

<b>Committee:</b>  <b>Cabinet</b>	<b>Date:</b>  <b>9<sup>th</sup> February 2011</b>	<b>Classification</b>  Unrestricted	<b>Report No:</b>  <b>CAB 056/101</b>	<b>Agenda Item:</b>
<b>Report of:</b>  <b>Corporate Director Development and Renewal</b>		<b>Title:</b> Blackwall Reach Regeneration Procurement and Scheme Development		
<b>Originating officer(s)</b> Aman Dalvi Chris Worby / N McGowan		<b>Wards Affected:</b> Blackwall and Cubitt Town		
<b>Lead Member</b>  <b>Community Plan Theme</b>		<b>Cllr Rabina Khan</b>  <b>A Great Place to Live</b>		

## 1. SUMMARY

- 1.1 This report deals with the selection of the preferred bidder for the Blackwall Reach regeneration project that includes the Council's Robin Hood Garden Estate and the delegated authority to proceed with compulsory purchase of part of the land in the event of not being able to negotiate acquisition of such interests by private agreement.
- 1.2 The project involves key decisions that must be taken by the Government established body the Home and Communities Agency (HCA) before contracts can be entered into between the Council, the HCA and the development partner.

## 2. RECOMMENDATIONS

Mayor/Cabinet is recommended to:-

- 2.1 Agree to the recommendation of the procurement evaluation panel to approve the developer consortium mentioned in the tabled report as the preferred bidder subject to the HCA's decision -making process to agree to such developer.
- 2.2 Authorise the Director of Development and Renewal and the Assistant Chief Executive Legal in conjunction with the HCA to approve and finalise the contract terms in accordance with the bid and to complete the contract once HCA approvals are obtained.

- 2.3 Agree the possession strategy and decant status set out in Appendix 4 for Phases 2 and 3 of the project.
- 2.4 Authorise the Director of Development and Renewal to submit an outline planning application on the Council's behalf together with the HCA for the Blackwall Reach Regeneration project for all phases shown on the Plan as Appendix 2 to enable the delivery of the regeneration/redevelopment proposals for the Blackwall Reach area.
- 2.5 Delegate the power to the Director of Development and Renewal together with the Assistant Chief Executive Legal to complete the necessary compulsory purchase strategies and documentation and then to make the CPO Compulsory Purchase Order pursuant to Section 17 of the Housing Act 1985 in respect of the lands shown edged red on the plan at Appendix 2 in respect of those interests set out in Appendices 5 and 5A of the proposed development. including existing interests and new rights pursuant to Section 13 of the Local Government (Miscellaneous Provisions) Act 1976
  - 2.5.1 Delegate to the Director of Development and Renewal in consultation with the Assistant Chief Executive Legal the power to take all necessary procedural steps in making the compulsory purchase order including :-
  - 2.5.2 Making of the compulsory purchase order as described in paragraph 2.5 including the publication and service of notices and thereafter seeking confirmation of it by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act), including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary.
  - 2.5.3 To acquire all interests in land and new rights within the compulsory purchase order boundary either by private agreement or compulsorily.
  - 2.5.4 To approve agreements with land owners or others setting out the terms for withdrawal of objections to the compulsory purchase order, including where appropriate seeking exclusion of land or new rights from the compulsory purchase order and or making arrangements for the re-housing or relocation of occupiers.
  - 2.5.5 To publish and serve notices of confirmation of the CPO and thereafter to execute and serve any general vesting declarations or notices to treat and notices of entry and to acquire those interests to secure the development proposals.
  - 2.5.6 To refer and conduct disputes relating to compensation at the Lands Tribunal.

- 2.7 To agree to the transfer of the land at Robin Hood Gardens shown as Phases 2 and 3 edged red on plan at Appendix 1 to the developer pursuant to the contract once vacant possession is achieved.

