



Notice of Non-key Executive Decision

Subject Heading:	Rainham and Beam Park Housing Zone – CPO(s) extension of Redline.
Cabinet Member:	Cllr Damian White, Leader of the Council. Cabinet Member
SLT Lead:	Neil Stubbings, Director Regeneration Programmes
Report Author and contact details:	Christopher Barter Regeneration Projects and Programmes Manager. Christopher.barter@havering.gov.uk X2614
Policy context:	Havering Housing Strategy, Havering Economic Development Strategy. Rainham and Beam Park Housing Zone submission. Rainham and Beam Park Housing Zone Overarching Borough Agreement. Rainham and Beam Park Planning Framework.
Financial summary:	Cabinet approved the Rainham and Beam Park Housing Zone – Making of CPO(s) on 10 th October 2018. Previously the Housing Zone Land Acquisition Strategy was approved by Cabinet on 10 th February 2016; this included the principle of using the Council's Compulsory Purchase

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	<p>Order powers to acquire land interests. On 21st February 2018 Cabinet agreed to use the Council's Medium Term Financial Strategy and in particular the capital programme to fund land acquisitions and CPO costs. There is an allocation from the GLA of Housing Zone funding of £12,010,000 to support the proposed scheme.</p>
Relevant OSC:	Towns and Communities OSC
Is this decision exempt from being called-in?	Yes

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The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

That the Leader of the Council agree the extended Rainham and Beam Park CPO red line to include land required for the acquisition of crane oversailing temporary rights and erection of scaffolding temporary rights as shown shaded blue on the attached plan, and amend the CPO schedule to include the additional interests captured by the extension; and

Delegate all ancillary functions to complete the making of the CPO accordingly to the Director Regeneration Programmes.

Background

At the Cabinet meeting of the 10th October 2018, Cabinet agreed to the Council making Compulsory Purchase Order(s) (CPO(s)) pursuant to the statutory powers contained in section 226(1)(a) of the Town and Country Planning Act 1990 (as amended), and section 13 of the Local Government (Misc. Provisions) Act 1976 and all other necessary action to acquire all property and other proprietary interests on the land, including where appropriate new rights, located within the outline on the CPO Red Line Plan , for the purpose of securing the regeneration of the Rainham and Beam Park Housing Zone.

Ongoing due diligence and survey works have identified the need to make minor extensions to the CPO Red Line Plan previously approved by Cabinet. This extension is to capture the land required over which acquisition of temporary crane oversailing rights during the construction of the proposed 866 new residential units on 9 sites and temporary rights for the erection of scaffolding necessary for the safe demolition and removal of structures on site prior to construction commencing.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 para 2 of the constitution:

2 Executive functions

The Leader of the Council is responsible for arranging for the exercise of all executive functions and may by way of written notice delegate Executive functions to:

1. Cabinet
2. A committee of the Cabinet
3. Individual Cabinet Members

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4. Staff
5. Joint Committees

And may exercise any Executive functions personally provided notice is given to the Proper Officer.

STATEMENT OF THE REASONS FOR THE DECISION

Following on from Cabinets decision to approve the CPO red line ongoing detailed survey work and development of construction methodology on each of the nine sites forming the Rainham and Beam Bark Regeneration Programme has identified the need to secure temporary crane oversailing and scaffolding rights on an additional 70 plots of land.

Ordinarily the acquisition of these rights would be conducted during the development process and concluded with the payment of a negotiated fee as assessed by professional party wall surveyors. However, due to the complexity of the ongoing land acquisition / CPO programme there is the potential for a situation to develop where some plots could become ransom strips whose owners may either refuse to negotiate or demand unrealistic fees. Such a situation could result in delays to the construction programme, with increased costs and adverse impacts on scheme financial viabilities. In an extreme case such a situation could constitute an impediment to development that could compromise the overall CPO process.

The [Council] has written to all parties identified as being affected by the rights sought, inviting positive engagement and requesting their co-operation with a view to agreeing mutually acceptable licences. However, legal advice has been sought and the recommended view is that it would be appropriate to include the acquisition of these temporary rights within the CPO and the CPO Red Line in view of the risks highlighted above, should negotiations fail.

OTHER OPTIONS CONSIDERED AND REJECTED

Not extending the CPO Red Line to include all plots affected by crane oversailing or scaffolding licenses - Not Recommended.

Without making use of its CPO powers, the Council would be required to undertake individual negotiations which may not conclude in a satisfactory or timely manner or at all, resulting in the Council not being able to acquire all land and rights necessary to facilitate comprehensive residential development within a reasonable timeframe and cost.

PRE-DECISION CONSULTATION

The consultation and community involvement activity for the land acquisition delivery strategy has been delivered so far as part of the wider Housing Zone community involvement and consultation. Details of the community engagement and consultation activity are set out in the Master Plan and Planning Framework Cabinet paper. Further public consultation was undertaken during March 2017, ahead of the planning application submissions being made for the proposed housing sites along the A1306 (New Road).

