

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt. The Exempt Report and Appendices D, E, F, G, H and I 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.

Subject Heading:	Release of Funding to Enable Acquisition of Land and Property at Bridge Close and Oldchurch Road by Bridge Close Regeneration LLP
Decision Maker	Councillor Ray Morgan
Cabinet Member:	Councillor Graham Williamson – Cabinet Member Development and Regeneration
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

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	<p>Area Action Plan (2008), the Romford Town Centre Development Framework (2015) and the emerging Romford Masterplan.</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 completion of the conditional sale agreements relating to the freehold of land at Bridge Close, numbers 4 and 12 Bridge Close and 20, 22, 24 Oldchurch Road is in accordance with the BCR LLP project documents and 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 2nd March 2022 agreed the budget for the financial year 2022/2023 to provide funding to meet financial commitments, including those arising from the operation of Bridge Close LLP in accordance with the Business Plan 2022 – 2023 as approved by Cabinet on 16th February 2022 and full Council on 2nd March 2022. This report provides information relating to the funding of, and acquisition by BCR LLP of key commercial and residential freeholds and land interests 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:	06/01/2021

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Relevant OSC:	Places
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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

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

Bridge Close Regeneration LLP ('BCR LLP') was established in February 2018 as a joint venture development vehicle to bring forward the proposed regeneration of the site known as Bridge Close (see plan at Appendix A) between the Council and FB BCR LLP, a private sector joint venture comprised of Savills Investment Management and First Base Limited.

On establishment of Bridge Close Regeneration LLP, sale agreements and related supporting contracts (together the 'Agreements') as summarised in exempt Appendix D, transferred to BCR LLP by deed of novation from FB BCR LLP, on 18 April 2018. The terms of the agreements were previously negotiated by the members of FB BCR LLP and contracts were exchanged on 22nd December 2016 following an open market tender exercise and the appointment of the members of FB BCR LLP as development partners by the owner of the property.

BCR LLP was until late 2020 jointly owned between the Council and FB BCR LLP. 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.

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, including full provision for all expected land assembly costs to enable the development of the scheme.

As a result of acquiring full interest in Bridge Close Regeneration LLP, the Council has reviewed the Agreements with the view to completing on revised terms, which serve to reduce risk and provide certainty to the BCR LLP. This review has been undertaken in accordance with the BCR LLP Business Plan and project documents.

BCR LLP is governed by the Bridge Close Regeneration Business Plan 2022-2023 ('the Business Plan', approved by Cabinet on 16th February 2022) 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 accordance with the Council's vision and the guidance set out in current and emerging planning policy for the comprehensive development of Bridge Close, underpinning the feasibility and delivery of regeneration outcomes associated with the development. Land assembly has been undertaken with the view to assembling the entire site without which a comprehensive development would not be possible. The funding and acquisition of the property subject to the Agreements is therefore integral to the Council's vision and the regeneration of Bridge Close.

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.

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The draft red line plan underpinning the Land Acquisition Strategy and the proposed Compulsory Purchase Order due to be made is attached to this report at Appendix A. This report is the result of extensive negotiation and engagement with the Seller conducted by BCR LLP in accordance with the Business Plan and the Council's ambition to agree the acquisition of property by way of private treaty, having regard to the commercial terms of existing agreements.

The Agreements relate to the following property interests (together 'the Property') in the ownership of investor, Raymond Daniel Assirati and Miniscatter Limited (controlled by Raymond Daniel Assirati, together the 'Seller'):

- i. Bridge Close (road), and land fronting Bridge Close – freehold (NGL126397).
- ii. 12 Bridge Close – freehold (EX53020).
- iii. 4 Bridge Close – freehold (EX52545).
- iv. 20, 22, 24 Oldchurch Road – freehold (BGL90429, EGL564512, EGL505511).

A plan depicting the above freehold interests subject to the proposed completion of the Agreements is attached at Appendix B. The property and land interests comprise a significant proportion of the freehold land within in the red line required for development and is integral to the comprehensive development of the site, noting the principle of comprehensive development accords with existing and emerging planning policy and underpins the case for strategic intervention and the achievement of regeneration outcomes.

It should be noted that a pumping station and related wastepipe network forms part of the interest in Seller's ownership prior to potential transfer. As of July 2022, Thames Water have confirmed adoption of the pumping station and responsibility for the ongoing service, maintenance and user service charging relating to the operation of the asset.

