



## Cabinet Report

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| <b>Decision Maker:</b>    | Cabinet  |
| <b>Date:</b>              | 14 <sup>th</sup> December 2015   |
| <b>Classification:</b>    | General Release save for Appendices G, H1, H2 and I as detailed below as paragraph 2.1   |
| <b>Title:</b>             | Proposed Compulsory Purchase Order for the Ebury Bridge Estate, Ebury Bridge Road, London, SW1W 8PX  |
| <b>Wards Affected:</b>    | Churchill Ward   |
| <b>City for All</b>       | The proposed scheme will meet the City Council's three year aspirations for the 'City of Aspiration', 'City of Choice' and 'City of Heritage'  |
| <b>Key Decision:</b>      | That the Cabinet Member agrees to the making of a Compulsory Purchase Order for the acquisition of properties and other interests on the Estate  |
| <b>Executive Summary</b>  | The report acknowledges that officers have been actively negotiating with estate residents to secure vacant possession since the positive vote to regenerate the estate in 2012 and that while good progress has been officers now asks for Cabinet approval to commence a planning CPO, The report highlights the work carried out to date and reasons why a planning CPO is now required to secure the regeneration and its associated benefits for the Council. |
| <b>Financial Summary:</b> | This report relates to the making of a Compulsory Purchase Order in respect of part of the Estate. The necessary funding is included within the Housing Revenue Account Business Plan approved by the Cabinet Member in December 2014. Further details on the proposed redevelopment costs, the budget to deliver the project and the viability of the project are located in the confidential appendices.   |
| <b>Report of:</b>         | Head of Development, Growth, Planning & Housing  |

## **1. EXECUTIVE SUMMARY**

- 1.1. The City Council's Housing Renewal Strategy ("the Renewal Strategy") was approved in March 2010 and seeks to increase the supply of housing and improve the quality of the housing estates within the borough.
- 1.2. The City Council has been working in collaboration with the residents of the Ebury Bridge Estate ("the Estate") since 2010 to create the proposed renewal scheme. The project seeks to achieve the objectives of the Renewal Strategy. A resolution to grant planning permission to deliver the project was granted on 10<sup>th</sup> June 2014 by the City Council's planning applications sub-committee. A development partner is now being procured.
- 1.3. In 2012 Cabinet approval was granted to authorise a residents' vote upon the project proposals and a positive vote was then obtained. Following issue of the resolution to grant planning permission a further Cabinet Member decision was granted authorising officers to start negotiations with lessees and other interested parties whilst further exploring the possibility of a Compulsory Purchase Order ("CPO") being made. Negotiations have begun with key interested parties including estate residents, both lessees and tenants, Soho Housing Association, who own interests in two blocks on the Estate, and other non-housing interests.
- 1.4. Negotiations with affected parties have been ongoing for around 16 months and will remain ongoing throughout the CPO process. Officers have reached negotiated settlements with a number of these parties, whose rights have been affected (details of these affected parties and the negotiations are to be found in paragraph 5 of this report and confidential appendices H1 & H2). Despite good progress on these negotiated settlements, it is clear that the CPO will be required and officers are recommending that the CPO process is commenced, to ensure that where agreement cannot be reached, those interests can be acquired. The prospect of a CPO will provide certainty that the project can be delivered and will allow delivery of the scheme as it will address issues such as obtaining vacant possession, party wall agreements, way leaves, crane-over sail rights and other ancillary items.

## **2. RECOMMENDATIONS**

- 2.1. That Appendices G, H1, H2 and I to this report be exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A, Part 1, paragraph 3 (as amended) in that these documents contain information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 2.2. That the Cabinet agree to the making of a Compulsory Purchase Order under s.226(1)(a), s.227 of the Town and Country Planning Act 1990 (as amended), s.13 and s.15 of the Local Government (Miscellaneous Provisions) Act 1976 in accordance with the procedures in the Acquisition of Land Act 1981 and to create new rights facilitating the development (and refurbishment of part) of the Ebury Bridge Estate, as defined by the CPO redline plan (see Appendix A) and other

relevant powers to acquire all outstanding land and interests within the redline plan of the site. Please note that the redline plan is indicative at this stage pending further due diligence.

- 2.3. That the Cabinet delegate power to the Executive Director of Growth, Planning and Housing authority in consultation with the Director of Law to approve the Statement of Reasons, the Order Map (the attached plan is indicative only pending further due diligence) and Order Schedule and any other supporting documentation as is necessary to finalise before submission, to commence the CPO process and effect any other procedural requirements including (but not limited to) the publication and service of all notices and the presentation of the Council's case in the event of a Public Inquiry.
- 2.4. That the Cabinet delegate power to the Executive Director of Growth, Planning and Housing authority to acquire any interests in land within the Order area by agreement and the making of payments equivalent to statutory compensation or additional payments as are deemed reasonable in the circumstances and the provision of property or services in lieu of compensation in consultation with the Director of Law, in contemplation of the Order being made.
- 2.5. That the Cabinet delegate power to the Executive Director of Growth, Planning and Housing working with the Director of Law in consultation with the Cabinet Members to ensure that if the CPO is confirmed it is implemented and to take all necessary steps to implement these recommendations finalising the terms of the proposed arrangements in accordance with the terms set out in this report.
- 2.6. That if the CPO is confirmed power is delegated to the Executive Director of Growth, Planning and Housing to settle the compensation amounts payable to acquire such interests where voluntary agreement cannot be reached.
- 2.7. That the Cabinet authorise officers to take all the necessary steps to implement these recommendations.

### **3. REASONS FOR DECISION**

- 3.1. The Estate is one of five priority housing estates identified in the City Council's Housing Renewal Strategy 2010, noted as being in need of improvement and significant investment over the next five years.
- 3.2. There is a compelling case in the public interest to proceed with a CPO to allow the redevelopment of the Estate to proceed.
- 3.3. Redevelopment of the Estate will significantly improve the area in a manner consistent with the Council's resolution to grant planning permission dated 10<sup>th</sup> June 2014 and with the adopted planning framework for the borough.
- 3.4. Based upon the viability assessment and the resolution to grant planning permission there is a reasonable expectation that the scheme will proceed.

