relocation and the Director of Property to negotiate a new lease between Birmingham City Council and Western Power.

- 2.6 Authorises the Director of Property to negotiate the acquisition of all interests and rights in land shown edged black on the plan attached at Appendix 2, either voluntarily or through the use of Compulsory Purchase if voluntary negotiations are unsuccessful;
- 2.7 Authorises the cessation of lettings, the rehousing of tenants and the serving of initial and final demolition notices for properties within the area edged black on the plan at Appendix 2, in accordance with Schedule 5A of the Housing Act 1985;
- 2.8 Authorises the Director of Planning and Regeneration to instruct Acivico to appoint contractors for the demolition of properties within the area edged black on the plan at Appendix 2 up to the value of £0.216m; in accordance with the Council's Procurement Governance Arrangements
- 2.9 Authorises the Director of Property to pay statutory and discretionary Home Loss payments and negotiate disturbance compensation to residents within the area edged black on the plan at Appendix 2 as well as to agree costs and/or compensation relating to the CPO payable as a result of giving effect to the above recommendations;
- 2.10 Authorises the City Solicitor to take all necessary steps to give effect to the above recommendations including (but not limited to) the making, confirmation and implementation of the Compulsory Purchase Order including the service of notices to give effect thereto including High Court Enforcement Officer's notices and (if granted power to do so by the Secretary of State) to confirm the Compulsory Purchase Order and to complete acquisitions of land within the area shown edged black on the Plan at Appendix 2.
- 2.11 Notes that a further report will be presented at a future date setting out the proposals for the redevelopment of the site (see 5.12).

Lead Contact Officer(s):	Clive Skidmore – Head of Housing Development
Telephone No:	0121 303 1667
E-mail address:	clive.skidmore@birmingham.gov.uk

3. Consultation

Consultation should include those that have an interest in the decisions recommended

3.1 Internal

- 3.1.1 The Deputy Leader and the Cabinet Member for Neighbourhood Management and Homes have been consulted regarding the contents of this report and support the proposals coming forward for an Executive Decision.
- 3.1.2 The Acting Strategic Director of Place has been consulted regarding the contents of this report and supports the recommendations.
- 3.1.3 Officers in the Economy Directorate (Legal Services, City Finance, Birmingham Property Services and Housing and Regeneration) have been involved in the preparation of this report.
- 3.1.4 Ward Members and the Executive Member for the District of Northfield have been consulted and support the proposed clearance of these properties.

3.2 External

- 3.2.1 Residents at The Fordrough and Houldey Road have been consulted and support the proposed clearance of these properties.

4. **Compliance Issues:**

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 Yes, the demolition of this block will both remove an eyesore and help reduce the opportunity for criminal and antisocial behaviour that takes place on this site thus improving the local environment which is consistent with the Council's policies plans and strategies.

- 4.1.2 The removal of the poor quality and inefficient housing that currently exists on the site to enable the development of new homes for a growing city supports the achievement of a key objective in the Leader's Policy Statement 2015. The development of new affordable housing within the City is in accordance with the objectives of the Housing Revenue Account (HRA) Business Plan 2015+. The proposals also respond to the Leader's Policy Statement Implementation Priorities of:

A fair city - to tackle inequality and deprivation, promote social cohesion across all communities in Birmingham, and ensure dignity, in particular for our elderly and safeguarding for children – by providing new affordable homes, apprenticeships and bursary programme placements.

A prosperous city - to lay the foundations for a prosperous City, built on an inclusive economy – by stimulating the construction industry through the Council's housing building programme.

A democratic city - to involve local people and communities in the future of their local area and their Public Services – by consulting communities about proposals for new development and ensure that new homes meet local needs and localised targeting of training, education and employment initiatives to complement the house-building programme.

4.1.3 Birmingham Business Charter for Social Responsibility (BBC4SR)

Signing up to the BBC4SR will be a necessity for the successful demolition contractors. The preferred contractors will be required to confirm full compliance with the charter terms and will produce Action Plans that will be monitored as part of the contract management to be carried out during the delivery of their schemes.

4.2 Financial Implications

(Will decisions be carried out within existing finance and Resources?)

- 4.2.1 The estimated capital cost of the proposed clearance is £0.645m with associated minor revenue costs of £0.032m. These will be incurred between 2016/2017 and 2018/19 as set out in the table below and include land acquisition, compensation and demolition cost.

	2016/17	2017/18	2018/19	Total
	£000	£000	£000	£000
Capital Expenditure	365	168	112	645
Revenue Expenditure	21	9	2	32
Total Expenditure	386	177	114	677

- 4.2.2 The provision for future years' costs will be included in the HRA Business Plan 2016+ and future years' budgets.
- 4.2.3 The minor revenue costs which include site security and void council tax will be met from compensating savings within the overall HRA in each year they occur.
- 4.2.4 These proposals will result in a net loss of income over 30 years of £0.9m. This will be reflected in the HRA Business Plan 2016/17+.

