

DECISION-MAKER:	CABINET		
SUBJECT:	DECOMMISSIONING AND ACQUISITION POLICIES AND THE REGENERATION OF TOWNHILL PARK		
DATE OF DECISION:	20 JUNE 2017		
REPORT OF:	LEADER OF THE COUNCIL		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

None.

BRIEF SUMMARY

Cabinet is asked to consider the proposed new Council policies for decommissioning and acquiring properties and to approve the commencement of public consultation on the new proposed policies. The proposed policies, if approved, following public consultation, would first be applied to the next phases of the Townhill Park Regeneration Scheme. Cabinet is also asked to approve the launch of consultation required prior to further decommissioning of properties in Townhill Park Regeneration Scheme.

RECOMMENDATIONS:

	(i)	To approve the commencement of consultation on the proposed Draft Decommissioning of Housing Stock Policy and the Draft Acquisition and Compulsory Purchase Orders Policy.
	(ii)	To approve the commencement of statutory consultation on the proposed commencement of the decommissioning of the remaining properties in Townhill Park Regeneration Scheme.
	(iii)	To note that this matter will be brought back to Cabinet for any final decisions on any proposals once the consultations have taken place and all representations will be taken into account before any decisions will be made by Cabinet.
	(iv)	To note that an application may have to be brought to the Secretary of State prior to implementing any proposed decommissioning programme in compliance with the Housing Act 1985.

REASONS FOR REPORT RECOMMENDATIONS

1.	The Southampton Compact Code of Good Practice states that, where appropriate, the council should consult with residents, tenants and stakeholders for a period of 12 weeks. It is a statutory requirement to hold consultation with tenants who are likely to be substantially affected by matters of housing management.
2.	Townhill Park is a large scale phased regeneration scheme, with phase 1

	previously decommissioned. It is now proposed to commence decommissioning the remainder of the estate to make way for further regeneration phases, and therefore approval is sought to the launch of the required statutory consultations with a view to phase-by-phase decommissioning.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
3	The Council's Decanting Policy was last revised in 2013. Consideration was given to whether it could continue to be used as it is. However, it is recommended that the policy requires updating, and that the two elements which were previously covered in a single policy (decommissioning of housing stock and acquisition of leasehold/freehold property) are divided into two separate policies for clarity.
4	Townhill Park Regeneration scheme has already been approved in principle and has outline planning consent for a comprehensive approach. The council could choose not to proceed with the remainder of the regeneration, but this is not considered desirable to the renewal and expansion of housing supply in the city.
DETAIL (Including consultation carried out)	
	Background
5	The council has been working on bringing forward a large scale regeneration scheme at Townhill Park for a number of years. In May 2016 planning consent was achieved for 665 residential units on 11 development plots.
6	Phase 1 consists of Plot 1 and Plot 2. Plot 1 is already decommissioned and demolished, whilst Plot 2 is decommissioned and demolished apart from one block. The council has reached an agreement with the remaining leaseholder who is expected to move in the next couple of months when demolition of the block will commence.
7	A revised design for Plot 1 has been undertaken, which has recently been submitted for a new full planning permission, expected to be approved during June 2017. Delegated authority was given by Cabinet in March 2017 to enter into a build contract in order that construction can commence soon after receipt of planning consent. This phase is being delivered through the Wayfarer Partnership, of which Southampton City Council is a member. The application is for 56 units and the intention is for these to all be Affordable Rent (80% of market rent). It is anticipated that the scheme will start in September 2017 and complete in March 2019.
8	The council is exploring delivery of Plot 2 with a social investor under a lease and leaseback model. The plot will deliver at least 213 units and the financial model is expected to bring forward a tenure mix of approximately 50% Affordable Rent (80% of market rent) and 50% private sector rent (PRS). The timeframe for this phase will be a start on site in early 2018, with final completions in around 2020. Delegated authority was secured from Cabinet at the March 2017 meeting to enter into contractual arrangements to proceed subject to consultation with the Service Director-Legal and Governance.
9	The council now needs to consider decommissioning further development plots to prepare the way for future phases. However, the number of vacant properties coming through the re-letting system has reduced over the last year, at the same time as new supply of affordable units from Registered Providers

