

LONDON BOROUGH OF CAMDEN	WARDS: Regents Park
<p>REPORT TITLE</p> <p>Settlement and Indemnity Agreement with HS2 Ltd. for mitigating impacts of HS2 works on Cartmel, Coniston and Langdale (SC/2023/08)</p>	
<p>REPORT OF</p> <p>Cabinet Member for New Homes, Jobs and Community Investment</p>	
<p>FOR SUBMISSION TO</p> <p>Housing Scrutiny Committee Cabinet</p>	<p>DATE</p> <p>17 January 2023 18 January 2023</p>
<p>STRATEGIC CONTEXT</p> <p>We Make Camden is our joint vision for the borough, developed in partnership with our community.</p> <ul style="list-style-type: none"> • Everyone in Camden should have a place they call home; and • Everyone in Camden should be able to live a healthy, independent life. <p>The Way We Work is the Council's response to We Make Camden.</p> <p>This proposal will deliver on commitments to residents living in Cartmel, Coniston and Langdale in Regent's Park Estate to enable them to move away from the noise, dust and construction impacts of HS2 works at Euston.</p>	
<p>SUMMARY OF REPORT</p> <p>The lives of residents living in Cartmel, Coniston and Langdale on Regents Park Estate have historically been and continue to be disrupted by High Speed 2 (HS2) construction works, to the extent that the homes of residents living in these blocks have been made 'virtually uninhabitable'.</p> <p>After several years of campaigning and action by the Council, a funding deal has now been secured with HS2 to cover the full costs of decant to Coniston, Cartmel and Langdale, for both secure tenants and leaseholders. HS2 and DfT have approved this funding deal through their own governance processes and have confirmed to the Council that it had agreed a deal in principle.</p> <p>The funding would be paid to the council in instalments, dependent on the number of homes vacated up to a cap of £29.2m. In return, the Council will commit to assume the obligations of HS2 under the E23 Scheme and Prolonged Disturbance Compensation Scheme (PDCS), and to discharge these obligations by using its reasonable endeavours to move residents from the three affected blocks.</p> <p>The Council has negotiated the final terms of the Settlement and Indemnity Agreement ("the Agreement") that will allow the council to receive the funding and enable all residents to be rehoused.</p>	

A consultation with residents has been completed, which shows that 70% of residents would accept the housing deal.

This report is coming to Cabinet to approve the terms of the Agreement and the re-housing offer to residents. It will seek to amend the local lettings plan and the VRS to allow Council tenants to be prioritised for homes within the Regent's Park Ward and request approval to develop a bespoke share equity offer for resident leaseholders. In addition, it will also seek approval to bring forward an options appraisal to examine the future of the blocks, for both the medium and long term, as they will be largely vacant for the next 10 years whilst HS2 construction works are ongoing.

Local Government Act 1972 – Access to Information

No documents that require listing were used in the preparation of this report.

Contact Officer:

David Burns, Director of Economy, Regeneration and Investment
London Borough of Camden, 5 Pancras Square, London N1C 4AG
David.Burns@camden.gov.uk
020 7974 6908

RECOMMENDATIONS

The Housing Scrutiny Committee be asked to consider the report and make any recommendations to Cabinet

That Cabinet, having considered the consultation report that is set out in appendix 5 and having due regard to the equality impact assessment in appendix 6 and the needs set out in section 149 of the Equality Act 2010:

1. Approves the finalising and entering into the Settlement and Indemnity Agreement with HS2 Ltd. for Re-housing' section of the report as summarised in section 2, paragraphs 2.1 to 2.7
2. Approves the 'Re-housing Scheme' as summarised in appendix 2
3. Approves the proposal to develop a Shared Equity offer for resident leaseholders
4. Approves an Options Appraisal to be carried out to explore medium and long-term strategies with respect to Cartmel, Coniston and Langdale as summarised in section 2.15 to 2.18
5. Delegates to the Executive Director Supporting Communities, in consultation with the Cabinet Member for New Homes, Jobs and Community Investment, authority to take all decisions reasonably required to implement the 'Settlement and Indemnity Agreement with HS2 Ltd, the 'Re-housing Scheme', the 'Shared Equity scheme' and the Options Appraisal as set out in section 2 and appendix 2 of the report.

