



Meeting:	Cabinet
Date:	10 th July 2023
Classification:	General Release
Title:	Site A – Church Street Regeneration – Compulsory Purchase Order Resolution
Ward Affected:	Church Street
Fairer Westminster:	<p>The proposed comprehensive renewal of Site A, Church Street will meet the Council’s Fairer Westminster outcomes, including:</p> <ul style="list-style-type: none">• <u>Fairer Communities and Housing</u> – the scheme will provide high quality and affordable homes delivering a range of tenures beneficial to local residents and relieving overcrowding, making Westminster a more equitable place. The condition and energy efficiency of housing stock will be much improved. The scheme will enhance the quantity and quality of public realm in the area, allowing opportunities for physical activity and the library provision provides learning opportunities for children and adults alike;• <u>Fairer Environment</u> – the scheme proposes an ambitious sustainability strategy and will provide access to high quality green spaces and community facilities. The enhanced connectivity ensures that residents, workers and visitors are encouraged to travel through Westminster in more active and sustainable ways; and• <u>Fairer Council</u> – the scheme has been designed with the Church Street community in mind and includes a transparent engagement process with residents at its centre.
Key Decision:	Yes
Financial Summary:	<p>The Council will be responsible for paying all compensation to landowners, whether as a result of voluntary acquisition or through the CPO process. Whilst the Council will meet the costs of acquiring all outstanding interests in the Order Land (and has an approved acquisition budget of £40 million to do so), it proposes to enter into a partnership with a development partner to deliver the CPO Scheme by way of joint venture. The Council and the joint venture delivery partner will enter into a development agreement to secure the delivery of the CPO Scheme.</p>

Report of:

Debbie Jackson, Executive Director, Growth Planning and Housing

1 Executive Summary

- 1.1 The Church Street Estate (the "Estate") (of which the Order Land forms part) is a regeneration priority of the Council. The Estate comprises one of the priority housing estates identified in a Westminster Housing Renewal Strategy (the "Renewal Strategy") as being in need of improvement and significant investment and is part of the Council's drive to address the shortage of affordable housing in the City. In accordance with the Council's Fairer Westminster objective, the overarching objective of regenerating the Estate is to create a comprehensive renewal that brings about physical, economic, and sustainable change; and that creates additional homes and improves the lives of residents, businesses and visitors alike.
- 1.2 The Council's vision is to bring forward a regeneration scheme in respect of the entirety of the Estate to provide a significant boost to housing and affordable housing, improve the street market, providing new affordable and flexible workspace and employment opportunities along with a new cultural quarter. However, use of the Council's compulsory purchase powers is sought in respect of Site A (being that part of the Estate shown edged red on the plan (the "Draft Order Plan") at Appendix 1) (the "Order Land") at the present time.
- 1.3 The Order Land is bounded by Penfold Street to the north-east, Broadley Street to the south-east, the properties at 356-380 Edgware Road to the south-west and Church Street to the north-west. It comprises post-war housing blocks (Ingrebourne House, Lambourne House, Pool House, Cray House and Blackwater House) comprising 145 flats which were constructed in the 1970s.
- 1.4 The Order Land is predominantly residential with the exception of 15 individual commercial spaces and basement car park used for storage. At the centre of the Order Land is a communal courtyard. Basement car parking and market storage is located under the northern portion of the Order Land. A more detailed description of the Order Land (and the surrounding area) is contained in section 2 of draft Statement of Reasons appended to this Report (at Appendix 3).
- 1.5 In general, the Order Land has a low-quality urban character, further reduced by a lack of sufficient public realm (primarily hard landscaping), a lack of play and seating opportunities and insufficient lighting. The area suffers from barriers to accessibility and movement in and out of the area and pedestrians are generally restricted to narrow footpaths. Further the Order Land experiences overcrowding and the current condition of the housing and commercial stock is poor.
- 1.6 The vision for the Order Land is to provide an increased range of affordable and market housing and bring about long-term physical, economic and social sustainability of the neighbourhood. The Council has been working with Church Street residents to create a new high quality neighbourhood that offers an attractive mix of homes (including affordable homes meeting a range of housing needs) public realm and community facilities for a number of years. Comprehensive renewal proposals for the Estate (of which the Order Land forms part) were assessed by the local community and stakeholders between 7 March – 30 April 2019 as part of an options consultation. The decision to proceed with Option 3 (being part refurbishment, part redevelopment) was endorsed by residents and stakeholders in accordance with the requirements of

consultation under Section 105 of the Housing Act 1985 and on 6 June 2019 the Council's Cabinet resolve to accept the officer's recommendation and approve Option 3 as the preferred way forward.

