

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	1 February 2018	Bunhill and Clerkenwell

Delete as appropriate	Exempt	Non-exempt

SUBJECT: PROPOSED APPLICATION FOR A COMPULSORY PURCHASE ORDERS (CPO) FOR THE TRIANGLE ESATE

1. Synopsis

- 1.1 The council is committed to building more new, good quality council homes to help Islington families tackle the cost of living crisis, create more jobs and training opportunities and make the borough a fairer place to live and work
- 1.2 The proposed redevelopment of parts of council owned residential blocks on the Triangle Estate and existing commercial premises, which are located in the Bunhill and Clerkenwell wards, will help deliver 54 new high quality homes, including larger family sized homes for social and new commercial premises. The proposals will also bring wider benefits, along with estate improvements and generation of new employment opportunities for local people.
- 1.3 This report sets out the background to and seeks the approvals required to make a Compulsory Purchase Order (CPO) for the acquisition of the leasehold interest of one residential and one commercial property affected by current new build proposals described in the table in 2.1. Appendix 1 indicates the location of the affected leasehold properties.

2. Recommendations

- 2.1 To authorise the Corporate Director for Resources, in consultation with the Executive Member for Housing and Development and the Corporate Director for Housing and Adult Social Services, to take all necessary steps, including the making of Compulsory Purchase Orders (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990, General Vesting Declarations or Notices to Treat, to ensure that the leasehold and any other interests in the properties described in Table 2.1 below, where attempts to negotiate a voluntary acquisition of the leasehold interest in accordance with the development timetable have failed.

Table 2.1

Address of premises				Interest to be acquired
Number	Estate / Commercial	Street	Postcode	
49	The Triangle	Compton Street	EC1C 0AG	Residential long leasehold
1	Cafe	Goswell Road	EC1V 7JY	a. Commercial Head lease; and b. Commercial Sub-Lease

2.2 That where the Corporate Director of Finance and Resources approves the making of a CPO, to authorise the Acting Director of Law and Governance to take all necessary steps to secure the making, confirmation and implementation of the CPO including the approval of agreements with the owners and any objectors for the withdrawal of objections to the CPO, the settling of compensation and the acquisition of all interests in the properties on terms recommended by the Corporate Director of Finance and Resources.

2.3 To agree that the use of CPO powers in respect of the properties identified in this report is being exercised after balancing the rights of the individual property owners with the requirement to obtain possession of the properties in the public interest.

2.4 To agree that the interference with the human rights of the property owners affected by the proposals in this report, and in particular their rights to a home and to the ownership of property, is proportionate, given their rights to object and to compensation, and the benefit to the economic, social and environmental wellbeing of the areas of Islington affected by these proposals.

3. Background

3.1 The council is committed to building more new, good quality council homes to help Islington families tackle the cost of living crisis, create more jobs and training opportunities and make the borough a fairer place to live and work.

3.2 In identifying opportunities to build new homes we explore the potential for demolition of existing homes which are not considered to meet the needs of existing and future residents to provide more and better quality homes. In all such cases we make clear how existing residents would benefit from the provision of the new homes as enshrined in our New Homes Residents Charter

3.3 Following consultation with residents and other key stakeholders a number of such proposals have received support and planning consent has now been obtained.

3.4 However, in most cases the Council needs to acquire ex-Right to Buy (RTB) homes from the current leaseholders and in some cases commercial business tenants on terms acceptable to both parties and this represents one of the key delivery risks for any redevelopment scheme.

3.5 In each and every case a voluntary acquisition of a leasehold property is the preferred option but, where all reasonable efforts to reach a satisfactory outcome in the available timescale through negotiation with individual leaseholders have been exhausted, and by way of last resort, the council can make a Compulsory Purchase Order (CPO). It would, in these circumstances, be appropriate to underpin continuing negotiations for the purchase of the leasehold interests that would be required in order to implement the re-development schemes with a CPO.

4. Delivering approved redevelopment schemes

4.1 In November 2013 the Executive approved recommendations for the necessary delegated approvals to enable the voluntary acquisition of leasehold properties in blocks or estates where a redevelopment scheme has been approved.

4.2 Executive approval for CPO has been granted for one other new build scheme, Telfer House. Approval is now being sought for Triangle Estate.

4.3 Triangle Estate

4.3.1 The proposal is to demolish 5 rented and 1 leasehold properties of the existing block comprising a mix of predominantly one and two bed homes on Compton Street along with 1 commercial unit on Goswell Road. New buildings will be constructed with a new commercial space on the ground floor and 54 new homes across the estate and wider improvements that will improve the amenity and security for the benefit of all residents on the Triangle Estate. Of the 54 homes, 27 will be for social rent, including family size and smaller homes for people living on the estate to downsize from a larger home. The development received planning consent in June 2017.

4.3.2 To date one of the owner occupied home, one commercial head lease and commercial sub-lease are still to be acquired.