Signed 

David Burns, Director Economy, Regeneration and Investment

Date: 06.01.2023

1. CONTEXT AND BACKGROUND

- 1.1. The lives of residents living in Cartmel, Coniston and Langdale on Regents Park Estate have historically been and continue to be disrupted by High Speed 2 (HS2) construction works, to the extent that the homes of residents living in these blocks have been made 'virtually uninhabitable'.
- 1.2. After several years of campaigning and action by the Council, a funding deal has now been secured with HS2 to cover the full costs of decant to Coniston, Cartmel and Langdale, for both secure tenants and leaseholders. HS2 and DfT have approved this funding deal through their own governance processes and have confirmed to the Council on 21st September 2022 that it had agreed a deal in principle.
- 1.3. Camden Council, working with residents, was clear from the outset that the construction of HS2 works and the redesign of Euston station would have a significant impact on the surrounding communities, and secured close to 150 assurances during the Parliamentary process. The assurances commit HS2 Ltd. to mitigate and reduce the impact of construction on Camden's residents. In addition to these assurances, Camden raised concerns that blocks closest to construction should be decanted along with the demolished blocks, (Eskdale, Silverdale and Ainsdale). However, as detailed information about the works was not available at the time, Camden was unable to secure appropriate assurances or mitigations in relation to these blocks.
- 1.4. On the 15th April 2020 the Government gave HS2 Ltd. 'notice to proceed' to let the main construction works contract to build the tunnels and tracks next to Regent's Park Estate (RPE). Once construction started, the Council and residents' concerns were realised with ongoing disruption. The delivery of the main works at Euston will take around 10 years. Construction activity next to the north of Regent's Park Estate is more significant and impactful than in any other location along the Phase 1 HS2 route and some residents are already living within metres of the HS2 construction. Appendix 3 outlines the proximity of the piling rigs to the block.
- 1.5. Residents of the Regent's Park Estate have already experienced significant disruption as part of the early works of the HS2 programme where site clearance activity (namely the demolition of three adjacent housing blocks), has led to many complaints of noise and dust pollution as well as concerns about vibration and increased rodent activity. Camden has taken an active position in negotiating with HS2 Ltd throughout this period to address the concerns of residents, and to mitigate the short- and long-term impacts on residents and communities.
- 1.6. The Cabinet received a report on the 28 October 2020, setting out in detail the impacts of HS2 construction on residents living in Regent's Park, but also how HS2 mitigations were inadequate. Detail of the impact on residents is set out in Appendix 1.
- 1.7. The Council is very concerned about the impact that HS2 construction work will have on the long-term life chances and wellbeing of residents living in Regent's Park Estate (RPE) and within these particular blocks because of their very close

proximity to the works. At the same time, it appears that none of the residents have benefited from HS2 Ltd's compensation and rehousing policy.