- 1.7 Further consultation in terms of the means of delivery of the proposed regeneration scheme has since been undertaken (20 January – 17 February 2020), in addition to consultation targeted to those living in and near the Order Land in respect of updated designs for the proposed scheme. Following a significant period of pre-planning consultation undertaken in March and June/July 2021 a hybrid planning application (the "Application") was designed for the regeneration of the Estate in response to a detailed analysis of the Estate, the local context, the wishes of local residents and stakeholders and the Council's objective of delivering high-quality development. It was submitted to the local planning authority in November 2021. A ballot of residents conducted at the end of last year supported the regeneration proposals.
- 1.8 The detailed component of the planning application applies to the Order Land and seeks to provide:

"demolition of all buildings on Site A and erection of mixed-use buildings providing ground floor flexible commercial use floorspace (use class E), a library (use class F1), market storage (use class B8), residential units (use class C3), landscaped amenity space, car parking, motorcycle parking, cycling parking, market infrastructure and associated works"
- 1.9 Outline planning permission was sought for the remainder of the Estate (Sites B and C and Church Street Market) for:

"the demolition of buildings and structures. The erection of buildings and works of alteration to existing buildings for the following uses: (a) flexible commercial floorspace (Use Class E); (b) community floorspace (Use Class F1 and F2); (c) public houses, wine bars, or drinking establishments floorspace (Use Class sui generis); (d) market storage (Use Class B8); and (e) residential floorspace (Use Class C3). Ancillary residential facilities; associated infrastructure; streets, open spaces, landscaping and public realm; car, motorcycle and bicycle parking spaces and delivery/servicing spaces; new pedestrian and vehicular access; market infrastructure and ancillary facilities; utilities and other works incidental to the proposed development."
- 1.10 On 13 December 2021 Cabinet gave "in principle" approval to the use of the Council's statutory compulsory purchase powers in respect of the proposed regeneration of the Order Land, should all reasonable attempts to acquire the necessary land and interests fail. This report provides an update on the progress and seeks Cabinet approval to progress to the making of a compulsory purchase order (the "Order") of land and property and new rights required for the redevelopment of the Order Land, whilst continuing to negotiate and complete acquisitions of legal interests.
- 1.11 On 28 March 2023, the local planning authority at a meeting of its Planning Applications Committee resolved to grant planning permission pursuant to the Application subject to the completion of a unilateral undertaking pursuant to section 106 of the Town and Country Planning Act 1990 ("TCPA"). Planning permission is the means by which it is proposed to deliver the regeneration of the Order Land (the "CPO Scheme").

- 1.12 The detailed part of the Application proposes up to 428 Class C3 residential units, 605 sqm (GIA) of Community Floorspace (Use Class F1), 341 sqm (GIA) of Commercial Floorspace (Use Class E), 1,124 sqm of Market Storage Floorspace (Use Class B8), 2,603 sqm of plant and services and 896 sqm of parking. The two buildings comprised within the development will be separated by a new pedestrian and publicly accessible street (known as New Street Gardens) that runs northwest to southeast through the Order Land. It will comprise large areas of soft landscaping and play equipment. In addition, the buildings will be served by communal and podium level gardens. Both blocks include commercial floorspace (Use Class E) at ground floor on the Church Street frontage. Block A1 would also include a new library (Use Class F), to replace the library to be demolished on Site B (within the Estate), at ground and mezzanine level and accessed via Church Street.
- 1.13 The CPO Scheme proposes a net increase of 115 affordable homes (comprising 73 social rented units and 42 intermediate units) at the Order Land, whilst offering the re-provision of existing affordable homes, allowing existing residents the right to return.
- 1.14 Although the Council owns the freehold interest of the Order Land (albeit there is a small parcel of unregistered land where the freeholder cannot be identified), implementation of the CPO Scheme requires the acquisition of leasehold interests and new rights. The Council has endeavoured to acquire the necessary interests by negotiation, but it has not been possible to reach agreement with all of the parties affected. In accordance with The Guidance on Compulsory Purchase Process and The Crichel Down Rules, 2019 (the "Guidance"), the Council will continue (in parallel with the compulsory purchase process) to make attempts to acquire outstanding interests by private treaty with a view to limiting the number of interests that need to be compulsorily acquired.
- 1.15 Investigations indicate that there are a number of parties who may have the benefit of rights, easements and covenants over the Order Land (including the potential for unregistered rights) which may be affected by the CPO Scheme. Should it be necessary (and only where the Order Land (or relevant part) is 'no longer required for the purpose for which it is held' (per section 122 of the Local Government Act 1972)), officers will seek Cabinet approval to appropriate the relevant land for planning purposes, namely the construction of the CPO Scheme. This will engage the provisions of section 203 of the Housing and Planning Act 2016 (the "HPA 2016") which enables certain third party rights and restrictions to be overridden when development is carried out. This overriding reduces the risk to the delivery of the CPO Scheme by allowing the Council to carry out the development even if it interferes with existing rights. It means an affected third party who suffers a relevant loss shall be entitled to claim statutory compensation under section 204 of the HPA 2016, although they will not be entitled to further damages and/or an injunction, which might delay or prevent development. Any proposed appropriation will form part of a separate report to Cabinet in due course and does not fall for consideration now.
- 1.16 Having considered how the redevelopment is to be carried out, in order to ensure delivery, the Council is also seeking to exercise powers under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (the "1976 Act") for the compulsory purchase of new rights over the Order Land (shown coloured blue on the Draft Order Plan at Appendix 1). Section 13 of the 1976 Act enables local authorities to purchase