- 3.5. The officers have considered the balance of the benefits of the scheme taking into account all the considerations in s.226 (1) (a), s.227 of the Town and Country Planning Act 1990 (as amended), the Human Rights Act 1998 considerations and the concerns of those whose interests in land it is proposed that the City Council acquire compulsorily and are satisfied that the public benefit outweighs the private loss.
- 3.6. Extensive consultation with residents began in 2010 when the Estate was included in the Council's Housing Renewal Strategy, as one of the City Council's priority neighbourhoods. The Estate residents have supported the scheme in voting for the proposals.
- 3.7. The Renewal Strategy includes the following statement in relation to the Estate, "Built in the 1930s, Ebury Bridge is one of Westminster's oldest housing estates and requires approximately £10m of investment over the next 30 years. The estate is becoming more expensive to maintain within limited Housing Revenue Account resources and provides increasingly poor value for money for lessees." It suggested that there are opportunities for synergy with the surrounding area due the potential opportunities presented by the existing retail frontage to Ebury Bridge Road and the close proximity to the Chelsea Barracks site, for which planning permission has been granted and where works have now begun. The site is on the western edge of the Pimlico grid and the Grosvenor Waterside development through which there will be opportunities to increase public access from the new Ebury Bridge development.
- 3.8. In 2015 City West Homes ("CWH") the City Council's arm's length management organisation which manages the Estate reviewed estimated maintenance costs for the Estate and identified a revised 30 year cyclical maintenance cost of approximately £15m as being required if the Estate is to be brought up to an acceptable standard in terms of sustainability and quality of housing. A breakdown of these costs is at confidential Appendix I. Maintenance costs upon the Estate are increasing which results in poor value for money for residents. The layout of accommodation is poor with overcrowded households on the estate. The community facilities are inadequate and best use is not being made of the public realm on the estate.
- 3.9. The City Council wishes to deliver a significant improvement in the socio economic and environmental wellbeing of the Estate and the local area which will also increase the overall housing supply. To this end, the Cabinet Members are asked to approve the making of a CPO to facilitate delivery of the Estate renewal scheme.
- 3.10. The Cabinet Member for Housing and Property approved a report entitled 'Ebury Bridge Vote' in October 2012. The scheme then proceeded to a residents' vote. The Master Plan layout submitted to residents as part of the residents' vote information is at Appendix B.

- 3.11. The Cabinet Member for Business, Skills and Housing approved a report dated 27<sup>th</sup> March 2014 entitled 'Ebury Bridge Estate'. On the 10<sup>th</sup> October 2014 the Cabinet Member for Housing, Regeneration, Business and Economic Development approved a report entitled 'Soho Housing Association'. Both reports recommend that officers explore a CPO in respect of the Estate and begin negotiations with parties having freehold and leasehold interests on the estate with a view to purchasing properties in the area required for the scheme. The reports approved awarding decant status to secure tenants to allow offers of accommodation to be made and the issue of the Initial Demolition Notices ("IDN's") to be served, the effect of which is to end the tenant right to buy.

#### **4. BACKGROUND**

- 4.1. The City Council will carefully consider the exercise of its CPO powers. Historically the City Council has used CPO powers predominantly in support of its duties either under housing and planning legislation. A similar planning CPO process carried out in relation to the Tollgate Gardens Estate. The Tollgate CPO was recently successfully confirmed.
- 4.2. Within the borough there is a substantial requirement for housing of all types there being a waiting list of approximately 5,500 priority households in need of social rented housing. There are also approximately 4,000 households on the intermediate rental waiting list. The Renewal Strategy is required to provide additional housing to help meet the recognised needs for new homes in the borough.
- 4.3. Much of the City Council's housing stock is showing its age and despite some internal improvements through the City Council's Decent Homes Programme will need significant investment to comply with improving housing standard requirements. The finance available for council housing refurbishment is limited and cannot fund the long-term housing needs in the borough. The proposed development at Ebury will assist with our duties in that new and refurbished homes will be made available on the estate.

#### **Location**

- 4.4. The Estate is located adjacent to railway lines serving Victoria Station and to the Ebury Bridge Road. Ebury Bridge acts as the northern boundary to the Estate with the recently completed Grosvenor Waterside Development to the south. Chelsea Barracks where a major residential redevelopment is underway is located immediately to the south-west of the Estate. Appendix A shows the Estate as existing. The land to be included within the red line CPO boundary is shown edged red on the plan. Subject to completion of due diligence the CPO may exclude the blocks which are to be refurbished rather than demolished however for the purposes of this report these blocks have been included. The City Council will seek to acquire all land and buildings and any third party interests which is not currently within its ownership within the red line plan at Appendix A. A list of the properties including those occupied by secure tenants

and leaseholders along with other rights to be acquired are identified as being within the current indicative red line boundary is set out at Appendices H1 & H2.

- 4.5. A substantial part of the Freehold Estate is within the ownership of the City Council but this will be confirmed by the referencers who will produce a complete list of interests on the site. The Estate does not include any listed buildings and is not within a Conservation Area.
- 4.6. Cheylesmore House which is to the south west of the Estate although historically part of the Estate following collective enfranchisement is now a privately owned block of flats which does not form part of the planning application and does not fall within the proposed CPO red line boundary. Wellesley House and Wainwright House are both owned and managed by Soho Housing Association and form part of the application site and are within the CPO boundary. The Estate other than the two Soho blocks is managed by City West Homes on behalf of the City Council.