- 1.8. Therefore, Cabinet agreed that the Council would need to step in to support impacted tenants in the absence of a sufficient offer from HS2 Ltd., in order to mitigate the disturbance they were continuing to experience. Cabinet agreed that these homes were "virtually uninhabitable" and approved a Voluntary Rehousing Scheme (VRS). This awarded tenants up to 630 decants points to help them bid and move away. This applied to tenants of Cartmel, Coniston, Langdale and 40-68 Coburg and 29-35 Starcross Street.
- 1.9. A Local Lettings Plan (LLP), covering the RPE, was also implemented and gave VRS tenants priority to move into voids on the estate first. In addition to the decant points, tenants could also request a direct offer to be made, if they were unsuccessful after bidding for six months. Initially adopted for 6 months, the VRS and LLP for the tenants of Cartmel, Coniston and Langdale have since both been extended via Cabinet Member decision to March 2023.
- 1.10. Of the 103 tenants on RPE eligible to apply for VRS, 91 tenants applied to be moved. To date, 77 households have been decanted with a further 2 families allocated and in the process of moving.
- 1.11. HS2 Ltd. recently submitted its noise prediction data for the period until May 2023 which measures 'SOAEL' (Significant Observed Adverse Effect Level); the level above which significant adverse effects on health and quality of life occur. These predictions note:
 - Cartmel will experience SOAEL exceedances consistently up until May 2023 due to piling activity
 - Langdale will experience SOAEL from February-April 2023 due to hoarding adjustments
 - Coniston is not predicted to experience exceedances during this time period as the piling has already occurred near the block, however works are likely to be just below the threshold.
- 1.12. Camden fought for an assurance for HS2 to provide noise insulation for c.1300 properties to protect residents from noise impacts. The previous Cabinet Report stated that Camden's data showed that only 13% of properties across the three blocks had these protections, we now believe HS2 has completed 42%. While it is welcome that HS2 has made progress from the previous position, however with less than half of residents adequately protected, Camden still does not consider its assurance met.
- 1.13. Cabinet also agreed that in the absence of agreement on funding for rehousing, that the Council should:
 - Escalate the breach of the noise insulation assurance by HS2 Ltd. through formal processes
 - Continue to pursue HS2 Ltd. to fund a decant.
- 1.14. The impending breach of the Noise Insulation assurance and the pursuit of full funding was escalated through:

- Formal letters sent by the Leader of the Council to Grant Shapps MP, the Secretary of State for Transport
 - Letters from the Chief Executive to the Director General for HS2 at the Department for Transport (DfT)
 - Meetings with Andrew Stephenson MP, Minister for HS2 Rail and subsequent letters
 - Monthly Euston Partnership Board meetings, where the assurance breach and funding for a full decant was raised at every meeting, including the evidence and testimony from residents that was presented to the Board so they could see the lived experience of residents in Regents Park Estate
 - Independent noise monitoring was also established, as was Council led monitoring of HS2's Noise Insulation installation programme, to track non-completion of works
- 1.15. This action prompted HS2 Ltd and DfT to return to negotiations and ultimately agree to fund the cost of decant. HS2 Ltd and DfT have approved through their own governance processes that they will cover the full costs of decant to Coniston, Cartmel and Langdale and on 21 September 2022 HS2 Ltd. confirmed to the Council that it had agreed the deal in principle.
- 1.16. The funding would be paid to the council in instalments, dependent on the number of homes vacated up to a cap of £29.2m. In return, the Council will commit to assume the obligations of HS2 Ltd. under the E23 Scheme and Prolonged Disturbance Compensation Scheme (PDCS), and to discharge these obligations by using its reasonable endeavours to move residents from the three affected blocks. Officers have now negotiated the final terms of the Settlement and Indemnity Agreement ("the Agreement") that will allow the council to receive the funding and enable all residents to be rehoused, and this report recommends that the Council enters into the Agreement.
- 1.17. A consultation process has been completed with residents living in the blocks and those that have already moved – with 70% of residents saying they would support the housing deal.
- 1.18. Section 2 of this report sets out in more detail the terms of the funding agreement with HS2 Ltd, and the rehousing offer to tenants and leaseholders is set out in appendix 2 to the report. In particular, appendix 2 outlines the package of support and compensation available to tenants, and the offer to leaseholders to buy their properties and enable them to move which was not possible under the previous, unfunded arrangements.

2. PROPOSAL AND REASONS

Settlement and Indemnity Agreement with HS2 Ltd

- 2.1. As part of the agreement, HS2 Ltd will pay Camden in tranches of funding, which are triggered by progress of re-housing - the initial tranche will be £15m. This is intended to cover the first set of moves and will include all costs associated with re-housing secure council tenants and leaseholders living in Cartmel, Coniston and Langdale on the Regents Park Estate. Once this initial

£15m payment is spent, the Council can then access further instalments based on the numbers of vacant homes and the number of residents who move out.

