



CABINET

PUBLIC AGENDA REPORT

Subject Heading:

North West Romford Development – Making of the CPO(s).

Cabinet Member:

Cllr Damian White, Leader of the Council.
Cabinet Member

SLT Lead:

Neil Stubbings, Director of Regeneration

Report Author and contact details:

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Policy context:

**Submitted Havering Local Plan 2018
Romford Development Framework 2015
Local Development Framework 2012**

Financial summary:

The North West Romford Development Partnership is being considered by Cabinet on November 2019. This includes the principle of using the Council's Compulsory Purchase Order powers to acquire land interests. On 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 funding of £13,000,000 to support the proposed scheme.

Is this a Key Decision?

Yes

When should this matter be reviewed?

Autumn 2020

Reviewing OSC:

Towns and Communities OSC

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

Communities making Havering

[x]

Places making Havering	[x]
Opportunities making Havering	[x]
Connections making Havering	[x]

SUMMARY

The purpose of this report is to enable the land acquisitions required to facilitate and deliver the North West Romford Development Proposal. The report is seeking authority to begin detailed and comprehensive preparations to use the Council's powers of CPO pursuant to statutory powers to bring forward developments by reliance on its abilities under the general power of competence provided for in Section 1 of the Localism Act 2011, as well as its powers to dispose of land under Section 123 of the Local Government Act 1972 and Section 233 of the Town and Country Planning Act 1990.

A separate report is being considered by members on the November 2019 agenda requesting the Cabinet considers progressing the comprehensive redevelopment of North West Romford as identified in Appendix 1 of this report. The development of an overall delivery strategy will be the subject of further Cabinet decisions.

The area in question, as identified by the red line plan in Appendix 1, includes a site which has been stalled for approximately 10 years. The Council has been attempting, via private treaty, to acquire the site (and other interests in the red line boundary) in order to fulfil the vision within the submitted Local Plan and the emerging Master Plan for Romford. To date, this has been without success. A national market leading developer has come forward seeking support to advance a scheme within the area shown in the Red Line Plan (see Appendix 1), as separately reported to Cabinet. In order to maintain confidentiality, and therefore not prejudice the interest of the Council and developer whilst developing commercial terms, the identity of the developer is not given in this report. To deliver the North West Romford Development Proposal, the Council and developer would be responsible for the land acquisition process, supported by CPO powers, to enable the acquisition of the land interests required for the development and associated infrastructure which cannot be acquired by private treaty. It is also expected that CPO costs would be indemnified via an indemnity agreement.

This report is seeking Cabinet approval for undertaking the preliminary consultations, design, planning, and other work necessary to facilitate the making of one or more compulsory purchase orders and the use of related powers in respect of the land, interests, and rights needed to obtain vacant possession for the delivery of the regeneration of the North West Romford Development Proposal, where it has not been possible to acquire the land (including interest and rights) by agreement. The scheme, shown on the indicative CPO Red Line Plan at Appendix 1, being the provision of new build housing and provision of commercial space.

A separate report is being considered by members on the November 2019 agenda requesting approvals in relation to further actions in relation to the proposed

development of North West Romford Development Proposal. Decisions made under that report may therefore be picked up and dealt with further under this report so that all cabinet approvals are fully aligned.

RECOMMENDATIONS

That Cabinet:

1. **Approve** in principle support for use of compulsory purchase powers and therefore to the Council preparing over the next six months for the 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 and adjacent to the land, including where appropriate new rights, located within the outline on the indicative CPO Red Line Plan at Appendix 1, for the purpose of securing the regeneration of the North West Romford Development Proposal in accordance with existing submitted and emerging planning policy.
2. **Approve** that by no later than the period outlined in recommendation one a separate report be prepared to update Cabinet on either
 - a) the ongoing preparations for making of a CPO(s) and further timescales involved; or
 - b) recommendations for the making of a CPO in support of the delivery of the proposed development.
3. **Approve** that the Director of Regeneration, after consultation with the Leader of the Council and Deputy Director Legal and Governance be authorised to take all steps necessary to enable a compulsory purchase order (or orders) to be made, including but not limited to;
 - a) Appointing surveyors, barristers and any other professionals required to prepare for and subsequently promote the CPO(s) and to facilitate the vacant possession of interests which are located within the CPO Red Line Plan;
 - b) Settling the final form and content of the proposed CPO(s) and associated documentation for approval, to include the;
 - CPO Red Line Plan;
 - Compulsory Purchase Order;
 - Schedule Freehold and Leasehold Interests
 - Statement of Reasons