### **PROPOSED SCHEME**

- 4.7. In June 2009 the City Council appointed HTA design consultants to produce a Master Plan to RIBA Stage D for the comprehensive regeneration of the Estate. The contract was subsequently awarded to HTA who then submitted a planning application which was the subject of the report from the City Council's Planning Applications Sub-Committee dated 10<sup>th</sup> June 2014. On December 20<sup>th</sup> 2013 Gate Panel approved the extension of HTA's commission to stage D+.
- 4.8. On 10<sup>th</sup> June 2014 the City Council's Planning Applications Sub-Committee resolved to grant planning consent for the redevelopment of the Estate. Issue of planning consent application reference 14/01295/COFUL is conditional upon completion of a planning agreement in the form of a unilateral undertaking. The unilateral undertaking was signed recently. Details of the application are as follows:-
  - 4.8.1. demolition of eight existing buildings and construction of four new buildings of between four and 14 storeys to provide 271 new flats (118 x 1 bedroom, 95 x 2 bedroom, 51 x 3 bedroom and 7 x 4 bedrooms) consisting of 129 social rent flats, 26 equity share flats and 116 private/market flats;
  - 4.8.2. use of ground/basement floors of Block 1 for Class A1/A2/D1 (shops / financial and professional services / non-residential institutions) purposes; a replacement community room and children's play space;
  - 4.8.3. new landscaping and pedestrian route through the site;
  - 4.8.4. new basement car park (62 spaces) and 12 surface level parking spaces (one car club space and 11 disabled spaces).
- 4.9. The current scheme proposes the redevelopment and regeneration of a significant proportion of the Estate through the demolition of selected existing buildings and the construction of new buildings to re-house existing City Council residents on the Estate and to provide new affordable housing, both social rent and shared ownership, and new private dwellings. Five of the blocks will be

refurbished by the developer at no cost to the current occupiers. The blocks to be demolished and refurbished are shown on the attached plan at Appendix C, whilst it is not anticipated that any further blocks will be demolished and the developers will consider varying the planning consent should the Council's policies or commercial position alter in due course.

- 4.10. All the existing social rented units in blocks to be demolished are to be re-provided in the new build blocks and existing residents within homes to be demolished will be given the opportunity to be re-housed within new buildings on the Estate. An equity loan product is being made available by the City Council to resident lessees living in blocks which are to be demolished to assist them to remain on the Estate in new accommodation. The current phasing has been considered to minimise the number of residents decants and moves. Where ever possible residents will move directly from their existing home into a new home without having to move temporarily offsite. It is hoped that only tenants and lessees in the first Phase (Edgson, Wellesley and Wainwright) will need to move off the Estate, however this may change once a development partner is chosen.
- 4.11. The current scheme includes a replacement community facility, and a mixed use space within the replacement Edgson House facing onto Ebury Bridge Road.

## **5. THE CPO PROJECT**

### **Council Powers and Decisions Taken**

- 5.1. The City Council's powers to compulsorily acquire land for planning purposes are provided for under Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended). This provides a positive tool for local authorities to assemble land in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land. Ancillary powers to create new rights and to override interests in land are also provided under s.13 of the Local Government (Miscellaneous Provisions) Act 1976 and s.237 of the Town and Country Planning Act 1990, respectively.
- 5.2. The Cabinet Member for Housing, Regeneration, Business and Economic Development has already approved a Leaseholder policy dated May 2014 and a decant policy entitled "Tenant Decant Policy for Renewal Areas". A Local Lettings policy has been informally approved by the Cabinet Member in October 2014. These policies provide a framework for the purchase of leaseholder properties, for the movement of tenants and for the relocation of returning tenants and leaseholders.
- 5.3. The making of the CPO will enable the City Council to meet the City for All aspirations and the 5 housing priorities of the Renewal Strategy, listed below:
- 5.3.1. To increase the supply and quality of affordable homes to meet a variety of local needs, including housing for families
  - 5.3.2. To improve the quality of the local environment with outstanding green and open spaces and housing that promotes low energy consumption and environmental sustainability

- 5.3.3. To promote a high quality of life for people of all ages and backgrounds, in safe, cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities
  - 5.3.4. To enable people to maximise economic opportunity in Westminster with support for training, employment and enterprise, and housing tenures which help those in work to remain in the City
  - 5.3.5. To create a more distinct sense of neighbourhood, ending the physical divide between the City Council's estates and surrounding local streets
- 5.4. The CPO will facilitate the carrying out of development of new housing and improved housing as part of the scheme and will bring significant community benefits and improvements including the provision of the new and improved community facility and improved open and green spaces on the Estate.
  - 5.5. The City Council is satisfied that the compulsory acquisition of the CPO land will achieve the objectives of section 226(1) (a) and (1A) and the City Council's 2010 Neighbourhood Renewal Strategy provides a framework to meet these objectives.
  - 5.6. The City Councils is able to exercise its powers under section 226 of the 1990 Act to acquire land for "development and other planning purposes".
  - 5.7. Section 226(1)(a) of the Act is subject to subsection (1A) which provides that the City Council as an acquiring authority must not exercise the power unless it considers that the proposed development, redevelopment or improvement is likely to contribute to achievement of the promotion or improvement of the economic, social or environmental well-being of the relevant area. Section 226(1)(a) allows the powers to be used if acquisition of the land will facilitate the carrying out of the development, redevelopment or improvement on or in relation to the land being acquired and it is not certain that the interests required for site assembly can be acquired by agreement.

#### **Delivering the Scheme - Land and interests to be acquired**

- 5.8. City Council officers are working to select a developer to bring forward the regeneration of this Estate. Further details of the procurement are provided in paragraph 6 below.
- 5.9. It is intended that the City Council will under the CPO acquire, either by agreement or by using the CPO process, all land interests in the Estate which it does not already own excluding the five blocks which are to be refurbished, to facilitate the development. The details of all undertakers who may be affected will be confirmed by "Arden" (being the specialist land referencing company employed by the City Council to collate all of the third party interest on the Estate). Initial surveys were carried out in respect of the statutory undertaker's interests as part of the planning process for this scheme and further reports were commissioned from Lambert Smith Hampton for the mini tender prepared for the Invitation to Tender pursuant to the City Council's Development Partnership



Framework, a list of known interests at the time of the report are in appendices H1 & H2.

