

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendices B, C, D, and E 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:	13 Bridge Close, Romford, RM7 0AU - Release of Funding to Enable Acquisition by Bridge Close Regeneration LLP
Cabinet Member:	Cllr Ray Morgon – Leader of the Council
SLT Lead:	Neil Stubbings – Strategic Director of Place
Report Author and contact details:	Nick Gyring-Nielsen Senior Regeneration Manager nick.gyring-nielsen@havering.gov.uk
Policy context:	<p>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 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 acquisition of the property at Bridge House forms part of the land acquisition strategy that is integral to the delivery of</p>

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	the Council's ambitions and vision for the regeneration of Bridge Close.
Financial summary:	<p>The Council has made provision and on 1st March 2023 agreed the budget for the financial year 2023/2024 to provide funding to meet financial commitments, including those arising from the operation of Bridge Close LLP in accordance with the Business Plan 2023 – 2024 as approved by Cabinet on 8th February 2023 and full Council on 1st March 2023. 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:	03/12/2021
Relevant OSC:	Place OSSC
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

People - Things that matter for residents []

Place - A great place to live, work and enjoy [X]

Resources - A well run Council that delivers for People and Place. []

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 LLP regulation, 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.

The development vehicle is governed by the Bridge Close Regeneration Business Plan 2023-2024 ('the Business Plan', as amended and approved by Cabinet on 7th February 2024) 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. 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 Seller 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 possible 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 13 Bridge Close, Romford, RM7 0AU with title reference EX61594 ('the Property') and to pay for disturbance and other compensation payable pursuant to the regulatory framework regarding the use of Compulsory Purchase Powers in line with advice provided by Ardent Management Limited, who are BCR LLP and the Council's appointed property advisor.

The Property is owned by Patel and Chand Acquisitions Limited (Companies House registration number 10683552) under Land Registry Title Number: EX61594 ('the Seller').

This report recommends that a consideration be paid in full and final settlement of all interests, including payment of compensation and disturbance pursuant to the Department for Levelling Up, Housing & Communities Guidance on Compulsory Purchase process and the Crichel Down Rules ('CPO Guidance') and regulation. Full financial details underpinning the recommendation is set out in the exempt Financial Risks and Implications section of this report.

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The recommendations to the Leader in relation to this decision arise from the approval of a Cabinet Report dated 8th February 2023, which authorised a key decision to approve the BCR LLP Business Plan Refresh 2023-2024 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. Approve the provision of funding to Bridge Close Regeneration LLP for the purchase of the Property at 13 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 to the value of the purchase after completion by Bridge Close Regeneration LLP.
3. Authorise the Strategic Director of Place, acting in consultation with the Deputy Director of Legal Services and Strategic Director of Resources, to negotiate, finalise and enter into all necessary legal agreements, to bring into effect the proposed arrangements set out in Recommendations 1-2 inclusive.

AUTHORITY UNDER WHICH DECISION IS MADE

Pursuant to decision of 7th February 2024, Agenda Item 5, Recommendation 3, Cabinet:

Agreed that the Leader of the Council, after consultation with the Strategic Director of Place, the S151 Officer the and the Monitoring Officer, approve detailed business cases, funding arrangements and legal agreements as may be required to deliver the regeneration of Bridge Close as per the Business Plan 2024-2025.

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 2023-2024 ('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 13 Bridge Close is in accordance with the Business Plan.

Negotiations between BCR LLP and the Sellers of the Property have been ongoing for a number of years. The owners have engaged meaningfully to effect the sale of the Property in light of the proposed CPO by the Council to facilitate land assembly at Bridge Close. A failure to acquire or

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otherwise facilitate the acquisition of the Property is likely to i) undermine the land assembly programme and the credibility with which discussions are currently underway with the Sellers and other owners and occupiers on Bridge Close; ii) undermine attempts to negotiate in good faith with owners in the future; iii) undermine and discredit the Council as custodian of the proposed CPO; and iv) expose the Council to reputational risk in relation to its aspiration to regenerate Bridge Close.

A report attached at Appendix E prepared by Ardent Management Limited, property and CPO advisor to the Council and BCR LLP, provides a recommendation to BCR LLP to acquire the Property at the agreed terms and to pay further statutory compensation arising in accordance with the CPO regulatory framework and CPO Guidance. It should be noted that the terms agreed with Sellers are in full and final settlement of all heads of claim pursuant to the CPO compensation code.

For the reasons set out above, it is recommended that the Council acquire the Property and pay compensation on the basis of the principles set out above and in the exempt Appendix B as referenced under the section, Financial Implications and Risks, below.

OTHER OPTIONS CONSIDERED AND REJECTED

Not to proceed with the 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 2023-2024 and the budget approved by Cabinet and agreed by Full Council on 8th February 2023 and 1st March 2023, respectively. It would further adversely impact on the general credibility and reputation of the Council, the proposed CPO and the development as a whole.

PRE-DECISION CONSULTATION

None

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

Name: Neil Stubbings

Designation: Strategic Director of Place

Signature:

Date:

Name: Kathy Freeman

Designation: Strategic Director of Resources

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Signature:

Date:

Name: Gavin Milnthorpe

Designation: Deputy Director of Legal Services

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 and paying the completion sum. The completion sum is in full and final settlement of any claims by the Seller, including any potential claim for payment of appropriate disturbance and compensation (together, 'the Compensatable Interest') in accordance with the compensation code. The Compensation Code is used to calculate compensation where land is being acquired pursuant to or under the threat of a CPO. This is made up of rules in various Acts augmented by case law and the CPO Guidance. This financial outlay needs to be considered in the round in terms of financial prudence and the risks involved.

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

As Member of BCR LLP, in undertaking the acquisition of the Property and paying 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."*

In view of above, the acquisition of the Property and provision of funding to BCR LLP by the Council as Member of BCR LLP is lawful.

The CPO position is governed by the CPO Guidance. 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, an acquiring authority must:

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

in order to show conclusively that the compulsory acquisition of the land included in the order

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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 and risks are set out in exempt Appendix B.

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 immediate health and wellbeing implications of, or risks relating to, the proposed decision. Completing the land acquisition process, however, will pave the way for the regeneration of Bridge Close to take place, which will include construction of new housing units. Housing is an important determinant of health and wellbeing, and impacts both on physical and mental health and wellbeing. Therefore, completion of the Agreements has potential to improve health and wellbeing longer term through provision of more good-quality and affordable housing units, and the creation of job opportunities for local residents.

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

APPENDICES

- Appendix A** Bridge Close Site Plan and Indicative Red Line (PUBLIC)
- Appendix B** Financial Implications and Risks (EXEMPT)
- Appendix C** Ardent Management Recommendation (EXEMPT)
- Appendix D** Purchase Contract DRAFT (EXEMPT)
- Appendix E** 13 Bridge Close Survey (EXEMPT)

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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:

21st March 2024

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____