compulsorily new rights over land, where the acquisition of the land itself is not required and where such rights are not in existence when the compulsory purchase order is made. In particular, crane oversailing rights and rights of access are sought for the purposes of erecting scaffolding and undertaking and maintaining works. Without these rights, it would not be possible to deliver the CPO Scheme, and therefore the rights have been included in the Order.

- 1.17 Given the time required to complete the compulsory purchase process it is considered sensible to now proceed to make a compulsory purchase order in respect of the Order Land in order to meet the aims of the Church Street regeneration. Accordingly, this report seeks Members' support for a resolution for the making of the Order to assemble the remaining interests in the Order Land which are not owned by the Council and secure the rights necessary to enable the CPO Scheme to be delivered, should attempts to acquire the necessary land and interests by agreement fail.
- 1.18 The extent of the Order Land is identified in the draft Order Plan attached to this report at Appendix 1 (subject to final boundary confirmation). A schedule of interests is currently being prepared.

2 RECOMMENDATIONS

Cabinet is asked to:

- 2.1 Agree, subject to the consideration of the matters set out in this report, to the making of a Compulsory Purchase Order pursuant to Section 226(1)(a) of the TCPA and section 13 of the 1976 Act in respect of the Order Land, to facilitate delivery of the CPO Scheme.
- 2.2 Delegate authority to the Executive Director of Growth, Planning and Housing (subject to any expenditure to be incurred to be within the budget approved for the promotion of the CPO and the acquisition of the property and rights necessary to enable the redevelopment of Site A) to:
- (a) agree amendments to the Draft Order Plan and finalise the CPO schedule of interests before the making of the Order (if required to give effect to any of the matters delegated pursuant to the recommendation);
 - (b) agree the precise scope of rights to be acquired over properties that surround the Order Land (if required to give effect to any of the matters delegated pursuant to the recommendation);
 - (c) agree amendments and approve the final form of the Statement of Reasons before making the Order;
 - (d) agree amendments and approve the Equalities Impact Assessment before making the Order;
 - (e) to agree the terms of and enter into any documentation required to settle any property rights / matters necessary to progress the regeneration of the Order Land;

- (f) take all steps to secure the making, confirmation and implementation of the Order including the publication and service of all notices and the promotion of the Council's case at any public inquiry;
- (g) negotiate, agree terms and enter into agreements with affected parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the Order and/or undertakings not to enforce the Order on specified terms, including (but not limited to) where appropriate seeking the exclusion of land from the Order, making provision for the payment of compensation and/or relocation;
- (h) in the event the Order is confirmed by the Secretary of State or an Inspector in the case of delegation, to advertise and give notice of confirmation and thereafter to take all steps to implement the Order including, as applicable, to execute General Vesting Declarations and/or to serve Notices to Treat and Notices of Entry in respect of interests and rights in the Order Land; and
- (i) take all steps in relation to any legal proceedings relating to the Order including defending or settling claims referred to the Upper Tribunal and/or applications to the courts and any appeals.

3 Reasons for Decision

- 3.1 Church Street is one of the five priority estates identified in the Renewal Strategy as needing significant improvement and investment. In line with the Council's strategy for Fairer Westminster 2022 - 2026, the overarching objective of regenerating Church Street is to create a comprehensive renewal that brings about physical, economic and sustainable change that creates additional homes and improves the lives of residents, businesses and visitors alike. The Order Land is a key part of the regeneration area.
- 3.2 Whilst significant progress with property owners has been made in discussing acquisitions that will be necessary to deliver the proposals, land assembly remains a critical issue for the delivery of the CPO Scheme. Clearly the estate renewal cannot be delivered across properties that are not wholly in the ownership or under the control of the Council and without this, certainty cannot be gained to the likely programme for delivery of the complete renewal of the Order Land.
- 3.3 To enable the comprehensive redevelopment of the Order Land all relevant land interests will need to be acquired, in a timely way. The government recognises in the Guidance, that if acquiring authorities wait for negotiations to break down, this can have detrimental impacts on the timing of delivery of projects. Therefore, depending on when the land is required, the Guidance considers it sensible for an acquiring authority to:
 - plan a compulsory purchase as a contingency measure; and
 - initiate formal procedures.