## **Lessees & Tenants on the Estate**

### **Soho Housing Association**

- 5.10. The City Council already owns significant freehold interests with the Estate including all the blocks within the proposed CPO boundary, some of which are proposed to be demolished and some refurbished. Soho Housing Association (“Soho”) owns a long leasehold interest in Wainwright House and the freehold title to Wellesley House. Both blocks are required to be demolished. The proposed CPO will allow for the acquisition of Soho’s interest in both properties. A location plan of the Soho properties is included in Appendix D. The City Council has been in negotiations with Soho since 2012 to purchase both Wellesley and Wainwright Houses through a negotiated private treaty sale. A number of meetings have been held with the City Council and Soho officers including their respective professional teams and directors. The City Council wishes to reach a voluntary agreement with Soho on these transfer terms which shall include granting Soho’s tenants at Wainwright and Wellesley secure Council tenancies once these blocks transfer to the ownership of the City Council. The City Council will continue negotiations with Soho in an effort to agree terms and will only seek to use CPO powers as a last resort. At the time of writing officers have agreed heads of terms for the purchase of Wainwright House but not Wellesley House.
- 5.11. The Soho blocks have been included in the CPO boundary as they are essential to the comprehensive regeneration of the estate. This principle of redevelopment was agreed with Soho before the residents’ vote and it was agreed with Soho that their residents should be included in the vote upon the comprehensive regeneration of the Estate. Soho did not object to the planning application.

### **Lessees**

- 5.12. At the start of the purchase process for Ebury, there were 66 long leasehold interests throughout the site that are required to be acquired. Officers have confirmed that of the 66 lessees, 22 of these are non-resident lessees.
- 5.13. Negotiations are underway with all lessees and to date the Council/ WCH have purchased 31 properties, and has agreed to allow a further 19 the right to return to a new build unit using the equity loan arrangements, 4 properties are owned by Westminster Community Homes (WCH) and a further 2 units are owned by A2 Dominion, (both WCH & A2 Dominion have agreed to sell their units back to the Council when required to by the Councils regeneration programme. This leaves 11 leaseholders where negotiations remain ongoing to sell their property back to the Council. Of the 11 where negotiations remain unresolved it is understood that the majority of leaseholders are waiting clarification on the final regeneration timeline and when their homes will be affected before deciding on when they will sell their properties back to the Council however 2 are non-resident landlords

who object to the fact that they cannot acquire a new build property and to date have refused to negotiate on the sale of their properties.

### **Tenants**

- 5.14. There are a total of 106 secure tenants who will need to be rehoused off the estate during the project's lifetime. At the time of the report Phase 1 of the project is being prioritised and 35 tenants have been moved from Edgson house. The other priority is Soho's properties and their 22 tenants (Appendix H1 shows the breakdown of tenants and lessees for the estate including the Soho tenants). Within Soho's properties, the Council is aware that a number of these tenants may require wheelchair adapted units and whilst no agreement has been finalised with Soho yet, officers are holding vacant wheelchair units off site in anticipation of a successful outcome, specifically to house these tenants.
- 5.15. Initial Demolition Notices were served on 61 Council tenants on 18<sup>th</sup> April 2014 identifying a period of works expiring on 17<sup>th</sup> April 2019. The purpose of these is to provide an exception to the Right to Buy ("RTB"). As a RTB will not occur unless the landlord owns the freehold or has a leasehold interest of not less than 50 years if the City Council is not the landlord then it cannot validly serve an IDN in respect of Wellesley House as they currently have no interest. The City Council has served an IDN in respect of Wainwright as the City Council is the freeholder. However as the period for the suspension of the exercise of the RTB will run from the service of the IDN the usual approach would be to serve the IDN on acquisition of the titles from Soho and this is the approach the City Council is proposing to take.

### **Third Party Interests**

- 5.16. Officers are also aware of a number of third party rights and restrictions that will affect the site and have employed Ardent, a specialist land referencing company, to ascertain the full extent of these interests, a list of known interests at the time of the report are in appendix H.

### **Rights to Light**

- 5.17. Malcolm Hollis have been employed by the City Council as a specialist advisor upon rights of light issues. Malcolm Hollis have undertaken an assessment of the Estate and the surrounding properties to provide an analysis identifying those properties which may suffer a material infringement of their rights of light as a result of the implementation of the proposed scheme. This analysis has now been completed and a strategy agreed with the City Council whereby affected property owners identified as likely to suffer a material infringement will be contacted to seek entry into a formal release of the relevant rights in consideration for a payment based upon valuation advice as provided by Malcolm Hollis. Rights which may be enjoyed by property owners on the Estate, adjoining the Estate and also by tenants on the Estate and which could potentially prevent implementation of the scheme if agreement is not reached will be included in the CPO being sought.

- 5.18. Progress on site is reflected in the tracker document in the confidential appendix H2, with resultant book value damages. To date, out of the 64 affected properties, officers and their consultants Malcolm Hollis are progressing negotiations with 53 interests. Of these 13 have either agreed a deed of release, are due to shortly, or can be discounted from consideration. This leaves 11 interests who have not responded and we intend to continue working hard to open up dialogue with these over the coming weeks.