	has dropped to almost zero. This makes decanting future phases likely to be protracted, but necessary if a net gain in supply is to be achieved to meet corporate objectives.
10	In order to facilitate the decommissioning and regeneration of Townhill Park, officers have reviewed the current Decanting Policy, and recommended a number of changes and amendments, including separating the two issues included in the previous policy (decommissioning of housing stock and acquisition of leasehold/freehold property) are divided into two separate policies for clarity. A copy of the draft Decommissioning of Housing Stock Policy is contained in Appendix 1 and a copy of the Draft Acquisition and Compulsory Purchase Orders Policy in Appendix 2.
	Consultations
11	The consultation on the proposed policy changes and the consultation on the decommissioning of Townhill Park are two separate consultation issues but will be run at the same time. The feedback from both consultations will be analysed and presented to Cabinet who will take into account the representations prior to making decisions as to whether or not to change the policies and whether or not to go ahead with the further decommissioning of Townhill Park. It is possible that the decommissioning could be approved, but not the policies. In that eventuality the council may agree to commence the decommissioning, using the existing approved policy.
12	<p>The following flow chart shows the two interconnected parts of the consultation and the possible outcomes:</p> <pre> graph TD subgraph Policy_Consultation [Decanting policy consultation] P1[Approved] P2[Not approved] end subgraph Park_Consultation [Decanting Townhill Park consultation] P3[Approved] P4[Not approved] end P1 --- J1(()) P2 --- J1 P3 --- J1 P4 --- J1 J1 --- O1[Adopt new Decant Policy then proceed with Townhill Park Decant] J1 --- O2[Proceed with Townhill Park Decant using existing policy] P4 --- O3[Do not proceed with Townhill Park Decant] </pre>
13	A copy of the Statement of Arrangements for the Consultation Pursuant to

	Section 105 Housing Act 1985 and Section 137 Housing Act 1996 is included in Appendix 5 This statement formally sets out the council's arrangements concerning any public consultations that are covered by the Housing Act's 1985 and 1996.
14	If Cabinet approves then the consultation will commence on 3 July 2017, and run until 24 September 2017. A decision by Cabinet would be either October or November 2017 as sufficient time will need to be given to fully consider the representations made across both parts of the consultation and to prepare a summary of the representations.
	Proposed Policy Changes contained in the new Draft Decommissioning of Housing Stock Policy and Draft Acquisition and Compulsory Purchase Orders Policy
15	The council's current approach to decanting, decommissioning, Compulsory Purchase Orders and 'buy-backs' is currently contained in a single policy document that was last substantially reviewed in 2013.
16	The draft 'Decommissioning of Housing Stock Policy' and draft 'Acquisition and Compulsory Purchase Order Policy' have been developed to update and replace the 'Decants and Permanent Rehousing Due to the Decommissioning of Council Housing Stock Policy (February 2013 version)'.
17	<p>The draft 'Decommissioning of Housing Stock Policy' includes a number of updates to respond to business requirements and updated legislation. The key changes from the previous policy approach are:</p> <ul style="list-style-type: none"> a) The new policy clarifies the process for the assessment of housing needs at the point of relocation. Tenants will be assessed in line with Southampton City Council's Allocations Policy, and will qualify for a property in line with their needs at the time of moving. b) The policy clarifies that although there is no statutory right to return to a site that has been redeveloped, if certain circumstances are met tenants may be offered the right to return. Tenants wishing to return to a redeveloped site will be required to register their interest in returning to the site within 12 months of vacating. Success will also be dependent on suitable property being available within the redevelopment, and the tenant's eligibility. Tenants will usually only be offered one opportunity to return and this will be subject to suitable accommodation being available. No further payments will be made to the tenant and the tenant will be responsible for any costs incurred by them as a result of the move back. c) In order to facilitate and encourage the arrangement of swift, voluntary agreements to vacate properties, Southampton City Council may offer a discretionary Home Loss payment at a higher rate to residents who come to a voluntary agreement with the council. This will be in exceptional circumstances only and on a case by case basis.
18	The draft 'Acquisition and Compulsory Purchase Order' policy updates provisions of the previous policy for situations when the council is acquiring vacant possession of a leasehold property, and extends the provisions of the previous policy to cover cases where the council is acquiring a freehold.
19	Southampton City Council will seek to reach a voluntary agreement for the acquisition of the property with leaseholders or freeholders. If a voluntary