4.3.3 The existing commercial unit has a long lease of 999 years is currently sub-let as a café. The intention is to purchase the long lease and re-locate the sub-lease to alternative premises in the EC1 area. However, should we not reach a voluntary agreement we would need the necessary approvals in place to make an application for a CPO.

5. Acquiring leasehold properties: issues

5.1 With regard to the scheme outlined above negotiations have been ongoing with the affected leaseholders and commercial tenants since the scheme received approval for inclusion in the new build programme. In this case, we have had full regard to the legal rights of leaseholders and commercial tenants as set out in the Compulsory Purchase and Compensation Booklets: Business Owners and Occupiers (No 2) and Residential Owners and Occupiers (No 4) published by the Department and Communities and Local Government on their website.

5.2 A resident leaseholder is entitled to compensation consisting of the market value of their property, a statutory home-loss payment and disturbance payment reflecting the reasonable expenses incurred in moving from and/or selling their property.

5.3 The one residential property yet to be acquired is owned by a residential leaseholder.

5.4 The valuation officer in the Property Service team (PST) would typically be instructed by the Council to provide an independent market valuation and the appropriate level of home loss and/or disturbance payment would be negotiated in accordance with guidance published by the Communities and Local Government department and in line with the Council's New Homes Residents Charter (the Charter).

5.5 We offer incentives for both tenants and leaseholders as set out in the Residents Charter.

5.6 Where a residential leaseholder could prove no suitable alternative accommodation is available on reasonable terms then there would be duty to rehouse a resident whose home has been compulsorily acquired provided they were in occupation on the date the notice of making the CPO was published. This rehousing duty could apply to tenants of buy to let investors. They would also be entitled to compensation for disturbance which would typically include removal and other reasonable costs of moving home.

- 5.7 To date the Council has been unable to reach agreement with the residential leaseholder due to the parties being unable to agree the method of valuation used for this purpose for similar homes in the local area. While negotiations are ongoing, it is highly likely that we may be unable to reach agreement for a voluntary acquisition of their home. This will jeopardise and delay the development plans to the detriment of other residents of the estate and the borough as well as wider local community who will derive benefits, including jobs, through the proposed development.
- 5.8 The intention is to purchase the commercial headlease and re-locate the tenant of the sub-lease to alternative premises in the EC1 area. Negotiations are also still ongoing in this regard.
- 5.9 Under the security of tenure provisions in the Landlord and Tenant Act 1954 the Council is required to grant a lease in respect of commercial premises occupied by the Café this can only be achieved through negotiation or a CPO.
- 5.10 In the circumstances outlined above it is considered reasonable for the council to seek to a CPO in respect of any leasehold properties at the Triangle Estate.
- 5.11 It is also important by way of demonstration of our commitment to delivering approved redevelopment schemes as this will have a bearing on the success of other council-led regeneration proposals on our estates.
- 5.12 The CPO process can be both lengthy and costly but, on balance, these risks are outweighed by the financial and other implications of not being able to proceed with a redevelopment proposal. The intention would, however, be to continue the negotiation process alongside the CPO application process with a view to concluding a voluntary acquisition on a mutually acceptable basis without having to complete the full CPO process wherever possible.
- 5.13 Once homes are acquired on a voluntary or compulsory basis, they can be used to provide much needed and good quality temporary accommodation for homeless families within the borough to ensure that they would not remain empty pending the commencement of the development.

6. Implications

6.1 Financial implications

- 6.1.1 The current (draft 2018-19 budget) new build programme includes a total budget for this scheme of £26.5m of which £1.4m (based on LBI Valuers assessment of the value) has been set aside for the purchase of the shop and the 1 leasehold residential unit.
- 6.1.2 It is anticipated that the costs arising as a result of the 2 CPOs will not exceed the £1.4m budget set aside.
- 6.1.3 In terms of funding this expenditure, there is a provision to use the buyback allowance as part of the RTB receipts pooling mechanism whereby 50% of the above mentioned costs can be off-set against the RTB receipts as long as the amount is less than or equal 6.5% of the total RTB receipts generated in the relevant quarter. There is also further provision to carry forward any unused buyback allowance

6.2 Legal Implications

6.2.1 Compulsory Purchase Order (CPO)

- 6.2.1.1 This report proposes the making of a CPO for the acquisition of 1 residential lease and 2 commercial leases as described in the table to Recommendation 2.1 and shown for illustrative purposes only on the plans at Appendix 1.
- 6.2.1.2 The council has the power under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily any land in its area if it thinks that acquiring the land in question will facilitate

the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired, and if the council thinks that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of its area.