4.3 Legal Implications

- 4.3.1 As the Housing Authority, the relevant legal powers relating to the discharge of the Council's statutory function to provide for its housing need are contained in Section 17 of the Housing Act 1985.
- 4.3.2 The dedicated legal powers under which a local authority may acquire land including by compulsory purchase for housing purposes are contained within Part II, Section 17 of the Housing Act 1985. Department for Communities and Local Government Guidance on Compulsory Purchase Process 2015 specifies that the acquisition of land under Section 17 of the Housing Act 1985 must achieve a qualitative or quantitative housing gain. The case for making the CPO is set out in more detail in section 5, Appendix 1 and Appendix 5. Human rights are considered in Appendix 4. An Equalities Analysis for the CPO has been provided at Appendix 3.

4.4 Public Sector Equality Duty

- 4.4.1 A Level 1 Equality Analysis is provided at Appendix 3. The reference number is EA000748 and there is no requirement for a Level 2.
- 4.4.2 There are no negative issues raised as a result of the proposed clearance.

5. Relevant background/chronology of key events:

- 5.1 In order to maintain the asset value of the HRA stock, it is essential that the Council constantly reviews the financial viability of the properties within the HRA. The Council has developed an Asset Management Model which enables the viability of every property within the stock to be assessed over the next 30 years, and this is used to guide investment and clearance decisions.
- 5.2 The average age of the homes within the HRA is now over 60 years, and it is inevitable that over a period of time some properties within the stock are no longer viable to repair and retain (whether financially or technically), and should be considered for clearance and replacement.
- 5.3 Additionally, some of the 1960s stock was designed according to design principles or space standards which no longer meet the aspirations of residents in the 21st century, and this has resulted in high turnover and frequent voids periods.
- 5.4 However the Council does have a mechanism through the Birmingham Municipal Housing Trust (BMHT) to replace obsolete stock with new Council homes as an alternative to disposal of cleared sites. In December 2014, Cabinet agreed to a 5 year development programme for the Council's new build programme, which envisages the development of over 2,000 homes via the BMHT over the next five years.
- 5.5 This site consists of a three storey block comprising 10 shop units with 10 maisonettes above. Access to the maisonettes is via communal stairs located at either end of the block and a communal walkway at first floor level. Two large bin stores are also located by the staircases.
- 5.6 Although the maisonettes are occupied only 3 of the shop units are let and the 7 vacant shops have been empty for over 10 years. There are 7 other empty shop units at the nearby Fairfax Road shopping centre, also Council owned, half a mile away that have also remained unlet for several years indicating a substantial oversupply in the local area.
- 5.7 Two of the maisonettes were purchased under Right To Buy and all the remaining occupiers in the maisonettes are Council tenants.
- 5.8 The existing living accommodation is of poor design and quality with flat roofs and associated on-going maintenance issues. There are no gardens and residents view at the rear is of the large unsightly tarmac access area and communal bin stores. The maisonettes in the block do not represent the good quality family housing needed in the area due to the lack of garden and recreational space. With their flat roofs and solid walls they are also expensive to run. The block and empty shops also act as a focus for criminal and anti-social behaviour.
- 5.9 A detailed financial and quality of life option appraisal has been carried out. The financial evaluation is attached as a part of appendix 1. This shows that whilst all the available options result in a cost to the HRA, this can be minimised by clearance of the existing properties. These options are also more advantageous from a non-financial perspective as the demolition would remove a number of obsolete buildings.

- 5.10 The recommended clearance option for The Fordrough / Houldey Road will remove the blight of a boarded up shopping parade, address the issues of antisocial behaviour associated with it and provide a cleared site suitable for the development of family housing with gardens more appropriate for residents' needs.
- 5.11 The relocation of the substation, which supplies both the properties highlighted for clearance and the surrounding area, is required to allow the safe demolition of the adjoining shops and maisonettes to provide a cleared site for redevelopment.
- 5.12 It is proposed that ten new houses, including some 4+ bedroom homes, will be built on the site through the BMHT; this will be an addition to the BMHT Delivery Plan approved by Cabinet in 2014. The detail of the site redevelopment will be the subject of a subsequent report, anticipated during 2018.
- 5.13 The report seeks approval to rehouse and provide compensation to those Council tenants affected by the clearance, in accordance with existing Birmingham City Council policies and procedures.
- 5.14 The report also seeks approval to make a Compulsory Purchase Order enabling all property and land interests to be acquired. It is intended that the two leasehold interests at the site will be acquired through voluntary negotiations, however if a CPO is required this will be justified with detailed development proposals and planning permission which will be drawn up over the next six months. Approval in principle for a CPO is being sought now so as not to delay the clearance and subsequent development of the site.
- 5.15 The report seeks approval for the demolition of 20 units once vacant; contracts will be secured via Acivico using Find it in Birmingham and will be managed by the Senior Service Manager for Clearance, Land and Property.
- 5.16 The report also seeks approval for the relocation of the substation in conjunction with Weston Power, liaison and coordination for the work being via Birmingham Property Services and will be managed by the Senior Service Manager for Clearance, Land and Property.
- 5.17 The key milestones are as follows:

