

COMMISSIONERS' INDIVIDUAL DECISION MAKING

Thursday, 18 February 2016


Commissioners' Decision Log No. 45

1. **TRANSFER OF LAND INTERESTS TO BE ACQUIRED UNDER A PENDING COMPULSORY PURCHASE ORDER (CPO) ON BEHALF OF POPLAR HARCA (BURDETT ESTATE, ST PAUL'S WAY TRUST REGENERATION SCHEME) (Pages 1 - 88)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Democratic Services
Tel: 020 7364 4651, E-mail: matthew.mannion@towerhamlets.gov.uk

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Agenda Item 1

Individual Commissioner Decision Proforma Decision Log No: <u>045</u>	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director Development & Renewal	Classification: Unrestricted
Transfer of land interests to be acquired under a pending Compulsory Purchase Order (CPO) on behalf of Poplar HARCA (Burdett Estate, St Pauls Way Trust Regeneration Scheme).	

Is this a Key Decision?	No
Decision Notice Publication Date:	
General Exception or Urgency Notice published?	Not required
Restrictions:	Unrestricted

EXECUTIVE SUMMARY

- 1.1 This report seeks approval to enter into an Indemnity Agreement with Poplar HARCA in respect of the pending CPO at Burdett Estate, so that the Council's costs can be recovered and also to agree to the nil value disposal of land acquired through the CPO.
- 1.2 The Mayor in Cabinet on 3rd November 2015 delegated to the Corporate Director of Development and Renewal, the power to make and, in due course, confirm the Compulsory Purchase Order (CPO), and transfer of any land interests compulsorily acquired, for nil consideration, to assist one of the Council's regeneration partners, Poplar Housing and Regeneration Community Association (Poplar HARCA) to deliver a scheme at its Burdett Estate. The Council expects to make the CPO within the next 3 months.
- 1.3 The Burdett Estate was transferred from the Council to Poplar HARCA in 1998 and substantial housing and environmental regeneration work has been carried out prior to the scheme that is now proposed. The regeneration of this area has been a long-standing commitment by the Council and HARCA.
- 1.4 Compulsory Purchase is a stringent process that has to meet statutory tests in terms of public benefits and human rights considerations. The purpose of this CPO is solely to enable Poplar HARCA to redevelop two housing blocks on the Burdett Estate (Linton and Printon), to provide new homes for rent and sale and essential new accommodation to enlarge the St Paul's Way Trust School by provision of 450 primary places. Proposals for this redevelopment scheme have been jointly developed between Poplar HARCA and the Council's Directorates of Education, Social Care and Wellbeing and Development and Renewal.

- 1.5 It is proposed to enter into an Indemnity Agreement (the IA) with Poplar HARCA which sets out in detail the mechanism of protecting the interests of the Council in implementing the CPO. Paragraph 15.1.3 of the IA provides for transferring land acquired by virtue of the CPO to Poplar HARCA for nil consideration. The terms of the IA have now been agreed with the Solicitors acting on behalf of Poplar HARCA.
- 1.6 These interests, which HARCA will have paid for, will be held in trust and must be transferred in compliance with the Council's stated reasons for making the CPO. The Council wishes to be indemnified, through the IA, for all costs in relation to the CPO, which will be covered by Poplar HARCA.
- 1.7 The written agreement of the commissioners is required before entering into any commitment to dispose of, or otherwise transfer to third parties any real property other than existing single dwellings for the purposes of residential occupation. Therefore the commissioners' consent is required to enter into the IA and for the proposed disposal of the land interests to Poplar HARCA at nil value.
- 1.8 Additionally Poplar HARCA has sought assurances, prior to the CPO being made, that the Council will be in a position to transfer any interests vested in it at nil value. It is therefore appropriate to seek commissioners' written consent now, so that all approvals are in place to bring the CPO to a satisfactory conclusion, before further resources are expended in making the Order.

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Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Commissioners are recommended to:

1. Agree that the Council may on confirmation of the CPO transfer to Poplar HARCA, at nil consideration, all land interests acquired and vested to the Council pursuant to that CPO, for the purpose of delivering the Burdett Estate Regeneration Scheme, including but not limited to those which have been identified through land referencing to date, as follows:

- Residential Properties:

The leasehold properties known as:-

- 4 Linton House, St Pauls Way
- 6 Linton House, St Pauls Way
- 20 Linton House, St Pauls Way
- 23 Linton House, St Pauls Way

7 Printon House, Wallwood Street
20 Printon House, Wallwood Street
26 Printon House, Wallwood Street
30 Printon House, Wallwood Street
50 Printon House, Wallwood Street
56 Printon House, Wallwood Street

- Other Land Interests

Rights of way

Way-leaves

Telecommunication equipment

Other non residential interests to be identified during the land referencing within the red line boundary

2. Agree that the Council may enter into an Indemnity Agreement with Poplar HARCA, in substantially the same form as attached at Appendix 3 and on terms no less favourable to the Council to those set out in that Agreement, noting the transfer obligations in clauses 3.3 & 15.1.3, so that all Council costs relating to the Compulsory Purchase Order can be recovered.

APPROVALS

1. (If applicable) Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Commissioner(s).

Signed  Date 10/2/16

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 10/2/16


3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 12/2/16

4. Commissioner(s)

I agree the decision proposed in paragraph above for the reasons set out in section 1 in the attached report.

Name MAX CHURCH Signed 
Date 10/2/16

Name Signed


Date

Name Signed

Date

Name Signed

Date

Commissioner Decision Report February 2016	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director Development & Renewal	Classification: Unrestricted
CPO Resolution: Burdett Estate, St Pauls Way Trust (Poplar HARCA)	

Originating Officer(s)	Jackie Odunoye – Service Head for Strategy Regeneration & Sustainability Niall McGowan – Housing Regeneration Manager Abad Uddin – Project Officer, Housing Regeneration
Wards affected	Mile End East
Key Decision?	NO
Community Plan Theme	A Great Place to Live

EXECUTIVE SUMMARY

This report seeks approval to enter into an Indemnity Agreement with Poplar HARCA in respect of the pending CPO at Burdett Estate, so that the Council's costs can be recovered, and also to agree to the nil value disposal of land acquired through the CPO.

The proposed CPO was originally considered by the former Mayor in Cabinet on 23 July 2014 and was supported in principle. The Mayor in Cabinet on 3rd November 2015 agreed the making, confirming and implementation of a Compulsory Purchase Order (CPO) on Burdett Estate. The report also delegates the Corporate Director of Development and Renewal, following consultation with the Director of Law Probity and Governance (or their nominee), the power to effect the making and, in due course, confirmation of a Compulsory Purchase Order (CPO), and transfer of any land interests compulsorily acquired, for nil consideration, to assist one of the Council's regeneration partners, Poplar Housing and Regeneration Community Association (Poplar HARCA) to deliver a scheme at its Burdett Estate. The Council expects to make the CPO within the next 3 months.

The Burdett Estate was transferred from the Council to Poplar HARCA in 1998 and substantial housing and environmental regeneration work has been carried out prior to the scheme that is now proposed. The regeneration of this area has been a long-standing commitment by the Council and HARCA.

Compulsory Purchase is a stringent process that has to meet statutory tests in terms of public benefits and human rights considerations. The purpose of this CPO is to enable Poplar HARCA to redevelop two housing blocks on the Burdett Estate (Linton and Printon), to provide new homes for rent and sale and essential new accommodation to enlarge the St Paul's Way Trust School by provision of 450 primary places. Proposals for this redevelopment scheme have been jointly developed between Poplar HARCA and the Council's Directorates of Children's Services and Development and Renewal.

It is not the aim of the CPO to generate a profit for the Council by treating interests acquired under the CPO as if they were Council assets. These interests, which HARCA will have paid for, will be held in trust and must be transferred in compliance with the Council's

stated reasons for making the CPO. By entering into an Indemnity Agreement, the Council will be indemnified for all costs in relation to the CPO, which will be covered by Poplar HARCA.

The written agreement of the commissioners is required before entering into any commitment to dispose of, or otherwise transfer the land interests to Poplar HARCA at nil value.

Additionally Poplar HARCA has sought assurances, prior to the CPO being made, that the Council will be in a position to transfer any interests vested in it at nil value. It is therefore appropriate to seek commissioners' written consent now, so that all approvals are in place to bring the CPO to a satisfactory conclusion, before further resources are expended in making the Order.

Recommendations:

The Commissioners are recommended to:

1. Agree that the Council may on confirmation of the CPO transfer to Poplar HARCA, at nil consideration, all land interests acquired and vested to the Council pursuant to that CPO, for the purpose of delivering the Burdett Estate Regeneration Scheme, including but not limited to those which have been identified through land referencing to date, as follows:

- Residential Properties:

The leasehold properties known as:-

4 Linton House, St Pauls Way
6 Linton House, St Pauls Way
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- Other Land Interests

Rights of way

Way-leaves

Telecommunication equipment

Other non residential interests to be identified during the land referencing within the red line boundary

2. Agree that the Council may enter into an Indemnity Agreement with Poplar HARCA, in substantially the same form as attached at Appendix 3 and on terms no less favourable to the Council to those set out in that Agreement, noting the transfer obligations in clauses 3.3 & 15.1.3, so that all Council costs relating to the Compulsory Purchase Order can be recovered.

1. REASONS FOR THE DECISIONS

- 1.1 The Ministerial Direction of 17th December 2014 requires prior written agreement of the Commissioners before entering into any commitment to dispose of, or otherwise transfer, to third parties, any real property other than existing single dwellings for the purposes of residential occupation.
- 1.2 The Council is proposing to make a CPO on behalf of Poplar HARCA, in support of its regeneration programme at Burdett Estate to deliver a new school premises for the Council and new homes of various tenures. It is expected that the CPO will be made in the next 3 months. The need to transfer land interests at nil value will arise if they are vested in the Council on making a General Vesting Declaration (GVD), upon confirmation of the CPO. The transfer of land interests compulsorily acquired in this way, to Poplar HARCA, was authorised by the Mayor in Cabinet on 3rd November 2015 (Decision 2.2.8). The full Decision and the Cabinet report are provided as Appendices 1 and 2 respectively to this report.
- 1.3 The Council would have no interest in delaying, and no right to seek payment for, the handover of any interests vested to it. Any delay or additional costs that affect the delivery of HARCA's regeneration project, which has planning approval, would impact negatively on those local residents for whose benefit the CPO is being made.
- 1.4 The CPO will facilitate clearance of the site so that the much needed new permanent school places can be delivered as soon as possible.
- 1.5 The Council wishes to enter into an Indemnity Agreement with Poplar HARCA as authorised under Decision 2.5 of the report to the Mayor in Cabinet on 3rd November 2015. The Indemnity Agreement will become contractual when executed by both parties and clauses 3.3 and 15.1.3, which provide for the transfer at nil consideration to Poplar HARCA of land interests vested in the Council and currently held in trust by the Council at the conclusion of the CPO process. The draft Indemnity Agreement is provided as Appendix 3 of this report.
- 1.6 Failure to enter into the Indemnity Agreement will compromise the delivery of the regeneration scheme and would create a financial risk to the Council of committing Council resources including officers' time without any means of reimbursement from Poplar HARCA.

2. ALTERNATIVE OPTIONS

- 2.1 The pending CPO will be made with the intention of enabling Poplar HARCA's regeneration project at Burdett Estate. There are no alternative options available to the Council to de-risk the land assembly for this joint project, and to recover its own costs, without transferring the land, post CPO, to Poplar HARCA and without entering into an Indemnity Agreement. The land interests to be acquired will only be held in trust by the Council under the provisions of the Indemnity Agreement with Poplar HARCA.
- 2.2 Failure to agree the Indemnity Agreement including the transfer at nil consideration of land interests acquired under the CPO, would result in the CPO not going ahead, placing at risk Poplar HARCA's scheme to provide a new much-needed school building and new homes, including those for rent to local people. In this event neither the Council nor Poplar HARCA would be able to guarantee land assembly for their joint project and the envisaged benefit of the project may not be achieved, or only after substantial delays or additional costs.

- 2.3 Any acquisitions achieved either by Poplar HARCA, through negotiation with individual land interests, or by vesting in the Council following confirmation of the CPO, will be funded by Poplar HARCA. Failure to transfer the interests held in trust by the Council at nil value, following CPO, would place the Council at risk of invalidating its own CPO, which is only being made with the aim of supporting HARCA's regeneration scheme and not to generate financial income or profit.