### **3. REASONS FOR THE DECISIONS**

- 3.1 The decisions sought within the report are to enable the regeneration and development of the Blackwall Reach area. This includes lands owned by both the Council and the HCA.
- 3.2 The Cabinet approved the Blackwall Reach Regeneration Framework in March 2008 and has considered reports dealing with the proposed development of the area in July 2009 and March 2010.
- 3.3 The development of the area will greatly assist the Council in meeting its housing targets for delivering the essential need for new homes and affordable homes.
- 3.4 The previous reports have indicated many significant public benefits that the project will bring including the delivery of affordable housing, physical and environmental improvements to the public realm, establishment of a community trust with benefit of ground rents and an endowment to be used for the purposes of community improvements, a new community hall, the creation of new employment, a new (three form) primary school in the locality and improving pedestrian access to Poplar High Street. These benefits will be captured either by planning conditions or Section 106 obligations.
- 3.5 There has also been a lengthy ongoing dialogue with residents most directly affected by the scheme, many of whom live in overcrowded and unsuitable housing. This regeneration scheme will enable a resolution of the housing overcrowding in the Robin Hood Estate and local options for rehousing for such households.
- 3.6 The use of compulsory purchase powers will ensure the delivery of the site assembly process in accordance with the development programme. Whilst negotiations will continue to acquire the relevant land for the project by agreement the use of CPO powers will ensure the scheme is delivered if negotiations are unsuccessful.
- 3.7 In summary, the redevelopment will secure the delivery of a significant and comprehensive mixed use development. It will deliver numerous improvements and benefits for the area which will be secured through planning conditions and a Section 106 agreement. Such comprehensive redevelopment gives rise to the need to consider appropriate phasing and indeed the development will be carried out in phases notwithstanding that compulsory purchase of land within the development site is necessary to deliver significant elements of the scheme. Whilst the majority of the freehold land is publicly owned by the Council and the HCA these or other leasehold and tenancies that

need to be acquired in different ownerships and in order to secure its assembly within a reasonable timeframe, it will be necessary to make a compulsory purchase order in parallel with continuing discussions to acquire the land and interests in it by private agreement. The benefits of the scheme, taken together with the need to use CPO powers to ensure its timely delivery and the proposed backing by the preferred developers, all go to illustrate that there is a compelling case in the public interest for the use of CPO powers in this instance to secure the regeneration of the Blackwall Reach area.

#### **4. ALTERNATIVE OPTIONS**

- 4.1 The main variant options are not to proceed at all with the proposals; or to delay making a decision to proceed.
- 4.2 A decision not to proceed with the proposals would lead to a less comprehensive approach to the development of the area and the decision not to proceed with the CPO would mean that its unlikely that a comprehensive development or anything similar would come forward in the short to medium term. If development did proceed without a CPO it would be on a piecemeal basis that would lack the scale of positive change or range of benefits which are currently on offer. This would prevent the type of comprehensive regeneration of the area that has been a long held objective of Council policy. It is likely to lead to further years of blight and decay without any certainty of development and regeneration. Robin Hood Gardens would remain as a problematic estate in need of an estimated £20m for its refurbishment that the Council currently does not have resource to provide . The benefits to the wider community through increased primary school provision and better access 'North/South' across Aspen Way would also be at risk.
- 4.3 Deferring or delaying proceeding is not recommended as this would undermine the delivery of a comprehensive approach for this area. It is possible if the Council delayed committing to this project the HCA would decide to adopt an alternative approach relating just to its own lands on a piecemeal basis. Delaying or deferring the project would potentially negate investment to date and undermine the confidence of potential partners coming forward in the future. There would also be added uncertainty for residents who have for some years lived in anticipation of the area's redevelopment, and the delivery of housing solutions that would overcome overcrowding, disrepair, and security issues.

#### **5 BACKGROUND**

- 5.1 The Blackwall Reach Regeneration Project has been a key regeneration priority for the Council for a number of years. In March 2008 the Council adopted a development framework proposed by the HCA which anticipated over 2,500 new homes for the site; commercial

space; new community and health provision, improved education and leisure space.