	agreement cannot be reached, Southampton City Council will take appropriate legal action to obtain possession of the property in line with legislation.
	Commencement of statutory consultations prior to decommissioning of the remaining properties in Townhill Park Regeneration
20	Consultation with tenants and residents in Townhill Park and the surrounding area about the regeneration plans have been regularly undertaken since 2011 when the initial master planning commenced. However, before further decommissioning is carried out it is necessary to carry out a statutory consultation under s105 and s137 of the Housing Acts. If any land is disposed of it may also be necessary to make an application to the Secretary of State under part V of schedule 2 of the Housing Act 1985. Consultation with all other interested parties is also necessary before any decision can be made on any further decommissioning of the scheme.
21	Given the scale of remaining decommissioning required to deliver the regeneration of the area (247 rented, 29 leasehold and 8 temporary lets), it seems sensible to commence a rolling programme of moving tenants and decommissioning across the entire estate. An order of decommissioning plot by plot has been proposed, taking into account a variety of factors, including:- <ul style="list-style-type: none"> • Replacing the blocks that are most expensive to repair • Generate capital receipts for the Council in order to fund the infrastructure improvements • The need to complete the new 'Village Green' before the 277th unit can be occupied (planning condition) • Attempting to take a sensible approach to the order of construction whilst seeking to achieve a net gain of affordable units at the earliest practical point
22	A draft Townhill Park Regeneration Decommissioning Plan is included in Appendix 6. However, the order of the decommissioning phases and sections may be subject to change. They will be under review as the regeneration progresses, and may have to be adjusted in order to deliver the most efficient decommissioning and building programme. The council will keep residents informed as and when any changes have been decided upon.
23	The Statement of Arrangements contained in Appendix 5 outlines the form in which consultations will take place and will include information and a questionnaire delivered to all residents both in Townhill Park and Southampton residents adjacent to the regeneration area. There will also be information on the council's website and a couple of drop in meetings during the consultation period.
24	As set out in paragraph 14 the intention is to commence consultation on 3 July 2017, which means they would run until the 24 September 2017. Depending on the level of comment received a decision by Cabinet is expected to be either October or November 2017.
25	Once a decision is reached tenants and residents of Townhill Park will be informed. No decommissioning of homes will begin before those directly affected receive detailed information and those affected will be given sufficient time to consider their move.
RESOURCE IMPLICATIONS	

