

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt. The Exempt Report and Appendices C, D, E and F are not available for public inspection as they contain exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. They are exempt because they *refer* to information relating to the financial or business affairs of any particular person (including the authority holding that information), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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| Subject Heading: | 2 Bridge Close, Romford, RM7 0AU - Release of Funding to Enable Acquisition by Bridge Close Regeneration LLP |
| Decision Maker: | Cllr Damian White – Leader of the Council |
| Cabinet Member: | Cllr Damian White – Leader of the Council |
| SLT Lead: | Neil Stubbings – Director of Regeneration |
| Report Author and contact details: | Nick Gyring-Nielsen Senior Regeneration Manager nick.gyring-nielsen@havering.gov.uk |
| Policy context: | The Council has taken full control of the former joint venture, Bridge Close Regeneration LLP (“BCR LLP”), in order to deliver the regeneration of Bridge Close, Romford pursuant to the Council’s ambitions for regeneration as set out in the Local Plan, the Romford Area Action Plan (2008), the Romford Town Centre Development Framework (2015) and the emerging Romford |

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| | <p>Masterplan and new Local Plan (awaiting adoption).</p> <p>On 16th December 2020, Cabinet approved the recommendation for the Council to fully fund and deliver all phases of the regeneration of Bridge Close, including land assembly.</p> <p>The acquisition of the property at 2 Bridge Close forms part of the land acquisition strategy that is integral to the delivery of the Council's ambitions and vision for the regeneration of Bridge Close.</p> |
| Financial summary: | <p>The Council has made provision and on 3rd March 2021 agreed the budget for the financial year 2021/2022 to provide funding to meet financial commitments, including those arising from the operation of Bridge Close LLP in accordance with the Business Plan 19/20 approved by Cabinet in February 2019 (as amended and approved by Cabinet on 16th February 2022). This report provides information relating to the funding of, and acquisition by BCR LLP of a key commercial freehold interest within the Bridge Close Regeneration area, facilitating the land assembly required for regeneration. It is proposed the land be held and managed by Bridge Close Regeneration LLP until required for development.</p> <p>The costs, funding and associated risks and issues are set out in the exempt Financial Implications and Risks section below.</p> |
| Reason decision is Key | Expenditure is in excess of £500,000 |
| Date notice given of intended decision: | 24/06/2021 |
| Relevant OSC: | Overview & Scrutiny Board Towns & Communities OSC |
| Is it an urgent decision? | No |
| Is this decision exempt from being called-in? | No |

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

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

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Council established a development vehicle, Bridge Close Regeneration LLP ('BCR LLP') to bring forward the proposed regeneration of the site known as Bridge Close. BCR LLP was until late 2020 jointly owned between the Council and FB BCR LLP, a private sector joint venture. On 16th September 2020, Cabinet approved the proposed acquisition by the Council of the private sector interest in BCR LLP and on 29th October 2020, the Council entered into a purchase agreement to acquire the interest in BCR LLP that it did not already own from the private sector partner. Further to this transaction, and in accordance with the Limited Liability Partnership Act 2000, Bridge Close Regeneration Nominee Company Limited was established as a wholly-owned vehicle of the Council to become the second and only other member of BCR LLP.

In light of the new ownership structure, on 16th December 2020, Cabinet approved a recommendation to progress the funding and delivery of the regeneration of Bridge Close through BCR LLP and the Council directly, facilitated by investment through the Housing Revenue Account. Cabinet approved a budget with referral to and subsequent agreement by Full Council on 3rd March 2021. On 16th February 2022, Cabinet approved the BCR LLP Business Plan Refresh 2022-2023 with referral of the related budget to full Council on 2nd March 2022. Subject to approval by Council, the Board of BCR LLP would endorse the Business Plan Refresh as the adopted Business Plan.

Until then, the development vehicle is governed by the Bridge Close Regeneration Business Plan 2019/20 ('the Business Plan') and a comprehensive suite of project documents, including the Members' Agreement, the Land Agreement, the Land Acquisition Strategy, the Security Agreement and the Loan Note Instruments, which amongst others, set out the strategy for land assembly and the terms and conditions for provision of funding to BCR LLP by the Council as Member.

Forming part of the Business Plan, the Land Acquisition Strategy sets out the objectives and processes for assembly of land interests that are required to deliver the project. This is in line with the draft red line plan for the proposed Compulsory Purchase Order to be made and attached to this report at Appendix A. In accordance with the Land Acquisition Strategy, BCR LLP has entered into a number of conditional and unconditional contracts with owners of commercial property at Bridge Close. Contracts have been entered into, having regard to the proposed use of the Council's Compulsory Purchase Powers and related regulatory framework and best practice guidance.