- 6.2.1.3 The acquisition of the properties in the table is reasonably required so as to enable the proposed re-development schemes. Further, the redevelopments will contribute to the promotion and improvement of the economic, social and environmental well-being of the area and the area and local residents by providing better quality and additional social housing and other benefits for local residents and the wider community, for example environmental improvements and/or new or improved community facilities.
- 6.2.1.4 A CPO should only be employed as an option of last resort, and only when all other opportunities to secure the redevelopment of the site have been fully explored and exhausted. However, the Secretary of State has recognised that it is appropriate in some situations to make a CPO at the same time as seeking to purchase by agreement given the amount of time needed to complete a compulsory purchase. Council officers have made strenuous efforts to acquire the properties by agreement and time is now running short in relation to the re-development timescales.
- 6.2.2 Human Rights**
- 6.2.2.1 A CPO should only be made where there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired.
- 6.2.2.2 In respect of human rights, regard should be had in each case in particular to the provisions of Articles 1, the right to peaceful enjoyment of your possessions, Article 6, the right to a fair and public hearing and Article 8, the right to respect for private and family life, of the First Protocol to the European Convention on Human Rights
- 6.2.2.3 In relation to Article 1 whilst owners will be deprived of their property if the CPO is confirmed and implemented, this will be done in accordance with the law and they will receive appropriate compensation for their interests. Further, the right under Article 1 is qualified rather than absolute as it permits the deprivation of an individual's possessions where it is in the public interest.
- 6.2.2.4 Interference with the right to respect for private and family life under Article 8 is justified under the Protocol if this is in accordance with the law and "necessary in a democratic society" for, amongst other things, economic wellbeing. The interference here will be in accordance with UK law (the Town and Country Planning Act 1990). In considering whether the interference with the right is "necessary in a democratic society" it is necessary to consider whether the interference is proportionate. In this context proportionate means that the interference must be no more than necessary to achieve the identified legitimate aim. Here the legitimate aim is the re-development the Triangle Estate scheme.
- 6.2.2.5 In relation to Article 6 those affected by the CPO will have the right to make representations to the Secretary of State and to be heard at any public inquiry.
- 6.2.2.6 Therefore, there must be a balancing exercise between the public interest and the individual's rights whereby the Council must be able to show that the interference with an individual's rights by the making of a CPO must be necessary and proportionate. The availability of compensation to those deprived of their property rights is of relevance to the issue of proportionality.
- 6.2.2.7 The CPO should therefore only be made where there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired. While each case will need to be considered on its merits it is likely that redevelopment to provide better quality and additional social housing and other benefits for local residents and the wider community, for example environmental improvements and/or new or improved community facilities would demonstrate sufficient public interest to justify interfering with the private rights of those with an interest in the leasehold land.

6.3 Environmental Implications

- 6.3.1 There are no specific environmental implications associated with the Compulsory Purchase Order process beyond those associated with the office-based work being carried out. The significant implications associated with this project will occur at the time of the demolition/construction and beyond, and will be assessed in the report published prior to the appointment of contractors.

7. Resident Impact Assessment

- 7.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
- 7.2 A potential negative impact on individual residential or commercial leaseholders has been identified but this is mitigated through the CPO process which ensures that the rights of affected owners and occupiers are protected and that they receive compensation in line with the relevant legislation and statutory guidance. The key principle is that owners/occupiers should not be any better or worse off as a result of a CPO.
- 7.3 All other impacts identified from current new build redevelopment proposals are positive as they are aimed at improving the lives and opportunities afforded to residents to access decent and genuinely affordable homes and increase jobs and training opportunities, helping make Islington a fairer place to live and work.
- 7.4 A copy of the RIA completed for the new build schemes for which approval is being sought to make an application for a CPO in respect of any remaining leasehold properties to be acquired can be obtained from the author of this report.
- 7.5 A Resident Impact Assessment was completed on 12/09/2016 and the summary is included below.

For further assistance with RIAs please see: <http://izzi/council/aboutcouncil/performance-policy/equalities-fairness/eia/Pages/default.aspx>

8. Reason for recommendations

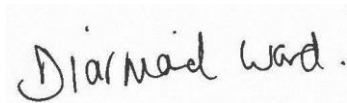
- 8.1 The ability to acquire the leasehold interest in the residential lease previously sold under the RTB and commercial premises located on estates where proposals to build more high quality homes for local people, supported by local residents, have been approved, is critical to their successful delivery. Given the significant project delivery risks it is preferable to satisfactorily conclude negotiations with leaseholders as early as possible in the development process and voluntary acquisition is the preferred option in all cases.
- 8.2 Where it is not possible to voluntarily purchase leasehold interests in residential and commercial premises and, subject to the relevant grounds being established, the option to apply for a CPO should be authorised, subject to the necessary delegated internal approvals. The potential delays and costs associated with the CPO process are outweighed by the benefits to the wider community to be derived from the scheme and the significant investment already committed to bringing forward the proposals. It is therefore considered to be in the public interest for the Council to make a CPO to secure the redevelopments to provide better and more homes and to promote economic, social and environmental wellbeing and to contribute to sustainable development in Islington.

Appendices

- Appendix 1: Site location plan

Background papers

None

Final report clearance:**Signed by:**A handwritten signature in black ink that reads "Diarmuid Ward." The signature is written in a cursive style and is centered within a light gray rectangular box.

Executive Member for Housing and Development

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