- 5.2 In July 2009 revisions to the intended project were agreed, key amongst these was a change in the site's baseline capacity to 1,600 homes of which 35% were to be affordable (by habitable room) and of the social housing 45% to be three bedroom or larger. This was due to a smaller land take as the proposal to build over Blackwall Tunnel approach was too costly. The Council will invest up to £13M in capital resources over the years to fund the acquisition of properties sold under the right to buy, and to pay home loss and associated compensation payments to tenants and leaseholders. The July 2009 report also indicated that the tender for the proposed regeneration could now proceed given the Ministerial announcement confirming the Certificate of Immunity from Listing for Robin Hood Gardens. Cabinet agreed that a 'Collaboration Agreement' with the HCA, and the procurement strategy should be finalised. It authorised that officers should proceed with the following key actions:
- Finalisation of the Procurement Strategy
  - Procurement of development partners
  - Business plan modelling
  - Scheme design
  - Completion of a Housing Needs Survey
  - Resident engagement and relocation options
  - Finalisation of the Community Charter
- 5.3 The report identified that decisions on the use of Compulsory Purchase Powers would need to be considered closer to the appointment of a developer and the grant of outline planning permission. It also recognised HCA's investment in the area through the acquisition of the land interests in the south of Blackwall and the St. Matthias Site so that most of the proposed development would be upon land that is within Council or HCA ownership.
- 5.4 The July 2009 report to Cabinet anticipated a procurement strategy whereby the Phase 1A site (St. Matthias) and 1B would be marketed by the HCA. However, it was more appropriate to tender the whole site for the regeneration as set out in this report.
- 5.5 Resident involvement has been ongoing with the conclusion of the Community Charter in Autumn 2009, and the Housing Needs Survey achieving 80% plus coverage. The survey shows a significant number of households are in overcrowded circumstances. This information has been used in the procurement process to inform the size and numbers of affordable rented units that will be required to facilitate the decant and rehousing process. This is also based on households making a single move, where they wish to stay local, from their existing home to the newly built home within the new development. A subsequent survey of residents' preferences on whether to stay local or move away

has shown 63% have a desire to opt for local rehousing. This is useful to inform the process, but cannot be relied upon with absolute certainty in terms of actual local rehousing.

- 5.6 A subsequent report to Cabinet in March 2010 led to agreement to use £1.05m from the £13m as a contribution to fees to support the joint outline planning application and the joint procurement of a developer for the whole site shown edged red on the plan at Appendix 1.
- 5.7 The objective of this report and recommendations, including the delegation of powers to make and promote a CPO, represent the culmination of the Council's previous consideration of this scheme.

## **6. PROCUREMENT PROCESS**

6.1.1 As previous reports have outlined, the project has been developed as a joint initiative between the Council and the HCA. The project is rooted in ambition, jointly held, to ensure the Blackwall Reach development is of high quality; maximises the potential of the area and assists in integrating the opportunities and benefits of the development area with neighbouring communities. The HCA have played a significant part in the process, initially funding much of the professional work to develop the masterplan and development framework and enable a clear and well packaged offer to be put to the market.

6.1.2 The procurement process has been undertaken in compliance with EU (European Union) procurement requirements and directives.

6.1.3 Expressions of interest were obtained in early 2010; this resulted in four consortiums coming forward with firm proposals to bid. These comprised

- Notting Hill Housing Trust
- Swan HA and Countryside Homes
- London and Quadrant HA and Telford Homes
- Poplar Harca; Tower Hamlets Community Housing, and Bellway Homes

Notting Hill withdrew as a result of not being included within the wider Preferred Partner arrangements for delivery of affordable housing development in the Borough, Poplar Harca and THCH/Bellway Consortium was eliminated at the first stage evaluation. Two bidders have gone through to final bid stage.

6.1.4 The first stage procurement requirements sought that they produced two options for the redevelopment of the area; one based around substantially retaining the main open space central to Robin Hood Gardens; the other variant anticipating distributing open space across the development. The second stage procurement was based upon substantially retaining a central open space.

6.1.5 The redevelopment is anticipated to be delivered in phases with a commitment to deliver initially Phase 1A and 1B, and with performance requirements/thresholds that would need to be met, to enable the developer to take possession of subsequent phases. The plan at Appendix 2 sets out the indicative phases but the precise boundaries may be adjusted in the planning application.