This report is the result of extensive negotiation and engagement with the Sellers conducted by BCR LLP in accordance with the Business Plan and the Council's ambition to negotiate the acquisition of property by way of private treaty prior to the potential use of Compulsory Purchase Powers as a means of last resort to ensure successful land assembly and the delivery of the scheme.

In accordance with the Land Acquisitions Strategy, this report recommends that BCR LLP enter into an unconditional contract to acquire the freehold interest in the commercial land at 2 Bridge Close, Romford RM7 0AU, title number EX51020 ('the Property'), and to pay for disturbance and other compensation payable pursuant to the regulatory framework regarding the use of Compulsory Purchase Powers and as per advice provided by Ardent Management Limited in exempt Appendix E.

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The Property is owned by two private individuals: (i) Leonard John Chaplin, and (ii) Malcolm Lawrence Chaplin (joint owners of the freehold under Land Registry Title Number: EX51020) (together, 'the Sellers').

This report recommends that a consideration be paid in full and final settlement of all interests, including payment of compensation and disturbance pursuant to Compulsory Purchase Order ('CPO') guidance and regulation. Full financial details underpinning the recommendation is set out in the exempt Financial Risks and Implications section of this report.

The recommendations to the Leader in relation to this decision arise from the Cabinet Report dated 16th February 2022 to approve the BCR LLP Business Plan Refresh 2022-2023 and related capital expenditure budget.

This report is provided to note the delegations, assessments and risk in relation to this purchase and to seek approval for that set out below:

Recommendations (for the Leader)

1. Approves the provision of funding to Bridge Close Regeneration LLP for the purchase of the Property at 2 Bridge Close, Romford, as set out in this report, subject to the provisions of recommendation 2 below.
2. Note that the Council will be provided with a loan note instrument to the value of the purchase after completion by Bridge Close Regeneration LLP.
3. Authorises the Director of Regeneration, acting in consultation with the Monitoring Officer and Section 151 Officer, to negotiate, finalise and enter into all necessary legal agreements, to bring into effect the proposed arrangements set out in Recommendations 1-3 inclusive.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3, Paragraph 2.1 (g) and (h) of the Constitution.

Cabinet considered the, Bridge Close Regeneration LLP Business Plan Refresh 2022-2023, dated 16th February 2022 and agreed the following:

That the Leader of the Council, after consultation with the S151 Officer, the Director of Regeneration Programme Delivery and the Director of Legal and Governance, approve detailed business cases, related viability assessments, funding arrangements and legal agreements as may be presented during the Business Plan 2019 period.

Furthermore, on 16th December 2020, Cabinet approved the provision of a budget for the regeneration of Bridge Close with specification of the land assembly programme and related budget, including specific mention of budget relating to the property at 2 Bridge Close, Romford.

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STATEMENT OF THE REASONS FOR THE DECISION

The Council has established a development vehicle, Bridge Close Regeneration LLP ('BCR LLP') to bring forward the proposed regeneration of the Bridge Close area.

The development vehicle is governed by Bridge Close Regeneration LLP Business Plan 2019/20 ('the Business Plan') and a comprehensive suite of project documents, including the Members' Agreement, the Land Agreement, and the Land Acquisition Strategy, which amongst others, set out the terms and conditions for the acquisition of property by BCR LLP.

Forming part of the Business Plan, the Land Acquisition Strategy sets out the objectives and processes for assembly of land interests that are required to deliver the project. In accordance with the processes set out in the Land Acquisition Strategy, BCR LLP has entered into a number of conditional and unconditional contracts with owners of commercial property at Bridge Close. Contracts have been entered into, having regard to the proposed use of the Council's Compulsory Purchase Powers and related regulatory framework and best practice guidance.

The funding and acquisition of 2 Bridge Close is in accordance with the Business Plan. The Land Acquisition Strategy will be amended with the acquisition details of 2 Bridge Close in accordance with the principles set out in the Land Agreement.

OTHER OPTIONS CONSIDERED AND REJECTED

Not to proceed with the funding and purchase of the Property – **Rejected**

Not proceeding with the purchase would undermine BCR LLP and would be contrary to the vision and principles enshrined in the BCR LLP Business Plan 2019/20 as updated on 16th February 2022, and the budget approved by Cabinet and agreed by Full Council on 3rd March 2021. It would further adversely impact on the general credibility and reputation of the Council, the proposed CPO and the development as a whole. Further detail contained in the exempt report.

PRE-DECISION CONSULTATION

None

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

Name: Neil Stubbings

Designation: Director of Regeneration

Signature: 

Date: 21.03.22

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Name: Julie Oldale


Designation: Deputy S151, Director of Finance

Signature: 

Date: 21/03/2022

Name: Alison McKane

Designation: Deputy Director of Legal Service and Legal Governance.