Milestone:	Date:
Start negotiations	April 2017
CPO for the Fordrough/Houldey Rd if necessary	July 2018
Vacant Possession The Fordrough/Houldey Rd	December 2018
Demolition The Fordrough/Houldey Rd	March 2019

6.	Evaluation of alternative option(s):
6.1	The option to do nothing is not considered appropriate as the Council has a legal duty to both ensure the viability of the HRA stock and seek to improve the quality of life of the citizens of the city.
6.2	The option to retain and invest in these properties has been considered as part of the detailed option appraisal. The option to refurbish the maisonettes and leave the 7 shops empty was considered but this option would not address the quality of life issues affecting residents or deal with the issues of antisocial behaviour, there are also significant structural issues with the block which would require costly major works to rectify.
6.3	The option to refurbish the maisonettes and convert the empty shops to flats at The Fordrough/Houldey Rd was also considered, but this is not a financially viable option and would not create the family housing which is most in demand in the area.
6.4	Disposal of the cleared site was considered and informal market testing indicates that at this time there is little appetite by developers for this redevelopment option. The proposed development option is through BMHT which would ensure that the site is built out promptly. If the site were to be sold on the open market the timing of redevelopment would be questionable, given that there are a number of existing sites across the city where land for housing is privately owned and has not been developed. Building through BMHT will also result in higher quality homes being delivered than those built privately or by Registered Social Landlords. Finally, due to the small size of the site there would be no requirement for a private developer to deliver affordable housing, whereas building through BMHT will provide 100% affordable housing, responding to the acute need within the area

7.	Reasons for Decision(s):
7.1	The recommended option will make a significant contribution to the regeneration of the neighbourhood and remove existing blight.

Signatures	<u>Date</u>
Councillor Tahir Ali, Cabinet Member for Development, Transport and the Economy.
Councillor Stewart Stacey, Cabinet Member for Commissioning, Contracting and Improvement.
Waheed Nazir – Director of Planning and Regeneration

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List of Background Documents used to compile this Report:
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<p>The Fordrough/Houldey Rd Option Appraisal Report to Cabinet-December 2014 - 'Birmingham Municipal Housing Trust – Delivery Plan 2015-2020'</p>
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List of Appendices accompanying this Report (if any):
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| <ol style="list-style-type: none"> 1. Full Business Case 2. Site plan 3. Equality analysis 4. Compulsory purchase – the Human Rights Acts 1998 and the European Convention on Human Rights 5. Justification for Compulsory Purchase Order – Fordrough/Houldey Road 6. Risk Register 7. Stakeholder Management |
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Appendix 1

Full Business Case (FBC)			
1. General Information			
Directorate	Economy	Portfolio/Committee	Planning and Regeneration
Project Title	Clearance at The Fordrough/ Houldey Road	Project Code	CA-02223-25
Project Description	<p>1 – 9 Houldey Road and 66 – 92 The Fordrough.</p> <p>This three storey block comprises 10 shop units with 10 maisonettes above. Access to the maisonettes is via communal stairs located at either ends of the block and a communal walkway at first floor level. Two large bin stores are also located by the staircases.</p> <p>Although the maisonettes are occupied only 3 of the shop units are let and the 7 vacant shops have been empty for over 10 years. There are 7 other empty shop units at the nearby Fairfax Road shopping centre, also Council owned, half a mile away that have also remained unlet for several years indicating a substantial oversupply in the local area.</p> <p>The existing living accommodation is of poor design and quality with flat roofs and associated on-going maintenance issues. There are no gardens and residents view at the rear is of the large unsightly tarmac access area and communal bin stores. The maisonettes in the block do not represent good quality family housing needed in the area as there is no garden / recreational space. With their flat roofs and solid walls they are also expensive to run. The block and empty shops also act as a focus for criminal and anti-social behaviour.</p> <p>The recommended clearance option for The Fordrough/Houldey Rd site will remove the blight of a boarded up shopping parade, address the issues of antisocial behaviour associated with it and provide family housing with gardens more appropriate for residents' needs, and create an asset to support the HRA Business Plan.</p> <p>To achieve a cleared site will require the Council to acquire all outstanding interests, on a voluntary basis or with the support of CPO powers if voluntary acquisition is unsuccessful, carry out the rehousing of tenants and demolition of the effected properties.</p> <p>To maximise the redevelopment potential of the site it will be necessary to relocate the existing substation currently located between the rear access road and the stair access in Houldey Rd. The substation is leased by the Council to Western Power at a peppercorn rent. The substation would be relocated elsewhere on the site or other HRA land.</p>		
Links to Corporate and Service Outcomes	This project will make a direct contribution to both Corporate and Directorate outcomes, including the following:		