### **Statutory Undertakers**

- 5.19. The interests to be acquired will include those of statutory undertakers. Section 16 of the Acquisition of Land Act 1981 provides that a statutory undertaker whose apparatus may be impacted by a proposed CPO may submit representations to the Secretary of State regarding the proposals. At this stage it is known that the following undertakers have an interest in the site. All undertakers have been contacted by officers and have been made aware of the planning application. Further surveys will be carried out by the referencers but the current statutory undertakers are as follows:

- 5.19.1. **London Power Networks PLC (Electricity substation)**. There are four substations on the Estate. A substation is adjacent to Doneraile House. A second station supplies Bucknill, Rye, Westbourne and Victoria Houses and this will be retained. Two further stations are at Hillersdon and Bridge Houses which supply Pimlico, Mercer, Dalton, Wainwright and Wellesley and Edgson Houses. These will be removed/relocated to next to the new energy centre at the rear of the site next to Ebury Bridge Road and there will be a need to reroute or relocate various High Voltage (HV) cabling. The new energy centre will also connect in to the London Power network.
- 5.19.2. **BT Open Reach** have various overhead and underground plant and joint boxes across the site including a large three panelled cabinet/ BT junction box situated alongside Doneraile House next to the sports pitch.
- 5.19.3. **Thames Water** has a water main entering the site, and will continue to serve the retained blocks and connect to the new energy centre. The capacity of this will need to be reviewed given the additional new homes.
- 5.19.4. **British Gas** – Old services will be stopped up and new ones created except for those to retained blocks which will continue to be used where possible. New connections are required for the new commercial units and the community hall. The gas supply will be extended to the new energy centre.

## **Other Rights to be acquired**

### **Open space and access ways**

5.20. There is a large play area, public realm and a sports pitch on site and an area devoted to communal gardening led by a resident on the estate. Casual use by non-estate users could be sufficient for the area to constitute open space for the purpose of the 1906 Open Space Act. Where there is any disposal of open space land there is a requirement under the Local Government Act 1972 to advertise the proposed disposal. If however works are to be undertaken to the relevant area but it will remain open space then this is permitted by the 1906 Act which provides an authority with some discretion as to the management and to “enclose it or keep it enclosed with proper railings and gates, and may drain, level, lay out, turf, plant, ornament, light, provide with seats, and otherwise improve it, and do all such works and things and employ such officers and servants as may be requisite for the purposes aforesaid or any of them.” In order to guard against being in breach of requirements regarding treatment of open space the Council will treat the play area and sports pitch as open space for the purposes of the 1906 Act and observe the required formalities for dealing with the land. The following areas have been identified as used by third parties:

- (1) **Play Area and Open Space generally** - Although there are no restrictions on non-residents using the play space the space is clearly located within a Council estate and intended primarily for use by residents. The play area will be replaced and improved as part of the new scheme.
- (2) **Sports Pitch** - used predominantly by those who live on the estate on a first come first served basis and is not formally managed.
- (3) **Gardening Club** – This is run by an estate resident on an informal basis. The intention is to provide them with improved facilities as part of the new scheme.
- (4) **The Youth Club** – The club uses space in Edgson House and is run by City West Homes and is jointly funded by City West Homes and the City Council. The intention is to re-provide space for youth facilities in the new improved community space which will also cater for a wider range of estate residents who to date have not been provided for.
- (5) **Access Way** – There is an access route through to Grosvenor Waterside from the estate which has been temporarily closed but the intention is that this will be opened up again when the new development is implemented. This proposal has been discussed with residents.

### **Commercial Units**

5.21. It is not expected that the new development will have a significant effect on the existing commercial units on Ebury Bridge Road as they will be shielded from significant effects of the new build works by the retained residential blocks behind. The units may be affected by vibration from piling which could entitle them to

disturbance payments on account of suffering injurious affection. The commercial units may be affected by the refurbishment works to the retained blocks Bucknill, Rye, Westbourne and Victoria where resurfacing works to the courtyard or alterations to services affected the rear walls of the commercial units. The existing commercial units are located within the ground floor level of the blocks to be refurbished. An assessment will be made of such effects by a specialist CPO surveyor.

#### **The Ebury Bridge (Network Rail Asset)**

- 5.22. The new development includes a 14 storey building adjacent to the Ebury Bridge structure which crosses the railway tracks. The design includes a loadbearing concrete structure in front of the bridge to avoid any additional load being placed upon the existing bridge. There will be some alterations to the fabric of the bridge including removing a section of the guard wall of the bridge where the new building and new steps will meet the bridge. The existing pavement levels will be upgraded into the new entrance and to the top of the steps. It is anticipated that a section of removable structure will be required in the event that access to the bridge structure is required for maintenance or upkeep.

#### **Potential New Rights**

- 5.23. There may also be a need for new rights to be acquired to facilitate development. Rights over some properties may be acquired to facilitate the construction of the development. The new rights include those rights for crane over sailing, the erection of scaffolding, decking and other protective measures and the creation of compounds and storage areas. As the developer partner has not yet been appointed and a method statement for the construction agreed, it is not possible to precisely identify the extent to which rights over third party property may be required to carry out the construction. The proposed CPO would also be used to secure these rights, if any exist, to the publically adopted highway which while currently not anticipated could be implemented through an agreement made under s278 of the Highways Act 1980 as outlined in the unilateral undertaking.

#### **The CPO Procedure**

- 5.24. The acquisition of the land must then take place within 3 years of the making of the CPO. This is a three-phased development with the phases running sequentially one after the other, there will only be one CPO. The proposed start on site is expected in mid to late 2017 or as soon as possible to bring about the much needed improvements. These phases are subject to change once the development partner comes on board but are currently shown as follows:

- Phase 1 the new Edgson House (including non-housing uses) along Ebury Bridge Road and refurbishment works.
- Phase 2 the new Hillersdon House along the railway behind Edgson House.
- Phase 3 the new Bridge House and other blocks along the railway.

5.25. The CPO process itself can be split into three key stages which will together take between 16-22 months from commencement through to confirmation of the CPO, depending on the level of objection received. Compensation claims will be dealt with as speedily as possible, alongside the final stage of the CPO process.