3. DETAILS OF REPORT

- 3.1 The Cabinet on 3rd November 2015 approved CPO resolution for the "Burdett Estate, St Paul's Way Trust (Poplar HARCA)" Scheme. Authorisation was delegated to the Corporate Director of Development and Renewal following consultation with the Director of Law Probity and Governance (or their nominee) to take all necessary procedural steps in the making and implementation of the CPO.
- 3.2 The land to be subject to the CPO within the Burdett Estate is shown edged red on a plan and the known interests set out in Appendices "1" and "2" respectively of the 2015 Cabinet report. The decisions in relation to the CPO on 3rd November 2015 are set out in Appendix 1 of this report to the Commissioners. Appendix 2 of this report comprises the 2015 Cabinet report in full.
- 3.3 It was noted that costs incurred by the Council in managing the CPO will be underwritten by Poplar HARCA. However, an element of the scheme costs are attributable to the project costs of providing the school and will be included in the overall cost paid by the Council to Poplar HARCA as part of the separate agreement in respect of the provision of the school. This is to be funded as part of the Children's Services capital programme.
- 3.4 The Indemnity Agreement has provisions for interests that are vested in the Council, pursuant to the CPO, to be held in trust and then transferred to Poplar HARCA at nil consideration.
- 3.5 The CPO process is deemed necessary as a last resort, following ongoing attempts by Poplar HARCA to negotiate to seek possession of the remaining land interests. The Council uses the compulsory purchase route and becomes the "Acquiring Authority" in order to support projects that meet stringent criteria for the use of such powers, including public benefits and human rights considerations. It is the usual practice that the Council, having acquired the land interests pursuant to the CPO which are held in trust, transfers them back, at nil consideration, to the housing association partner.
- 3.6 The Council is required to obtain the prior written agreement of the commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties any real property other than existing single dwellings for the purposes of residential occupation. Therefore the Commissioners' consent is required to enter into the Indemnity Agreement and, once the CPO is confirmed, to effect disposal of the land interests to Poplar HARCA at nil consideration.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 On 3 November 2015, the Mayor in Cabinet approved a programme to support the Burdett Estate / St Paul's Way Trust regeneration scheme being undertaken by Poplar HARCA. The proposed scheme required the acquisition of various property interests, and it was agreed that the council would begin a compulsory purchase order process on behalf of the Registered Social Housing Provider to acquire these interests in case settlement could not be reached through voluntary negotiation.
- 4.2 The Cabinet report outlined the need for an indemnity agreement to be negotiated with Poplar HARCA in order to ensure that the council's interests are protected, and to mitigate against any potential risk that Poplar HARCA and its partners are not able to meet their contractual liabilities. Subject to the indemnity agreement being approved, there are no overall financial implications for the authority because the costs of the purchases and associated compensation packages, including any Rights of Light claims, are being borne by Poplar HARCA, with the cost of all officer time involved in the CPO process also being recharged to the organisation.
- 4.3 On completion of the CPO process, any properties/interests that are not acquired via negotiation will ultimately be vested in the council. This report seeks approval to formally transfer the interests of these properties to Poplar HARCA at nil consideration, in accordance with the terms of the proposed indemnity agreement. Although this situation will only have arisen through the technicalities of the CPO process, in accordance with legislation the council must receive best consideration on the disposal of assets. Paragraph 5.8 of the legal comments outlines the appropriate legislation that applies and explains why the transfer should take place at nil consideration in this case.
- 4.4 Although not specifically linked to the recommendations in this report, it should be noted that in September 2013 Cabinet agreed to support the proposed expansion of the St Paul's Way Trust School. Capital estimates have been adopted for the project, with the council funding the capital costs of the school-related elements of the overall scheme through the specific capital grant that it receives from the DfE. The council's capital expenditure incorporates an element of costs attributable to the site assembly for the scheme, including the decanting of existing residents from Linton and Printon Houses on the Burdett Estate.
- 4.5 A separate Executive Decision was taken on 15 October 2015 to authorise the council entering into the Development Agreement and Agreement for Leases with Poplar HARCA and the Agreement for Sub-leases with the St Paul's Way Trust.

5. LEGAL COMMENTS

- 5.1. The power of the commissioners to make decisions in relation to property disposals arises from directions made by the Secretary of State on 17 December 2014 pursuant to powers under sections 15(5) and 15(6) of the Local Government Act 1999 (the "Directions"). Paragraph 4(i) and Annex A of the Directions together provide that, until 31 March 2017, the Council must obtain the prior written agreement of the commissioners to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.

- 5.2. To the extent that the Commissioners are asked to authorise
- (i) the Council entering into an Indemnity Agreement which contains a commitment to dispose of the interests acquired pursuant to the CPO, at nil consideration, to Poplar HARCA; and
 - (ii) the transfer to Poplar HARCA on confirmation of the CPO and at nil consideration, all land interests acquired pursuant to that CPO

these are executive functions of the Council. This is the effect of section 9D(2) of the Local Government Act 2000, in the absence of a contrary specification in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- 5.3. The decision to proceed with the CPO and to do all that is necessary to give effect to it, including entering into the Indemnity Agreement, was made by the Mayor in Cabinet on 3 November 2015, subject to the resolution by the commissioners of the recommendations.
- 5.4. The Council is empowered under section 226(1)(a) of the Town and Country Planning Act 1990 ("TCPA") as amended, 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.
- 5.5. The Council may make a compulsory acquisition 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 it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. 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.
- 5.6. The Council intends to use its powers under the TCPA to compulsorily purchase land interests to enable Poplar HARCA, after confirmation of the CPO, to carry out the development of the land described in Appendices 1 and 2, which is to include the provision of new homes for rent and sale and the expansion of St Paul's Way Trust School.
- 5.7. In order to facilitate the CPO and development, the Council intends to enter into an Indemnity Agreement in substantially the same form as set out in Appendix 3, subject to any amendments which will be no less favourable to the Council. The Indemnity Agreement enables the Council to recover its costs and expenses and any compensation payable to those whose land interests will be acquired under the CPO. Clause 3.3 and 15.1.3 of the Indemnity Agreement will commit the Council transferring the land interests to Poplar HARCA, which it will hold in trust, after confirmation of the CPO, which will be at nil consideration.
- 5.8. The Council may dispose of the land under section 233 of the TCPA for the purpose of bringing it forward for development or otherwise facilitating development. Any such disposal must be for the best consideration that can reasonably be obtained, unless the Secretary of State's consent is obtained. Since it is proposed that the Council should transfer to Poplar HARCA land interests which it will have acquired with funds provided entirely by Poplar HARCA, it may be considered to be acting in breach of the trust on which it holds the land, if it did not transfer them at nil value. Additionally, the disposal of the land interests to Poplar HARCA will facilitate the development of new homes and the expansion of a school. Therefore it may be

considered that transferring the properties back to Poplar HARCA for nil consideration, on confirmation of the CPO, represents the best consideration which can reasonably be obtained. By a combination of sections 226 and 233 of the TCPA, it is open to the Council to compulsorily acquire land for planning purposes and then transfer it to Poplar HARCA.

- 5.9. Before making a CPO, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Equality implications of the scheme were considered when the planning application was approved. It was considered that the development overall and in particular the new and improved community assets and infrastructure to be delivered will address the impacts of the construction process on the local communities and in the longer term will support community wellbeing and social cohesion.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The Council has a statutory duty to provide sufficient school places for local residents. Education is key to ensuring economic prosperity for the individual and for the community. The Council has to plan for the overall social infrastructure to meet the needs of the rising local population. The proposal for the expansion of St Paul's Way Trust School supports these requirements.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 The proposed new scheme will provide homes built to a far higher standard of environmental performance, which will mean they are far more cost effective to run, thereby reducing the potential for fuel poverty amongst low income households that are expected to occupy the new affordable homes within the scheme.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1. Failure to acquire the land interests through negotiation could affect the Burdett regeneration proposals unless this risk is off-set by taking steps to make a precautionary CPO in each area, to acquire the land interests identified in this report.
- 8.2. The Council is working with Poplar HARCA on the redevelopment proposal for the school. The programme bears some time risks, with associated cost risks to the Children's Services capital programme, due to the need to vacate Printon and Linton Houses. The programme is being monitored closely. The CPO resolution for Burdett will support the programme delivery if the need arises.
- 8.3. The CPO will not be made without the Council entering into the Indemnity Agreement in order that it can recover its costs.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 9.1 Provision of new community and faith space that will involve local youth schemes to tackle anti-social and gang related issues. The scheme will deliver the principles and requirements of the Secured by Design application and Checklist.
- 9.2 The indemnity Agreement itself will not have a direct impact on the reduction of crime and disorder.

10. EFFICIENCY STATEMENT

10.1 All expenditure to be incurred in managing and delivering the proposed CPO processes, including costs arising from work by the Council's Legal and Housing Regeneration Teams, will be reimbursed by Poplar HARCA.

11. Safeguarding Implications

11.1 There are no immediate safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- Decision Sheet: Cabinet 3 November 2015
- Report Pack: Cabinet 3 November, 2015, including report appendices showing the approved red-line CPO area

Appendices

- Appendix 1 - Decision Sheet: Cabinet 3rd November 2015
- Appendix 2 - Report Pack: Cabinet 3rd November 2015
- **EXEMPT** - Appendix 3 - Indemnity Agreement between LBTH and Poplar HARCA

Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

- NONE

Officer contact details for documents:

- Abad Uddin
- Tel: 020 7364 7799

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE CABINET

HELD AT 5.34 P.M. ON TUESDAY, 3 NOVEMBER 2015

C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG

Members Present:

Mayor John Biggs	
Councillor Sirajul Islam	(Statutory Deputy Mayor and Cabinet Member for Housing Management & Performance)
Councillor Shiria Khatun	(Deputy Mayor and Cabinet Member for Community Safety)
Councillor Rachael Saunders	(Deputy Mayor and Cabinet Member for Education & Children's Services)
Councillor Rachel Blake	(Cabinet Member for Strategic Development)
Councillor Asma Begum	(Cabinet Member for Culture)
Councillor David Edgar	(Cabinet Member for Resources)
Councillor Ayas Miah	(Cabinet Member for Environment)
Councillor Joshua Peck	(Cabinet Member for Work & Economic Growth)
Councillor Amy Whitelock Gibbs	(Cabinet Member for Health & Adult Services)

Other Councillors Present:

Councillor Peter Golds	(Leader of the Conservative Group)
Councillor John Pierce	

Others Present:

Sarah Baker	(Independent Chair - Tower Hamlets Local Safeguarding Children's Board)
Brian Parrott	(Independent Chair - Tower Hamlets Local Safeguarding Adults Board)

Officers Present:

Luke Addams	(Interim Director of Adult's Services)
Nadir Ahmed	(Business Support Manager, Development and Renewal)
Andy Bamber	(Service Head Safer Communities, Crime Reduction Services, Communities, Localities and Culture)
Melanie Clay	(Director, Law Probity and Governance)
Zena Cooke	(Corporate Director, Resources)
Margaret Cooper	(Section Head Transport & Highways, Public Realm, Communities Localities & Culture)
Aman Dalvi	(Corporate Director, Development & Renewal)
Barbara Disney	(Service Manager, Strategic Commissioning, Adults Health & Wellbeing)

Ruth Dowden	(Complaints & Information Manager, Legal Services, Law Probity & Governance)
Stephen Halsey	(Corporate Director Communities, Localities & Culture)
Gulam Hussain	(Strategy, Policy and Performance Officer)
Debbie Jones	(Interim Corporate Director, Children's Services)
Paul Leeson	(Finance Manager, Development & Renewal)
Jackie Odunoye	(Service Head, Strategy, Regeneration & Sustainability, Development and Renewal)
Harriet Peacock	(EIA Officer, Planning and Building Control, Development and Renewal)
Tim Ross	(Deputy Team Leader - Pre-application Team, Development and Renewal)
Louise Russell	(Service Head Corporate Strategy and Equality, Law Probity & Governance)
Karen Sugars	(Interim Service Head, Commissioning and Health)
Ann Sutcliffe	(Service Head Corporate Property and Capital Delivery, Development and Renewal)
Will Tuckley	(Chief Executive)
Matthew Mannion	(Committee Services Manager, Democratic Services, LPG)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

There were no Declarations of Disclosable Pecuniary Interests.

3. UNRESTRICTED MINUTES

DECISION

1. That the unrestricted minutes of the Cabinet meeting held on Tuesday 6 October 2015 be agreed and signed by the Chair as a correct record of proceedings subject to the addition, under Agenda Item 5.5 (CPO – Aberfeldy Estate Regeneration Programme Phase 3-6), of Councillor Sirajul Islam's request for clarification of the freehold or leasehold status of the Aberfeldy Islamic Cultural Centre.

4. OVERVIEW & SCRUTINY COMMITTEE

4.1 Chair's Advice of Key Issues or Questions

Pre-Decision Scrutiny Questions were tabled on the following agenda items:

- 5.6 – Tower Hamlets Safeguarding Children Board Annual Report 2014/15
- 5.7 – Tower Hamlets Safeguarding Adults Board Annual Report 2014/15
- 5.13 – Transparency Protocol

4.2 Any Unrestricted Decisions "Called in" by the Overview & Scrutiny Committee

Nil items.

5. UNRESTRICTED REPORTS FOR CONSIDERATION

5.1 Civic Centre Project

The recommendations were amended and then agreed.