	<p>The development of new homes for a growing city is a key objective of the Leader's Policy statement 2015. The development of new affordable housing within the City is in accordance with the objectives of the Housing Revenue Account (HRA) Business Plan 2015+. The proposals also respond to the Leader's Policy Statement Implementation Priorities of:</p> <p>A fair city - to tackle inequality and deprivation, promote social cohesion across all communities in Birmingham, and ensure dignity, in particular for our elderly and safeguarding for children – by providing new affordable homes, apprenticeships and bursary programme placements.</p> <p>A prosperous city - to lay the foundations for a prosperous City, built on an inclusive economy – by stimulating the construction industry through the Council's housing building programme.</p> <p>A democratic city - to involve local people and communities in the future of their local area and their Public Services – by consulting communities about proposals for new development and ensure that new homes meet local needs and localised targeting of training, education and employment initiatives to complement the house-building programme.</p>	
Benefits Quantification- Impact on Outcomes	Measure	Impact
	Clearance of existing poor quality properties	Removal of blight and improvement to neighbourhood, rehousing tenants into more appropriate housing
	Clearance of existing underutilised shops	Stay Safe in Clean, Green City with removal of properties that act as a magnet for ASB and cause loss in rental income
	Cleared Sites delivered on time within budget	Land available for development of modern family housing to meet local demand
Project Deliverables	Demolition of existing properties, leaving cleared sites available for future house building.	
Scope	<p>Birmingham City Council will be undertaking the following;</p> <ul style="list-style-type: none"> • Rehousing and acquisition of 13 units including; 3 retail units 2 privately owned maisonettes 8 BCC Tenanted properties • Demolition of 20 properties • The use of Compulsory Purchase powers • Payment of home loss and disturbance allowance • Relocation of substation 	
Scope exclusions	This programme focusses on the clearance of the properties at this location. Proposals for the development of new homes on the site will be the subject of a further report anticipated in 2018.	
Dependencies on other projects or activities	<ul style="list-style-type: none"> • There is an interdependency of all of the elements to deliver a comprehensive and strategic approach to this project 	

	<ul style="list-style-type: none"> • Identification of minor savings within the HRA to fund revenue consequences • Planning permission will be required for the demolition of 20 units • Procurement of demolition contractors • Acquisition of third party interests • Obtaining a CPO 		
Achievability	<ul style="list-style-type: none"> • The Council has a proven track record of successful clearance programmes on large scale regeneration areas in Kings Norton and Newtown, as well as smaller sites for example at Cat Lane in Shard End. 		
Project Manager	Colette McCann – Senior Service Manager Tel 0121 303 3968 colette.mccann@birmingham.gov.uk		
Budget Holder	Clive Skidmore / Head of Housing Regeneration and Development/ Tel 0121 303 1667/ clive.skidmore@birmingham.gov.uk		
Sponsor	Waheed Nazir / Director of Planning and Regeneration / 0121 464 7735/ waheed.nazir@birmingham.gov.uk .		
Project Accountant	Guy Olivant / Head of City Finance (Housing) / Tel 0121 303 5742 / guy.olivant@birmingham.gov.uk		
Project Board Members	<ul style="list-style-type: none"> • Waheed Nazir / Director of Planning and Regeneration • Clive Skidmore / Head of Housing Development • Sharon Freedman/ Assistant Director Regeneration • Guy Olivant / Head of City Finance (Housing) 		
Head of City Finance (HoCF)	Guy Olivant	Date of HoCF Approval:	4.01.16

Appendix 1 contd.

HRA Extract	2016/17	2017/18	2018/19	Total
	Year 2	Year 3	Year 4	
	£000	£000	£000	
Security and other costs	20	0	0	20
Council tax	1	9	2	12
HRA Deficit / (Surplus)	21	9	2	32

Capital Account	2016/17	2017/18	2018/19	Total
	Year 2	Year 3	Year 4	
	£000	£000	£000	
Acquisitions	208	20	0	228
Home Loss	14	41	0	55
Removals	1	3	0	4
Demolition	0	104	112	216
Relocation of substation	87	0	0	87
CPO costs	55	0	0	55
Revenue Contribution (Part of existing approved budget)	(365)	(168)	(112)	(645)
Capital Account (Surplus) / Deficit	0	0	0	0

Property Analysis	2016/17	2017/18	2018/19	Total
	Year 2	Year 3	Year 4	
Acquisition of Dwellings	2	0	0	2
HRA dwellings made vacant	2	6	0	8
HRA shops vacant / made vacant	7	3	0	10
Demolitions - Dwellings	0	0	10	10
Demolitions - Shops	0	0	10	10

Appendix 1 contd.