**Stage One (Estimated: 2/3 months):**

- Formulation and City Council Resolution (as recommended in this report)
- Referencing – Ardent have been appointed by the Council to lead on this work stream.
- Preparation of a Statement of Reasons and CPO Schedule and Map, the content of which will be informed by this Cabinet Member Report and related documents.
- CPO being made.
- Serve notices of the making of the CPO on all affected parties and publish in the local press

**Stage Two (Estimated: 12/18 months):**

- Objections
- Negotiations
- Date of public local inquiry fixed by the Planning Inspectorate
- Inquiry (if negotiations have not been completed and if objections to the CPO have not already been resolved at this stage)
- Decision on confirmation of CPO

**Stage Three:**

- Challenge Period (6 weeks)
- Possession
- Negotiation and settlement of compensation with lessees whose properties are compulsorily acquired

5.26. The recommendation authorises the compulsory acquisition of properties if the CPO is confirmed. If there is no relevant change of circumstances after confirmation of the CPO then the City Council will proceed to acquire the properties without further Committee authority.

5.27. Following confirmation of the proposed CPO, the City Council will execute a General Vesting Declaration, the result of which will be to vest ownership of all remaining interests of the CPO Land in the City Council.

## **6. THE PROJECT DELIVERY**

- 6.1. Key non-housing interests have been identified subject to confirmation by the specialist land referencers, Ardent who have been appointed to ascertain the full extent of these interests and a draft schedule of interests is located in confidential Appendix H1 & H2.
- 6.2. City West Homes acting as development manager for the City Council has commenced work towards the selection of a development partner and has issued Expressions of Interest to the WCC Developer Framework Panel and held site meetings in March 2015. CWH will then issue tender documents and look to appoint a developer in the near future. HTA have produced draft mini tender documents and the City Council have commissioned Pinsent Masons to draw up scheme specific legal documentation using the model legal framework approved for the City Council's Development Framework Panel.
- 6.3. Financial deliverability, budget and viability are dealt with in confidential Appendix G.

### **Reasons for the CPO**

- 6.4. The Secretary of State recognises in paragraph 24 of ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules that it is often appropriate to make a CPO at the same time as seeking to purchase land by agreement:

*“Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority’s intention clear at the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”*

- 6.5. The City Council has made, and will continue to make reasonable attempts to acquire outstanding interests by private treaty and is pursuing the proposed CPO to ensure that the proposed development can proceed. Discussions will however continue with the owners of the relevant interests to seek to acquire the properties and new rights by agreement with a view to limiting the number of interests which need to be compulsorily acquired.
- 6.6. Despite the on-going negotiations it is anticipated that the City Council may not be able to secure all the interests within the timescale needed for delivery of the scheme therefore a CPO is required.

## **7. COMPELLING CASE**

- 7.1. The City Council recognises that a CPO can only be made if there is a compelling case in the public interest (paragraph 17 of the Circular) which justifies the overriding of private rights in the land sought to be acquired. It is considered that a clear and compelling case exists in this case.

7.2. Officers are satisfied of the economic, social and environmental benefits of the proposed scheme as set out initially in paragraph 3 and in further detail below:

### **Economic**

7.3. It is estimated that at least 1,000 construction jobs are being created across the Renewal Strategy estates. The provision and sale of additional market housing within the estate will help fund other vital environmental improvements within the Estate including additional shops and/or professional and financial services to cater for the needs of new residents which would help strengthen the retail offer of the Ebury Bridge Road local shopping centre and cater for the increased demand as the residential population of the area increases.

7.4. This increase in residential population that more housing on this site will bring will provide an enlarged customer base to support the local shops and services.

7.5. The provision of more market housing on site allows for the delivery of affordable housing and therefore a more diverse mix of tenure.

7.6. Any surpluses returned to the council would be captured in the Housing Revenue Account and be used to help deliver and support the creation of new affordable homes in Westminster.

### **Social**

7.7. The approved redevelopment scheme offers additional and improved homes, public spaces and community uses. It will provide an overall increase of 99 flats (21 social rent, 26 equity loan and 52 private/market units) alongside refurbishments to a further 164 flats in the five buildings which are to be retained.

7.8. The development will have the following mix of bedroom sizes:

| <b>Type</b>  | <b>Social Rent</b> | <b>Equity loan homes</b> | <b>Private</b> | <b>Total</b> |
|--------------|--------------------|--------------------------|----------------|--------------|
| 1 bed        | 58                 | 8                        | 52             | 118          |
| 2 bed        | 48                 | 10                       | 37             | 95           |
| 3 bed        | 18                 | 6                        | 27             | 51           |
| 4 bed        | 5                  | 2                        | 0              | 7            |
| <b>Total</b> | <b>129</b>         | <b>26</b>                | <b>116</b>     | <b>271</b>   |

7.9. The proposals will significantly increase the amount of affordable housing floor space in line with the City Council's adopted policies. This will be achieved by an increase in the size of the replacement affordable homes and the addition of 47 new social rent and equity loan homes.



- 7.10. Overall the increase in affordable floor space will be 56% of the additional residential floor space measured by gross external area as defined by the adopted Unitary Development Plan (“UDP”).
- 7.11. The scheme also provides for replacement landscaping, children's play space an improved and larger community facility as well as new Class A1/A2/D1 space in the ground/basement floors of Block 1 (replacement building for Edgson House) and a new underground (62 space) car park and 12 surface level car parking spaces.
- 7.12. All of the flats in the proposed scheme have been designed to comply with the size standards set out in the Mayor of London's Housing Design Guide.
- 7.13. Most of the proposed flats are dual aspect and all have private balconies or winter gardens. There are also communal gardens, courtyards and roof terraces and all of the units are proposed to be built to 'Lifetime Homes' standards, with 27 (10%) of the units designed to be wheelchair accessible or capable of being easily adapted to this standard.
- 7.14. Environmental improvements to the open space across the estate may encourage residents to lead healthier lifestyles.

