



Statement of Reasons

South Cambridgeshire District Council Statement of Reasons (Farmers Row, Windmill Estate, Fulbourn,) Compulsory Purchase Order No. []

1. Introduction

- 1.1 This is the Council's Statement of Reasons for making the The South Cambridgeshire District Council (Farmers Row Fulbourn) Compulsory Purchase Order 2011. This is a non-statutory Statement provided in compliance with paragraphs 35 and 36 and Appendix R of ODPM Circular 06/2004 *Compulsory Purchase and the Crichel Down Rules*.
- 1.2 This Compulsory Purchase Order ("the CPO") was made pursuant to the provisions of Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981.

2. Location and Description of Order Land

- 2.1 The order land comprises **12 Farmers Row, Fulbourn**. The Order Land forms part of the Windmill Estate which is situated near Fulbourn, Cambridge.
- 2.2 The property is a two-bedroomed house at the end of a block of three terraced houses and borders No. 13 Farmers Row.
- 2.3 It is currently occupied by owner-occupiers, the property being purchased under the Right to Buy scheme. The adjoining property on one, No. 13 is a Council-owned property and is now vacant.

3. The Council's purpose in seeking to acquire the land

- 3.1 The Council's purpose in seeking to acquire the land included within the Order is to facilitate the agreed regeneration and redevelopment programme of Windmill Estate, Fulbourn and provide better quality, affordable accommodation to local residents in housing need.
- 3.2 The Windmill Estate was built in the 1960s and has been undergoing redevelopment for a number of years. The properties are in poor condition having only ever been intended as a temporary buildings. The Windmill Estate re-development scheme ("The Scheme") requires the demolition of 164 homes and the building of around 270 new replacement homes provided by the Council's partner housing association Accent Nene.
- 3.3 The Council resolved on the 23 November 2006 to commence with the redevelopment project. The agreed objectives were to:
- Provide a sustainable mix of new homes.
 - Improve the quality of life of tenants and owners who had been living in sub standard properties
 - Provide a boost to community cohesion within Fulbourn,
 - Maximise the number of new affordable rented homes
 - Increase the overall housing provision within the district
 - Mitigate the financial cost risks to the Council associated with attempting to maintain the old homes to an acceptable standard despite the design flaws of those properties.
- 3.4 The Scheme is a substantial regeneration investment priority for the Council. As well as comprising a significant housing component, the Scheme seeks to achieve transformational change for the benefit of the local community.

- 3.5 The redevelopment will be mixed tenure with re-provision of affordable rented homes together with homes for shared ownership and homes for market sale. The first demolition started in April 2008 and the first 45 homes in phase 1A were completed in October 2009. Of these, four have been market sale and 20 shared ownership sales. A new replacement community centre has also been completed. Phase 1B consists of 74 units which are currently under construction and will be completed in 2010/11. A detailed planning application for Phase 2A has been approved and work has commenced on site.

4. Proposals for the use/development of the land - the Windmill Estate Re-Development Scheme

General Description

- 4.1 In broad terms the Scheme involves:
- (a) the demolition of 164 homes – being homes which are deemed to be of non-decent condition;
 - (b) the construction of up to 270 new, better quality, affordable homes to be available to local residents in housing need;
 - (c) the creation of new community amenities including a community resource centre, library and play area
 - (d) estate environmental improvements
- 4.2 Accent Nene was selected as the Council's preferred development partner. Accent Nene has been successfully negotiating voluntary purchases with the owners of the properties on the estate. They have ensured that no owner-occupier will be worse off through agreeing to voluntarily sell as opposed to being compulsory purchased. Owner occupiers living on the estate at the time of the proposals have been provided with additional options enabling them to buy a new property on a rent free equity share basis.
- 4.3 The scheme will comprise residential and community uses. It will involve changes to the highway layout at Grandridge Close and Dunmowe Way.

Benefits of the Scheme

- 4.4 This Scheme will provide good quality housing for local residents and provide a safe, popular and desirable neighbourhood for them to live in. It will replace outdated accommodation with decent homes where members of the local community will choose to live.
- 4.5 The Scheme will contribute to the community by providing housing of the right quantity, quality, tenure and affordability to help address people's needs locally.