<u>Capital/Revenue</u>	
26	The discretionary Home Loss payment at a higher rate to residents will be in exceptional circumstances only and on a case by case basis as noted in section 17.
27	These should not have a substantial impact on the existing Townhill Park budget that was set at Cabinet and Council on the 14 th and 15 th February in the General Fund & Housing Revenue Account Capital Strategy & Programme 2016/17 to 2021/21.
<u>Property/Other</u>	
28	None
LEGAL IMPLICATIONS	
Statutory power to undertake proposals in the report:	
27	The Council have statutory and common law duties to consult both on the proposed policies and on the decommissioning programme for Townhill Park Regeneration Scheme.
28	The Statutory duties to consult are under S105 of the Housing Act 1985 and S137 of the Housing Act 1996. This duty states that the Local Authority must have a written published statement of consultation arrangements for secure and Introductory tenants who are likely to be substantially affected by housing matters. This statement of arrangements will be published in accordance with these requirements and the statutory part of the consultation will comply with the arrangements
29	The Council also has general housing management duties which cover a number of individuals including leaseholders and should consult on all those likely to be affected by any housing management change in policy.
30	As the master plan and current proposals include the likelihood of disposal of 2 plots of land an application will need to be sent to the Secretary of State for approval after consultation has occurred pursuant to Part V of schedule 2 of the Housing Act 1985. This consultation is instead of undertaking the S105 consultation for those plots but will be undertaken in exactly the same manner.
31	There is also a common law duty to consult from a legitimate expectation deriving from past practice of the Council. The Council will need to fully consult with all stakeholders and affected individuals and bodies. Any consultation must be undertaken when the proposals are in a formative stage and be adequate, in an appropriate format and sufficient information being available so that consultees understand all the options and have sufficient time and opportunity to make representations. The Council's current compact agreement states that consultations will be for 12 weeks. Once the consultation period has ended the decision maker must have sufficient time to give genuine and conscientious consideration to the representation and take them into account before any decision has been made.
32	The report is to seek approval to consult but a report will need to go back to Cabinet with sufficient information concerning the representations made during the consultation before Cabinet can make any decisions about the proposed policies and/or decommissioning programme.
<u>Other Legal Implications:</u>	

33	None.
34	<p>In taking this decision, Members must also be aware of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to:</p> <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimization and other conduct which the Act prohibits; • Advance equality of opportunity; and • Foster good relations between people who share relevant protected characteristics and those who do not. <p>The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Case law has established the following requirements for the PSED to be exercised lawfully:</p> <ul style="list-style-type: none"> • The equality duties are an integral and important part of the mechanisms for ensuring the fulfilment of the aims of anti-discrimination legislation; • The relevant duty is on the decision maker personally. What matters is what he or she took into account and what he or she knew. The decision maker cannot be taken to know what his or her officials know or what may have been in the minds of officials in proffering their advice; • It is important to record the steps taken by the decision maker in seeking to meet the statutory requirements in order to demonstrate that the duty has been discharged; • The decision-maker must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a proposed policy. It is not sufficient for due regard to be a "rearguard action" following a concluded decision; • In order to be able to discharge the duty the decision-maker must have information about the potential or actual equality impact of a decision. This information will often be gained in part through consultation; • The duty must be exercised in substance, with rigour, and with an open mind. It is not a question of ticking boxes; while there is no duty to make express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument; • General regard to issues of equality is not the same as having specific regard, by way of conscious approach to the statutory criteria; • Officers reporting to decision makers, on matters material to the discharge of the duty, must not merely tell the Minister/decision maker what he/she wants to hear but they have to be "rigorous in both enquiring and reporting" to them; • Although it is for the court to review whether a decision-maker has complied with the PSED, it is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself; • The duty is a continuing one.

	Members should in particular note that the duty is for them personally. It is not sufficient to rely on officers to discharge the duty by the preparation of the EIAs and this report. Members must themselves read and actively take into consideration the EIAs and the consultation materials
POLICY FRAMEWORK IMPLICATIONS	
35	None.

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Draft Decommissioning of Housing Stock Policy
2.	Draft Acquisition and Compulsory Purchase Orders Policy
3.	Equality and Safety Impact Assessment of draft Decommissioning of Housing Stock Policy
4.	Equality and Safety Impact Assessment of draft Decommissioning of Acquisition and Compulsory Purchase Order Policy
5	Statement of Arrangements for the Consultation Pursuant to Section 105 Housing Act 1985 and Section 137 Housing Act 1996
6	Draft Townhill Park Regeneration Decommissioning Plan
7	Equality and Safety Impact Assessment for the Decommissioning of Townhill Park Regeneration

Documents In Members' Rooms

1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
Privacy Impact Assessment	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None