- 3.4 Importantly, the Guidance expressly recognises that such steps "*...help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations*".
- 3.5 The Guidance requires acquiring authorities to attempt to acquire land by agreement before embarking on the CPO process, although it is recognised that for schemes involving the acquisition of the number of interests, it is sensible to run the CPO process in parallel with ongoing negotiations.
- 3.6 This report seeks Members' support for a resolution for the making of a compulsory purchase order to assemble the Order Land and rights needed to bring forward the CPO Scheme.
- 3.7 The report for the in-principle resolution acknowledged that before the making of the Order members would need to be satisfied on the following:
- that there was a compelling case in the public interest;
 - that there were no planning, funding or other legal impediments to the Order Land being delivered or where impediments exist there are reasonable prospects for overcoming those within a reasonable timescale;
 - that all reasonable attempts to acquire all interests by agreement have not been successful;
 - that there is justification for any interference with the human rights of those with an interest in the land affected; and
 - that any assessment of the impacts on residents, visitors and employees be measured and evaluated, with special focus on the likely effect of the proposals on those sharing protected characteristic (race, pregnancy, age, disability, gender reassignment, marriage/civil partnerships, religion/belief, sex, sexual orientation (as defined by the Equality Act 2010)) be made, in order for the Council to fully understand those impacts, and to consider measures to mitigate impact, make reasonable adjustment, and foster good relations between those sharing protected characteristics, and those who do not.
- 3.8 The remainder of this report and the draft Statement of Reasons at Appendix 2 set out the justification for the making of the Order under section 226 of the TCPA.
- 3.9 The main benefit of the use of compulsory purchase is the certainty of being able to obtain vacant possession to a planned programme. This is vital in order give the Council confidence that the entirety of the Order Land will be delivered and be reassured of the effective use of public funds deployed in the development of the project. The use of compulsory purchase provides a level of certainty on project programming which in turn would allow the Council to enter into commercially sound construction contracts. This is because, once the Order is confirmed and the legal challenge period has passed, the Order can be implemented and a date for vacant possession fixed in accordance with the project programme which can immediately follow or coincide with the programme for redevelopment.

Proposed Order Land

- 3.10 The extent of the Order Land is identified in the Draft Order Plan at Appendix 1. The potential new rights sought pursuant to the Order are shown coloured blue on the Draft Order Plan.
- 3.11 A description of the Order Land is contained in Section 2 of the draft Statement of Reasons (at Appendix 2 to this Report), which description is subject to confirmation following the completion of the land referencing exercise currently being undertaken.

Land interests to be acquired and negotiations

- 3.12 Part of the justification for obtaining confirmation of the Order will involve demonstrating that compulsory powers are necessary because the land required cannot be acquired by agreement. Compulsory purchase is seen as a last resort and the acquiring authority must be able to show that it has made genuine attempts to acquire the land by negotiation.
- 3.13 The Council has made significant efforts to acquire all interests by voluntary agreement and this can be thoroughly evidenced. The Council will continue these efforts.
- 3.14 The Council has been seeking to acquire the Order Land through private treaty negotiation to enable delivery of the regeneration proposals. At the start of the purchase process there were 47 long residential leasehold interests throughout the Order Land that needed to be acquired by the Council. Of the residential leasehold interests approximately 31 were owned by non-resident lessees.
- 3.15 Since negotiations with residential lessees to acquire those leasehold interests began in 2018, the Council and its agent Westminster Community Homes ("WCH") have purchased 40 properties. Of the remaining 7 residential leasehold interests to be acquired, 4 are currently under offer to the Council and a further 2 in active negotiations. Efforts continue to be made with the final leaseholder yet to enter into negotiations to sell by agreement.
- 3.16 With regard to council tenants, there were a total of 98 secure tenants within the Order Land. All secure tenants have been re-housed.
- 3.17 The CPO Scheme will provide up to 428 new homes across two buildings, and will provide the opportunity for all returning council tenants and resident leaseholders to be re-housed on the regenerated Estate, should they wish.
- 3.18 There are 15 commercial interests comprised in the Order Land, including the unit occupied by the Council's Regeneration Team. 13 are currently occupied. Discounting the unit occupied by the Regeneration Team and a tenant due to vacate in August 2023, of the remaining 11 commercial leasehold interests, 2 have been served with notices pursuant to section 25 of the Landlord and Tenant Act 1954 (the "1954 Act") and 5 are occupying pursuant to unprotected leases such that the Council is able to secure vacant possession of such units. Of the remaining 4, 3 are in active negotiations with the Council. Efforts continue to be made with the final commercial leaseholder yet to enter into negotiations to sell by agreement.