DECISION

1. To agree that the former Royal London Hospital site in Whitechapel is the preferred site location for a new civic centre;
2. To agree to retain and refurbish John Onslow House;
3. To agree to ring-fence the disposal receipts from Jack Dash House, LEB, Commercial Road, Albert Jacob House, Southern Grove, and Cheviot House to finance the new civic centre;
4. To note that officers will be bringing forward reports on the disposal of the above sites at the appropriate time;
5. That officers determine an appropriate continued commemoration of Jack Dash and Albert Jacob following the disposal of the properties;
6. To agree to the procurement of a multi-disciplinary design team to progress design development to detailed planning level (RIBA Stage 3) for both the former Royal London Hospital site and John Onslow House;
7. To agree to the scoping and procurement of site surveys (as required) for both the former Royal London Hospital site and John Onslow House;
8. To agree to engage legal and financial support as deemed necessary by officers, and as agreed by the Project Board, to support existing in-

house capacity and expertise in developing a procurement strategy and tender documentation;

9. To agree to investigate the financial viability of delivering a mixed-use scheme at LEB, including the provision of a One Stop Shop and/or Idea Store;
10. To endorse the development of a full business case in order to confirm a capital estimate and programme for the project;
11. To approve the funding for recommendation 5, adopting a capital estimate with a budget cap of £3.35m – representing 35% of budgeted professional fees (up to RIBA Stage 3) for both the former Royal London Hospital site and John Onslow House capital projects; and
12. To authorise the Corporate Director, Development and Renewal, after consultation with the Director of Law, Probity and Governance (or their nominee) to agree and enter into the terms and conditions of any agreements required to implement recommendations 2, 5, 6, 7 and 8 following compliant procurement exercises.

Action by:

CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)
(Service Head, Corporate Property and Capital Delivery (A. Sutcliffe))

Reasons for the decision

The current lease on Mulberry Place will expire in June 2020, requiring the council to decant from the building by September 2019. The landlord of the current offices at Mulberry Place, a private investor, has submitted a planning application for the redevelopment of the estate as a residential led scheme. It is understood that the application faces a number of significant challenges as it currently stands.

It should be noted that in recent months the council has been advised that the landlord is seeking to sell the site and the new owners may wish to continue operating the site as commercial office space, rather than pursuing a residential-led development. It is understood that contracts have been exchanged with a consortium including LaSalle Investments. This may allow the council to extend the lease but for reasons set out in section 2, this is not recommended.

By consolidating its operation on to a new civic centre, the council reduces the use of disparate and poorly-sited buildings, leading to reductions in inefficiencies and costs of operation.

A further justification for the consolidation of council administrative buildings onto a consolidated site is it allows the disposal of a number of sites for the capital receipts to cross fund the new development. All these disposals would then deliver affordable housing when bought forward as planning-compliant housing schemes.

Alternative options

There are two main alternative options available to the council

Remain In Mulberry Place

This alternative option is predicated on two factors that are out of the council's control: the sale of the East India Dock site by the current landlord, and the new landlord wishing to retain it as a commercial office space, rather than redeveloping it as a housing-led development.

If those two factors are realised, the council may be able to negotiate a new 25-year lease with the new landlord. This will require a £12.7m refurbishment package of Mulberry Place, Albert Jacob House and John Onslow House. This would also require the temporary decant of staff from Mulberry Place into Anchorage House (or other suitable space) for a period of up to 18 months. Jack Dash House would not require significant capital expenditure.

However, this would fail to satisfy a number of the project's objectives: the proposal would not increase the efficiency of the council's operation due to the number of sites that would be in use; it would not deliver year-on-year operational savings and would not deliver a civic centre in the heart of the borough. The delivery of housing (including affordable housing) will be reduced.

More detail is set out in paragraph 3.15 of the report.

LEB and Commercial Road New Build Option

Officers have carried out additional feasibility of both the Commercial Road site and the LEB site. Notwithstanding the retention of John Onslow House in all scenarios, a new-build option at either Commercial Road or the LEB site would not deliver sufficient workspace area based on the project assumptions. However, the delivery of two new-build schemes, on both sites, alongside the retention of John Onslow House, could deliver sufficient workspace to satisfy the project assumptions.

This option would require the delivery of a 5-storey new-build at LEB (£32.75m) and a 5-storey new-build at Commercial Road (£55m), at a cost of £87.75m. John Onslow House would be refurbished at a cost of £2.8m and the remaining surplus properties would be disposed of for housing development. This option is not recommended following a value for money options appraisal.

More information is contained in paragraphs 3.16 onwards of the report.

5.2 CPO Resolution: Burdett Estate, St Pauls Way Trust (Poplar HARCA)**DECISION**

1. To agree the making, confirming and implementation of a Compulsory Purchase Order (CPO) to include specific land interests that must be acquired to facilitate the redevelopment by Poplar HARCA of Burdett

Estate, to provide new educational facilities, housing and estate regeneration.

2. Subject to the Council entering into the Indemnity Agreement as described at recommendation 5., delegate to the Corporate Director of Development and Renewal, after consultation with the Director of Law Probity and Governance (or their nominee), the power to effect the making, confirming and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the land shown edged red on the plan at **Appendix 1** to the report including, but not limited to, the following procedural steps:
 - 2.1 Acquiring all known interests in land and any additional interests identified through the land referencing process within the CPO boundary, as shown at **Appendix 1** to the report, either by private agreement or compulsorily, including those specific interests listed in **Appendix 2** to the report.
 - 2.2 Appointing land referencing agents, making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making.
 - 2.3 Monitoring of negotiated agreements by Poplar HARCA with land owners or others as applicable, setting out the terms for withdrawal of any objections to the CPO, including where appropriate seeking exclusion of land or new rights from the CPO.
 - 2.4 Seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981), including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary.
 - 2.5 Publication and service of notices of confirmation of the CPO and thereafter to execute and serve any General Vesting Declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area.
 - 2.6 Issuing of General Vesting Declarations and/or Notices to Treat in respect of the land/interests within the area edged red on the plan at **Appendix 1** to the report and those listed at **Appendix 2** to the report.
 - 2.7 Referral and conduct of disputes, relating to compulsory purchase compensation, at the Upper Tribunal (Lands Chamber).

- 2.8 Transfer of any land interests compulsorily acquired by the Council to Poplar HARCA, for nil consideration, within a timescale to be agreed with Poplar HARCA.
3. To determine that the use of CPO powers is exercised after balancing the rights of individual property owners with the requirement to obtain vacant possession of the site.
 4. To determine that the interference with the human rights of the property owners affected by these proposals, and in particular their rights to a home and to the ownership of property, is proportionate, given the adequacy of their rights to object and to compensation, and the benefit to the economic, social and environmental well-being of the areas of Tower Hamlets affected by these proposals.
 5. To delegate to the Corporate Director, Development and Renewal, following consultation with the Director of Law Probity and Governance (or their nominee), the power to agree the terms of and enter into an Indemnity Agreement with Poplar HARCA which provides a framework for the respective obligations of the Council and Poplar HARCA in the promotion and application of powers, including an obligation for the Council to transfer the land to Poplar HARCA for nil consideration, and the ability for the Council to recover its costs in conducting and managing the CPO (subject to 6. below), including compensation costs to be paid.
 6. To note that costs incurred by the Council in managing the CPO will be underwritten by Poplar HARCA. However, an element of the scheme costs are attributable to the project costs of providing the school and will be included in the overall cost paid by the Council to Poplar HARCA as part of the separate agreement in respect of the provision of the school. This is to be funded as part of the Children's Services capital programme.

Action by:

CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)
(Service Head for Strategy, Regeneration and Sustainability (J. Odunoye)
(Housing Regeneration Manager (N. McGowan)
(Project Officer, Housing Regeneration (A. Uddin)

Reasons for the decision

The proposed CPO was originally considered by the former Mayor in Cabinet on 23 July 2014 and was supported in principle. The CPO will progress the Mayor's regeneration aims by enabling the Council's registered provider partner, Poplar HARCA, to undertake an approved partnership project with the Council on Burdett Estate, which will redevelop two existing housing blocks and provide new homes and a much needed expansion of St Paul's Way Trust School, providing an additional 450 primary places.

Poplar HARCA has requested that the Council exercises its powers to make this CPO to safeguard land assembly across the proposed regeneration area, so that the scheme can be delivered in a timely and cost effective way, thus guaranteeing delivery of the school, new housing and other associated regeneration benefits for the community, whilst minimizing delays and the risk of additional costs.

The CPO process would run in tandem with Poplar HARCA's ongoing efforts to secure vacant possession voluntarily, helping to ensure that land interests can ultimately be acquired and that the redevelopment schemes can progress without indeterminate delays. The status of negotiations by HARCA with the affected land interests in each area is summarised later in this report. Negotiations will be reviewed regularly by Council officers, to ensure that HARCA continues to try to reach negotiated agreements with leaseholders and any other land interests, wherever possible.

As indicated in para. 3.1 the need for the CPO on Burdett Estate arises from a partnership between the Council, Poplar HARCA and St Paul's Way Trust School. This builds on existing local regeneration in which the partners have worked together. In September 2013 Cabinet agreed a recommendation to support the proposed expansion of St Paul's Way Trust School and a capital estimate was adopted to include the project in the ESCW capital programme. (Cabinet 11 September 2013, Planning for School Places, 2013/14 Review; ESCW Capital Programme 2013/16). The capital estimate was adjusted to £9.73m following a recommendation to Cabinet on 2 April 2014. A further Executive Decision on 15 October 2015 amended the capital estimate to £13,406,675.

Poplar HARCA has agreed proposals for this regeneration scheme with the Council and with the school. Based on the need for additional school provision in the locality, a scheme has been developed which received planning approval in March 2015. The Council is funding the capital costs of the school-related elements of the overall scheme. This is funded from specific capital grant from the DfE for additional school places. Part of the Council's costs will include a proportion of costs attributable to site assembly, (e.g. decant of existing residents).

The proposal is for the demolition of existing flats in Printon and Linton Houses (HARCA-owned blocks) and a mixed-use redevelopment, to include accommodation for the school on the ground floor, with mixed tenure housing above. This form of development has been successfully implemented elsewhere. The site is approximately 200m from St Paul's Way Trust School. The scheme will also include nursery class provision.

There is a steeply rising need for more school places in Tower Hamlets. Over the next 10 years approximately 5,000 more primary school places will be required. The Council has a statutory duty to provide school places. In recent years the Council has created more capacity from within its own assets.

The St Paul's Way Trust School proposal allows a partnership approach to create additional capacity as well as provide new homes. The Council will

fund the school elements of the capital costs of the redevelopment. The proposed development will allow the school to expand by adding 450 primary places. By this expansion the school will become an all-through school for 1,650 children aged 4-18 years. It allows the expansion of an outstanding and popular school to create places that the Council would not otherwise be able to create on the existing site of the school.

The school is in a priority area of the borough where there is considerable pressure on the available school places. The Council has limited options for expanding schools in the area. New residential developments have taken place and are proposed in this area of the borough. Where there are not enough local primary school places, children are not able to gain a place at their local school and will have to travel further to access a place. The school expanded from September 2014 and is using temporary accommodation in the Burdett Centre.

In the interim there has been extensive liaison with Poplar HARCA to review and monitor its negotiations with land interests, which have progressed well, and to prepare documentation for the CPO. It is now necessary to make the CPO to facilitate clearance of the site so that the permanent school provision can be constructed, with a view to starting on site as quickly as possible, subject to successful land assembly.

Any liabilities which the Council may assume in becoming the 'Acquiring Authority' by making the CPO will be indemnified by Poplar HARCA in an agreement which will set out the responsibilities and requirements of both parties and underwrite the Council's costs.

Alternative options

An alternative option is to NOT to agree to the proposed CPO. In this instance negotiations by Poplar HARCA with individual land interests would continue, but the absence of a back-up CPO process could potentially have negative impacts as follows:

- Risk to the land assembly, which cannot be guaranteed without resorting to compulsory purchase; thus development of the proposed new homes and the school extension would be jeopardised, or at the very least delayed. HARCA has stated that without a commitment from the council to use CPO powers to support the delivery of the land assembly, it may not be able to progress the scheme, as the cost risk will be too high.
- Potentially higher costs for HARCA, i.e. by necessitating acquisitions at a higher than market value, which in turn could reduce scheme funding or overall financial viability. A proportion of such additional costs would fall to the Council for the school-related element of the overall project.
- Uncertainty for tenants and leaseholders as to whether the scheme will progress, which will make it harder for them to make informed

decisions about their future, or to get alternative accommodation which meets their requirements.

- Without a statutory CPO there would be no obligation on Poplar HARCA to reimburse leaseholders' costs for reaching voluntary settlements, such as surveying and legal fees.
- The proposed expansion of St Paul's Way Trust School has been identified as a key scheme to provide additional, high quality school capacity in this area of the borough to meet the needs of local residents.
- There would be a risk that the much-needed school places could not be provided on this site and there may be additional costs incurred due to programme delays arising from decant issues: the need for additional school places in Tower Hamlets is significant and will continue for the foreseeable future.
- Many schools have been expanded on their existing sites but the opportunities for more such expansions are now very limited due to the restricted sites of many inner city schools.