## 6.2 **Community Charter**

6.2.1 The redevelopment of Robin Hood Gardens is an intrinsic part of the Blackwall Reach regeneration scheme. Residents have been involved in a lengthy consultation process to establish their priorities and preferences. The approach adopted has provided residents with either the option of being rehoused within the immediate locality of their existing home through the appointed RSL partner member of the development consortium; or to be rehoused off the estate potentially into another Council owned dwelling.

6.2.2 The Charter process resulted in a document setting out residents' wishes. It was prepared by a group of residents from the estate with the support of HCA appointed consultants Scott Wilson Associates along with the Council officers. The final document was circulated to all households across the estate and an opportunity for comments and feed back was provided. The document was accompanied by an explanatory summary heading the key issues. Visits and drop ins were available to explain the material also.

6.2.3 The summary sheet showing where it was expected partners would fully meet the charter; potentially or expect partners appointed meet its requirements; or not be possible were annotated. An updated summary is at Appendix 3 of this report. The main areas that were expected not to be met were:

- a) The provision of a home with a 'Secure Tenancy' within the Blackwall Reach Boundary as only Councils can provide a secure tenancy and the Council building or owning new homes as part of the development is not realistic, practical or affordable. The Developer will be contractually bound to ensure that the existing tenants will have rights granting them equivalent benefits that they would have as secure tenants such as right to acquire the property at the same discount and succession rights.
- b) Future landlords collecting utility charges through rent and Service Charges. The main dialogue users here focus upon water and communal heating provision. Whilst the latter may be practical. the former is prevented by requirements for all new dwellings to be subject to water metering. This would apply whether the Council was to build such homes or not.

6.2.4 The Charter has been used as a benchmark in assessing the two final consortiums' management proposals. A panel of residents was supported by Strategic Urban Futures (StUF) in the assessment arrangements of the bids. The Resident Design Panel also had the opportunity to comment on design matters both within the final stages of the procurement process and as part of the assessment arrangements.

### 6.3 **Design Steering Group**

6.3.1 Given the Council's and the HCA's vision for the Estate and ensuring both high quality and a development that will succeed in meeting the aspirations of 'Place Making', a Design Steering Group was established to act as an independent sounding point for the proposals. This involved inviting a number of professionals or key bodies in putting forward people to sit on this grouping. This body has met on a regular basis in parallel to the bidding consortium developing their proposals. The views have been fed into procurement dialogue and process. This has included CABE (Commission for Architecture and the Built Environment) representation.

6.3.2 CABE have also been involved providing 'Design Training' for residents including involvement in the procurement assessment process; and separately providing comments in the latter stages on the bidders proposals within the procurement dialogue.

### 6.4 **Evaluation of the Bids**

6.4.1 The procurement arrangements have involved a number of stages. Initially there was a pre qualifying questionnaire. This required various elements of information to be provided that in essence were intended to demonstrate the potential bidding organisations or consortiums' capacity and experience to deliver a project of this type.

6.4.2 The second stage took the shortlisted consortium and set the task of preparing schemes for the regeneration and redevelopment of Blackwall Reach. They had to provide key financial information to underpin the proposition they were to put forward. They were required to set out how the scheme they were preparing would meet the Planning Strategy issued as part of the Procurement Brief. Specific standards have been set for dwellings and mixes of tenure and use. The process included also proposals for the public realm and how space would be allocated.

6.4.3 The assessment at stage one was jointly undertaken involving Council and HCA representation. The model adopted involved the expert team(s) comprising the various consultancies initially appointed by HCA presenting how the schemes and bidders met the requirements set out in the procurement pack. The guidance was then used to mark each of the sections. The consultants relied upon were GVA Grimley



to deal with the planning and financial bid analysis and HCLA (Harden Cherry & Lee Associates Architects).

6.4.4 The initial or outline stage submissions were received from the three shortlisted consortiums. The marking process resulted in two “consortia” being invited to prepare submissions for the final stage of the tender at procurement process. These being:

- Swan/Countryside
- London and Quadrant/Telford Homes

The bids were received on 8<sup>th</sup> November 2010 and were subject to a similar assessment process.