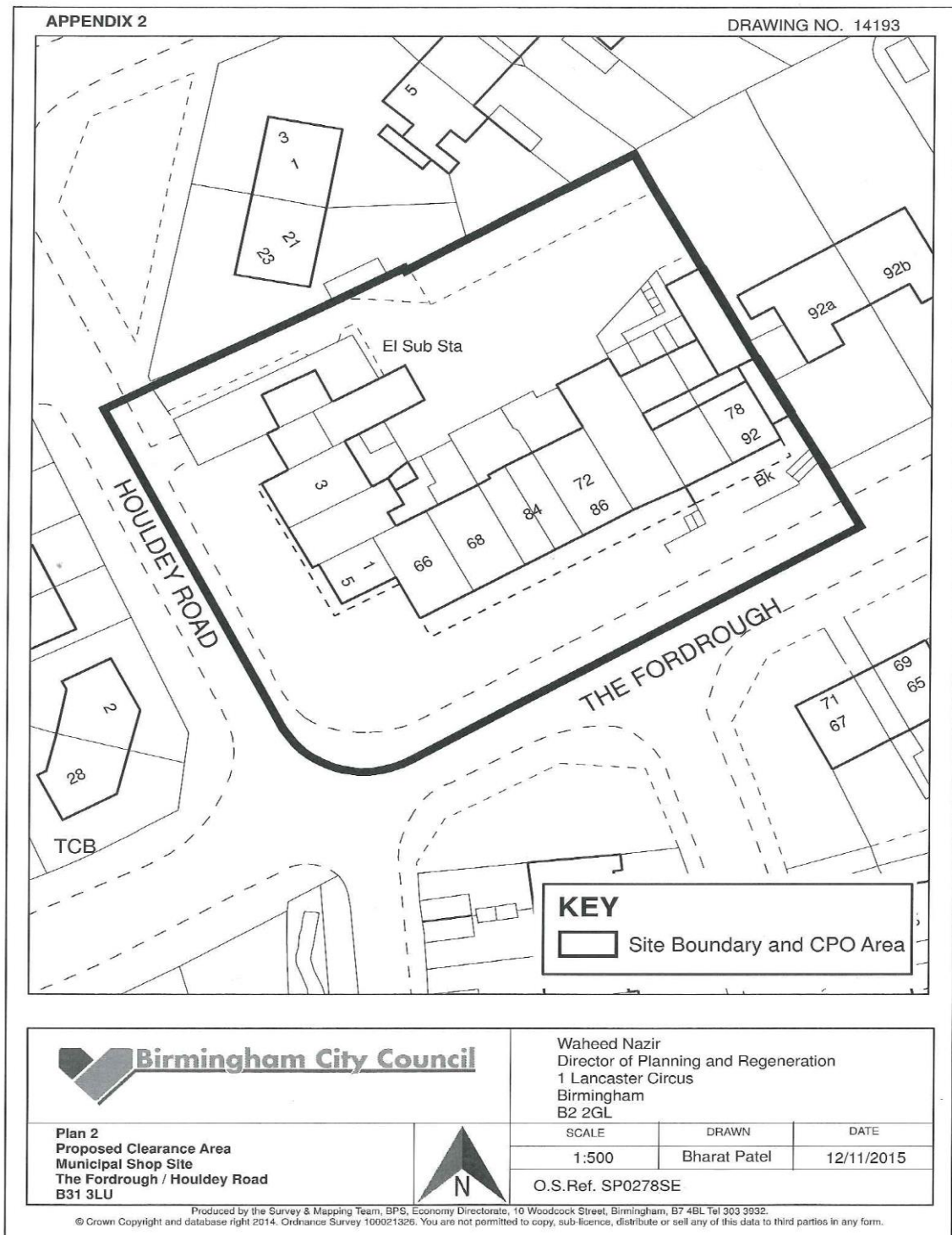
Whole Lifecycle Analysis of The Fordrough/Houldey Rd over a 30 year period:

	Option 1 - Retain & Repair 30 Year Life	Option 2 - Retain & Repair 30 Year Life & Convert 7 units into maisonettes	Option 3 - Demolish and sell	Option 4 - Demolish and build 2x2bed, 6x3bed, 2x4bed
	NPV	NPV	NPV	NPV
	£000	£000	£000	£000
Revenue				
Rent	(1,191)	(1,249)	0	(908)
Voids and Arrears	385	26	0	67
Repairs & Maintenance	163	298	0	120
Management	175	223	0	103
Security costs	0	0	19	19
Net Revenue Cost / (Benefit)	(468)	(702)	19	(599)
Capital				
Sales receipt	0	0	(290)	0
Structural / Refurbishment costs	1,688	2,296	0	0
Ongoing Investment	94	176	0	108
Clearance/Demolition costs	0	0	592	592
New build cost	0	0	0	1,091
Net Capital Cost / (Benefit)	1,782	2,472	302	1,791
Net Total Cost / (Benefit)	1,314	1,770	321	1,192

Appendix 1 contd.

3. Checklist of Documents Supporting the FBC		
Item	Mandatory attachment	Number attached
Financial Case and Plan		
<ul style="list-style-type: none"> Detailed workings in support of the above Budget Summary (as necessary) 	Mandatory	Refer to section 4.2.of report and within Full Business case (Appendix 1)
<ul style="list-style-type: none"> Statement of required resource (people, equipment, accommodation) – append a spreadsheet or other document 	Mandatory	Within Full Business Case (Appendix 1)
<ul style="list-style-type: none"> Whole Lifecycle Costing analysis (as necessary) 	Mandatory	Within Full Business Case (Appendix 1)
<ul style="list-style-type: none"> Milestone Dates/ Project Critical Path 	Mandatory	Refer to section 5.5 of report
Project Development products		
<ul style="list-style-type: none"> Populated Issues and Risks register 	Mandatory	Refer to Appendix 6
<ul style="list-style-type: none"> Stakeholder Analysis 	Mandatory	Refer to Appendix 7