Scheme Construction Programme

- 4.6 The overall construction programme is anticipated to be 5 years. Following the grant of planning permission in 2007 the programme delivery has involved the completion of construction contracts, negotiations with owner-occupiers leading to voluntary sale of the existing properties, and other necessary agreements.
- 4.7 The Scheme will be carried out in 4 phases.
- 4.8 The Scheme represents a number of transfers of land parcels to enable the comprehensive redevelopment and regeneration programme to proceed, through demolition and redevelopment. There has been a significant amount of time and

effort spent by local residents and the Council in developing the project to the point where the first new buildings have now been completed and many people have already been displaced as part of the process.

- 4.9 Extensive consultation exercises have been carried out with the local residents and stakeholders throughout the entire process and expectations raised in that process. The Residents Panel representing both tenants and owner occupiers on the estate continues to meet regularly and play a full role in the progress of the development. The Residents Panel issues a quarterly newsletter to all residents

Compensation

- 4.10 It is the intention of Accent Nene to continue to negotiate to voluntarily purchase interests in properties through negotiation with the two owner-occupiers that to date have not accepted the offers made, although both are in continuing dialogue with Accent Nene and the Council.
- 4.11 Compensation payable to owner occupiers under the relevant legislation includes payment of the market value of the property, a home loss payment of 10% of the value of the property and a disturbance payment for the reasonable costs of moving.
- 4.12 Additionally, owner occupiers living on the estate at the time of proposals were provided with additionally options enabling them to buy a new property on a rent free equity share basis.

5. Justification for use of compulsory purchase powers

- 5.1 The Council has been working towards the redevelopment of the Windmill Estate for a considerable number of years. The Scheme represents a project where the Council and Accent Nene are working together with a view to re-develop the Site by improving the quality of life of those living or otherwise involved in community life of the area.
- 5.2 The decision to proceed with the regeneration of the Windmill Estate was only taken after widespread and lengthy consultation with the local community. All residents were given ample opportunity to contribute to the proposals including the voluntary compensation scheme. Redevelopment has already commenced; land parcels have been transferred to Accent Nene to enable their comprehensive redevelopment and regeneration programme to proceed, which has involved the demolition of a number of homes transferred under such parcels, and a number which have been purchased through the Right to Buy.
- 5.3 It was the Council's policy not to utilise compulsory purchase to acquire properties as part of this scheme, and Accent Nene had agreed to make every effort to purchase the owner occupied properties through negotiating voluntary sales. However, in January 2011 the Council reconsidered its stance on the use of compulsory purchase powers as it considered it necessary to use them if an agreement could not be reached with the owners of 26 Grandridge Close and 12 Farmers Row, Fulbourn.
- 5.4 The owner-occupiers of 12 Farmers Row have yet to agree terms with Accent Nene to vacate their home to enable the site to be cleared. The impact of having this retained block would have the following impacts:
- Each home is part of a block of houses that cannot be separated. To leave one home therefore means that a complete block would need to be retained. The masterplan submitted to obtain outline planning permission was finely tuned to meet planning requirements (including road layouts, distances between

buildings, open space provision etc) yet still meet the objectives of the redevelopment. To redesign around just one block would mean that the overall masterplan would not be achieved, and would mean the loss of new homes for Fulbourn including affordable homes.