6.4.5 The outcome of the evaluation will be tabled as a separate report for cabinet as the assessment will not be completed until after cabinet papers are published.

## 6.5 HCA/LBTH Approval process to select a Partner

6.5.1 The HCA as a Government Agency can only work within certain delegated parameters and schemes of this scale require sign off within Government Sponsoring Department (Communities and Local Government) and ultimately the Treasury. This process could involve more than three months’ consideration.

6.5.2 At this stage it is not possible to formally enter into contract with the recommended consortium until the HCA have obtained their formal authority after receipt of the recommendation to appoint a preferred bidder. Therefore the decision cabinet make today is subject to HCA approval of the recommendation to appoint the preferred bidder.

## 6.6 Planning Process and Applications

6.6.1 In 2008 Cabinet approved a Development Framework for the Blackwall Reach area and scheme shown edged red at Appendix 1. Whilst the area to ultimately be redeveloped has been amended, for example by the exclusion of development over the Blackwall Tunnel northern approaches, this guidance provides one of the core starting points for delivering the scheme. Other influential considerations are the London Mayor’s expectations on space standards for housing. The core of the adopted Development Framework has been key to developing the proposals by the bidding consortium and a Design Code has been developed which will sit alongside the outline application and will be agreed and further developed by the preferred bidder as part of the process.

- 6.6.2 As indicated within an earlier section of the report (6.1.4) variant options were sought within the initial procurement period on layout and location of open space to be provided as part of the scheme.

This led to considering how the planning process would be taken forward and legal advice was sought on the nature of how potentially an outline scheme application could be considered that would provide a sensible amount of flexibility in the distribution of buildings and open space within fixed parameters and without compromising the robustness of the planning applications or decisions taken on them. In part this was also in recognition that given the overall extent of the development it would not in present circumstances be viable to develop fully worked up proposals for the comprehensive scheme without the public sector having to provide underwriting arrangements for the detailed planning work associated particularly with the later stages of the development. Therefore the application for outline planning will have two layouts, one designed by the HCLA (the Council/HCA's architects) and one by the preferred bidder. This is because if difficulties are encountered and performance criteria are not met the preferred bidder may not ultimately carry out all phases of the programme so the Council/HCA may revert to its scheme in later stages.

- 6.6.3 The arrangements proposed for the scheme envisage an outline application being submitted jointly by the Council and HCA to encompass the comprehensive Blackwall Reach Development Area and the detailed proposals for stage phase 1A/1B will be submitted once the developer has been appointed 'formally' and is 'in contract'.
- 6.6.4 It should be noted that the land area involved and scale of the scheme will involve not only Council's planning committee considering the application, but relevant parts will also need to go before the London Thames Gateway and the Greater London Authority/Mayor for London planning bodies.

## 6.7 Land Ownership and negotiation with Landowners

- 6.7.1 The large majority of the site is now in freehold ownership of the Council and the HCA.
- 6.7.2 On the Southern Blackwall site, there are still some small parcels to be acquired, including a 42 year lease on a works yard; a squatted flat in a building adjacent to the LLiC Building; two small freehold interests in Naval Row.
- 6.7.3 There also remains some land with unregistered title in the bus turning area and Cotton Street which requires further research and resolution. Other key land issues/interests are:

- Local Labour in Construction (LLiC) – Council owned site and use to be relocated
- TfL Tunnel Controls of Depot Area - Agreement to be reached with TfL on use of area around the mouth of the depot
- Health Centre – temporary and permanent location to be identified
- Mosque discussions are proceeding on the basis of moving this building from the South East corner of St Matthias site to the slightly larger site on the North East. This would be achieved through a straight swap of reversionary freehold and leases.
- the Millennium Green is held in trust and will be part of the larger open space in the centre of the site under the two options.
- Woolmore School – to be expanded from a one form entry to a three form entry primary school.