- 3.19 The Council is working with affected businesses to help them to find suitable, available premises to which to re-locate or, to agree on ending their respective lease with the payment of compensation. Presently, two commercial interests occupying under leases protected by the 1954 Act have expressed an interest in moving to an alternative location with the remainder considering ceasing operation. In respect of those interests protected under the 1954 Act, the Council has appointed Savills, a property consultancy with a specialism in compulsory purchase and compensation, to lead negotiations to purchase their interests by agreement.
- 3.20 The Council is developing a more formal Business Relocation Strategy which records and finalises its approach to the acquisition of commercial interests comprised within the Order Land and the engagement, advice and assistance given to occupiers of commercial interests to relocate from the Order Land to a suitable, alternate location. The strategy identifies measures that are/will be put in place to help minimise the impacts of the Order on commercial interests and the community that they serve. The Regeneration Team is working with commercial occupiers to assess their ongoing needs and accommodation requirements and undertake alternative site searches to enable occupiers to consider suitable options for relocation, preferably within proximity to the Order Land.

The need and justification for the use the Council's CPO Powers

- 3.21 Whilst the Council is seeking to acquire the required interests through negotiation, consistent with other schemes of this nature, it is important to have measures in place to manage the risk of any third parties being unwilling to voluntarily agree to sell their interests within the required timescale or at a reasonable cost.
- 3.22 In order to compulsorily acquire land the Council must have a relevant statutory power that authorises such acquisition. In addition the Council must use the most specific and appropriate power available to it. In the case of a CPO in connection with the Order Land, it has been decided that the Council's planning powers under section 226 of the TCPA are the most appropriate, as the proposals would make a major positive contribution to the economic, social and environmental well-being of the area and so meet with the requirements of this statutory power. In addition, as new rights are required over land, the Order will also be made pursuant to section 13 of the 1976 Act. The rights that are sought are concerned with oversailing and facilitating access for construction and subsequent maintenance of the development. Should the Cabinet approve the resolution, authority will be delegated (in accordance with paragraph 2.2 above to agree the precise scope of rights to be acquired over properties that surround the Order Land). In using the enabling powers pursuant to section 226 (1) (a) of the TCPA and Section 13 of the 1976 Act, the Council is using the most specific powers available to it for the purposes of the redevelopment of the Order Land.
- 3.23 Detailed advice to acquiring authorities on the use of compulsory purchase powers is set out in the Guidance. The Guidance provides helpful information on the matters which the Secretary of State will take into account when considering whether or not to confirm a CPO, so should be fully considered by Members now in relation to the making and implementing of the Order. These matters as they relate to the Order Land are considered below and in the appended draft Statement of Reasons.

- 3.24 The Guidance states that in considering whether or not to confirm a CPO, the Secretary of State will have regard to the extent to which the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and National Planning Policy Framework.
- 3.25 The Council adopted the Westminster City Plan 2019 – 2040 on 21 April 2021 (the "City Plan"). It sets out the vision for the City of Westminster up to and beyond 2040, putting in place a policy framework that would deliver this vision. Many of its policies are therefore highly relevant to the CPO Scheme.
- 3.26 Policies 8 and 9 within the City Plan are geared towards encouraging applicants to come forward with more housing, optimising housing delivery sites and finding new innovative ways to deliver more homes. Through this approach, there is an expectation that the London Plan derived target of 20,685 homes across the plan period (2019-2040) will be exceeded.
- 3.27 Policy 6 within the City Plan sets out that the Estate (of which the Order Land forms part) is a spatial development priority with the aim to bring about much needed housing growth, new jobs (by linking further employment opportunities in the CAZ to the local community), enhanced community facilities, new green infrastructure and high-quality design to make the most effective use of land. In accordance with such policy imperatives, the regeneration of the Order Land presents the opportunity to improve quality of life for existing residents, deliver enhanced community uses, improve the public realm and enhance accessibility, connectivity and safety.
- 3.28 The proposed boost to housing supply, improvements to the quality of homes, the provision of enhanced community facilities and improved public realm for residents (as proposed by the CPO Scheme) is strongly supported by adopted national, regional and local policy objectives and by policies within the City Plan, and specifically meets the aims of City Plan policy 6.
- 3.29 In the context of the above, and the very recent resolution to grant planning permission, the Council is satisfied that use of the Council's powers of compulsory purchase for site assembly is justified and that the purpose for which the Order Land is being acquired fits in with the adopted planning framework for the area.
- 3.30 The Guidance states that the Council must demonstrate a 'compelling case in the public interest', and that the public benefits that will arise from the purpose for which the land is to be acquired (i.e. the CPO Scheme) outweigh the impact on those affected. The Council must demonstrate both the need for the CPO Scheme in principle and in general and the need to acquire each and every parcel of land included in the Order. On the basis of the legal advice and the Guidance, officers are of the view that such a compelling case can be demonstrated from the desirability of implementing the CPO Scheme – in particular from the following substantial wider benefits resulting from it:
- **New and improved homes**
Westminster has an acute need for additional homes covering a range of tenures, especially affordable housing, which the Order Land regeneration will help to deliver. The Order Land is currently characterised by high levels of

social and economic exclusion and suffers from overcrowding. The CPO Scheme intensifies the use of land to support additional market, intermediate and social housing all of a high-quality, which is highly accessible. The proposals will significantly increase the amount of affordable housing floor space in line with the Council's adopted policies. A greater proportion of larger units will also better meet the needs of existing residents and the re-balancing of tenures will create a more inclusive and balanced community.