Appendix 2



Appendix 3

Equality Analysis

Birmingham City Council Analysis Report

EA Name CLEARANCE OF PROPERTIES AT THE FORDROUGH/HOULDEY ROAD

Directorate Economy

Service Area P&R Housing Development

Type New/Proposed Function

EA Summary This report makes recommendations for the clearance of non-viable properties as part of an ongoing process of reviewing the sustainability of the Housing Revenue Account stock, carrying out clearance where appropriate, and replacing stock through the Council's BMHT programme. This will involve the rehousing of tenants from existing properties and third party owners from existing properties, making use of CPO powers if necessary to secure the clearance of the properties within the site confines.

Reference Number EA000748

Task Group Manager adrian.p.jones@birmingham.gov.uk

Date Approved 2015-08-11 01:00:00 +0100

Senior Officer andrew.hood@birmingham.gov.uk

Quality Control Officer Richard.Woodland@birmingham.gov.uk

Introduction

The report records the information that has been submitted for this equality analysis in the following format.

Overall Purpose

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

Relevant Protected Characteristics

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section. The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

1 Activity Type

The activity has been identified as a New/Proposed Function.

2 Overall Purpose

2.1 What the Activity is for

What is the purpose of this Function and expected outcomes?

Demolishing old city properties and providing high standard city housing on the cleared site.

For each strategy, please decide whether it is going to be significantly aided by the Function.

1. Public Service Excellence - Yes
2. A Fair City - Yes
3. A Prosperous City - Yes
4. A Democratic City – Yes

2.2 Individuals affected by the policy

Will the policy have an impact on service users/stakeholders? - Yes

Comment

The proposals will impact on:

1. The tenants that have to occupy the existing poor quality housing
2. The future city housing tenants who will have an opportunity to occupy the modern buildings built on the cleared site.
3. The owner occupiers who occupy the existing poor quality housing. They will be able to take up other rehousing options in more modern buildings in locations of their choosing releasing equity locked up in their current property.
4. The landlord who owns one of the properties. They will be able to acquire alternative property without the burden of the financial share in the cost of structural work affecting the block as a whole.
5. The private tenants that have to occupy the existing poor quality housing.
6. The shopkeepers who rent the lock up shops will have the opportunity to relocate to other parts of the city where there is potential for increased trade.
7. The existing tenants and owner occupiers will receive help and support from Council Officers in achieving rehousing solutions that are suitable for their individual needs.

Will the policy have an impact on employees? - Yes

Comment

Staff who are managing poor quality buildings owned by the city are continually having to deal with housing complaints and repair problems. However, the task of letting new-build, quality properties is far more rewarding and engenders increased staff pride in the city council service.

Will the policy have an impact on wider community? Yes

Comment

The older properties that are proposed for demolition have a poor environmental impact on the local community.

Any new development will improve the local environment and offer improved, affordable housing to people living across the city.

2.3 Analysis on Initial Assessment

1. Options to retain and invest in these properties have been considered as part of the detailed Option Appraisals. In the case of the Fordrough and Houldey Road, the option to refurbish the maisonettes and leave the 7 shops empty was considered but this option would not address the quality of life issues affecting residents or deal with the issues of ASB. The option to refurbish the maisonettes and convert the empty shops to flats was also considered, but this is not a financially viable option and would not create the family housing which is most in demand in the area.
2. The recommended option will remove the blight of a boarded up shopping parade, address the issues of ASB associated with it and provide family housing with gardens more appropriate for resident's needs, and create an asset to support the HRA Business Plan.
3. The option to do nothing is not considered appropriate as the Council has both a legal and a moral duty to both ensure the viability of the HRA stock and seek to improve the quality of life of the citizens of the city.
4. When rehousing and relocating the people affected by these proposals they will be compensated for any loss and, following assessment, council tenants will be offered new accommodation suitable to their needs.
5. The Council would endeavour to reach a voluntary agreement of value of properties and as part of the Land Compensation Act 1976 The Council would meet the reasonable fees of agents and solicitors acting for the owner in relation to negotiation and sale.
6. In order to achieve the overall objective of a cleared site within a reasonable timeframe the use of CPO powers would be appropriate. The use of CPO powers would enable transfer of property ownership without removing the original owner's right to the full value of the asset. The making of a CPO also gives owners a statutory right of appeal to The Secretary of State for Communities and Local Government.
7. The resulting rehousing of people affected would be undertaken in accordance with BCC Housing Allocations Policy.
8. The three-storey block comprises 10 shop units with 10 maisonettes above. In the consultation there was a 79% response. 91% of respondents supported the clearance proposal with the private landlord the only objector.
9. The consultation results have been analysed and there were no issues or trends that highlighted any equality issues.

3 Concluding Statement on Full Assessment

These clearance proposals would allow for the rehousing of tenants from unsuitable accommodation into properties more suitable for their need. Appropriate compensation will be paid in accordance with legislation to all occupiers who are affected.