- Equalities Impact Assessment
 - Consultation Report
- c) Taking such actions as necessary to facilitate the North West Romford Development Proposal by acquiring properties and proprietary interests by agreement, such actions to include; the relocation of businesses, residents and statutory undertakers apparatus or Communication Code Operators; and any other interests and setting out the terms for the withdrawal of potential or actual objections to the CPO(s); the entry onto the Land and other land for the purpose of carrying out surveys pursuant to section 15 of the Local Government (Miscellaneous Provisions) Act 1976 ;
- d) Amend the number of properties and leasehold acquisitions with the CPO Red Line Plan at Appendix 1, should such amendment be required to deliver the overall North West Romford Development Proposal;
- e) Issue notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and/or section 5A of the Acquisition of Land Act 1981; and
- f) Consider alternatives to the use of compulsory purchase powers.
4. **Note** that before a compulsory purchase order is made a further detailed report will be drafted seeking authority for the making of an Order (or Orders) and that such a report will need to address a number of issues including:
- (a) That the compulsory acquisition is necessary to facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired;
 - (b) That the Scheme complies with planning policy and the submitted Local Plan;
 - (c) That there is a compelling case in the public interest for the land to be acquired which outweighs the interference with the human rights of those with an interest in the land affected;
 - (d) That the Scheme will contribute to the promotion or improvement of the economic and/or social and/or environmental well-being of the local area;
 - (e) That the Scheme is viable and that there is a reasonable prospect that the Scheme can be implemented within a reasonable timescale;
 - (f) That agreements have been entered into with a private sector partner that provides for the delivery of the Scheme and indemnifies the

Council in respect of its costs of making the order, seeking its confirmation and compensation payments to affected owners, lessees, occupiers and any other potential claimants;

- (g) That there are no physical or legal impediments to the Scheme proceeding;
- (h) That all reasonable steps have been taken to acquire land and rights over land needed to deliver the Scheme by negotiation and voluntary agreement;
- (i) That alternatives to the use of compulsory purchase powers have been considered;
- (j) That the compulsory acquisition would not infringe the Council's equality duty.

REPORT DETAIL

1.0 BACKGROUND

- 1.1 The North West Romford Development provides an opportunity to transform an area within or adjacent to the Romford Strategic Development Area and the GLA Housing Zone. The Romford Strategic Development Area is one of Outer London's major growth and regeneration areas. The proposed development area, which this site falls within, is part the Romford Strategic Development Area as set out in the Submitted Local Plan. The existing buildings within the proposed development area provide mostly residential and commercial, with some community use, but are of variable quality with some in a very poor condition. Being in an area of low footfall, the utilisation of commercial properties is low with empty and hard to let properties at ground floor creating a negative impression of the town centre. As well as residential, commercial and community buildings, the development area also comprises a brownfield site, a part-built and stalled construction, and two secondary car parks.
- 1.2 The area is therefore totally inconsistent with the ambition set out in the Submitted Local Plan for Romford to provide high quality, contemporary urban living, integrated with a diverse and vibrant day-time and evening retail, leisure and cultural offer, modern commercial development and new employment opportunities. The Local Plan also commits to achieving a step change in the quality of environment and buildings. In addition, improvements to transport and public realm will help ensure that Romford is a well-connected and attractive place to live, work and visit. Growth and

development in Romford should strengthen its role as a metropolitan centre and deliver a step-change in its economic, social, and environmental well-being.

- 1.3 The submitted Local Plan and Romford Strategic Development Area sets out the Council's investment priorities in the area and guides and shapes the quality of the development that will be coming forward. It sets out a clear vision supported by key design and development principles that will ensure a coherent approach to any development activity. These documents seek to avoid piecemeal development with its lack of integration, poor design, build quality and lack of infrastructure provision.
- 1.4 The North West Romford Development proposal is being considered by Cabinet in November 2019 along with the principle of using the Council's CPO powers to acquire land interests and ensure comprehensive development is delivered.
- 1.5 The Cabinet will also be considering a recommendation to progress the entering into of a legal agreement with a developer, noting that the land acquisition process will be implemented by the developer and, in principle, is to be supported by the making of a CPO by the Council to enable the acquisition of the land interests that cannot be acquired by private treaty.
- 1.6 A CPO Indemnity Agreement (CPOIA) will be in place with the developer. As a party to the CPOIA the Council will use its CPO powers to support the land assembly by a CPO in relation to proposed area in order to secure the acquisition of third party interests in the sites and address the relocation or removal of the apparatus of any Statutory Undertakers or Communication Code Operators on the basis that the Council is fully indemnified by the developer against any CPO costs.
- 1.7 In order to authorise the making and implementation of the CPO(s), section 226(1) (a) of the Town and Country Planning Act 1990 requires that the Council must be satisfied that the use of the compulsory powers will facilitate the development, redevelopment or improvement of land, and that it is likely to contribute towards the promotion or improvement of the economic, social and environmental well-being of the area. Further, the Council must be satisfied that there is a compelling case in the public interest for making and promoting the CPO(s), that the use of the powers is proportionate, and that the public benefits associated with the proposed regeneration will clearly outweigh the interference with the rights of those affected. These matters will be explained and considered in detail in the draft Statement of Reasons to be submitted with a subsequent report (but attention is drawn to section 3 of this Report).