The results of the March 2017 public consultation on the Master Plan and Planning Framework indicated that 80% of the local stakeholders were in favour of the changes proposed in the area.

As part of the engagement with the A1306 businesses, Council Officers made contact with over 30 businesses. While many of the businesses expressed concern about business continuity they generally acknowledged and accepted the proposals for change in the area and were receptive to the reassurances Officers gave them about business and relocation support.

Following the March 2017 formal public consultation the Council have undertaken further engagement with landowners. Letters have been circulated to all affected business and residential property owners respectively, to keep them informed of the regeneration proposals and acquisition process. Landowners and local residents have also been consulted as part of the statutory planning process for the outline planning applications, which have been submitted. Ardent, working on behalf of NHG, have met with all of the affected landowners and business and residential occupiers.

An all-day information event was held on the 15th January 2019 at the Mardyke Centre for those landowners, businesses and residents affected by the proposals. Further events are planned and the project team are available to meet with business and residents one day a month at the Mardyke Centre

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Neil Stubbings

Designation: Director Regeneration Programmes

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Section 226(1)(a) of the Town and Country Planning Act 1990 is the appropriate power under which the Rainham and Beam Park Compulsory Purchase Order is being facilitated. It is considered that the regeneration of the area will help promote and improve the economic, social and environmental wellbeing of the area.

Ancillary enabling power to create new rights are also provided for under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976. This provides for the compulsory acquisition of new rights over land where full land ownership is not required. This gives statutory backing to the recommendation in this report as it seeks to acquire temporary new rights to facilitate the erection of scaffolding and crane oversails which is a purpose necessary to facilitate the promotion and improvement of the social, economic and environmental wellbeing of the Rainham and Beam Park Housing Zone.

Cabinet approved a recommendation to make compulsory purchase order (s) on 10th October 2018. It has become necessary to acquire temporary new rights to facilitate the erection of scaffolding and crane over sail over additional land which requires an extension of the CPO red line earlier approved by Cabinet.

Part 3, paragraph 2 f the Council's constitution permits the leader to exercise any executive functions personally provided notice is given to the proper officer.

The Government's advice on the use of compulsory purchase powers generally is set out in its "Guidance on the Compulsory Purchase Process and the Crichel Down Rules" ("the Guidance"). The Guidance sets out the principal matters, which the Council, will need to be in a position to demonstrate in evidence both when making and when seeking confirmation of a compulsory purchase order.

In summary, the Council must be able to demonstrate;

- (a) that the development sought to be achieved on that land is in accordance with an up to date development plan or, a non-statutory planning framework adopted following public consultation;
 - (b) that the scheme will further social, economic and/or environmental well-being;
 - (c) that there are no reliable alternative means to deliver the scheme in the time period required; this requirement in practice will include demonstrating engagement with the landowners and occupiers to being forward the required form of development;
 - (d) that the acquisition of the land can be funded and the scheme can viably and physically be delivered with no impediments.
- These matters have been addressed above.

The overarching principle is that the Council in seeking to exercise powers of compulsory acquisition are able to demonstrate a compelling case in the public interest for the exercise of those powers. Evidence is also required to demonstrate that there is no impediment to enable the delivery of the development the proposed acquisition is intended to facilitate as set out below;

- (a) 10 planning applications have been made and 8 permissions have been granted for

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the development. There are no obvious reasons which are likely to impede the grant of the outstanding consents;

(b) Financial and physical resources are available to acquire the land and to deliver that scheme. The Joint Venture is operating with governance, funding and development phasing already in place;

(c) The context of acquisition sought to be made being that the development proposed, is grounded in a "clear strategic framework" and "planning framework", being the Rainham and Beam Park Planning and Regeneration Framework, to which the development of the land proposed and for which acquisition is required will facilitate;

(d) Initial contact has been made with those with qualifying interests in land over which new rights are sought and negotiations are underway;

(e) The regeneration of the Rainham and Beam Park Housing Zone is a key deliverable for the Council as set out in the Local Plan. The scheme seeks to avoid development in a piecemeal fashion and of a scale that can make meaningful contributions towards social infrastructure;

(f) Through delivery of the Housing Zone Scheme the housing stock will be significantly improved with an increased supply of Affordable Housing located in the administrative area of the borough; and

(g) Construction phases of the development will include training and employment opportunities for residents within the borough and contribute to social infrastructure.

The rights sought to be acquired will facilitate the delivery of the benefits set out above.