2.2. The Agreement allows the Council to request payments for:

2.2.1. Home loss and disturbance in line with statutory guidelines and all associated costs with decant, including leaseholder buybacks and removals

2.2.2. Rent and service charge loss for resulting voids for a period of five years

2.2.3. Security costs

2.2.4. Staffing and operational costs

2.2.5. Costs for an options appraisal

2.2.6. Enhanced repairs and adaptations

2.3. The terms of the Agreement mean that Camden will assume HS2 Ltd.'s obligations under the HS2 Information Paper entitled E23 Control of Construction Noise and Vibration and the Prolonged Disturbance Compensation Scheme, therefore any claims received by HS2 Ltd. under the scheme from residents in Cartmel, Coniston and Langdale will become Camden's responsibility to manage. The estimated cost of assuming this obligation is £29,200,000 (including a contingency).

2.4. The Agreement also requires the Council to ensure that residents are relocated as soon as reasonably practicable and use reasonable endeavours to achieve vacant possession of the three blocks.

2.5. Under the terms, HS2 Ltd. can submit a "meanwhile use" request for the Council to consider, where it can occupy the blocks (either fully or partially).

2.6. The Agreement is conditional on:

2.6.1. Both parties obtaining necessary approvals to enter into the agreement

2.6.2. The council providing HS2 Ltd. with a delivery plan for how the council will meet the obligations we are assuming

2.6.3. The council submitting quarterly statements of spend with an annual account spend statement, verified by external accountants

2.6.4. HS2 Ltd have the option of auditing the accounts at short notice and should there be a discrepancy of more than 3% (annually), HS2 Ltd can clawback the overspend

2.6.5. HS2 Ltd being able to submit a request to occupy either part or all of the blocks on a "meanwhile basis" during the construction works, which the Council will need to consider; and

2.6.6. Camden being assured as to the completion of the existing noise insulation programme within the affected blocks

2.7. Details of the compensation arrangements are contained in appendix 2 of the report.

Future of Cartmel Coniston Langdale

- 2.15 The consultation report indicates that a further 13 households want to accept the deal and move, therefore it is likely that the block occupancy level will be at approximately 30% across the three blocks. It is reasonable to conclude that cores of blocks will be empty. As a result of the block being mostly vacant, it is important for the council to consider how best to secure and maintain the blocks for the next ten years whilst the construction works are ongoing.
- 2.16 The options of whether to keep part of the blocks open and maintained through this period with meanwhile options or to consider wider development interventions such as retrofitting or refurbishment need to be assessed as there is likely to be a cost implication to the council. We will also need to consider resident safety and isolation in emptying blocks.
- 2.17 HS2 Ltd, under the terms of the agreement, have the option to submit a request for meanwhile use and this will need to be considered as part of this appraisal and the Council's best value consideration.
- 2.18 It is therefore, recommended that the Council approve an appraisal through the appointment of a design management team to assess all the options available to the council and that this be considered in consultation with the residents of Regent's Park Estate. The costs of this appraisal will be covered by the funding agreement.

Cobourg and Starcross Streets

- 2.19 Residents of Cobourg and Starcross Streets were originally included in the voluntary re-housing scheme. However, only a limited number of residents have participated in the voluntary scheme to date and there are only three remaining households registered to move. HS2 Ltd. have not included these addresses as eligible for the funding to be used, and so these households will not be included within the funding agreement. Any tenants currently registered as part of the VRS will still retain their decant points until March 2023, when the scheme will be reviewed.