2.0 Progress

- 2.1 Preparatory steps have been undertaken in connection with (if necessary) the use of the Councils CPO powers, relating to private treaty negotiations and the land referencing exercise required to identify all parties with an interest in the land to be acquired. Browne Jacobson LLP has been appointed to provide specialist advice and support to the Council in respect of the application of CPO legislation.
- 2.2 Ardent were appointed as the Council's property advisors and they have compiled property cost estimates, including the site in question, together with valuations, compensation and disturbance costs where appropriate including exhaustive land referencing.
- 2.3 The Council has been actively negotiating with the owner of a significant part of the site in question and despite numerous attempts and best efforts the parties have been unable to reach agreement.
- 2.4 The Council, working with a developer delivering the North West Romford Development Proposal, must have attempted to engage with landowners via the undertaking of site visits, and holding meetings to explain the acquisition. The Council have established a dialogue with the owner of the land referenced in paragraph 2.3 in an attempt to bring the development forward. Wider consultations with stakeholders and landowners of the development have yet to be held.
- 2.5 There are 107 freehold interests identified relating to the Order Land in question as identified in the Land Referencing exercise for the North West Romford Development Proposal.
- 2.6 To support the acquisition process and if necessary the making of the CPO(s), the proposed developer, once terms are finalised, will engage architects to formulate and submit outline residential-led planning applications for the whole of the development area.
- 2.7 A CPO Indemnity Agreement will be in place, under which the developer will provide an indemnity for the Council's CPO costs including the costs of promoting the CPO and the compensation payable to third parties whose land and interests are acquired pursuant to the CPO. If other developers are appointed, similar indemnity agreements will be entered into with them.
- 2.8 There is an in principle allocation of £13,000,000 from the GLA of funding. This is provided to the Council to support the delivery of the scheme and is being administered by the Council.

3.0 Benefits of the Scheme

- 3.1 The purpose of the Scheme is the delivery of housing in the development area which will contribute significantly to achieving the Local Plan housing targets, as well as achieving the other deliverables and benefits described in this report.

- 3.2 The site proposed is located to the north west of Romford and characterised by a stalled development which does not enable the change in land use and transformation as envisaged in regional or local planning policy, or facilitate the vision of the Council to create a vibrant new residential community in the area.
- 3.3 The Scheme will involve the acquisition of land and proprietary interests within the area shown in Appendix 1 considered as necessary to facilitate change of land uses in the area in order to promote and enable comprehensive high quality housing development where existing landowners fail to bring forward high quality schemes that meet the Local Plan and Development Framework design and investment criteria and deliver substantial amounts of housing including affordable housing. The Scheme will in turn act as the catalyst for further investment and development activity in Romford and the wider Borough, improving the long term economic growth and visual amenity of the area and facilitating the creation of a sustainable new residential neighbourhood which will transform the profile and perception of the area.
- 3.4 The area represents a significant large-scale strategic residential development opportunity in London. The Council's intervention through this land acquisition intervention aims to act as a catalyst and encourage the bringing forward of comprehensive development within the area in order to bring about the transformational change and to achieve the identified development outputs and objectives of the Local Plan and Development Framework
- 3.5 The Statement of Reasons will detail the rationale and justification for the Scheme, including how the Scheme's development will contribute to the achievement of the Council's regeneration and planning objectives, and result in substantial public benefits being realised, both within the land included in the Scheme and in the wider area. It will be essential that, in due course, members review the draft Statement of Reasons before reaching a decision.
- 3.6 The draft Statement of Reasons must demonstrate that there is a potential for the construct of a compelling case in the public interest to make the proposed CPO(s). Development of the land which may be the subject of CPO(s) will itself contribute very significantly to the economic, social and environmental well-being of the area and will also be an important facilitator for the regeneration of the whole of the area. A CPO made under the provisions of s.226 (1) (a) of the Town and Country Planning Act 1990 represents the most appropriate mechanism to acquire the land given that the scheme is intended to secure regeneration of the North West Romford Area to ensure the delivery of new market and affordable homes but also wider infrastructure including open space, highway improvements and public realm enhancements.