- **Public realm and amenity space**

The existing public realm is sparse and dominated by vehicles and on-street parking. The introduction of new publicly accessible, pedestrianised spaces with natural surveillance will create an attractive and secure area for residents and serves to extend the Order Land to the wider area, drawing in footfall and interest amongst visitors. The areas for children's play provided at ground level ensure that opportunities for play and social interaction will benefit the wider community and will link in with the growing green network in the Church Street Ward. The addition of balconies will provide opportunities for private amenity space.

- **Community uses**

The new library, in qualitative terms is significantly better than the existing offer providing services for children, learning rooms and community space that can flex to changing needs and users. The library garden will also provide opportunities for recreational use that will contribute to the physical and mental well-being of the community. Although it is noted that there will be a loss of commercial floorspace to accommodate this increased library provision, it is still considered that the mix of commercial and community uses on offer will, when taken together, meet residents' day to day needs and support opportunities for community interaction.

3.31 Section 7 of the draft Statement of Reasons (at Appendix 2) more fully sets out the benefits attributable to the CPO Scheme.

3.32 Implementation of the CPO Scheme will ensure that the 5 key objectives of the Renewal Strategy as set out below will be fulfilled:

- to increase the supply and quality of affordable housing to meet a variety of local needs including for families;
- to improve the quality of the local environment with outstanding green and open spaces that promotes low energy consumption and environmental sustainability;
- to promote a high quality of life for people of all ages and backgrounds in safe cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities;
- to enable people to maximise economic opportunity with support for training, employment and enterprise, and housing tenures which help those in work to remain in the City;

- to create a more distinct sense of neighbourhood ending the physical divide between Westminster's estates and surrounding streets.
- 3.33 The Council must also demonstrate that there are no other impediments to proceeding with the CPO Scheme, for example the need for planning permission, other consents or physical constraints. As detailed in this Report, a resolution to grant planning permission pursuant to the Application was made on 28 March 2023. Officers are satisfied that, there are no fundamental impediments to the implementation of the CPO Scheme and that it will proceed if the Order is confirmed as explained further in the draft Statement of Reasons.

Funding, resourcing and delivery

- 3.34 The Council also needs to demonstrate that it has, or at least will obtain, the resources necessary not only to pay compensation for the land/interests interfered with but also to implement the CPO Scheme on the Order Land. The reason for this requirement is to avoid a situation in which private land has been acquired compulsorily for a purpose which, in the event, cannot be achieved for lack of funds.
- 3.35 The cost of securing vacant possession of the Order Land will be met from an approved acquisition budget of £40 million. As of April 2023, £27.6 million has been spent on the vacant possession strategy. Whilst the Council will meet the costs of acquiring all outstanding interests in the Order Land, it proposes to enter into a partnership with a development partner to deliver the CPO Scheme by way of joint venture and has obtained a shortlist of bidders who will be invited to tender. This process is ongoing with negotiations to last throughout 2023. However, a number of parties have expressed interest. The Council and its delivery partner will enter into a development agreement to secure the delivery of the CPO Scheme.
- 3.36 A viability appraisal was submitted with the underlying planning application which concludes that, by applying the GLA's sensitivity analysis, the CPO Scheme can be considered deliverable.
- 3.37 In light of the above, funds have been allocated to complete the land acquisition process and the Council is confident that a suitable developer partner with sufficient funding in place will be secured to deliver the CPO Scheme.

Whether the purpose for compulsorily acquiring the land could be achieved by other means

- 3.38 Officers are satisfied that all of the Order Land identified is necessary to deliver the CPO Scheme. The purpose for which land and rights are proposed to be acquired is to enable the comprehensive redevelopment of the Order Land in accordance with the adopted planning policy framework and the preferred option developed with residents. The planning permission (once granted pursuant to the local planning authority's resolution) will secure the comprehensive redevelopment of the Order Land in general accordance with those policies and proposals.
- 3.39 Whilst the Council owns a substantial part of the Order Land, it needs certainty that all land required to deliver the CPO Scheme is within its control. If compulsory purchase is not achieved then the comprehensive development of the Order Land will not come

forward and development will be limited to a significantly reduced (and compromised) scheme, reflecting the smaller area within the Council's ownership. This would thwart or delay much needed redevelopment of the area and the reduced scheme would not achieve a comprehensive redevelopment and result in considerably less benefit to the local community. The additional residential units (including an uplift in affordable housing), public realm and enhanced pedestrian links would be lost.