In accordance with the Land Acquisitions Strategy, this report recommends that BCR LLP completes on the Agreements to acquire the freehold interest in the Property, and that a consideration be paid in full and final settlement of all interests, including any heads of claim for 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 a Cabinet decision dated 16th February 2022, to approve the BCR LLP Business Plan 2022-2023 and related capital expenditure budget, including the budget for purchase of the Property.

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. To agree the Council will provide funding to BCR LLP to enable the completion of the Agreements to purchase the Property at Bridge Close, Romford as set out in this report, being:
 - i. Bridge Close (road), and land fronting Bridge Close – freehold (NGL126397).
 - ii. 12 Bridge Close – freehold (EX53020).
 - iii. 4 Bridge Close – freehold (EX52545).
 - iv. 20, 22, 24 Oldchurch Road – freehold (BGL90429, EGL564512, EGL505511)

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2. To 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. To delegate authority to the Director of Regeneration, acting in consultation with the Monitoring Officer and Section 151 Officer, to finalise and enter into all necessary legal agreements, to bring into effect the proposed arrangements in Recommendations 1-2 above.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Council's Constitution [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
4. Staff
5. Joint Committees

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

In this instance Part 3, Paragraph 2.1 (g) and (h) of the Constitution as agreed by Cabinet on 16 February 2022.

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 2022-2023 ('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.

Further to the novation of contracts, which had been subject to exchange with Seller already, completion of the Agreements is necessary for the acquisition of the Property to take place and to better manage risk for the Council in terms of financial outlay and provide certainty regarding long-term land assembly strategy. The Property forms a substantial part of the land within the

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red line designated for regeneration and is essential for the comprehensive development of the site, which underpins the Council's vision for the regeneration of Bridge Close.

The Land Acquisition Strategy will be amended with the acquisition details of the Property 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 completion of the Agreements to purchase the Property would undermine BCR LLP land assembly strategy and would run contrary to the Council's vision and principles for the regeneration of Bridge Close as enshrined in the BCR LLP Business Plan 2022-2033 and the budget approved by Cabinet and agreed by Full Council on 16th February 2022 and 2nd March 2022, respectively. It would further adversely impact on the general credibility and reputation of the Council, the proposed CPO and the development of the scheme as a whole. A delay to completion would subject BCR LLP to additional financial risk. Further detail is contained in the exempt Financial Implications and Risks part of this report.

Do nothing, continuing land assembly on the basis of existing terms – **Rejected**

Continuing land assembly on the basis of existing contract terms would expose the Council to significant additional cost and risk. This would deny the Council the opportunity to seek better value for money and cost certainty.

PRE-DECISION CONSULTATION

None

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

Name: Neil Stubbings

Designation: Director of Regeneration

Signature:

Date:

Name: Dave McNamara

Designation: Director of Finance (S151 Officer)

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Signature:

Date:

Name: Gavin Milnthorpe

Designation: Deputy Director of Legal Service and Legal Governance.

Signature:

Date:

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 by completing on the Agreements novated to BCR LLP on 18th April 2018 and as agreed with Seller. This would be effected by entering into a Supplementary Agreement setting out revised purchase terms.

The Council has as a Member, and through 100% ownership of Bridge Close Regeneration Nominee Company Limited, full control of Bridge Close Regeneration LLP.

The completion sum is in full and final settlement of any claims by Seller, including any potential claim for payment of appropriate disturbance and compensation (together, 'the Compensatable Interest') in accordance with CPO guidance. 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, 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 provision of funding to BCR LLP 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.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

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

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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 Red Line (PUBLIC)
- Appendix B** Indicative Maps of Property Interests (PUBLIC)
- Appendix C** Official Copies of Registers of Title and Title Plans Documents (PUBLIC)
- Appendix D** Legal Due Diligence Report (Agreements) (EXEMPT)
- Appendix E** Legal Advice (EXEMPT)
- Appendix F** Valuation Report (Property) (EXEMPT)
- Appendix G** Recommendation Report (EXEMPT)
- Appendix H** Pumping Station Condition Survey Report (EXEMPT)
- Appendix I** Pumping Station Adoption (EXEMPT)

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me as 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: Councillor Ray Morgon

Cabinet Portfolio held: Leader of the Council

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, Anthony Clements, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____