- 3.7 The Guidance on Compulsory Purchase Powers and the Crichel Down Rules, published 29 October 2015 and last updated 28 February 2018 advise that in deciding whether or not to confirm a CPO, the Secretary of State can be expected to consider factors including the following:
- whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area, including, any non-statutory planning guidance where this has been consulted upon and is intended in due course to be incorporated into the development plan;
 - The extent to which the proposed purpose of acquisition will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area;
 - The potential financial viability of the scheme for which the land is being acquired; and
 - Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.
- 3.8 As to the first criterion (the planning framework for the area) the opportunity and need to regenerate this area have been consistently recognised by the Council and Strategic Partners over the past years and is recognised as a strategic location by the GLA.
- 3.9 The Development Framework now forms part of the evidence base for the Havering Local Plan, agreed by Cabinet and Council for statutory consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Havering Local Plan was submitted to the Secretary of State for examination on 27 March 2018 and examination commenced in early October 2018. The inspector is due to decide their opinion in September 2019.
- 3.10 As to the second factor (contributing to well-being), as explained above, the use of CPO powers, if approved in due course, to facilitate the regeneration and delivery of new homes (including affordable homes) on the land shown on the CPO Red Line Plan at Appendix 1 will contribute towards the Council's promotion of the following:

Economic well-being of the area

- New jobs will be created during the construction phase of the housing developments and there will also be opportunities for the local supply chain to benefit.
- The new housing will bring new residents to the Borough which will result in additional consumer spend in the local economy enabling local businesses to grow and create new job opportunities.
- Enabling the implementation of the infrastructure improvements, inclusive of public amenity.

Social well-being of the area

- New affordable homes will be provided for the local community and workforce, especially lower wage earners.
- The provision on new quality well designed homes with good daylight levels, good ventilation and the provision of high quality public realm will have positive health and well-being impacts for residents.
- Additional Council Tax revenue will be realised by the Council enabling increased spend on local services.
- There will be construction training and apprenticeship opportunities for local people as well as wider Social Value interventions.
- Achievement of the wider regeneration objectives including amenity and infrastructure improvements.

Environmental well-being of the area

- The redevelopment of the land will improve the visual amenity of the area replacing the poor quality stalled site with high quality new housing developments.
- The new housing will be constructed to high-energy efficiency standards resulting in reductions in energy consumption and carbon emissions.

3.11 As to the third factor (viability), this is outlined in the “financial implications and risks” section as set out in the Exempt Agenda part of this report.

3.12 As to the fourth factor (other means of achieving the Council’s purpose in acquiring the land), the purposes for which the land is to be acquired could not be achieved by any alternative means or by development in other locations. This is given further consideration in section 4 below.

3.13 There has been contact and discussions with key owners regarding the acquisition of their interests. This is considered a key element of the proposal and negotiations will continue to take place to try and secure land by private treaty.

3.14 Negotiations with owners thus far have delivered no acquisitions.

3.15 If the CPO is not made, then the only way of acquiring the land and interests needed to deliver the development scheme would be by agreement. Whilst it is recognised that implementation of a CPO is a matter of last resort discussions to date have made it apparent that, unless the CPO is made and confirmed, it is unlikely the Council or developer would be able to assemble the land and interests needed to bring forward a comprehensive housing development on the identified site.

4.0 Alternative Options

4.1 If one or more CPOs is not made, then the only way of acquiring the land and interests needed to deliver the overall development scheme would be by agreement. Following initial discussions, officers consider that securing

all of the required interests by negotiation is unlikely to be achieved, but this will be further reported on in due course.

- 4.2 Careful consideration will be given to the extent of the land and rights to be included in any CPO and whether it is necessary to include all of these interests. At present, all of the land shown on the Red Line Plan is considered by officers as likely to be necessary to ensure that the Scheme can be delivered.

5.0 Implementation

- 5.1 Cabinet approval will be sought for the making of one or more CPOs if it continues to be apparent that the required land and proprietary interests cannot be secured by agreement. Where more than one CPO is being recommended, the subsequent report will explain and justify that approach (addressing for example, the likely phasing and timing of development, and whether being undertaken by one or more developers). That report will detail the implementation steps to be taken once a CPO (or CPOs) is made.