Other options include securing site allocations through the strategic planning process and other agreements with developers. However because of the scale of the need for additional places (5,000 primary school places over the next 10 years), the Council has to keep several options under review and in progress in order to keep pace with the projected number of pupils requiring a school place each year. This includes working with partners on the potential for mixed-use development, as in this case. However, this scheme is an ideal opportunity to address key regeneration aims to improve housing and school provision.

5.3 Disposals Report - Southern Grove and Cheviot House

DECISION

1. To note the contents of this report;
2. To agree that the land and buildings referred to below (as shown on the plans in Appendix A) are surplus to requirements:
 - a. Cheviot House, 227 to 233 Commercial Road
 - b. 60 Southern Grove
3. To agree to the disposal of the sites by informal tender;
4. To agree to the disposal of the sites on 199 year leases;

5. To authorise the Corporate Director, Development & Renewal, to appoint external agents to support the marketing of the sites;
6. To authorise the Corporate Director, Development and Renewal to accept the best tender returns for the sites on conclusion of the marketing exercise; and
7. To authorise the Corporate Director, Development and Renewal, following consultation with the Director of Law Probity and Governance, to agree the terms and conditions of any agreements required to implement the recommendations above.

Action by:

CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)
(Service Head, Corporate Property and Capital Delivery (A. Sutcliffe))

Reasons for the decision

It is important at a time of reducing funding and budgets in the public sector to ensure that efficiencies are driven through the running and/or disposals of the council's assets to reduce revenue costs.

The decisions in this report will contribute to the continual review and rationalisation of the council's assets, and help reduce the operational portfolio to the minimum required.

The disposals will generate capital receipts for the council, which can be reinvested and directed to its principal expenditure priorities. They will also reduce revenue expenditure on upkeep, maintenance and security.

The development of the properties will also bring empty and disused sites back into use. By taking constructive action in this way the borough is meeting its strategic enabling role in promoting regeneration, bringing derelict sites back into use and increasing the supply of housing.

Alternative options

The Council has considered developing the sites directly but it was considered that funding could be better directed towards alternative schemes in the borough. It is now proposed to let the market deliver the redevelopments.

Whilst it is possible to apply a sale condition whereby a minimum level of affordable housing must be provided this will have the effect of reducing the value and the capital receipt. Furthermore, if this condition requires the affordable housing to be provided for the benefit of the Council, this could trigger a Procurement and would need to be investigated and considered further in conjunction with the Council's Legal and Procurement teams.

Once the sites are in new ownership they will be redeveloped in accordance with planning policy including policy relating to appropriate levels of affordable housing. Therefore the Council will retain some control over the delivery of affordable housing indirectly through the planning process. It should be noted that this will always be subject to viability in the usual way.

The potential exists to transfer part, or all, of the land at Southern Grove to a Community Land Trust. The factors to take into account in considering this option will include the consideration, if any, at which the transfer will take place and whether the Council would be required to forego a capital receipt for the land value. This is a matter that will require considerable further consideration and consultation prior to a further decision being made by Cabinet.

5.4 Quality of S106 Social Housing - Report of the Scrutiny Challenge Session

DECISION

1. To note the Scrutiny Challenge Session report titled "The Quality of s106 funded Social Housing Scrutiny Challenge Session Report" as agreed by the Overview and Scrutiny Committee on 7th April 2015 (see Appendix One to the report); and
2. To agree the draft action plan that has been prepared in response to the 4 recommendations contained in that Report (see Appendix Two to the report).

Action by:

CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)

Reasons for the decision

This report submits the report of the Overview and Scrutiny Committee Challenge Session on the Quality of S106 funded Social Housing for consideration of the Mayor and Cabinet.

Overview and Scrutiny identified a concern amongst some Councillors and residents that the quality of the social housing being built in the Borough through these agreements was not robust enough, with materials being used which were not suitable for high density housing with a much greater intensity of use than private dwellings.

The focus of the challenge session was therefore to see if there was an issue with the design and build quality of some of the affordable housing in the Borough provided through S106 planning obligations; and, if so, what changes to planning policy, practice or procedures could be made to address these concerns, whilst still ensuring the continued provision of affordable

housing in the Borough. The session was chaired by Councillor David Chesterton, the then Scrutiny Lead for Development and Renewal.

Alternative options

To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable, and agreed by senior officers in the Service. The action plan is outlined in Appendix Two.

To agree some, but not all recommendations. As outlined above all of the recommendations are achievable and can be contained within existing budgets.

5.5 Scrutiny Review: Improving Cycle Safety

DECISION

1. To consider this report of the scrutiny working group and agree the action plan in response to the challenge session recommendations.

Action by:

**CORPORATE DIRECTOR, COMMUNITIES, LOCALITIES AND CULTURE
(S. HALSEY)**

Reasons for the decision

In recent years, cycling has grown in popularity for both work and pleasure. The Government aims to make cycling a more convenient, attractive and realistic choice for short journeys, especially those made to and from work and school. It cites the need to reduce congestion, improve health outcomes and create more pleasant places to live as key issues that cycling can help address.

However, as cycle usage has grown, the potential for conflict with other road users including motorists and pedestrians, together with the overall safety of cyclists, has become an area of increasing concern.

Recognising the mounting concern over road safety for cyclists in the borough, particularly given the rise in fatalities on busy arterial roads and the importance of cycling as a viable means of increasing physical activity, the committee felt it was important to devote a challenge session to examining these issues.

Alternative options

To take no action and continue with existing arrangements for improving cycling safety. This is not recommended. The proposed response supports the Best Value duty and aims to secure improvement, informed by consideration of economy, efficiency and effectiveness. A timetable for delivering the recommendations has also been agreed by officers. The action plan is outlined in Appendix Three.

To agree some, but not all, recommendations. All of the recommendations are achievable and propose that existing partnerships be utilised to enforce safety measures and develop engineering interventions.

5.6 Tower Hamlets Safeguarding Children Board Annual Report 2014-15

The Pre-Decision Scrutiny questions were noted.

DECISION

1. To note the report from the Local Safeguarding Children Board

Action by:

INTERIM CORPORATE DIRECTOR, CHILDRENS SERVICES (D. JONES)
(Interim Policy, Programmes and Community Insight Manager (A. Walters))

Reasons for the decision

The Local Safeguarding Children Board (LSCB) The LSCB is required to publish an annual report on the effectiveness of child safeguarding arrangements and promoting the welfare of children in its locality and ensure the annual report is available within the professional and public domain. The LSCB annual report, which fulfils this responsibility, is appended to this briefing paper.

Alternative options

There are no alternative options, as it is a statutory requirement for this report to be reported to the Mayor.

5.7 Tower Hamlets Safeguarding Adults Board Annual Report 2014-15

The Pre-Decision Scrutiny Questions were noted.

DECISION

1. To note the report from the Safeguarding Adults Board

Action by:

DIRECTOR, ADULTS SERVICES (L. ADDAMS)
(Interim Policy, Programmes and Community Insight Manager (A. Walters))

Reasons for the decision

The Safeguarding Adults Board (SAB) became a statutory function with the implementation of the Care Act on 1 April 2015. One of its new statutory responsibilities is to complete an annual report, which must be reported to the Chief Executive and leader of the local authority. The SAB annual report, which fulfils this responsibility, is appended to this briefing paper.

Alternative options

There are no alternative options, as it is a statutory requirement for this report to be reported to the Mayor.

5.8 Older Persons Day Centre Review

The recommendations were amended and then agreed.

DECISION

1. To note the recommendations from the review.
2. To agree to extend three current core spot contractual arrangements for St Hilda's East, (Somali Gardens Older Persons Day Service and Somali Gardens Older Persons Weekend Service, E1) and Peabody's Older Persons Day Service at the (Sundial Centre, E2) up to September 2016 to enable the completion of a procurement process to establish a preferred provider list with a new service specification. The normal procurement process could take between nine months and a year (a final timeline will need to be confirmed). If members agree this route, the new contract arrangements will start in September 2016.

The annual estimated value of the current arrangements is:

▪ St Hildas at Sonali Gardens	£479,459
▪ St Hildas weekend service	£22,859
▪ Peabody at Sundial Centre	£298,005

Including a small number of additional day service placements that meet specific individual needs, the overall the estimated value of external day service provision is approximately £929,069 per annum.

3. To take no decision with respect to services provided at Mayfield House until the Council has had time to consider all submissions from the related budget savings proposals consultation.
4. To delegate to the Corporate Director Adult Social Care or to such other officer who then receives such delegation in accordance with Part A of the Scheme of Management in Part 3 of the Council's constitution the power to agree to entering into the interim contracts with the existing providers as detailed in recommendation 2
5. To note the demographic background and growing demand in Tower Hamlets against which the modernisation of older people's day services is presented.
6. To agree the recommended procurement approach (Option B) set out in Appendix A, which proposes a comprehensive package of services for older people who are eligible for services in Tower Hamlets, to ensure the services are outcomes-focused, tailored to physical, cultural and social needs, and represent quality, efficiency and best value.
7. To agree that the Older Persons Pathway Board (or similar) will provide the strategic lead and governance for services supporting older people,

which includes working in partnership with Health, Public Health and partners with a strategic plan for the next 10 years. This will ensure services are responsive to continued change and that adequate resources are allocated and identified to enable ongoing efficient and effective service provision, which promotes a preventative approach.

8. To note that the Mayor in Cabinet will continue to be provided with updates at strategic points in the transformation process and the Lead Member for Health and Adult Services will be involved in the design phase of the service specification and procurement process, at appropriate points.

Action By:

DIRECTOR, ADULTS SERVICES (L. ADDAMS)

(Service Manager, Strategic Commissioning (B. Disney))

Reasons for the decision

A report was approved by Cabinet on the 6th November 2013, recommending a process to support the modernisation of day services provided for older people in Tower Hamlets. Those steps included:

- Carrying out a review of existing eligible day services, with recommendations to improve services so that they respond to changing demand, are more personalized and meet individual needs, within a suite of modernised day service delivery fit for the future.
- Progressing recommendations from the review to a future Cabinet meeting for approval, with a procurement route and outcome-focused contractual arrangements that have a greater focus on health and wellbeing, including a community based rehabilitation service that enables those with more complex needs to access a day service option, and thus reduce social isolation

The review was a piece of work, not conducted before, across the eligible day service provision. The scope included day services attended by service users aged over 65 with assessed eligible social care needs, but not universal services such as LinkAge Plus or pensioners' lunch clubs. The analysis included current and predicted demographics and changing health and social care needs with predictions for increasing demand up to 2025. It also explored national legislation and guidance, best practice models, service objectives and outcomes to help shape the vision for day opportunities, as historically many services are without detailed service specifications. Consultations with 175 service users, staff and carers captured their experience, aspirations and needs so as to inform service specifications and the training and skills required from staff to shape the future model of service provision. The full review is attached as Appendix C.

The review identified a greater need for flexible, more inclusive provision and more efficient means of delivering services in the community for eligible service users and carers. The review also provided the opportunity to

describe the tiers of support and services required to meet the range of older people's needs, with an explicit requirement to build on partnerships with universal services, healthcare and the voluntary sector. The overall aim is to deliver more holistic services with a commitment to outcomes focused on rehabilitation, promoting independence and choice, all ingrained in service design and delivery, whilst recognizing the financial challenges faced by local authorities.

Alternative options

Two procurement options were developed, with the comprehensive Option B being recommended (Appendix A). This includes three key elements:

- a consistent, outcomes-focused preferred provider list for commissioned services;
- re-provision of the service currently at Mayfield House to improve and widen access to the care provided to Somali men and women;
- a flagship complex needs centre provided in-house at Riverside House.

The core theme is to deliver a suite of services capturing the range of needs and support required, delivered in a responsive manner from facilities that meet the physical, cultural and social needs of users both now and for the future. Appendix B highlights the benefits and challenges associated with choosing Option B.

Cabinet may decide to pursue option A, which maintains the status quo, minimizing opportunities to modernize and redesign services and failing to provide value for money.

5.9 Scrutiny Review: Report of Drug Incidents and Anti-Social Behaviour

DECISION

1. To consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

Action by:

**CORPORATE DIRECTOR, COMMUNITIES, LOCALITIES AND CULTURE
(S. HALSEY)**

Reasons for the decision

Anti-social behaviour is a key issue of public concern. During the period 2013 to 2015, the Metropolitan Police Service recorded 38,030 calls in Tower Hamlets reporting anti-social behaviour.¹ Resident perceptions regarding how successfully the police and other local public services deal with ASB issues in their local area is relatively positive overall. However, selling of drugs, drug misuse and related ASB in communal spaces remains a recurring issue raised by residents at members' surgeries and in their casework.

¹ Disaggregated data on drugs related ASB reported is not available.