Signature: 

Date: 18 March 2022

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The recommended approach will involve the Bridge Close Regeneration LLP ('BCR LLP') undertaking the acquisition of the Property and paying appropriate disturbance and compensation (together, 'the Compensatable Interest') in accordance with CPO guidance. The Council has as a Member, and through 100% ownership of Bridge Close Regeneration Nominee Company Limited, full control of Bridge Close Regeneration LLP.

This financial outlay needs to be considered in the round in terms of financial prudence and the risks involved.

As Member of BCR LLP, in enabling BCR LLP to make the acquisition of the Property and funding the Compensatable Interest, the Council may rely upon the General Power of Competence ("general power") provided for in Section 1 of the Localism Act 2011 to pursue the proposed development of Bridge Close. The general power is a wide power which allows the Council to do anything that an individual may do (subject to public law principles), but it is subject to certain statutory limitations.

In establishing BCR LLP, the general power was relied on, as well as the fact that Sections 8 and 9 of the Housing Act 1985 impose a duty on local authorities to review housing needs in their district and provides them with related powers to provide housing accommodation by building and acquiring houses or by converting other buildings into houses. These powers can include provision via third parties.

The Council has investment powers by virtue of Section 12 of the Local Government Act 2003, but the objective of the Council in establishing BCR LLP (and in providing the proposed funding recommended in this Report) is not as an investment. The purpose was, and remains, the regeneration of Bridge Close, and as such may be undertaken via BCR LLP.

The Council has land acquisition powers by virtue of Section 120 of the Local Government Act 1972. This Section 120 power does furthermore support the general position adopted, because it also recognises and allows acquisitions to be made for any authorised purpose *"notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the council's functions."*

Therefore, the acquisition of the Property by BCR LLP and funding of the Compensatable Interest by the Council as Member of BCR LLP is lawful.

The CPO position is governed by the Guidance of 2019 issued by the Ministry of Housing Communities & Local Government. This makes clear that each CPO is considered for approval on its own merits. Whilst it is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, the acquiring authority must be able to demonstrate that there are sufficiently compelling reasons for CPO powers to be sought at the time. In addition, must an acquiring authority must:

- i. have a clear idea of how it intends to use the land which it is proposing to acquire; and
- ii. show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale;

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in order to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest. The acquisition of the Property is undertaken with Full Council approval of the budget to do so and with the agreement of the full funding envelope to progress the wider development and regeneration of Bridge Close through BCR LLP in accordance with the Council's vision.

FINANCIAL IMPLICATIONS AND RISKS

The financial implications are set out in the exempt report.

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

There are no Human Resource implications of, or risks relating to, the proposed decision.

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 respect of the proposed decision there are no implications or risks associated with the Council's statutory duty.

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

There are no health and wellbeing implications of, or risks relating to, the proposed decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no environmental and climate change implications of, or risks relating to, the proposed decision.

BACKGROUND PAPERS

None.

APPENDICIES

- Appendix A** Bridge Close Site Plan and Indicative Redline (Public)
- Appendix B** 2 Bridge Close Romford Title Register and Plan (Public)
- Appendix C** Unit 2 Bridge Close HOTS FINAL - 21 Sept 21 (Exempt)
- Appendix D** 2 Bridge Close Purchase Contract DRAFT – Oct 21 (Exempt)
- Appendix E** Ardent Recommendation 2 Bridge Close Romford and Leases (Exempt)
- Appendix F** 12 A-C Bridge Close Survey – Oct 21 (Exempt)

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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

Details of decision maker

Signed 

Name: Councillor Damian White

Cabinet Portfolio held: Leader of the Council

CMT Member title:

Head of Service title

Other manager title:

Date: 24/03/2022

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 _____

Signed _____

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| Executive Decision Report Audit Trail | | | | |
|--|---------------------|---------------|---------------|---------------|
| Position/Title | Directorate | Date Sent | Date received | Date Cleared |
| Leader of the Council | Cabinet Lead Member | 11 March 2022 | 11 March 2022 | 16 March 2022 |
| Director of Regeneration | SLT Director | 1 March 2022 | 1 March 2022 | 3 March 2022 |
| Legal Business Partner | Legal | 1 March 2022 | 1 March 2022 | 1 March 2022 |
| Finance Business Partner | Finance | 1 March 2022 | 1 March 2022 | 4 March 2022 |
| HR Business Partner | Human Resources | 1 March 2022 | 1 March 2022 | 2 March 2022 |
| Equalities Business Partner | Equalities | 1 March 2022 | 1 March 2022 | 2 March 2022 |
| Health Business Partner | Health | 1 March 2022 | 1 March 2022 | 2 March 2022 |
| Principal Democratic Services Officer | Democratic Services | 1 March 2022 | 1 March 2022 | 16 March 2022 |