6.0 Consultation

- 6.1 The land identified within the CPO red line has been the subject of exhaustive negotiations with the primary land owner. Despite the best endeavours of officers and the developer this has not concluded in a successful outcome. A detailed audit trail of discussions is in place.
- 6.2 It is recognised that wider and more formal consultation with land owners, those holding other interests, occupiers and the wider locality associated with the development area, will need to be commenced. The evidence of consultation is pivotal in bringing forward a CPO and as such are recognised preparations will be required to achieve this.
- 6.3 Consultation with affected parties is essential to good practice. In terms of administrative law this has a specific meaning, and if done should be proportionate, fair and inclusive. Sufficient time and information should be afforded to allow consultees to comment meaningfully on the matter in hand and the responses taken conscientiously into account by the decision maker.
- 6.4 It is Council policy that Equality and Health Impact Assessments (EqHIAs) are carried out when appropriate and in sufficient time to enable informed decision-making. One is being completed in respect of this matter. The purpose is to ensure a systematic approach and evidence that due regard is paid to any adverse impact on affected parties with protected characteristics. The assessment will also look at matters pertaining to health and socio-economics respectively.

7.0 Compulsory Purchase Order Indemnity Agreement

- 7.1 A continuing risk is the costs incurred by the Council relating to the compulsory purchase process (including compensation payments and claims arising from purchase or blight notices and relevant expenses). These costs will be met by the developer in accordance with a CPO Indemnity Agreement to be entered into with the developer (and as will be further confirmed in a subsequent report).
- 7.2 The Council and North West Romford developer will have to prepare for governance procedures to be in place to monitor costs against the agreed estimate that will be continually under review in order mitigate this risk.
- 7.3 The proposals are being developed on the basis that the costs associated with any CPO activity will be on the basis of a “back-to back” transaction with the development partner.

REASONS AND OPTIONS

8.0 Reasons for the decision

8.1 Utilisation of the Council’s CPO powers supports the delivery of the Councils regeneration objectives, enabling the assembly of sites to catalyse and kick start comprehensive residential development.

8.2 Other options considered:

1. Not implementing CPO powers – **Rejected**. Without making use of its CPO powers, the Council will be unlikely to be unable to acquire all of the land necessary to promote comprehensive residential development. Without the intervention of CPO(s), the existing stalled site would remain in place and infrastructure would not be improved.
2. If the CPO(s) is not made, then the only way of acquiring all of the land and interests needed to deliver the initial phases of housing development would be by agreement. It is clear however that unless a CPO is made and confirmed, it is unlikely that the land and interests needed for the housing development within a reasonable timescale and for a reasonable purchase price will be secured. The consequences of this would be that housing delivery would be delayed including the provision of much needed housing.

IMPLICATIONS AND RISKS

9.0 The key risks can be summarised as follows:

- 9.1 The affected party failing to be identified in the CPO(s) – a specialist land referencing firm, Ardent, have been appointed to undertake the land referencing exercise to mitigate against this risk.
- 9.2 The preparation of CPO(s) and related documents is a technical and complex area, carrying a risk of challenge. However, the Council has retained experienced professional advisors and the documents will need to be reviewed by leading counsel.
- 9.3 There is a risk the land owner or owners will seek sums in excess of the estimates for the costs of land acquisition. This risk will be mitigated through the receipt of professional valuation advice.
- 9.4 Further to all statutory procedures and reasonable endeavours being undertaken to undertake meaningful engagement with occupiers and landowners then there remains a limited risk that the Secretary of State confirmation may be refused. In the event that the CPO(s) were refused the full affordable housing will not be able to be delivered and the benefits of regeneration sought for the North West Romford area will be unlikely to be realised.

10.0 Financial Implications and risks

- 10.1 These are detailed in the Exempt Agenda part of this report.