4 Legal Implications

- 4.1 The Council is empowered under section 226(1)(a) of the TCPA, to acquire any land in its area if it is satisfied that the proposed acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council may utilise its compulsory purchase powers under section 226 of the TCPA:
- (a) if it thinks the acquisition will facilitate the carrying out of development, or redevelopment or improvement on, or in relation to the land or
 - (b) which is required for a purpose which is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- 4.2 In order to make an acquisition under (a), the Council must also consider that the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area (per section 226(1A) of the TCPA).
- 4.3 In this case the proposal is to seek approval to make a CPO for the purpose of facilitating the comprehensive redevelopment of the Order Land to enable the delivery of the CPO Scheme. Overall, the development is considered to make a major positive contribution to the economic, social and environmental well-being of the area.
- 4.4 The Acquisition of Land Act 1981 governs the procedures which apply to compulsory acquisition. The Compulsory Purchase Act 1965 governs post-confirmation procedures and the Land Compensation Act 1961 governs the amount and assessment of compensation. The 1976 Act governs the granting of new rights.

5 Human Rights

- 5.1 The Human Rights Act 1998 (the "1998 Act") places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest and that the use of such powers is proportionate to the ends being pursued.
- 5.2 In reaching their decision, Members should take account of the provisions of the 1998 Act. As a public authority, the Council must not act in a way which is incompatible with a Convention right protected by the 1998 Act. The relevant human rights protected by the 1998 Act which are engaged by the decision to authorise the compulsory purchase are Article 8 (right to a private and family life), Article 1 of the First Protocol of the Convention and Article 6 (1) (right to a fair and impartial public hearing within a reasonable time).

- 5.3 A key provision of the Guidance is the need for there to be a "compelling case in the public interest" for compulsory acquisition. It is necessary in this to consider Convention rights which are engaged by and potentially affected by the making and confirmation of a CPO. In relation to Article 1 of the Convention which provides a right for the peaceful enjoyment of possessions, a fair balance is required to be struck between the public interest and private rights in relation to possessions/property. Article 8 is not an absolute but qualified right, such that any interference with the right to respect for a person's private and family life and home must be proportionate to any legitimate aims, such as promoting regeneration for the well-being of the area. "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim.
- 5.4 Article 6(1) is engaged because the CPO process involves determinations as to third party rights of individuals, as to which they have the right to a fair hearing. Similarly, to Article 8, the Article 6(1) rights are also qualified and some restrictions may be justified to pursue legitimate aims and provided that they are proportionate. Potentially affected individuals have had the opportunity to date to object to the redevelopment proposals through the planning process. Individuals whose human rights could potentially be interfered with as a result of the Order can object to the validity of the Order and such objections would be considered at an independent public inquiry, which would afford the objectors a fair hearing of their concerns. Failing agreement on the compensation arising from the Order, any affected individuals have the right to pursue a claim for compensation in the Lands Tribunal. It is deemed that the process affords affected individuals sufficient opportunity to a right to a fair hearing.
- 5.5 The proposed development has been a long term objective of the Council and fits within the Council's planning framework for the area. The development will be transformational for the Order Land and the wider area, creating new homes and delivering significant regenerative benefits. Overall, having regard to the potential of the development proposals and the Order enabling it, to deliver significant regeneration benefits and improvements to the social, economic and environmental well-being of the area, it is considered that the potential for some degree of interference with Article 8 and Protocol 1 rights is necessary in the interests of well-being of the area, it is in the general public interest and is deemed proportionate to those legitimate aims. Any interests acquired will carry a right to compensation in accordance with the Compulsory Purchase Code and the opportunity to a fair and impartial hearing in that regard.