6.7.4 To enable the redevelopment of Robin Hood Gardens to proceed in phases 2 and 3 a number of residential interests will need to be acquired. These are scheduled at Appendix 5. There is a statutory requirement to provide housing for displaced residents where alternative accommodation is not otherwise available on reasonable terms.

6.7.5 Additionally, if the Woolmore Primary School is to be extended then the Health Authority/Primary Care Trust interest in the existing health facility adjacent to Woolmore Primary School will also need to be acquired.

6.7.6 In the later phases of the development other land interests within the phases substantially within HCA's freehold ownership will also need to be acquired. These are scheduled at Appendix 5A.

6.7.7 In relation to enabling the scheme to proceed the Council and the HCA have agreed to acquire the interests within their freehold ownerships and give vacant possession of each phase to the developer.

6.7.8 Every effort will be made to acquire the outstanding land interests referred to in Appendix 5 and 5A by negotiation to privately acquire the land interests with the respective owners prior to use of any of compulsory purchase powers but the lead-in time for securing a confirmed CPO means that powers will be promoted in parallel with those negotiations.

6.7.9 Residential leaseholders will have the option to transfer the equity in their existing homes into a share of a same bedroom sized unit within the new development and if they retain it for a fixed number of years this will be stepped up to full ownership without additional cost. All appropriate occupying owners may be eligible for Home Loss and Disturbance Payments along with associated compensation in accordance with their statutory rights and the possession/compensation strategy set out in appendix 4.

6.7.10 However, in the event that agreement to acquire the interests cannot be reached with owners the Council will need to secure scheme delivery through the exercise of Compulsory Purchase Powers.

## 6.8. Compulsory Purchase

6.8.1 Section 17 Housing Act 1985 (the 1985 Act) provides a power for a local housing authority such as the Council to acquire land for housing purposes. The types of situations envisaged by the legislation when such powers can be exercised include:

- acquisition of land for the erection of houses (including housing to be provided by others)
- acquisition of houses or buildings which may be made suitable as houses, together with any land occupied with them
- acquisition of land for specified facilities to be provided with housing accommodation

6.8.2 Paragraph 19 of Circular 06/04 (Government Guidance) goes on to state:

*“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.”*

6.8.3 Appendix E of Circular 06/04 provides guidance to local authorities considering using compulsory purchase powers under the Housing Acts. Paragraph 2 of Appendix E states that orders should not be made unless there is a compelling case in the public interest for making them.

6.8.4 Consideration is given to the human rights implications of the decision to make a compulsory purchase order within the comments of the concurrent report of the Assistant Chief Executive (Legal).

### 6.8.5 When compulsory purchase is to be used

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

6.8.7 The guidance in Circular 06/04 states that where possible specific powers such as the Housing Act 1985 should be used rather than the more generic power under the Act (as amended). It is therefore necessary to determine in the case of each CPO whether all the reasons for acquisition fall within the Housing act 1985 or not, in which case the powers under the 1990 Act but equally the Secretary of State will not refuse to confirm a CPO solely on the grounds that it would be made under another power. In the case of Phases 2 and 3 it has been determined that the purpose of the acquisition falls within Section 17 of the Housing Act (with the 1976 Miscellaneous Provisions Act) and therefore this power is preferred over other more generic powers, such as those under Section 226 of the Town and Country Planning Act 1990 which will be used for interests in Phases 1A/1B and Phase 4 which are non-housing interests.

As the development will be in phases the authority for CPO is being sought for the interests set out in Appendix 5 and 5A. This report seeks Member authority for the Director of Development and Renewal in consultation with the Assistant Chief Executive (Legal) to take all necessary steps to acquire the relevant interests at Appendix 5 and 5A including (a) making of the Compulsory Purchase Order including the publication and service of notices and thereafter seeking confirmation of the Order by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of land Act) , including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary (b) to acquire all interests in land and new rights within the Compulsory Purchase Order boundary either by private agreement or compulsorily (c) to approve agreements with land owners or others setting out the terms for withdrawal of objections to the Compulsory Purchase Order, including where appropriate seeking exclusion of land or new rights from the compulsory purchase order and or making arrangements for the re-housing or relocation of occupiers (d) to publish and serve notices of confirmation of the CPO and thereafter to execute and serve any general vesting declarations or notices to treat and notices of entry and to acquire those interests to secure the development proposals and (e) the authorisation to refer and conduct disputes relating to compensation at the Lands Tribunal.