### **Environmental**

- 7.15. The scheme offers a significant improvement in the quality, configuration and greening of the open space on the estate. The proposed landscaping strategy is a key element of the estate regeneration proposals, the main aim of which is to improve the quality of the open space and public realm areas within the estate.
- 7.16. The schemes offer a better residential environment with new winter gardens and other amenity spaces included. The new buildings will be more sustainable and energy efficient than the existing blocks.
- 7.17. The regeneration will include significant enhancements to the open space and landscaping of the Estate, with the amount of green open space enhanced across the Estate. The landscaping strategy will result in the creation of a green street through the Estate leading to a central area, and this will link through to the Grosvenor Waterside development allowing direct pedestrian links to the river.
- 7.18. The main pedestrian route through the Estate will be transformed from an estate access road into a central linear park.
- 7.19. There will be the retention of key individual trees with new bio-diverse planting to park edge and new tree planting to soften adjacent building mass.
- 7.20. The proposal therefore provides a range of substantial benefits for both the new residents, and for the local area.

## **8. POLICY FRAMEWORK**

- 8.1. The principle of estate renewal is strongly supported by the Greater London Authority (GLA) and is set out in the City Council Renewal Strategy March 2010.
- 8.2. The site is designated as Proposals Site 28 in the City Council's City Plan, recognising its potential for major redevelopment to provide residential, social/ community floor space, refurbished / new retail and improved public realm.
- 8.3. The scheme has received confirmation from the Planning and City Development Committee that it meets the City Council's policies for the area.
- 8.4. The key land use policies relevant to the consideration of the application are S14, S15 and S16 of the Westminster City Plan: Strategic Policies adopted November 2013 and H3, H4, H5, H8 and H10 of the UDP adopted January 2007 and relevant sections of the London Plan and the National Planning Policy Framework.
- 8.5. The optimisation of housing delivery is a key strategic objective for the City Council. The principle of housing estate regeneration to provide new and improved residential accommodation is supported under Policies S14 of the Westminster City Plan: Strategic Policies and H3 of the UDP and will help the City Council and the Mayor to deliver new homes in the capital.

## **9. DELIVERABILITY**

### **What could be delivered without a CPO?**

- 9.1. Without the City Council's use of its CPO powers, it is unlikely that the comprehensive regeneration of the Estate would be achievable in the short or medium term. A developer may not be secured and without a certain level of investment and development on the Estate, limited funds can be secured for the required improvements to the Estate's public realm, open, green and play spaces.
- 9.2. If development did occur without a CPO it would have to be on a piecemeal basis, and lacking the scale of positive change or range of land uses and benefits which are currently on offer. This would prevent the type of comprehensive regeneration of the area that has been a long held objective of Council policy.
- 9.3 **Steps taken to purchase the outstanding properties by agreement:**  
Since March 2014 the City Council/WCH have acquired through a negotiated private treaty 31 leasehold interests on the site, as outlined in paragraph 5.12 and carried out extensive negotiations with all other leaseholders. Currently negotiations are underway with all parties including Soho Housing Association, who have granted permission for the City Council to interview their secure tenants living in Wellesley House and Wainwright House and agreed heads of terms for the purchase of one of the blocks. The Council has also been working with its tenants and currently only 4 of the 39 tenants in Edgson House are left to be moved and assessments have been carried out with all tenants on the estate,

as outlined in paragraph 5.14. An up to date schedule of progress on the leaseholder buyouts is shown in Appendix F.

- 9.3. This demonstrates the City Council's commitment to securing the large-scale redevelopment of this Estate. The City Council will continue to negotiate to complete the necessary purchases and agreements, but that process is likely to lead to further years of blight and delay without any certainty of development unless a CPO is used to acquire these interests.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. Financial implications are exempt from publication and have been placed in Appendix G. The documents enclosed include the Council's budget for securing vacant possession and the development viability carried out by independent consultants Lambert Smith Hampton.

## **11. LEGAL IMPLICATIONS**

- 11.1. Under section 226 of the Town and Country Planning Act 1990 a local authority has a broad power to make a compulsory acquisition of any land in their area in order to facilitate the carrying out of development, redevelopment or improvement in relation to the land.
- 11.2. In order to exercise the s.226(1)(a) powers the local authority must be satisfied that the proposed development/improvement is likely to contribute towards any of the following objects, namely the promotion or improvement of the economic or social or environmental well-being of their area.
- 11.3. Under section 227 of the Town and Country Planning Act 1990 the Council has the power to acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land under section 226 as aforementioned.
- 11.4. The rights of secure tenants will be dealt with under the proposed CPO. When dealing with secure tenants the Council must comply with the provisions of the Housing Act 1985 in respect of the service of demolition notices and the rehousing of secure tenants.
- 11.5. The Council, as a public body, is under a duty to consider whether the exercise of its powers interacts with rights protected by the European Convention on Human Rights. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way, which is incompatible with those rights. The Compulsory Purchase must be a "compelling case in the public interest." and if this test is met then the Council will be acting compatibly with its duties under the Human Rights legislation *Pascoe v Secretary of State* [2007]. The Statement of Reasons will provide further detail on this aspect when it is produced.