6 Equality Implications

- 6.1 Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.2 In deciding whether to resolve to make a CPO and the related recommendations of this Report, the Council must pay due regard to its Public Sector Equality Duty ("PSED"), as set out in section 149 of the Equalities Act 2010. Consideration must also be given to whether, if the decision is made to go ahead, it will be possible to mitigate any adverse impact on a protected group or to take steps to promote equality of opportunity by, for example, treating an affected group more favourably.
- 6.3 Officers have had regard to the Council's PSED in the assessment of the case for making the recommendations in this Report and Members must be mindful of this duty when considering the recommendations in this Report. Those with an interest in the Order Land will be affected by the implementation of any made CPO, if confirmed. An Equalities Impact Assessment has been undertaken on the potential impact of the CPO and any necessary mitigation strategies, to ensure that due regard has been taken of the Council's PSED.
- 6.4 Equalities Impact Assessments have informed the design, resident-led decisions in respect of the scheme, and the negotiations with those with an interest in the Order Land. The planning application for the development proposal also assessed the potential impact on equalities and social cohesion.
- 6.5 An updated assessment of any equalities impact of the Order has been undertaken to support this Report, a copy of which is at Appendix 3 (the "EQIA"). The EQIA has considered:
 - (a) whether the Order will affect any groups or individuals with protected characteristics and if so what steps can be taken to minimise any impacts;
 - (b) whether there are any long term social and economic benefits to those with protected characteristics arising from the development facilitated by the Order;
 - (c) any other impacts across any protected groups arising from both the construction and operational phases of development
- 6.6 The EQIA considers the potential impacts of the Order on the commercial and residential leaseholders and occupiers who share protected characteristics within the footprint of the Order Land. It also considers the potential equality impacts of the Order for those employees and customers of affected businesses as well as for local residents sharing protected characteristics, together with those impacts realised as a result of the delivery of the CPO Scheme (i.e. construction and operational impacts). The Council has sought to mitigate the impact on those sharing protected characteristics through a range of reasonable and proportionate measures focused on engagement, compensation options and opportunities for relocation (temporary and permanent). The benefits of the redevelopment seek to improve outcomes for the current and future Estate community.
- 6.7 The EQIA acknowledges that the effects on protected characteristics are being managed through engagement and consultation and the mitigation measures set out

in the Policy for Tenants in Housing Renewal Areas, the Policy for Leaseholders in Housing Renewal Areas and the support developed by the Council for businesses included in the Order Land.

- 6.8 The EQIA concludes that the CPO Scheme will contribute to improvement in the area through a net increase in new housing, new employment opportunities, a new library and improvements to the public realm as well as the benefits of the overall regeneration of the wider Estate. Whilst it acknowledges potential direct negative effects associated with the Order and indirect negative impacts that could occur as a result of bringing forward the CPO Scheme the measures taken by the Council to-date (e.g. the respective policies for tenants and leaseholders in Housing Renewal Areas, approach to engagement, appointment of, and work undertaken by, PPCR and the more formal business relocation strategy) together with further planned mitigation measures serve to strengthen, secure or enhance the positive beneficial impacts and mitigate for the potential adverse equality impacts associated with the Order. Accordingly, it is considered that, should the Order be made, the equality risks have been addressed and the potential for negative effects minimised such that there is a case for the Order, if it is required to facilitate the CPO Scheme.
- 6.9 The EQIA is a live document and is subject to further amendment/updating. In particular, the planned and recommended mitigation measures contained within the EQIA will continue to be reviewed and updated (as necessary) as the CPO process progresses.

7 Financial Implications

- 7.1 Under a CPO, property or rights are acquired at open market value but disregarding any increase (or decrease) in value attributable to the scheme for which the land is acquired. Affected parties may also be entitled to other compensation for loss payments and disturbance depending on circumstances. The Council will be responsible for paying all compensation to landowners, whether as a result of voluntary acquisition or through the CPO process.
- 7.2 The Capital Programme, approved by Full Council on 8 March 2023, includes a budget for the development of the Order Land by way of a joint venture partnership. The cost of securing vacant possession, including CPO costs, will be met from a separate approved acquisition budget. Of the £40 million acquisition budget, £27.6 million has been spent as of April 2023.
- 7.3 Whilst the Council will meet the costs of acquiring all outstanding interests in the Order Land, it proposes to enter into a partnership with a development partner to deliver the CPO Scheme by way of joint venture and has a shortlist of interested bidders who are prepared to proceed to the next stage of negotiations. The Council and the joint venture delivery partner will enter into a development agreement to secure the delivery of the CPO Scheme.
- 7.4 A viability appraisal was submitted with the underlying planning application which concludes that, by applying the GLA's sensitivity analysis, the CPO Scheme can be considered viable and therefore deliverable.

7.5 In light of the above, funds have been allocated to complete the land acquisition process and the Council is confident that a suitable developer partner with sufficient funding in place will be secured to deliver the CPO Scheme.

8 Carbon Impact

The Order is required to ensure that the entirety of the Order Land can be acquired and regenerated. Although upfront carbon will be relatively high, the CPO Scheme has demonstrated a series of reductions in whole life carbon and measures to address fuel poverty and resilience.

9 Consultation

9.1 The Regeneration Team have worked with the local community to ensure that all key stakeholders are engaged and aware of the CPO Scheme. The Council has ensured that all residents are fully aware of the support they will receive throughout the renewal process and the details of the relevant policies. Further details on engagement and consultation can be found in section 4 of the draft Statement of Reasons at Appendix 2.

9.2 The Ward Councillors have been consulted and briefed.

If you have any queries about this Report please contact:

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Appendices

Appendix 1: Draft Order Plan

Appendix 2: Draft Statement of Reasons

Appendix 3: Draft Equalities Impact Assessment