The building demolition would remove empty properties and homes in poor repair, which are blighting the local environment and creating a focus for anti-social behaviour.

The new-build properties will seek to improve the quality of life for the citizens of the city.

The rehousing of people affected by these proposals would be undertaken in accordance with BCC Housing

Allocations Policy which protects people affected. Any rehousing will be based on the specific needs of each group.

The assessment is that none of the protected groups have any adverse impact as a result of the clearance proposals because all actions are in-line with BCC Housing Allocations Policy, which safeguards the relevant protected characteristics.

Therefore, no protected characteristic were identified as being relevant because persons who share a protected characteristic are already covered by the above policy.

4 Review Date

31/05/16

5 Action Plan

There are no relevant issues, so no action plans are currently required.

Appendix 4

COMPULSORY PURCHASE - THE HUMAN RIGHTS ACTS 1998 AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND THE PUBLIC SECTOR EQUALITIES DUTY

Section 6 Human Rights 1998 Act prohibits public authorities from acting in a way that is incompatible with the European Convention on Human Rights ("The Convention."). There are 2 main articles of The Convention, which are applicable to the recommendations in this report.

ARTICLE 8

1. "Everyone has the right to respect for private and family life, his home and his correspondence."
2. "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

ARTICLE 1 of the FIRST PROTOCOL

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way 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 or to secure the payment of taxes or other contributions or penalties. "

Guidance

Article 8 applies where a local authority is considering disturbing residents' private and family lives and removing them from their homes. It may also be relevant where residents who, although not directly affected by removal or dispossession, suffer significant disruption to their lives as a consequence of the authority's actions.

Article 1 of the First Protocol applies where a local authority is considering the use of CPO powers to acquire private interests, and where it is proposing to dispossess residents of their homes.

The approach to be taken to give effect to rights under The Convention is also reflected in paragraph 12 of DCLG guidance on compulsory purchase process:-

"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 the Compulsory Purchase Order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given, 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".

The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”, i.e. compulsory purchase must be proportionate. Both public and private interests are to be taken into account in the exercise of the Council’s powers. Similarly, any interference with Article 8 rights must be “necessary in a democratic society” i.e. the proposed interference must be necessary. In pursuing a CPO, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest having regarded also the availability of compensation for compulsory purchase.

Consideration of Human Rights Issues

Article 8(1) provides that everyone has the right to respect for his/her property but Article 8(2) allows the State to restrict the rights to respect for the property to the extent necessary in a democratic society and for certain listed public interest purposes e.g. public safety, economic well-being, protection of health and protection of the rights of others.

In considering Articles 8 and Article 1 of the First Protocol of The Convention in the context of dispossession and compulsory purchase, it is necessary to answer the following:

1. Does a right protected by these Articles apply?
2. Is the interference in accordance with law?
3. Does the interference pursue a legitimate aim?
4. Is the interference necessary in a democratic society?

Does a right protected by these Articles apply?

ARTICLE 1 of the FIRST PROTOCOL

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions...” Clearly the dispossession of an owner of their property through CPO and enforced rehousing will impinge on this right. Also, as a tenancy is a possession under this provision, the rights of tenants must be taken into consideration. The Council must therefore consider all the possible justifications for this interference as detailed in considerations (b), (c) and (d) set out below.

ARTICLE 8

Article 8.1 provides that everyone has the right to respect for his/her private and family life, home and correspondence. Article 8.2 allows the State to restrict these rights to respect to the extent necessary in a democratic society and for certain listed public interest purposes.

The essence of this right lies in the concept of respect for the home as a right to privacy, in the same context as private and family life and correspondence. Article 8.1 does not concern itself with the person’s right to the peaceful enjoyment of their home as a possession; this is dealt with under Article 1 of the First Protocol.

Clearly Article 8 does apply and therefore it is necessary for the Council to consider the possible justifications for the interference (Article 8(2)) as follows:

Is the interference in accordance with law?

There is a clear legal basis for making the CPO under section 17 of the Housing Act 1985

Does the interference pursue a legitimate aim?

The CPO is necessary to implement a redevelopment scheme to which there is no impediment to implementation.

Is the interference necessary in a democratic society?

This requires a balanced judgement to be made between the public interest and the rights of individuals, and the rights and freedoms of others.

Human Rights Conclusion

The Council has considered the effect of the above articles of The Convention and decided that, on balance, it is in the general public interest and of benefit to the community to make the CPO over and above the interest of the individuals affected.