6.8.8 Since the time period for completing the CPO and vesting can take up to two years and the next phase must start by 2014 it is necessary to progress these procedures now.

## 6.9. Rehousing Arrangements

6.9.1 The following blocks comprise the residential components of the Blackwall Reach Project and are expected to be required for vacant possession by early 2014. The individual blocks have the following characteristics.

<b>Block Name</b>	<b>No of Units</b>	<b>Vacant*</b>
Anderson House	22 (16 LBTH/6 RTB)	1
Mackrow Walk	15 (5 LBTH/4 RTB)	2
Woolmore Street	5 (2 LBTH/1 RTB)	2
Robin Hood Gardens (W Block – Nos 1-104)	104 (84 LBTH/13 RTB)	7
Robin Hood Gardens (W Block – Nos 105-214)	110 (93 LBTH/11 RTB)	6
<b>Total</b>	<b>252 (200 LBTH/34RTB)</b>	<b>18</b>

\*Vacant either empty property or short term let

6.9.2 One third of the rented properties are three and four bedroom properties whose households are also likely to suffer from overcrowding, thereby making decant requirements challenging which does lengthen the process. Phase 1A and 1B will be used to decant rented property.

6.9.3 In summary, the total number of residential units on the Estate is 252, of which 34 homes (13%) are owned by freeholders or leaseholders originally purchased under the right to buy. Of the 252 total, 18 homes (7%) are voids.

6.9.4 The Council has reacquired a small number (11) of ex RTB sold units. On the basis that the project proceeds this process of acquiring the remaining units should continue.

6.9.5 As indicated above, there is a statutory requirement to rehouse displaced residential occupiers where alternative accommodation is not otherwise available on reasonable terms. It is anticipated that a number of existing homeowners will take up the option of moving to the newly developed RSL shared equity units on the Estate. Arrangements will need to be put in place to secure such transactions well in advance of the completion of the new homes.

6.9.6 Irrespective of whether home owners do or do not opt for local rehousing their existing land interest will need to be acquired. Wherever possible this will be achieved through negotiation, however, as indicated elsewhere in this report, where it is not possible to achieve such an agreement the Council would have to use compulsory purchase powers.

- 6.9.7 In respect of secure tenants, as the Community Charter makes clear, residents wishing to have the option to either stay local and move to a new home, or move to an alternative property (secure tenancy) elsewhere in the Borough.
- 6.9.8 Subject to the phasing arrangement of the proposed partner scheme it will be necessary to decant secure tenants. Council officers will work in accordance with normal policy and practice to also facilitate housing solutions for hidden households particularly where large accommodation might need to be provided.
- 6.9.9 Households may be eligible for home loss and disturbance payments plus compensation in line with statutory rights and Council policy and practice. Where practical, tenants wishing to stay local will be asked to enter into a new tenancy agreement in advance of their new home being completed.
- 6.9.10 The Council will in the event of not being able to agree voluntary rehousing either locally through the scheme or elsewhere through the Choice Based Lettings arrangements need to repossess secure tenanted property utilising Ground 10 powers and Court action.

## **7. COMMENTS OF CHIEF FINANCIAL OFFICER**

- 7.1 In July 2009, Cabinet agreed that £13 million be allocated, over a three year period, to fund the costs of land assembly and decants with regard to the Blackwall Reach Development and the Woolmore Street Medical Centre. This was in addition to the £1.5 million capital receipt that had already been recycled into the scheme under the conditions of the disposal of the St Mathias site to the HCA.
- 7.2 The funding was earmarked from the following sources:

### Available Capital Receipts

Christian Street	£4.000m
Railway Arms Public House	£0.451m
Right to buy Council Houses (usable receipts)	£1.123m
Anticipated contracted capital receipts in 2009/10 (Christian Street)	£3.426m
Section 106 - affordable housing and associated income	£1.500m
Available capital element of Housing & Planning Delivery Grant	£0.500m

Mainstream Housing Capital Programme

£2.000m

**£13.000m**

In agreeing this funding, Cabinet was advised that the sum represented a contingency which the HCA requested the Council to make available and that if property values recovered in time to allow the project to proceed, it might be possible to avoid spending this whole sum. Property values have yet to recover sufficiently for us to be able to say that any part of this sum is no longer required.