- The presence of a retained block in the development is likely to impact upon the market sales of nearby homes as it would make the estate look much less attractive. If market sales of the new units are affected by the presence of retained blocks, the financial viability of the project will be placed in jeopardy. The financial viability of the scheme is dependent upon grant levels from the Homes & Communities Agency (HCA), money from market sales and shared ownership sales and future rental income. Accent Nene are not in a position to subsidise the development from other resources and neither is the Council.
 - The costs of refurbishing any retained blocks is prohibitively expensive. Initial estimates indicate that this could be as much as £100K per unit i.e. £500K for block of 5 and £1m for 10 homes. With very limited capital resources available to the Council to maintain the remainder of the Council houses this level of expenditure could not be justified; this was the underlying reason why the project was started in the first place. Properties would have to be secured and left vacant. A retained and boarded up block could result in anti social behaviour and other management problems and this would also impact upon market sales.
 - Accent Nene require the certainty that they will be able to acquire the property to enable their redevelopment programme to develop according to the timetable agreed with local residents and ensure their costs do not escalate. A big project of this sort cannot be stopped and started easily. Now that the contractors are on site the momentum needs to be maintained otherwise they would have to be stood down to allow them to work on other projects. If this happens then Accent Nene may have to consider their ability to continue as the Council's development partner (their Board may determine that the risk to the association is too great).
- 5.5 If a CPO is not obtained for both 12 Farmers Row and 26 Grandridge Close it is possible that other owners (where agreements have not been finalised) could refuse to sell and vacate their property, obstructing and delaying the redevelopment works further. This would result in an incomplete redevelopment and it would not be possible to construct 17 proposed homes. Consequently, there would be a loss in quality as well as affordable accommodation available to local residents in housing need.
- 5.6 Without a CPO the Council may incur expenditure on renovation of the residual units, which is significant with regard to the Council's budget for the project.
- 5.7 Financial commitments (revenue and/or capital) may increase in future years above existing budgetary approvals.
- 5.8 The new homes will be better designed to meet the needs of the overall community, will be of higher quality and affordability, and will help to address some of the existing demand for affordable housing in Fulbourn.
- 5.9 The redevelopment is of significant public interest, particularly to the locality of the Windmill Estate. It will vastly improve the area economically, socially and environmentally, providing a better way of life for a larger number of people.
- 5.10 A package of financial compensation and support has been made available to all of the owner-occupiers living on the estate including the option of moving into one of the retained units on the edge of the redevelopment. This compensation would meet

all of the associated transaction and moving costs and overall would add up to a better financial deal than is likely to be obtained under a CPO order.

- 5.11 In addition, the existing homes are not mortgageable and could only therefore be sold on the open market to cash buyers thus severely limiting the future options open to owner-occupiers if they choose not to accept the financial compensation package being offered to move off site now. Similarly, the valuation for CPO purposes provided by the District Valuer would be at the true market value of the property reflecting the non-mortgageability of the homes and would be much less than the notional market value that has been offered to residents as part of the financial compensation package.
- 5.12 In order to complete the Scheme, it is necessary for the Council to compulsorily acquire certain residential property interests. The Council has liaised with many property owners detailing the terms of the financial offer available provided to them for voluntary acquisition of their properties by Accent Nene. The negotiations and acquisition of 12 Farmers Row Close remain to be completed. Consequently the Council has made the Order in order to secure this outstanding interest (“the Order Land”) and thereby facilitate the completion of the Scheme.

6. **Human Rights Act considerations**

- 6.1 The 1998 Act came into force on 2 October 2000. The main articles of the Convention which are of importance in circumstances where the Council is considering making a CPO are Article 8 – the right to respect for private and family life and his/her home and Article 1 of the First Protocol – the protection of property.
- 6.2 Section 6 1998 Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering the compulsory purchase orders, including under Articles 8 and Article 1 of the First Protocol. The approach to be taken to give effect to rights under the Convention is also reflected in paragraph 17 of ODPM Circular 06/2004:-

“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, having regard, 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.”

- 6.3 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 and duties as a local planning authority. Similarly, any interference with Article 8 rights must be “necessary in a democratic society” i.e. proportionate. In pursuing a compulsory purchase order, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest having regard also the availability of compensation for compulsory purchase.
- 6.4 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 eg. public safety, economic well being, protection of health and protection of the rights of others.

6.5 In considering Article 8 in the context of a CPO it is necessary to consider the following questions:

- (a) does a right protected by this article apply?
- (b) has an interference with that right taken place or will take place as a result of the CPO being made?

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

- (a) 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 and the Acquisition of Land Act 1981.
- (b) does the interference pursue a legitimate aim? The CPO is necessary to implement the Scheme which seeks overall redevelopment of the Site in accordance with planning permission.
- (c) 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. The CPO is considered to be both necessary and proportionate in that the land to be acquired is the minimum to achieve the Scheme objectives.