Interference with Convention rights is considered by the Council to be justified. The Council in making this Order has had particular regard to meeting the alternative housing needs of the affected households, and the rights of individuals to compensation in accordance with the Land Compensation Act 1973 (as amended.) and the Land Compensation Act 1961 and Compulsory Purchase act 1965 is considered to be both necessary and proportionate in that the land to be acquired is the minimum to achieve this Scheme's objectives

Appendix 5 – Justification for Compulsory Purchase Order – Fordrough/Houldey Road

The compulsory acquisition of any necessary interests in the Fordrough/Houldey Road meet the tests for justification as set out in government guidance (DCLG guidance October 2015 Compulsory Purchase Process) as follows:

- A compelling case in the public interest – The existing living accommodation is of poor design and quality with flat roofs and associated on-going maintenance issues. There are no gardens and residents view at the rear is of the large unsightly tarmac access area and communal bin stores. The maisonettes in the block do not represent good quality family housing needed in the area as there is no garden / recreational space. With their flat roofs and solid walls they are also expensive to run. Seven of the empty shops have been vacant for over 10 years and the block and empty shops also act as a focus for criminal and anti-social behaviour.
- Both financial and quality of life option appraisals have been carried out and the preferred option is clearance and redevelopment with new Council homes. The detail of the financial and quality of life assessments is set out at Appendix 1. It is anticipated that ten new Council houses, including some 4+ bedroom homes, could be built on the site.
- The sites will be included in the Council's BMHT Business Plan and developed by provision of new Council homes
- The Council should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected. The Secretary of State confirming the order will take a balanced view between the intentions of the acquiring authority, the concerns of those with an interest in the land affected and the wider public interest. The Council considers that after considering and balancing these various interests, the use of compulsory purchase powers in this case is justified.
- CPO is a last resort – the Council will continue to try to acquire remaining interests in the CPO area voluntarily, and will only make/implement CPO if these negotiations are unsuccessful
- The Council must have clear proposals for the land – a BMHT residential scheme is proposed for the site once it has been cleared.
- Under the DCLG Guidance there is no requirement for planning permission to have been granted prior to making the CPO, although there should be no obvious reason why

planning permission might be withheld. The intention is for the Council's developer arm, BMHT, to submit a planning application for the development which the CPO underpins, and for BMHT to carry out the development in 2018/2019 with completion in 2019/20. Accordingly there are not considered to be any impediments.

- There are resources available to acquire the outstanding interests and to deliver the housing development (see Financial Implications section 4.2)
- The scheme will provide a qualitative housing gain

In addition authorities must also have regard to the Public Sector Equalities Duty in determining whether to use CPO powers, and in particular the differential impacts on groups with protected characteristics – this has been covered at Appendix 3.

Appendix 6

RISK REGISTER

Description of Risk	Impact	Probability	Score	Mitigation Measures	Adjusted Risk	Risk Owner
Unable to achieve vacant possession through negotiation.	4	3	12	Use of CPO powers at stage where identify lack of common ground in negotiation.	3	Clearance Land & Property, Senior Service Manager
Use of CPO powers before shops vacated creating additional costs to project.	3	2	6	Delay making CPO until end of shop leases.	2	Clearance Land & Property, Senior Service Manager
Project delayed due to special rehousing requirements.	3	1	3	Special needs cases to be dealt with first.	1	Clearance Land & Property, Senior Service Manager
Difficulty in appointing a demolition contractor	4	1	4	Highlighting early with Acivico, use well established process for securing	2	Clearance Land & Property, Senior Service Manager
Planning permission not gained for demolition	4	1	4	Close working with planning to comply with policies and procedures.	2	Clearance Team, Senior Service Manager
Cost of project not adequately controlled	3	2	6	Check cost elements against budgets throughout project	2	Clearance Land & Property, Senior Service Manager and Head of City Finance
Unable to relocate substation	3	1	3	Design of new site layout to work round the existing substation.	1	Clearance Land & Property, Senior Service Manager
IMPACT	Probability					

1 - Insignificant	1 - Unlikely		
2 - Minor	2 - Possible		
3 - Moderate	3 - Likely		
4 - Major	4 – Almost certain		

Appendix 7

STAKEHOLDER MANAGEMENT

Stakeholder	Stakeholder Interest	Influence Impact	Project Board's expectation from stakeholder	Perceived attitudes and / or risks	Stakeholder management strategy	Responsible
Northfield Councillors	Improvement to area and removal of focal point attracting ASB	High	Political support	Supportive	Consult on progress during term of The Fordrough project.	Regeneration Project Manager
MP for Northfield	Improvement to area and removal of focal point attracting ASB	High	Political support	Supportive	Consult on progress during term of The Fordrough project.	Regeneration Project Manager
Existing home owners and tenants within affected properties in The Fordrough.	Provision of new homes	High	Communication	Mostly supportive and have been consulted during project development phase	Provide development updates Operate within existing rehousing policy Voluntary acquisition of private properties, followed by use of Compulsory Purchase Powers	Rehousing team. Birmingham property Services – valuers. Regeneration Project Manager
Existing shop tenants affected by proposals in The Fordrough./ Houldey Rd	Business and employment	Medium	Communication	One of the three is supportive with two not responding one of whom is no longer trading.	Ensure that retailers are kept informed and statutory requirement for ending of tenancies is undertaken.	Birmingham Property Services – Management Surveyor Regeneration Project Manager

Western Power	Leaseholder of substation.	High	Liaison and cooperation in relocating substation.	Supportive	Liaison and entering agreement on relocating substation.	Birmingham Property Services – Management Surveyor
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