Some members have expressed concern that advice and promotional information from the various agencies on reporting these issues can be confusing. Furthermore, residents who do report incidents are often unaware of the outcome of their reporting. This lack of communication on outcomes may lead to under-reporting of ASB in the borough. Additionally, it is not always clear to residents what the role of social landlords is in dealing with incidents of drugs related ASB in neighbourhoods.

Alternative options

To take no action and continue with existing arrangements for reporting ASB. This is not recommended. The proposed response supports the Best Value duty and aims to secure improvement, informed by consideration of economy, efficiency and effectiveness. A timetable for delivering the recommendations has also been agreed by officers. The action plan is outlined in Appendix Two.

To agree some, but not all, recommendations. All of the recommendations are achievable and propose that existing partnerships be utilised to encourage the promotion of reporting anti-social behaviour, and that local organisations come together to consider how best to provide a good service in the context of reducing resources.

5.10 Environmental Impact Assessment (EIA) Review Contract

DECISION

1. To agree to the procurement of the EIA Review Contract.
2. To delegate to the Corporate Director Development and Renewal or to such other officer who then receives such delegation in accordance with Part A of the Scheme of Management in Part 3 of the Council's constitution the power to agree to entering into the contract with the winner or winners (as the case may be) of the procurement of the EIA Review Contract

Action by:

CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)
(Environmental Impact Assessment Officer (H. Peacock))

Reasons for the decision

Current EIA Review Contract

The current Environmental Impact Assessment (EIA) Review Contract commenced in summer 2013.

This contract was meant to be in place from August 2013 to July 2016. However, spend on the contract has exceeded previous expectations, and therefore we are nearing the maximum contract value. Any overspend above 15%, may lead to legal challenges and as such procurement of a new contract is sought.

The reasons contract spend has been higher than anticipated is:

- more applications submitted than anticipated - this is in part as a result of 'coming out' of the recession. This includes schemes that have been resubmitted due to a change in situation e.g. now seeking residential rather than office lead schemes;
- more outline applications than anticipated, requiring reserved matters applications and therefore ES Addendums that need to be reviewed;
- the Plan Making Team (D&R) used the EIA Review Contract for the South Quay Masterplan Strategic Environmental Assessment (SEA), and work on Ailsa Street; and
- using the EIA Review Contract to procure the review of daylight and sunlight assessments – this has been an additional fee per application. Note, this was stopped last year, due to the high spend on the contract.

Procurement of New EIA Review Contract

The new contract will mostly be the same as the existing contract, although it will be amended with respect to the maximum budget and timescales.

Alternative options

Consideration has been given to a range of alternatives. The primary alternative would be to procure the Contract for a shorter period of time, for example one year. It is however, considered prudent to procure a longer 3 year contract in order to continue to achieve best value for money, and encourage innovation/ best practice amongst consultants.

The current Contract has been a fixed contract with one Consultant. This has ensured a consistent approach to the EIA Review process.

Consideration has been given to procuring a small number of consultants, who will each undertake the work based on the outcome of internal mini-tenders. This is considered to be time consuming and costly, and therefore an inefficient implementation of the contract, particularly as the council only has 16 weeks to determine an EIA application.

The Consultants who will be tendering for this Contract tend to be large multi-disciplinary companies due to the nature of EIA projects. This ensures that the Consultant has sufficient resources and can ensure delivery.

Consideration has also been given to the "do nothing" scenario e.g. no EIA Review Contract. Without the EIA Review Contract in place, the Council would no longer have the expertise of an environmental consultant to rely upon and therefore the Council would have to undertake EIA Reviews itself.

The Council does not currently have enough staff in the relevant disciplines to accommodate the number of EIA Scoping Reports and ESs currently being submitted to the Council. It is therefore likely that the Council would need to recruit a large number of environmental specialists into their existing teams to

ensure that the Council had sufficient capacity, which would cost significantly more than the EIA Review Contract.

EIAs also tend to cover very niche environmental topics, for example wind microclimate assessments, which the Council is required to consider as part of the EIA Review. A review of this topic requires specific expertise (and sometimes equipment) to identify whether the assessment has been undertaken accurately. The Council does not currently employ these specialist disciplines and therefore the Council would be required to employ new staff in these areas to ensure that the EIA Review was acceptable.

5.11 Supplier Chain Ethical Code of Conduct

DECISION

1. To note the contents of this report.
2. To consider and agree the proposed Supply Chain Code of Conduct in substitution of the current Ethical Governance Protocol and Supplier and Contractors Charter in order to achieve the milestone outlined in the Best Value Implementation Plan.

Action by:

CORPORATE DIRECTOR, RESOURCES (Z. COOKE)

(Head of Procurement (Z. Ahmed))

Reasons for the decision

The new Supply Chain Ethical Code of Conduct signature will be a requirement for suppliers at different stages in the procurement process. The Code set out the principles and standards of delivery for our suppliers and contractors aiming to drive unethical practices from the supply chain.

The new Supply Chain Ethical Code achieves one of the milestones outlined in the Best Value Implementation Plan.

Alternative options

The alternative option is to maintain the current Ethical Governance Protocol that does not clearly set out all Council's principles and standards with regards to business ethics.

5.12 Annual Procurement Report

DECISION

1. To note the annual procurement expenditure analysis.
2. To note the achievements against the Procurement Policy Imperatives.
3. To note the Authority's position on central records of all supplies, services and works contracts and progress made in improving third party expenditure under management.

4. To note the current issues, future challenges and planned improvements to further transform Council's procurement activities.

Action by:**CORPORATE DIRECTOR, RESOURCES (Z. COOKE)**

(Head of Procurement (Z. Ahmed))

Reasons for the decision

The report provides the annual procurement expenditure analysis for financial year 2014/15 and an update on performance against key objectives set out within the Council's Procurement Policy Imperatives.

Alternative options

This is a noting report.

5.13 Transparency Protocol

The Pre-Decision Scrutiny Questions were noted.

DECISION

1. Agree the principles and action plan contained in the Transparency Protocol, contained in appendix 1 of this report.

Action by:**DIRECTOR, LAW, PROBITY AND GOVERNANCE (M. CLAY)
AND ALL DIRECTORATES**

(Service Head, Corporate Strategy and Equality (L. Russell))

Reasons for the decision

The Mayor's manifesto commitments, now incorporated into the Council's Strategic Plan and agreed by Cabinet in July 2015, included a commitment to increasing transparency of the Council and Mayor. This was detailed through a range of commitments, including attending Overview and Scrutiny meetings, answering public questions, and setting up Public Meetings across the borough. The Transparency Protocol sets out the framework for the delivery of these commitments.

In addition, following the Best Value Inspection, undertaken during 2014, the Council was issued with directions from central government and Commissioners were appointed to support the Council in their successful completion. One of the areas for improvement was organisational culture. The actions contained in the Transparency Protocol, by increasing transparency and the ability of members to better scrutinise the executive, will play an important role in improving the organisational culture.

The Governance Review Group, a cross party working group, is currently developing an action plan reflecting the following objectives:

- To enable agile, lawful and effective decision-making.

- To increase transparency of decision-making.
- To enhance the prior scrutiny of decision-making.
- To increase the effectiveness of audit of delivery of outcomes.
- To make effective use of available councillor time.
- To ensure understanding of the council's constitution in relation to those matters that are Executive Functions' and those that are reserved for 'Full Council'

The timely agreement of the Transparency Protocol actions can feed into the development and completion of these areas of work.

Alternative options

The Mayor in Cabinet could choose not to adopt a Transparency Protocol.

Alternatively the Mayor in Cabinet could choose to only undertake some of the actions outlined in the Transparency Protocol.

Neither of the above options are recommended as this would reduce the Council's focus and public commitment to delivering further transparency and organisation change.

5.14 Local Government Ombudsman Decisions Upheld 2014/15

DECISION

1. To note the report.

Action by:

DIRECTOR, LAW, PROBITY AND GOVERNANCE (M. CLAY)
(Interim Service Head, Legal Services (G. White)
(Complaints and Information Manager (R. Dowden)

Reasons for the decision

Legislation requires the Council to consider such findings by the Ombudsman.

Alternative options

N/A

5.15 List of Mayor's Individual Executive Decisions

DECISION

1. To note the Individual Mayoral Decisions set out in Appendix 1 to the report.

Action by:

DIRECTOR, LAW, PROBITY AND GOVERNANCE (M. CLAY)
(Committee Services Manager (M. Mannion)

Reasons for the decision

This is a noting report to aid transparency.

The reasons each decision were taken are set out in their specific reports.

Alternative options

The alternative option would be to not produce this report, but that would not aid transparency of decision making.

6. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT

Nil items.

7. EXCLUSION OF THE PRESS AND PUBLIC

No motion to exclude the press and public was passed.

8. EXEMPT / CONFIDENTIAL MINUTES

Nil items.

9. OVERVIEW & SCRUTINY COMMITTEE

9.1 Chair's Advice of Key Issues or Questions in Relation to Exempt / Confidential Business

Nil items.

9.2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee

Nil items.

10. EXEMPT / CONFIDENTIAL REPORTS FOR CONSIDERATION

10.1 Civic Centre Project

[Note – this item was considered during the unrestricted part of the meeting.]

DECISION

1. To note the content of the Exempt/Confidential Appendix to the main report.

10.2 Disposals Report - Southern Grove and Cheviot House

[Note – this item was considered during the unrestricted part of the meeting.]

DECISION


1. To note the content of the Exempt/Confidential Appendix to the main report.

11. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT

Nil items.

The meeting ended at 7.41 p.m.

Melanie Clay
DIRECTOR, LAW, PROBITY AND GOVERNANCE

Cabinet 3 November 2015	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director of Development and Renewal	Classification: Unrestricted
CPO Resolution: Burdett Estate, St Paul's Way Trust School (Poplar HARCA):	

Lead Member	Councillor Rachel Blake, Cabinet Member for Strategic Development
Originating Officer(s)	Jackie Odunoye – Service Head for Strategy Regeneration & Sustainability Niall McGowan – Housing Regeneration Manager Abad Uddin – Project Officer, Housing Regeneration
Wards affected	Mile End
Community Plan Theme	A Great Place to Live
Key Decision?	Yes

1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval for delegated authority to make a Compulsory Purchase Order (CPO). This would include specific land interests that need to be acquired to enable the delivery of the approved partnership project between the council and Poplar HARCA on Burdett Estate, which will redevelop two existing housing blocks (Linton and Printon) to provide new homes for rent and sale, plus essential new accommodation to enlarge St Paul's Way Trust School, providing 450 primary places. The scheme has planning approval and is in line with the council's regeneration objectives.
- 1.2 The proposed CPO will progress the Council's regeneration aims by enabling a registered provider partner, Poplar HARCA, to undertake an important combined housing and school development project. Proposals for the Burdett redevelopment scheme have been jointly developed between Poplar HARCA and the Council's Directorates of Children's Services, and Development and Renewal. The scheme is being delivered in partnership with Poplar HARCA, which is the landowner of the proposed redevelopment site.
- 1.3 Council officers have been monitoring Poplar HARCA's decant and negotiations with the affected property owners for 12 months. Only 1 HARCA tenant remains in situ; 8 out of 19 leaseholders have sold their properties to HARCA and a further 7 have reached agreements. HARCA advises that it has not to date been able to reach settlements with 4 leaseholders and, in order to progress this project, the Council's assistance in the use of its compulsory purchase powers is required.

2. RECOMMENDATIONS

The Mayor in Cabinet is recommended to:-

- 2.1 Agree the making, confirming and implementation of a Compulsory Purchase Order (CPO) to include specific land interests that must be acquired to facilitate the redevelopment by Poplar HARCA of Burdett Estate, to provide new educational facilities, housing and estate regeneration.
- 2.2 Subject to the Council entering into the Indemnity Agreement as described at recommendation 2.5, delegate to the Corporate Director of Development and Renewal, after consultation with the Director of Law Probity and Governance (or their nominee), the power to effect the making, confirming and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the land shown edged red on the plan at **Appendix 1** including, but not limited to, the following procedural steps:
 - 2.2.1 Acquiring all known interests in land and any additional interests identified through the land referencing process within the CPO boundary, as shown at **Appendix 1**, either by private agreement or compulsorily, including those specific interests listed in **Appendix 2**.
 - 2.2.2 Appointing land referencing agents, making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making.
 - 2.2.3 Monitoring of negotiated agreements by Poplar HARCA with land owners or others as applicable, setting out the terms for withdrawal of any objections to the CPO, including where appropriate seeking exclusion of land or new rights from the CPO.
 - 2.2.4 Seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981), including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary.
 - 2.2.5 Publication and service of notices of confirmation of the CPO and thereafter to execute and serve any General Vesting Declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area.
 - 2.2.6 Issuing of General Vesting Declarations and/or Notices to Treat in respect of the land/interests within the area edged red on the plan at **Appendix 1** and those listed at **Appendix 2**.
 - 2.2.7 Referral and conduct of disputes, relating to compulsory purchase compensation, at the Upper Tribunal (Lands Chamber).
 - 2.2.8 Transfer of any land interests compulsorily acquired by the Council to Poplar HARCA, for nil consideration, within a timescale to be agreed with Poplar HARCA.