- 11.6. The development project must be viable and have a reasonable possibility of being implemented. For this purpose all the interests to be acquired are being ascertained by the referencers and the Council's appointed CPO surveyors will provide valuations of all the interests to be acquired so that the Council can adequately identify the budget necessary to acquire them.
- 11.7. If the Council wishes to subsequently dispose of an interest of part/whole of its housing land to a developer or third party in the future consent maybe required. The Council is in certain circumstances empowered to dispose of housing land under Section 32 of the Housing Act 1985 and General Housing Consents issued by the Secretary of State for Communities and Local Government. However, an open market disposal of the housing land at the Ebury Bridge Estate will require the specific consent of the Secretary of State. An application will need to be made and the consent will need to be obtained to meet the lease preconditions with the developer partner.
- 11.8. All legal agreement(s) to be entered into will need to be in a form approved by the Director of Legal Services or if documents were drafted by external solicitors these will be approved by the firm in question.
- 11.9. The Director of Law has provided comments which have been incorporated into this report. There is a possibility that following the making of the CPO the City Council will receive blight notices from affected parties giving rise to potential liabilities. These will be assessed along with compensation claims following the confirmation of the CPO and acquisition of properties through vesting. There will be a need to deal with the claims which will be funded by the City Council.
- 11.10. Parties affected by the CPO will be entitled to be paid compensation in accordance with the general law relating to compensation known as the land compensation code, the purpose of which is to assess the payment of fair compensation to eligible parties. The compensation payable will be determined by reference to the open market value of the property acquired, supplemented where appropriate by:
  - 11.10.1. payments in respect of disturbance;
  - 11.10.2. compensation for loss of value of land retained by the dispossessed owner due to it being severed or otherwise harmfully affected as a result of the compulsory purchase; and
  - 11.10.3. Certain additional payments claimable by a person who owns or occupies property subject to compulsory purchase irrespective of any particular loss; together with compensation in certain cases for interference with rights.

## **12. STAFFING IMPLICATIONS**

- 12.1. There are implications on staff resources in respect of carrying out the necessary work to promote and make the CPO and support the existing residents, land and property owners and other interested parties through the CPO process.

12.2. These will include time spent by Growth, Planning and Housing staff working alongside staff from Westminster community Homes and City West Homes to progress the CPO. Should there be any concerns raised during the process, a case manager has been appointed to manage the CPO process to whom those with concerns about the proposed acquisition can have access.

### **13. RESOURCES IMPLICATIONS**

13.1. There are no further resource implications, aside from those set out above, arising from this Cabinet Member report.

### **14. BUSINESS PLAN IMPLICATIONS**

14.1. The proposed redevelopment of the Estate will contribute towards the achievement of a Safer, Healthier City.

14.2. The ability to enable and empower others to take responsibility for themselves and their neighbourhoods is one of the key tenets of the City Council's 'Better City, Better Lives' five year plan to "Improve the quality of life, health and well-being of Westminster's communities". Residents have been involved in the development of the proposals and have shown support for the redevelopment of their estate.

### **15. CONSULTATION**

15.1. The City Council and HTA have worked closely with residents since 2010 in order to understand concerns and design a scheme that provides accommodation to meet the needs of residents of the Estate. The proposals have been supported by the majority of residents.

15.2. The programme of consultation lasted over two years, with workshops and consultation events throughout this period. The culmination of the programme was a decisive vote by residents in support of the redevelopment proposal in May 2013, with a 78% support vote from a 60% turnout.

15.3. Comprehensive consultation has been undertaken with residents which has included door knocking, various events and presentations, distribution of literature and a vote.

15.4. Since the positive residents vote residents consultation has continued through consultation on the planning application and through monthly residents' forums, and newsletters. Residents have been issued with two residents' packs providing further detail of the scheme so that they understand what it will look like when it is built so that they can make informed decisions as to where they wish to live.

15.5. Residents have been informed of the potential use of CPO powers for site assembly specifically in a newsletter issued in April 2014 when negotiations to purchase leasehold properties and rehouse tenants commenced. The newsletter explained how the CPO process would affect lessees and gave guidance on where

to go for future guidance. The newsletter outlined how a maximum of two offers would be made to secure tenants after the Choice Based Lettings period and a time line towards a CPO is set out on the back page of the newsletter.

- 15.6. The CPO is also referred to in the general time line in the second pack issued to residents. Reference has regularly been made to the CPO at residents' forums and tenants are always advised that ultimately the City Council will use legal means to obtain possession at their needs assessment interview. It is intended that a letter will be sent out to all residents after the approval of this report by the Cabinet Member explaining the CPO process again in anticipation of the letters to be issued pursuant to the provisions of the Land Acquisition Act 1981 which will be issued so that the land referencing company employed by the City Council can gather all the necessary information relevant to the interests which may be affected by the development.
- 15.7. If agreed, further consultation will take place on the CPO itself in accordance with the relevant legislation as set out above.
- 15.8. As required, comments from the City Council Legal, Finance and other relevant sections within the City Council have been incorporated into the body of this report.
- 15.9. Local ward councillors in Churchill Ward have been consulted on the report and have made no comments. They have also been kept up to date through the regular monthly resident forums and the newsletters to residents.

## **16. COMMUNICATIONS IMPLICATIONS**

- 16.1. There is a need to ensure that the any decisions are clearly communicated to those who live and / or have an active interest in the Estate.

## **17. EQUALITIES IMPACTS**

- 19.1 Mindful of the need to consider such matters an Equalities Impact Statement has been prepared.

## **Appendices and Background papers**

- Appendix A Proposed CPO Boundary (from planning approval)
- Appendix B Ebury Bridge Master Plan
- Appendix C Blocks to be demolished and refurbished
- Appendix D Soho properties
- Appendix E Breakdown of tenants and lessees by block
- Appendix F Progress with tenant buyouts and lessee purchases
- Appendix G Financial Implications (confidential)
- Appendix H1 Schedule of Property interests on the estate (draft) (confidential)
- Appendix H2 Schedule of Rights to Light negotiations (confidential)
- Appendix I CWH schedule of Cyclical Maintenance costs (confidential)

## **Background papers**

City for All  
The City Council Neighbourhood Renewal Strategy March 2010  
Planning Applications Sub-Committee Paper 10<sup>th</sup> June 2014  
Ebury Vote Cabinet Member report October 2012  
Ebury Delivery Cabinet Member report March 2014  
Soho Housing Association Cabinet Member report October 2014

**If you have any queries about this Report or wish to inspect any of the  
Background Papers please contact:  
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