6.7 The second relevant article is Article 1 of the First Protocol, which provides that:

- (a) every natural or legal person is entitled to the peaceful enjoyment of his possessions
- (b) no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.

6.8 The Council considered the effect of the above articles of the Human Rights and decided that on balance it was in the interest of 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 for the reasons set out in this Statement of Reasons. The council in making this CPO also had particular regard to the rights of the individuals affected to compensation.

7. Planning Position

7.1 Planning permission was granted on 17th December 2007 for the scheme.

7.2 The affordable housing units will be constructed in accordance with the design and quality standards determined by the Homes and Communities Agency,

Sustainability

7.3 The Scheme is founded on sound sustainability principles. It aims to be environmentally sustainable by:

- a) Developing entirely on brownfield land currently occupied by residential buildings
- b) Aiming for all the affordable housing units to achieve a minimum of Code Level 3

7.4 The Scheme endeavours to develop a sustainable community through the following objectives:

- a) The new estate is to be economically, socially and environmentally sustainable
- b) It will maintain the strength of the existing community; an estimated 90% of existing households will be moved to the new estate.
- c) It will retain a balanced community in terms of child density, age profile and income levels
- d) It will increase the earning potential of estate residents, especially young adults, by providing training and employment experience opportunities within the project processes for estate residents

7.5 The Scheme intends to improve the level of resident satisfaction with the Estate by:

- a) Providing a new site layout and dwellings that are of higher quality design than the current Estate, earning a higher Housing Quality Indicator (HQI) than the existing estate
- b) The new affordable housing dwellings space standards are to be at least as high as existing dwellings
- c) The new estate is to be visually more consistent with the village vernacular as assessed by a panel of residents and neighbours
- d) Reducing the cost of fuel and water to residents
- e) Improving facilities and the estate environment, for example providing facilities for children's play which will reduce conflict with other residents
- f) Reducing the incidence of crime and the perceived fear of crime
- g) Providing better accommodation for cars and bicycles to reduce scope for and fear of car crimes

7.6 The Scheme aims to enhance the sustainability of the village and help meet existing and future local housing needs through:

- a) Increasing the supply of housing in Fulbourn
- b) Increasing the supply of social rented and intermediate housing on the estate
- c) Providing a mix of dwelling types that best reflect housing needs over the long term
- d) Providing housing that is flexible in its use so as to be suitable for households of different ages and maturity, e.g. complying with Lifetime Homes requirements

8. INFORMATION RELATING TO ANY GOVERNMENT POLICY STATEMENTS

8.1 None

9. SPECIAL CONSIDERATIONS AFFECTING THE ORDER SITE

9.1 None

10. VIEWS EXPRESSED BY GOVERNMENT DEPARTMENTS

10.1 None

11. INFORMATION TO PERSONS AFFECTED BY THE COMPULSORY PURCHASE ORDER

11.1 Compensation payable to owner occupiers under the relevant legislation includes payment of the market value of the property, a home loss payment of 10% of the value of the property and a disturbance payment for the reasonable costs of moving. Additionally, owner-occupiers living on the estate at the time of proposals were provided with additionally options enabling them to buy a new property on a rent free equity share basis.

12. DETAILS OF ANY RELATED APPLICATION OR APPEAL

12.1 None

13. DOCUMENTS, MAPS AND PLANS

13.1 A list of documents related to the Scheme will be provided in due course and arrangements will be made for them to be available for public inspection at the Council Offices during normal office hours.

14. INQUIRIES PROCEDURE RULES

14.1 This statement is not intended to discharge South Cambridgeshire District Council's obligations under the Compulsory Purchase (Inquiries Procedure) Rules 2007 in the event of a public local inquiry being held.

15. CONTACTS FOR FURTHER INFORMATION

15.1 Any queries in relation to this CPO can be raised with the Council's case officer in respect of the Scheme:-

Schuyler Newstead
Housing Development and Enabling Manager
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

Telephone: 01954 713332

Email: schuyler.newstead@scambs.gov.uk

A copy of this Statement and the CPO is available for inspection on the Council's website at:-

<http://www.scambs.gov.uk>