- 2.3 Determine that the use of CPO powers is exercised after balancing the rights of individual property owners with the requirement to obtain vacant possession of the site.
- 2.4 Determine that the interference with the human rights of the property owners affected by these proposals, and in particular their rights to a home and to the ownership of property, is proportionate, given the adequacy of their rights to object and to compensation, and the benefit to the economic, social and environmental well-being of the areas of Tower Hamlets affected by these proposals.
- 2.5 Delegate to the Corporate Director, Development and Renewal, following consultation with the Director of Law Probity and Governance (or their nominee), the power to agree the terms of and enter into an Indemnity Agreement with Poplar HARCA which provides a framework for the respective obligations of the Council and Poplar HARCA in the promotion and application of powers, including an obligation for the Council to transfer the land to Poplar HARCA for nil consideration, and the ability for the Council to recover its costs in conducting and managing the CPO (subject to 2.6 below), including compensation costs to be paid.
- 2.6 Note that costs incurred by the Council in managing the CPO will be underwritten by Poplar HARCA. However, an element of the scheme costs are attributable to the project costs of providing the school and will be included in the overall cost paid by the Council to Poplar HARCA as part of the separate agreement in respect of the provision of the school. This is to be funded as part of the Children's Services capital programme.

3. REASONS FOR THE DECISIONS

- 3.1 The proposed CPO was originally considered by the former Mayor in Cabinet on 23 July 2014 and was supported in principle. The CPO will progress the Mayor's regeneration aims by enabling the Council's registered provider partner, Poplar HARCA, to undertake an approved partnership project with the Council on Burdett Estate, which will redevelop two existing housing blocks and provide new homes and a much needed expansion of St Paul's Way Trust School, providing an additional 450 primary places.
- 3.2 Poplar HARCA has requested that the Council exercises its powers to make this CPO to safeguard land assembly across the proposed regeneration area, so that the scheme can be delivered in a timely and cost effective way, thus guaranteeing delivery of the school, new housing and other associated regeneration benefits for the community, whilst minimizing delays and the risk of additional costs.
- 3.3 The CPO process would run in tandem with Poplar HARCA's ongoing efforts to secure vacant possession voluntarily, helping to ensure that land interests can ultimately be acquired and that the redevelopment schemes can progress without indeterminate delays. The status of negotiations by HARCA with the affected land interests in each area is summarised later in this report. Negotiations will be reviewed regularly by Council officers, to ensure that HARCA continues to try to reach negotiated agreements with leaseholders and any other land interests, wherever possible.
- 3.4 As indicated in para. 3.1 the need for the CPO on Burdett Estate arises from a partnership between the Council, Poplar HARCA and St Paul's Way Trust School. This builds on existing local regeneration in which the partners have worked together. In September 2013 Cabinet agreed a recommendation to support the proposed

expansion of St Paul's Way Trust School and a capital estimate was adopted to include the project in the ESCW capital programme. (Cabinet 11 September 2013, Planning for School Places, 2013/14 Review; ESCW Capital Programme 2013/16). The capital estimate was adjusted to £9.73m following a recommendation to Cabinet on 2 April 2014. A further Executive Decision on 15 October 2015 amended the capital estimate to £13,406,675.

- 3.5 Poplar HARCA has agreed proposals for this regeneration scheme with the Council and with the school. Based on the need for additional school provision in the locality, a scheme has been developed which received planning approval in March 2015. The Council is funding the capital costs of the school-related elements of the overall scheme. This is funded from specific capital grant from the DfE for additional school places. Part of the Council's costs will include a proportion of costs attributable to site assembly, (e.g. decant of existing residents).
- 3.6 The proposal is for the demolition of existing flats in Printon and Linton Houses (HARCA-owned blocks) and a mixed-use redevelopment, to include accommodation for the school on the ground floor, with mixed tenure housing above. This form of development has been successfully implemented elsewhere. The site is approximately 200m from St Paul's Way Trust School. The scheme will also include nursery class provision.
- 3.7 There is a steeply rising need for more school places in Tower Hamlets. Over the next 10 years approximately 5,000 more primary school places will be required. The Council has a statutory duty to provide school places. In recent years the Council has created more capacity from within its own assets.
- 3.8 The St Paul's Way Trust School proposal allows a partnership approach to create additional capacity as well as provide new homes. The Council will fund the school elements of the capital costs of the redevelopment. The proposed development will allow the school to expand by adding 450 primary places. By this expansion the school will become an all-through school for 1,650 children aged 4-18 years. It allows the expansion of an outstanding and popular school to create places that the Council would not otherwise be able to create on the existing site of the school.
- 3.9 The school is in a priority area of the borough where there is considerable pressure on the available school places. The Council has limited options for expanding schools in the area. New residential developments have taken place and are proposed in this area of the borough. Where there are not enough local primary school places, children are not able to gain a place at their local school and will have to travel further to access a place. The school expanded from September 2014 and is using temporary accommodation in the Burdett Centre.
- 3.10 In the interim there has been extensive liaison with Poplar HARCA to review and monitor its negotiations with land interests, which have progressed well, and to prepare documentation for the CPO. It is now necessary to make the CPO to facilitate clearance of the site so that the permanent school provision can be constructed, with a view to starting on site as quickly as possible, subject to successful land assembly.
- 3.11 Any liabilities which the Council may assume in becoming the 'Acquiring Authority' by making the CPO will be indemnified by Poplar HARCA in an agreement which will set out the responsibilities and requirements of both parties and underwrite the Council's costs.

4. ALTERNATIVE OPTIONS

4.1 An alternative option is to NOT to agree to the proposed CPO. In this instance negotiations by Poplar HARCA with individual land interests would continue, but the absence of a back-up CPO process could potentially have negative impacts as follows:

- Risk to the land assembly, which cannot be guaranteed without resorting to compulsory purchase; thus development of the proposed new homes and the school extension would be jeopardised, or at the very least delayed. HARCA has stated that without a commitment from the council to use CPO powers to support the delivery of the land assembly, it may not be able to progress the scheme, as the cost risk will be too high.
- Potentially higher costs for HARCA, i.e. by necessitating acquisitions at a higher than market value, which in turn could reduce scheme funding or overall financial viability. A proportion of such additional costs would fall to the Council for the school-related element of the overall project.
- Uncertainty for tenants and leaseholders as to whether the scheme will progress, which will make it harder for them to make informed decisions about their future, or to get alternative accommodation which meets their requirements.
- Without a statutory CPO there would be no obligation on Poplar HARCA to reimburse leaseholders' costs for reaching voluntary settlements, such as surveying and legal fees.
- The proposed expansion of St Paul's Way Trust School has been identified as a key scheme to provide additional, high quality school capacity in this area of the borough to meet the needs of local residents.
- There would be a risk that the much-needed school places could not be provided on this site and there may be additional costs incurred due to programme delays arising from decant issues: the need for additional school places in Tower Hamlets is significant and will continue for the foreseeable future.
- Many schools have been expanded on their existing sites but the opportunities for more such expansions are now very limited due to the restricted sites of many inner city schools.

4.2 Other options include securing site allocations through the strategic planning process and other agreements with developers. However because of the scale of the need for additional places (5,000 primary school places over the next 10 years), the Council has to keep several options under review and in progress in order to keep pace with the projected number of pupils requiring a school place each year. This includes working with partners on the potential for mixed-use development, as in this case. However, this scheme is an ideal opportunity to address key regeneration aims to improve housing and school provision.

5. DETAILS OF REPORT

5.1 Meeting the Council's requirements to make a CPO

The Council has previously made CPOs to support its own, or its Registered Provider (RP) partners' regeneration projects. The need for this provision arises where acquisition of land interests (residential dwellings, shops, rights of way etc) is necessary to fulfil commitments to deliver new affordable homes and/or to achieve wider regeneration benefits, such as the provision of related infrastructure, community facilities or new school premises.

5.2 This report seeks the Mayor's approval to make the CPO now. For the reasons set out in Sections 3 and 4 of this report, it is important to commence the CPO processes for all the non-acquired land interests included in, or affected by the CPO land within the red-line boundary shown in Appendix 1. The report explains why the proposed CPO is needed to support the housing and wider regeneration work proposed on Burdett Estate, which will provide new homes and crucially a new school building to expand the nearby St Paul's Way Trust School.

5.3 Circular 06/04 provides the statutory guidance for making of a CPO. In accordance with the guidance, the Council needs to demonstrate that compulsory purchase is used as a measure of the last resort and, once made, is enforced after all efforts to acquire by agreement have been exhausted.

5.4 Before making a CPO, Council officers require that HARCA demonstrates that it is and will continue to be vigorously seeking voluntary negotiated settlements with all those whose interests will be acquired, offering the full market value applicable and compensation compatible with statutory requirements. This includes reimbursement by HARCA for independent valuation and legal support, payment of the full market value for their property interest, and a compensation package to meet statutory requirements.

5.5 Council officers will regularly meet Poplar HARCA's representatives to monitor progress in securing vacant possession through voluntary negotiation. Poplar HARCA's approach to voluntary negotiations with land interests is described in Section 7 below.

6. BURDETT ESTATE – REDEVELOPMENT FOR HOUSING AND SCHOOL ACCOMMODATION

6.1 Burdett Estate is located in Mile End ward – see **Appendix 1, location map**. This former council estate was transferred to Poplar HARCA in 1998. Substantial housing and environmental regeneration work has been carried out, prior to the scheme which is now proposed.

6.2 Poplar HARCA's new development will take place in a single phase and will include:

- A new housing development with school accommodation below, as part of St Paul's Way Trust School, fronting onto St Paul's Way – this will allow the school to expand by adding 450 new primary places.
- New multi-use games play space.
- New school playground.
- A new housing development, with the provision of 109 new flats of mixed tenure, based on the Mayor's London Housing Design Guide space standard.
- Design will comprise:

- 83 for private sale
- 12 for social rent
- 14 intermediate
- The split is 70% private: 30% social & intermediate by habitable rooms
- Replacement mosque building, for that which currently occupies the Burdett Centre.
- The design of the school accommodation and its recreation area will allow community use out of school hours. The school and Poplar HARCA are committed to working together on the use of the school accommodation by the community.

6.3 The scheme requires the demolition of Linton and Printon Houses and the relocation of the current residents. Poplar HARCA had previously commenced a tenant decant programme and has now started the dialogue with leaseholders, to endeavour to secure vacant possession of the various properties through voluntary acquisitions wherever possible.

6.4 The existing occupancy, after more than 12 months of active decant, is as follows:

6.4.1 Printon House has 30 flats in the block of which 0 are tenanted, 6 are leasehold and 24 are void. Current occupancy is:

0	Void/short life
0	Tenants
4	resident Leaseholders
2	non-resident Leaseholders

6.4.2 Linton House has 24 flats in the block of which 1 is tenanted, 5 are leasehold and 18 are void. Current occupancy is:

0	Void/short life
1	Tenants
3	resident Leaseholders
2	non-resident Leaseholders

6.5 Rehousing Offer – Burdett Scheme

Whilst development has started on the environmental works Poplar HARCA needs to complete it's decant of the remaining occupied properties (the north block of the site) to enable the rest of the development to go ahead. As this is a relatively small, single phase project, delivering fewer replacement homes on-site, HARCA cannot offer a guaranteed option for existing tenants and resident owners to relocate within the redevelopment area.

6.6 Poplar HARCA has made the following commitment to its tenants, most of who have now satisfactorily relocated:

- Award of decant priority status
- Relocation to a suitable home
- Help with the cost of moving
- Home Loss payment
- Poplar HARCA is able to provide a qualified option to return to the new scheme as the number of new affordable homes to be built within the scheme will be less than the number of homes to be demolished.