Consideration has been given to the provisions of the Human Rights Act 1998 including Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (respect for private life and family life and home). A decision to make Compulsory Purchase Orders must strike a fair balance between public interest in the regeneration of the land and interference with private rights. Bearing in mind the provisions for compensation to be payable and the compelling case in the public interest for the acquisition of the interest, it is considered that the interference with private property rights is proportionate and strikes a fair balance between the public interest and the interests of landowners and occupiers in compliance with Article 1 of the First Protocol.

By way of conclusion Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 forms the statutory basis for the acquisition of the new rights set out above. The Council will need to be satisfied that the statutory tests and policy tests set out in the Guidance for the making and confirmation of CPO(s) pursuant to that statutory power are met, ensuring that negotiations with qualifying interests have been undertaken or there is a clear plan to undertake such discussions in a meaningful way prior to a request for confirmation.

FINANCIAL IMPLICATIONS AND RISKS

The Council has set aside a capital budget of £50m to acquire the various land interests on the sites via CPO, which was approved on 21st February 2018.

The cost of acquisition of temporary crane oversailing and scaffolding licenses can be absorbed within the CPO budget.

The additional costs of land referencing the additional plots is recoverable by the Council through the CPO Indemnity Agreement in place under the terms of

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the Strategic Land Agreement with NHG, the Council will benefit from an indemnity from NHG, which will ensure the CPO costs are in effect funded by NHG.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The Regeneration Programmes Service will be required to dedicate resources to the programme management and delivery of the land assembly and compulsory purchase work stream. Additional time limited support may be required as the land assembly, CPO(s) and business relocation strategy work streams advance. Where this has been anticipated external funding for resources has been built into the overall project cost plan.

Delivering the Housing Zone Land Acquisition Strategy will at times require the input and resources of a number of Council services particularly, Housing, Planning, Highways, Legal and Property Services.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

In deciding whether to make CPO(s), the Council should be satisfied that there is sufficient justification for interfering with human rights of those with an interest in the land affected. In this respect the Human Rights Act 1998 incorporates certain provisions of the European Convention on Human Rights, namely:

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- (a) Article 1 of the First Protocol – the right of everyone to peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- (b) Article 8 – private and family life, home and correspondence. No public authority can interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic wellbeing of a country.
- (c) Article 14 – the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

In the case of each of these articles, the Council should be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

The Council may decide that, in the light of the significant public benefit, which would arise from the proposed development, the use of compulsory purchase powers is necessary and proportionate taking into account the availability of compensation. In particular, the Council may consider that the CPO(s) would not constitute any unlawful interference with individual property rights. The CPO(s) process provides the opportunity for representations to be made and the holding of a public inquiry in the case of objections by affected parties.

The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, social and community life of the Borough. The Scheme will provide a much-needed mix of affordable and private sale properties. The new mixed tenure housing will improve the community cohesion in the area, as will be public realm enhancements proposed. It will provide increased choice and opportunity for Havering residents in a highly accessible and sustainable location. This supports the overall aim of the Council's Equalities Policy and the Council's duties under the Equality Act 2010.

At present the properties within the CPO Red Line area do not reflect a mixed and balanced community, with a heavy bias towards commercial and inappropriate mainly private tenanted housing stock. The Scheme proposals seek to address this imbalance through the delivery of a range of residential tenures across the site e.g. private housing, a new range of intermediate housing, wider range of unit sizes across all tenures and 10% of all residential units meeting Wheelchair Standards.

The public sector equality duty under section 149 of the Equality Act 2010 ("PSED") requires the Council to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance

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equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. 'Protected characteristics' are: gender, race and disability, sexual orientation, age, religion or belief, pregnancy and maternity and gender reassignment.

All landowners, commercial and residential occupiers who are located within the CPO red line area will be affected by implementation of the Compulsory Purchase Order. The Council and NHG are and will continue to endeavour to reduce this effect by extensive consultation and through the relocation strategies. Consultation has and will continue to be undertaken with the commercial and residential owners and occupiers and wider community to ensure that the Scheme reflects local and borough needs.

An Equalities Impact Assessment (EqIA) in support of the CPO / Land acquisition Strategy has been prepared for the Council by external Consultants Mott Macdonald (Appendix 5) and any recommendations implemented prior to the CPO Order being made.

BACKGROUND PAPERS

None

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

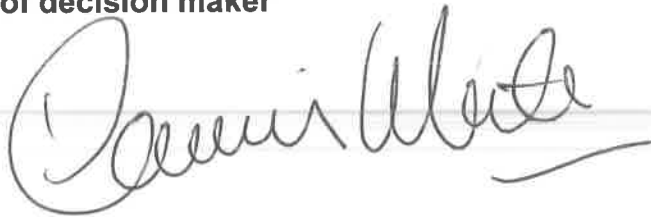
Decision

Proposal agreed

Proposal NOT agreed because

Details of decision maker

Signed



Name:

DAMIAN WHITE.

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

A. Marlow 5/9/19

Signed _____

5/9/19. [Signature]