OPTIONS APPRAISAL

- 3.1 The recommendations in this paper follow on from the actions agreed by Cabinet in October 2020 and will allow all residents in the affected blocks to be re-housed. There are two options for the Council to consider:
- 3.1.1 Option 1 – **Do Nothing** – The Council could continue with the current voluntary arrangements that only allow secure tenants to move, with basic support but no compensation. Leaseholders would not be able to move, and a significant number of residents would remain in 'virtually uninhabitable' conditions. Residents would still be able to pursue HS2 Ltd. for moves and compensation under the E23 scheme, but as set out above, residents have had no success in moving under this scheme. The Council will continue to incur rent loss and will continue to pay for security costs.

- 3.1.2 Option 2 – **Recommended Option** – enter into the Agreement for with HS2 Ltd and implement the proposed re-housing scheme to voluntarily decant the blocks. Tenants will get support and compensation to move to alternative homes, and the Council will be able to acquire leasehold interests. This will be achieved by implementing the offer set out in section 2 of the report. As the blocks empty out, the Council will need to bring forward an options appraisal to consider best consideration for the long-term use of the blocks and any future requests for HS2 Ltd. to use the blocks as a meanwhile use option.
- 3.2 Under option 1, the Council would continue to fund a team to manage the voluntary re-housing process and continue to support and engage with all residents. However, leaseholders in particular would be unable to move under this arrangement. HS2 Ltd. have already confirmed that they believe they will manage the construction so noise triggers are not breached, and therefore it is unlikely that any residents would be successful under the E23 scheme. This would result in residents remaining in their current homes and would not lead to any significant improvement in residents' welfare.
- 3.3 Under option 2, the Council would be able to expand the re-housing offer available to tenants to include compensation; would be able to recover rent loss; and fund an expanded team to support residents to move. It would also allow leaseholders to move from the affected blocks, including via shared equity scheme where needed. The Council would be accepting the obligations that HS2 Ltd. has under the E23 scheme, but the financial risk is mitigated through the funding agreement with HS2 to provide up to £29.2m of funding.
- 3.4 Option 2 represents the best option for the Council to enable residents in the affected blocks to move, so their welfare is protected, and they can live healthier lives elsewhere in the borough. It also means the Council recoups money spent and consider the best course action for the blocks.

4 WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?

- 4.1 The Council will need to source homes as part of its shared equity offer to resident leaseholders. Unlike the decant for Eskdale, Ainsdale and Silverdale, HS2 Ltd have not provided funding for replacement housing and therefore Council owned homes for sale in the immediate area are limited. The Council will have to review options from within its sale portfolio, including flipping back some of the surplus shared equity homes that were converted to either social rent or temporary accommodation in the replacement blocks. To manage this risk the Council will need to work closely with residents to understand their needs and then work with them to find areas and homes that both meets their criteria and they can afford.
- 4.2 The funding deal secured in the Agreement is predicated on accurate accounts of spend being detailed to HS2 Ltd in order to obtain funding. Once the initial instalment is sent over, the Council will need to set out how this has been spent. It is important the spend is accurately managed as miscounting by 3% (annually) could mean that the amount is deducted from the total settlement. This risk will be managed by setting up specific cost codes for the funding to

ensure each spend item is approved in advance. Regular meetings will also be set up internally as well as externally with HS2 Ltd to ensure accounts reviewed frequently.

- 4.3 The funding deal does require the Council assume the liability that HS2 has under the E23 compensation scheme and the PDCS. If residents were to make a claim to HS2, they would pass this to the Council to manage. This creates a risk that the Council would have to compensate the affected residents or move them under the terms of the E23 scheme. However, this is mitigated by a) the Council will re-house residents affected by the works and who might be eligible under the compensation rules, and will offer to buy out leaseholders; b) the funding deal amount is intended to cover the costs of this liability; c) to date there have been no successful claims in Camden under either scheme, reflecting the high bar set by the regulation and; d) HS2 are still bound by existing assurances and Environmental Minimum Regulations to stay within existing noise and disturbance thresholds.