- Stock transfer tenants will keep their protected rights such as Right to Buy if they transferred to another Poplar HARCA property.
 - Post transfer tenants will keep their assured tenancy rights if they move within Poplar HARCA or to any other Housing Association, unless they choose to accept a non-secure tenancy with another Landlord.
- 6.7 Poplar HARCA has also made the following commitments to resident leaseholders in the affected blocks:
- Market value for property
 - Home loss payment along with reasonable costs of relocation and conveyancing fees, SDLT etc
 - For leaseholders that cannot afford an alternative home in the open market the following options are available
 - Shared ownership
 - Shared equity arrangement
 - Lease swap
- 6.8 Through its drop-in sessions and home visits, Poplar HARCA gathers information about the personal and financial circumstances of the resident leaseholders, to identify any hardship considerations and to develop options that fit with these leaseholders' financial circumstances. This information is being shared with Council officers monitoring the decant programme so that they can be assured that Poplar HARCA are providing robust options that meet the needs of the leaseholders.
- 6.9 Poplar HARCA is expected to be as flexible as possible in its efforts to negotiate with resident home-owners. However the CPO is necessary to ensure that the land earmarked for development is secured as quickly as possible, to enable the development to begin. On 11th March 2015, the Council's Development Committee made a resolution to grant planning permission. The Council and Poplar HARCA signed the S106 agreement on 31 March 2015.
- 6.10 **Purpose of the decant and acquisition of land interests on Burdett Estate**
HARCA's programme for the scheme entails:
- demolition and redevelopment of 54 properties at Linton House and Printon House.
 - demolition of the current Burdett Centre community hall.
 - demolition and re-provision of the Mosque, which currently occupies part of the Burdett Centre.
- 6.11 The purpose of decant and acquisition of land interests is to secure vacant possession of the site, ideally to enable demolition as soon as the site is cleared but ideally by mid-2016. This allows the phased redevelopment programme which should provide the new school provision in phases with final completion in early 2019.
- 6.12 Residents and local stakeholders were consulted by Poplar HARCA about the decant options and about the regeneration proposals. The support of the Council in progressing a CPO for the land interests identified in Appendices 1 and 2 will help deliver a successful conclusion to the decant and leasehold acquisitions programme. The CPO would run in tandem with Poplar HARCA's ongoing negotiations with remaining dwelling owners.

7. NEGOTIATING SETTLEMENTS

- 7.1 Poplar HARCA will be required to continue negotiations with the owners of the remaining land interests, to achieve a complete decant and acquire all interests by agreement wherever possible, without having to implement the CPO unless this is absolutely necessary. Approving the making of the CPO under delegated authority now, will not result in any reduction in efforts to continue negotiations to achieve vacant possession by voluntary agreement. The CPO is, however, an essential step to confirm the council's continued and formal support for the scheme, which together will provide significant new housing, community and educational benefits to the borough.

Residential acquisitions

- 7.2 Poplar HARCA is engaging to acquire leasehold premises and has so far been successful in discussions to communicate with the affected leaseholders and to offer settlements.
- 7.3 This process has been underway for more than 12 months. All but 1 tenant have been decanted. Some 8 leaseholders have been acquired to date and agreements reached with a further 7. Settlements have not been reached with 4 owners and HARCA advises that it requires the CPO to guarantee the remainder of the land assembly or the project will be put at risk as set out in para. 4.1.
- 7.4 Poplar HARCA will continue to liaise closely and negotiate with all the owners and occupiers during the parallel CPO process. The Council's Housing Regeneration Team is continuing to monitor the offers made by HARCA to ensure that this happens.
- 7.5 HARCA has adopted the CPO good practice approach used by the Council. When a property is to be purchased the owner is encouraged to seek independent valuation advice to assist in negotiations with Poplar HARCA, and reasonable costs for this are reimbursed. Owners are offered the full current market value of their property. Owners who occupy their properties as their 'principal' home (i.e. resident owners) receive an additional 10% of the final market value as a statutory Home Loss payment. Property Owners who do not occupy their properties (i.e. non-resident owners) are usually eligible for an additional 7.5% of the acquisition price as a "Basic Loss" payment, if the property has been well maintained.
- 7.6 To help displaced property owners move to their new homes, their reasonable moving costs are paid, including legal and professional valuation fees, the hire of removal companies, disconnection and reconnection of cookers, washing machines and all associated domestic costs of moving from one property to another, including an allowance for carpets and curtains etc. Where a property owner makes their own arrangements to acquire alternative premises, the Registered Provider meets the reasonable cost of stamp duty.
- 7.7 In addition to the standard options set out above, which reflect the Council's approach to resident property owner buybacks, Poplar HARCA is offering further options such as lease swaps, conversion to shared equity or shared ownership options where there is insufficient capital in the existing property to enable the displaced leaseholder to purchase a new replacement home at current market values.

Other Land Interests

7.8 There are likely to be other non-residential land interests and rights, which will need to be extinguished or acquired by each proposed CPO. These may include for example:

- Way-leaves
- Easements
- Rights of Way
- Third Party rights
- Over-sailing rights

7.9 All land interests will be established via land referencing, which is checked and finalised prior to making the CPO. Negotiated settlements are prioritised wherever achievable to allow the redevelopment to proceed unhindered.

Rights of Light

7.10 One of the implications of high-density development is the potential to reduce the light reaching windows of surrounding homes; this is an important consideration in the planning process, where there are well-established methodologies for calculating Daylight/Sunlight penetration. However there are increasing instances where, even when a development has planning consent, there are still adverse implications to some neighboring homes or other buildings.

7.11 Where there is a significant impact upon right to light there may, in certain circumstances, be an entitlement to injunct against the proposed development. Any properties affected in this way would be outside the red-line CPO area. However, one of the effects of enabling regeneration by compulsory purchase of land through the use of planning powers (s226 of the Town and Country Planning Act 1990) is to override private third party rights, including interference with any "rights to light".

7.12 "Rights to Light" only appears to impact on certain freehold or long leasehold interests and not on tenancies, where the interest is usually of limited duration.

7.13 The effect of a CPO on any such owners, where such rights exist, would not be to compulsorily purchase their property, but rather to override any entitlement to injunct against the approved scheme and to automatically convert any such entitlement into a claim for compensation - rights to full statutory compensation, where they exist, would not be affected by a CPO.

7.14 Poplar HARCA's scheme for the new housing and St Paul's Way School has detailed planning approval. HARCA commissioned a specialist Rights of Light surveyor to undertake a preliminary assessment of the scheme utilising a photogrammetric survey, site photographs and scheme drawings. The following properties and sites were considered, due to their proximity to the scheme, given the height, location and massing of the scheme:

- Bredel House, St Paul's Way
- Perkins House, Wallwood Street
- Kirkby Apartments, St Paul's Way
- Thorn Apartments, St Paul's Way
- 83 St Paul's Way
- St Paul's with St Luke's School
- Stebon Primary School

- 7.15 HARCA has confirmed that it is the owner of Bredel House, Perkins House, Thorn Apartments and Kirkby Apartments (unity of ownership with the development site) and, following its review of leases, that there are no flats within these buildings whose owners or tenants enjoy rights of light. The property at No 83 St Paul's Way was constructed since 2008, and therefore is not sufficiently old to have acquired prescriptive rights of light.
- 7.16 HARCA's study confirms that there appear to be no actionable rights of light injury to St Paul's with St Luke's School. In respect of Stebon School, on the basis of the layouts shown in the drawings, there is deemed to be no rights of light injury: in theory it is possible that one room in Stebon School could be subdivided to create a future technical injury, but this is not considered a reasonable claim. The Directorate of Children's Services has confirmed that since Stebon School is in the ownership of the Authority, and the scheme is delivering additional school places, there is no risk of a claim for rights of light injury being made on behalf of the neighbouring school.
- 7.17 On balance therefore the risk of there being any actionable rights of light injury claims is considered minimal and Poplar HARCA has confirmed to the council that it will not be necessary for it to take steps to extinguish any claims. In any event the use of compulsory purchase powers does not affect the absolute entitlement of any affected owners to compensation, should unforeseen claims emerge; it merely prevents the risk of injunctions to halt development.
- 7.18 If, contrary to the information provided by Poplar HARCA, any rights of light injury claims were to emerge, actionable rights would cease at the point the council vests the land interests. A claimant's entitlement to full compensation, payable by Poplar HARCA, would remain. In such a scenario the Council will request the following information to be provided by Poplar HARCA prior to vesting, as part of its general update on negotiations with all land interests, to ensure that HARCA is engaging appropriately with any such unforeseen claimants:
- disclosure of technical rights of light assessments, including actionable claims;
 - details of the estimated compensation schedule and HARCA's current offers (e.g. "book value" and the multiple being offered);
 - details of any covenants in leases which prohibit rights of light entitlements, i.e. in some right to buy / transferred council homes which would otherwise have been affected;
 - details of ongoing, robust negotiations with all those owners who have actionable rights of light claims, and evidence that injunction has been threatened and/or is a real risk;

8. COMPULSORY PURCHASE

- 8.1 Using compulsory purchase powers will facilitate the delivery of this regeneration project. The current known interests in the land are listed in Appendix 2, but other interests may emerge through land referencing across the red-line area for the proposed CPO.
- 8.2 Circular 06/2004 Paragraph 1 (Compulsory Purchase and the Crichel Down Rules) ("the Circular") sets out statutory guidance to acquiring authorities in England making CPOs.

- 8.3 The Circular states that “Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute toward effective and efficient urban and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay.”
- 8.4 The Circular, para 24, sets out that “acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail.”
- 8.5 The Circular also sets out (para 24) that acquiring authorities “should plan a compulsory purchase timetable at the same time as conducting negotiations.” This is to reflect the amount of time that needs to be allowed to complete the compulsory purchase process. The guidance goes on to state “it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will 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.”
- 8.6 Paragraph 17 of the Circular refers to the balance that has to be struck between ensuring a compelling case in the public interest and that the regeneration project sufficiently justifies interfering with the human rights of those with an interest in the land affected. It reads as follows:
- “A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected.”*
- 8.7 Paragraph 19 of Circular 06/04 states –
- “If an acquiring authority does not have a clear idea of how it intends to use the land which it is proposing to acquire, and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest... Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss.”*
- 8.8 Consideration is given to the human rights implications of the decision to make a CPO in section 12 below.

9. WHEN COMPULSORY PURCHASE IS TO BE USED

9.1 An example of the circumstances in which CPO may be used by relevant authorities is summarised as follows:

- To unlock situations where a scheme is being blocked by an owner (or owners) unwilling to dispose of property either at all or only at a price considerably in excess of market value (a ransom situation).
- To ensure effective negotiations for land assembly where there is a multiplicity of ownerships and absent landlords.
- Where there are unknown owners.

9.2 The use of CPO in the case of Burdett Estate, accords with the first two of these circumstances.

10. COMMENTS OF THE CHIEF FINANCE OFFICER

10.1 This report updates Members on Poplar HARCA's progress on the acquisition of land and properties on the Burdett Estate, and seeks approval for Compulsory Purchase Order proceedings to be implemented should efforts to acquire all of the appropriate property interests by agreement fail. Arranging for these back-up procedures to be put in place now will reduce any subsequent delays in the regeneration programme that will arise if agreements cannot be reached with individual owners.

10.2 The report seeks approval to enter into a CPO Indemnity Agreement with Poplar HARCA (recommendation 2.5). Subject to this being approved, there are no financial implications for the Authority in terms of implementing the CPO because the costs of the purchases and associated compensation packages, including any Rights of Light claims, will be borne directly by Poplar HARCA, with the cost of Council officer time involved in the CPO process also being recharged to the organisation. As part of the indemnity arrangements it will be necessary for the financial standing of Poplar HARCA to be assessed, particularly in light of the recent Government announcement that rent reductions will be implemented within the social rented sector. The Council must ensure that the indemnity agreement fully protects its interests and mitigates against any potential risk that Poplar HARCA and its partners are not able to meet their contractual liabilities.

10.3 The costs of council officer time and legal fees to be met by Poplar HARCA will be dependent on whether or not the CPO is challenged at a public inquiry. In that case, the reimbursement for staff and legal costs incurred could exceed £50,000. The costs to be incurred by Poplar HARCA to acquire the remaining unacquired land interests are likely to exceed £4.3 million.

10.4 On completion of the CPO process, any properties that were not acquired via negotiation will ultimately be vested in the Council. At that stage it will be necessary to formally agree to transfer the interests of these properties to Poplar HARCA at nil consideration, in accordance with the terms of the proposed indemnity agreement.

10.5 Although not specifically linked to the recommendations in this report, it should be noted that in September 2013 Cabinet agreed to support the proposed expansion of St Paul's Way Trust School. Capital estimates have been adopted for the project, with the Council funding the capital costs of the school-related elements of the overall scheme through the specific capital grant that it receives from the DfE. The Council's capital expenditure will incorporate an element of costs attributable to the site assembly for the scheme, including the decanting of existing residents from Linton

and Printon Houses on the Burdett Estate. The Council and Poplar HARCA have agreed the pro-rata share for the site assembly costs, although it is recognised that the final costs for some elements, particularly the leaseholder buy-out costs, are not yet confirmed.

- 10.6 A Mayoral Executive Decision was approved on 15 October 2015 to authorise the Council entering into the Development Agreement and Agreement for Leases with Poplar HARCA and the Agreement for Sub-Leases with St Paul's Way Trust. The decision increased the Council's capital budget for the scheme as a whole to £13,406,675, to be funded from the Children's Services capital programme. The majority of this funding will be paid to Poplar HARCA for the capital costs of the construction of the school and the pro-rata share of the site assembly costs.