11.0 Legal implications and risks

- 11.1 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004), provides that a local authority shall, on being authorised to do so by the Secretary of State, have the power to acquire compulsorily any land in their area if they are “*satisfied that the acquisition will facilitate the carrying out of development, re-development or improvement and is necessary to the achieve proper planning on or in relation to the land ...*”.
- 11.2 The power set out in s.226(1)(a) is subject to the limitation set out in s.226(1A) which provides that the exercise of the power under that subsection must not be exercised unless the authority thinks that the development, redevelopment, etc. “*is likely to contribute to the achievement of one or more of the following objects:*
- (a) the promotion or improvement of the economic well-being of their area;*
 - (b) the promotion or improvement of the social well-being of their area;*
 - (c) the promotion or improvement of the environmental well-being of their area.”*
- 11.3 With regard to the objects set out subsection (1A), the primary intended purpose of the Scheme is to secure development to enable the delivery of

homes, particularly the delivery of affordable homes. As such the subject scheme, would, as a matter of principle, be capable of fulfilling all three of the specified objects, and in particular the “promotion or improvement of social well-being”.

- 11.4 The Government’s advice on the use of compulsory purchase powers generally, and the use specifically of the power set out in s.226(1)(a) of the Town and Country Planning Act 1990 is set out in its “Guidance on the Compulsory Purchase Process and the Crichel Down Rules” (“the Guidance”). The Guidance represents the principle matters, which the Council, should it seek to acquire the site by use of CPO powers, will need to be in a position to demonstrate in evidence both when making and when seeking confirmation of that order.
- 11.5 In summary, the Council must be able to demonstrate, in addition to the legal requirements referred to above arising from the statutory enabling power:
- (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 bring 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, but will be further confirmed in a subsequent report seeking approval to the making of a CPO.

- 11.6 The overarching principle is that the local authority in seeking to exercise powers of compulsory acquisition is 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. These matters will be further addressed in a subsequent report seeking approval to the making of a CPO (or CPOs) but, in summary,
- (a) It is anticipated that a planning applications will be made for the development. There are no obvious reasons which are likely to impede the grant of the consent;
 - (b) Financial and physical resources are likely to be available to acquire the land and to deliver that scheme;
 - (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 submitted Local Plan and Development

- Framework, to which the development of the land proposed and for which acquisition is required will facilitate;
- (d) Negotiations have been undertaken with landowners;
 - (e) The regeneration of North West Romford is a key deliverable for the Council as set out in the Submitted 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 scheme the housing stock will be significantly improved with an increased supply of 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.
- 11.7 Consideration will be given to the provisions of the Human Rights Act 1998 including Article 8 (respect for private life and family life and home) and Article 1 of the First Protocol (right to peaceful enjoyment of possessions) as will be set out in the Statement of Reasons (and addressed further below). 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.
- 11.8 By way of conclusion, s.226(1)(a) of the Town and Country Planning Act 1990 represents a basis which would, in principle, be available to the Council to acquire land and interests in support of the North West Romford Development Proposal. 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, including in that all occupier negotiations have been undertaken or there is a clear plan to undertake such discussions in a meaningful way prior to a request for confirmation. If the statutory grounds are made out then the factors described in this report are considered to form a rational basis upon which the requested decisions could be made.
- 11.9 The main risks in pursuing a CPO will be further identified and explained in a subsequent report (including the mitigation of those risks). The legal risks entail risk of a contested CPO, judicial review of the Council's decisions, and the Council's exposure where the commercial arrangements made with a developer (or developers) of the scheme do not adequately protect the Council. These risks can be mitigated by ensuring that further professional advice is obtained on all aspects of the CPO (including observance of the required statutory processes involved), as well as via the terms of legal agreements made, including the CPO indemnity agreement(s).

12.0 Human Resources implications and risks

- 12.1 The Regeneration Directorate 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.
- 12.2 Delivering the land acquisition will at times require the input and resources of a number of Council services particularly, Housing, Planning, Highways, Legal and Property Services.

13.0 Equalities Implications and risks

- 13.1 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:

- (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 well-being 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.
- 13.2 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.
- 13.3 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.
- 13.4 The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, and social and community life of the Borough. The Scheme will provide a much-needed mix of housing. 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.
- 13.5 At present the land within the CPO Red Line area does not reflect a mixed and balanced community, and no scheme has been delivered that is policy compliant. 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, and wider range of unit sizes across all tenures and 10% of all residential units meeting Wheelchair Standards.
- 13.6 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 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.

Cabinet, 13 November 2019

- 13.7 The landowners located within the CPO red line area will be affected by implementation of the Compulsory Purchase Orders. The Council and developer are and will continue to endeavour to reduce this effect by extensive discussion. Consultation has and will continue to be undertaken.
- 13.8 An Equalities Impact Assessment (EqIA) in support of the CPO will need to be prepared for the Council by external Consultants to be appointed. This will need to be finalised and any recommendations implemented prior to the CPO Order being made.

BACKGROUND PAPERS

None