5 CONSULTATION/ENGAGEMENT

- 5.1 Consultation on the funding commenced on the 26 September 2022 and ran for three months ending on the 19 December 2022. All consultation feedback was processed by an independent resident engagement partner, make:good, to ensure that all data was collated accurately and to help support transparency of the process.
- 5.2 Appendix 5 sets out the full report. In summary, 96 forms were returned – with 70% of respondents saying they approved of the deal, 23% saying they needed further information and 7% saying no.
- 5.3 The key themes were of those supporting the deal were:
- The housing deal will go some way to compensating them for the emotional distress and impact on their health
 - The impact of the noise and pollution on them
 - It will help with the cost of moving
- 5.4 Of the responses that were categorised under don't know the themes were:
- Wanted more detail or thought the offer wasn't high enough
 - Leaseholders and non-resident leaseholder in particular were concerned about the valuation of their home
 - Concern about interest rates and the market
- 5.5 Of the responses that were not in favour
- The offer was not high enough
 - They wanted to remain in their homes

6 LEGAL IMPLICATIONS

- 6.1 This report has been prepared in conjunction with the Borough Solicitor and the legal implications are incorporated into the main body of the report.

- 6.2 In accepting the funding from HS2 Ltd. to assist in rehousing occupiers of the Langdale, Cartmel and Conniston, the Council will assume the responsibilities of HS2 Ltd. in terms of dealing with any claims issues arising from disturbance to the remaining residents in the three blocks created by the HS2 works. However any risk must be balanced against the benefit of removing a large number of affected residents away from the significant noise caused by the adjoining works including piling and other disruptive operations that will take place on the construction site.

7 RESOURCE IMPLICATIONS

- 7.1 Under the funding agreement, the Council will receive up to £29.2m to cover the costs of rehousing residents from the three blocks. The main areas of expenditure are set out in paragraph 2.2 alongside the other main financial impact, the loss to the Council of rent and service charges. The largest single area of spend will be on buying back leasehold properties.
- 7.2 As set out in paragraph 2.6, there are a number of conditions attached to the funding including financial reporting requirements. Paragraph 4.2 describes how the Council intends to meet these requirements, failure to do so could result in the clawing back of some of the funding. Another financial risk is the Council's exposure to compensation claims from residents and paragraph 4.3 sets out the mitigations for this risk.
- 7.3 It is important to note that the £29.2m is a maximum and in the event of the Council not incurring eligible expenditure up to this level, the funding would need to be returned. Equally, while the Council negotiated the funding level based on a thorough estimate of the costs and a contingency was included, there is a risk that the funding will be insufficient. Certainly it is likely that rent loss will exceed the five years covered by the agreement and any further rent loss would impact the HRA. As noted in paragraph 2.15 onwards, there are also likely to be cost implications relating to the future of the three blocks which would also not be covered by the agreement. However the options appraisal will quantify these and will return to Cabinet for further decision.

8 ENVIRONMENTAL IMPLICATIONS

- 8.1 The proposals in the report will have no environmental impact, any outcome of the options appraisal will return to Cabinet for further decision.

9 TIMETABLE FOR IMPLEMENTATION

- 9.1 If approved, the legal agreement will be executed as quickly as possible to enable funding to be released. It is difficult to predict how long the re-housing will take, as it is dependent on the individual circumstances of tenants and leaseholders.
- 9.2 The Council has to give HS2 20 days notice before funding will be received. Once this notice period is completed, the Council will write to residents to set out the process.

- 9.3 Residents who have already moved out will begin to receive their compensation payments in February.
- 9.4 Leaseholders and non-resident leaseholders will be approached by the Council's valuation service in February and March to arrange a valuation of their home and being the buyback process should they wish to do so.

10 APPENDICES

Appendix 1 – Impact of HS2 Works on Residents

Appendix 2 – Re-housing Scheme

Appendix 3 - Proximity of piling activity to Cartmel, Coniston, Langdale

Appendix 4 – Local Lettings Plan

Appendix 5 – Consultation Report

Appendix 6 – Equalities Impact Assessment

REPORT ENDS