11. LEGAL COMMENTS

- 11.1 The Council is empowered under section 226(1)(a) of the Town and Country Planning Act 1990 ("TCPA") as amended, 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.
- 11.2 The Council may make a compulsory acquisition 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 it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. 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.
- 11.3 The Acquisition of Land Act 1981 ("the 1981 Act") governs the procedures which apply to such an acquisition, the Compulsory Purchase Act 1965 ("the 1965 Act") governs post-confirmation procedures and the Land Compensation Act 1961 ("the 1961 Act") governs the amount and assessment of compensation.
- 11.4 The Council may dispose of the land under section 233 of the TCPA for the purpose of bringing it forward for development or otherwise facilitating development. Any such disposal must be for the best consideration that can reasonably be obtained, unless the Secretary of State's consent is obtained. By a combination of sections 226 and 233 of the TCPA, it is open to the Council to compulsorily acquire land for planning purposes and then transfer it to a developer or Registered Provider partner.
- 11.5 The Council is a best value authority within the meaning of section 3 of the Local Government Act 1999 and is obliged to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Although the Council's costs in implementing the CPO (including any compensation payable to property owners) are recoverable from Poplar HARCA and so no cost will be borne by the Council in this respect, officers should nevertheless keep under consideration whether the scheme as a whole is delivering best value for the Council.
- 11.6 The 1981 Act provides that the authorisation of a compulsory purchase is to be conferred by an order, called a compulsory purchase order ("CPO"). A CPO is required to be made in a prescribed form and must describe by reference to a map the land to which it applies. If the Council makes a CPO, it must submit the CPO to the Secretary of State for confirmation. Prior to submission to the Secretary of State,

- the Council must publish notice of the making of the CPO specifying that the order has been made, describing the land and the purpose for which it is required, naming a place where the order and map may be inspected and specifying a time which (and the manner in which) objections may be made. The Council must also serve a notice in prescribed form on affected owners, lessees, tenants or occupiers of the land allowing them the opportunity to object. The procedure for confirmation is specified in the 1981 Act and may require the conduct of a public inquiry if there are objections.
- 11.7 As an acquisition will extinguish third party rights, the Council will need to take care that it does not contravene the rights of individuals under the European Convention on Human Rights ("ECHR"). Section 6 of the Human Rights Act 1998 makes it unlawful for the Council to act in any way which is incompatible with a right under the ECHR. Pursuant to Article 1 of the First Protocol to the ECHR, every person is entitled to the peaceful enjoyment of his or her possessions and no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. In order to avoid contravening individual human rights by making a CPO, it must be demonstrated that the CPO is in the public interest and that it is necessary and proportionate to make the CPO. It is considered that, as the requirements of S226 (1) and (1a) have been fulfilled (i.e. the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area), this will provide a very substantial basis upon which to make the case that the scheme is policy based and is consistent with statutory objectives.
- 11.8 The fact of the land being held or acquired (whether through private treaty or a CPO) for planning purposes is important because of the operation of s.237 of the TCPA. This provides that the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised if it is done in accordance with planning permission, notwithstanding that it involves—(a) interference with an interest or right to which this section applies, or (b) a breach of a restriction as to the user of land arising by virtue of a contract. The interests and rights to which this section applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support. Accordingly, any rights of light are included under this section. Having engaged Rights of Light surveyors to undertake an assessment of properties whose Rights of Light are likely to be adversely impacted by the development, the Council considers (as set out at paras. 7.10 – 7.18 that there are unlikely to be any actionable claims in this regard.
- 11.9 As the cost of implementing the CPO is being underwritten by Poplar HARCA, an Indemnity Agreement between the Council and Poplar HARCA is to be entered into prior to making the CPO in order to protect the financial interests of the Council. Given that the proposed scheme will involve a transfer back of the land acquired at a nil consideration, which is provided for in the Indemnity Agreement, the consent of the Commissioners will be required to enter into the same.
- 11.10 The making of a CPO should be a last resort and should be preceded by vigorous attempts to buy the land by agreement. There should be evidence of intransigence on the part of owners such that the development is put at risk. It must be clear that the development offers public benefits, such as improved housing and amenities for the estate. The balance of interests between the protection of individual rights and the public benefits to be obtained must be considered and there should be a compelling case in the public interest for the CPO. In doing so it may be noted that

the impact on individual rights is lessened by the existence of rights of objection and a statutory compensation regime which includes payments above the market price to compensate for the involuntary nature of the process.

- 11.11 The Government Circular 06/2004, which was issued on 31 October 2004, provides guidance to acquiring authorities in England on the use of compulsory acquisition powers. The guidance has been referred to, as appropriate, in the preparation of this report.
- 11.12 Before making a CPO, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. Some form of equality analysis will be required which is proportionate to the potential impact of the CPO on individuals or communities.
- 11.13 The making of a CPO is an executive function, by virtue of section 9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Pursuant to section 9E(2) of the Local Government Act 2000, the Mayor may arrange for the discharge of an executive function by an officer of the authority.

12. HUMAN RIGHTS IMPLICATIONS

- 12.1. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way that is incompatible with the European Convention on Human Rights. Various convention rights are likely to be relevant to the Order, including:
- Entitlement to a fair and public hearing in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process.
 - Peaceful enjoyment of possessions (First Protocol Article 1). This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.
 - Right to life, in respect of which the likely health impacts of the proposals will need to be taken into account in evaluating the scheme (Conversion Article 2).
- 12.2 The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local planning authority. Any interference with a Convention right must be necessary and proportionate.
- 12.3 The Council is therefore required to consider whether its actions would infringe the human rights of anyone affected by the making of the CPO. The Council must carefully consider the balance to be struck between individual rights and the wider public interest. It is considered that any interference with the Convention rights caused by the CPO will be justified in order to secure the social, physical and environmental regeneration that the project will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the national Compensation Code.

13. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 13.1 The housing stock transferred from the Council to Poplar HARCA was designed to an environmental performance consistent with standards for build in place at the time the properties were built (mid 1900's). The performance standards will have been improved in the social; housing properties through investment to bring them to the Decent Homes standard, but these improvements will not have been applied to all of the leasehold properties.
- 13.2 The proposed new scheme will provide homes built to a far higher standard of environmental performance, which will mean they are far more cost effective to run, thereby reducing the potential for fuel poverty amongst low income households that are expected to occupy the new affordable homes within the scheme.
- 13.3 The overall development is subject to an energy and sustainability strategy included with the planning application. The development is to be constructed to current sustainability standards and includes a combined heat and power (CHP) source for all the development including the school, effective water and energy management and garden areas to support biodiversity. The school accommodation is designed to meet BREEAM excellent standard.

14. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 14.1 Poplar HARCA is working with the Crime Prevention Officer (Metropolitan Police) to achieve a Secured by Design Accreditation of level 2. Necessary conditions and informative would be secured accordingly. The general arrangement of the new scheme would vary considerably from the existing site and buildings layout. The aim of this proposal is to reinstate the existing edges and street frontages along St Paul's Way and Masjid Lane with urban forms of dwellings and active frontages which allow for natural surveillance helping to design out crime.
- 14.2 Overall and to conclude officers are confident that this scheme would properly take into account secured by design requirements, improve safety and security in the location of the site and elsewhere and would not introduce undue risk of crime to future occupiers and users of the community facilities as a result of detailed design.

15. EFFICIENCY STATEMENT

- 15.1 Expenditure to be incurred in managing and delivering the proposed CPO processes, including costs arising from work by the council's Legal and Housing Regeneration Teams, will be reimbursed by Poplar HARCA.

16. ONE TOWER HAMLETS CONSIDERATIONS

- 16.1 The council has a statutory duty to provide sufficient school places for local residents. Education is key to ensuring economic prosperity for the individual and for the community. The council has to plan for the overall social infrastructure to meet the needs of the rising local population. The proposal for the expansion of St Paul's Way Trust School supports these requirements.



17. RISK IMPLICATIONS

- 17.1 The risks associated with not agreeing the CPO resolution is set out in Section 4 of the report. Failure to acquire the land interests through negotiation could affect the Burdett regeneration proposals unless this risk is off-set by taking steps to make a precautionary CPO in each area, to acquire the land interests identified in this report.
- 17.2 The council is working with Poplar HARCA on the redevelopment proposal for the school. The programme bears some time risks, with associated cost risks to the Children's Services capital programme, due to the need to vacate Printon and Linton Houses. The programme is being monitored closely. The CPO resolution for Burdett will support the programme delivery if the need arises.
- 17.3 Recent Government legislation has placed severe pressures on the business plans of Registered Housing providers. The combination of the removal of the rent convergence mechanism from 2015-16, the 1% per annum rent reduction that must be implemented for each of the four years from 2016-17, and the extension of the Right to Buy to all social housing tenants means that providers are facing significant uncertainty in relation to future resources. The proposal in this report concerns the acquisition of leasehold interests at a cost that could exceed £4.3 million. Although these costs are the responsibility of Poplar HARCA, as the Council is the statutory authority in relation to the compulsory purchase order, the liability will fall on the Council should Poplar HARCA default on the financial arrangements. It is therefore essential that the Council's interests are protected as part of the indemnity agreement to ensure that any possible financial liabilities that may arise are underwritten by the external partners.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

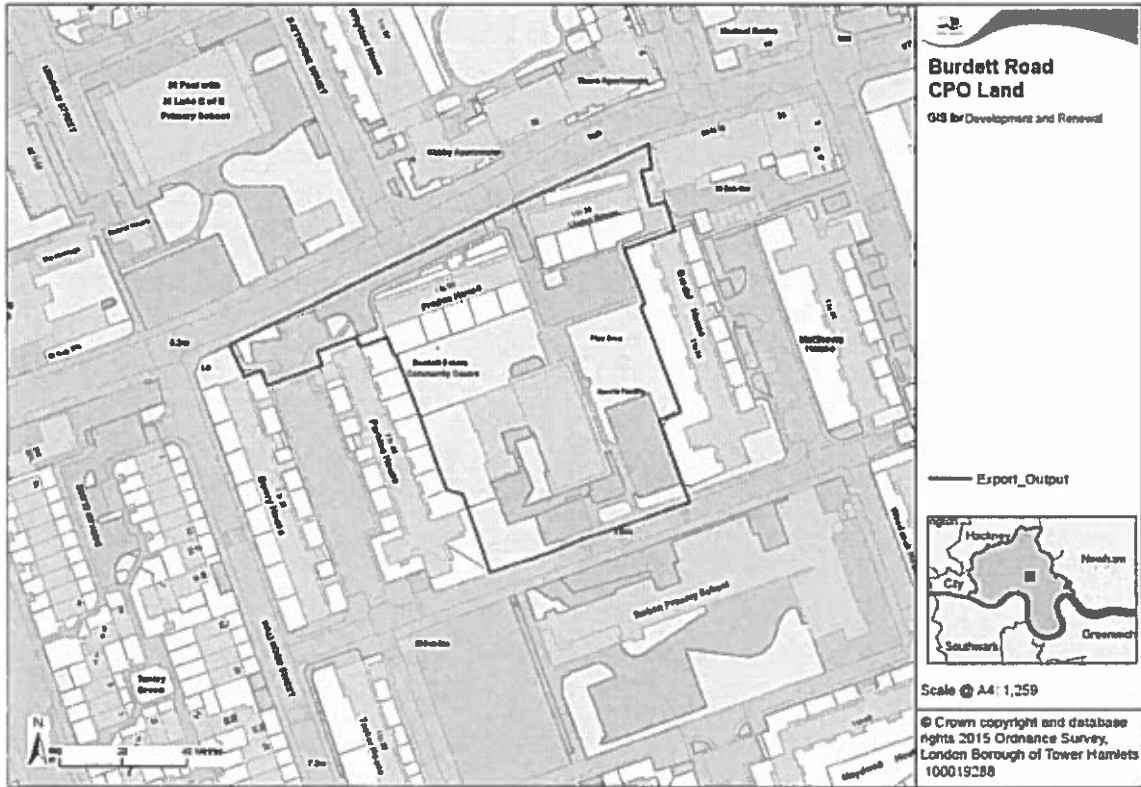
Appendices

- Appendix 1: Burdett Estate – CPO Land and location map
- Appendix 2: Schedule of leasehold interests to be purchased on Burdett Estate

Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

- None.

Appendix 1: Burdett Estate – CPO Land and Location map



**Appendix 2: Schedule of leasehold interests to be purchased on
Burdett Estate**

**Land Interests to be purchased: listed for inclusion in the proposed Compulsory
Purchase Order
Burdett Estate: Poplar HARCA**

Residential Properties

The leasehold properties known as:-

4 Linton House, St Pauls Way
6 Linton House, St Pauls Way
20 Linton House, St Pauls Way
21 Linton House, St Pauls Way
23 Linton House, St Pauls Way

7 Printon House, Wallwood Street
20 Printon House, Wallwood Street
26 Printon House, Wallwood Street
30 Printon House, Wallwood Street
50 Printon House, Wallwood Street
56 Printon House, Wallwood Street

The tenanted property known as:-

60 Printon House, Wallwood Street

Other Land Interests

Rights of way

Way-leaves

Telecommunication equipment

Other non residential interests to be identified during the land referencing within the red line boundary shown on the plan in Appendix 1.



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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