- 7.3 The scheme that bidders have been preparing will be based on a residuary value so the Council/HCA put land at nil value but under the tendered business model summarised in the tabled report the Council/HCA will receive overage on values as the phases are built. Ground rents will fund a new community trust for the Estate to deliver community projects on an ongoing basis that would be protected for the future.
- 7.4 As of 31 March 2010, £1.3 million of the £13 million allocation had been utilised, leaving a balance of £11.7 million. Total expenditure of £2.2 million is anticipated to be spent during 2010-11, with £520,000 already incurred to 30 September 2010.
- 7.5 Following discussions with the HCA, Cabinet agreed in March 2010 to fund half (approximately £1.05 million) of the procurement and scheme planning costs. The HCA is financing the other 50%. These costs will be a call on the capital resources allocated to the scheme. The Council officers will use every endeavour to contain the costs of the acquisition of the land interests on Phases 2 and 3 repurchase all necessary properties and assemble the sites within the available funding envelope of £13M already identified including the cost of the CPO process and any associated Land Compensation Cost.
- 7.6 Provision will need to be made within the Housing Revenue Account to fund any decant costs associated with the relocation of existing tenants. An estimate of these costs is set out in Appendix 4.

## **8. COMMENTS OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 8.1 The Council has the power to make a Compulsory Purchase Order (CPO) under section 17 Housing Act 1985 (as amended). This may be used to assemble land for housing and ancillary development, including the provision of access roads; to bring empty properties into housing use; and to improve sub-standard or defective properties or to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land involved. Paragraph 6.8 of the report sets out the background requirements of the Circular 06/04.



Section 226 of the Town and Country Planning Act 1990 will be used for non housing land.

- 8.2 A CPO can be used to acquire housing land where the housing is to be provided by others and the procurement process has been completed to select a developer to regenerate the land. Since this deprives people of their property, compulsory acquisition is always the last resort and will be preceded by continued efforts to buy the land by private agreement. Confirmation of a CPO will only be made if there is a compelling case in the public interest.
- 8.3 Paragraph 22 of the memorandum to Circular 06/04 states that there must be a reasonable prospect of the scheme going ahead. The model for the whole scheme is set out in the addendum report dealing with the outcome of the evaluation of the procurement exercise and selection of the preferred bidder. Council officers have taken into account the financial, physical and legal factors of the scheme (including the need for planning permission) and officers are satisfied that the scheme is viable at this stage, is in accordance with the development plan for the area and that there is no other impediments to implementing the scheme.
- 8.4 In this case the formal making of the Order is proposed to be delegated to the Corporate Director of Development and Renewal in consultation with the Assistant Chief Executive (Legal). The properties are set out in Appendix 5 and 5A.
- 8.5 Whenever a CPO is made, it is necessary to carry out a “balancing exercise” to judge whether it is in the public interest to make a CPO in view of the harm done to the property interests of the individual and the benefit of improved housing and amenities for the Estate. The impact of this harm is lessened by the existence of rights of objection together with a potential Public Inquiry and a statutory compensation regime which makes provision in most cases for loss payments to reflect the compulsory nature of the acquisition. .
- 8.6 The acquisition of land for housing development is an acceptable use of compulsory purchase powers, including where it will make land available for private development or development by Housing associations. Section 17(4) of the 1985 Act provides that the Secretary of State may not confirm a compulsory purchase order unless he is satisfied that the land is likely to be required within 10 years. Once confirmed, compulsory purchase powers have a three year life. Given the development timetable the Council can be confident that the acquisition of all interests will be within the life of the CPO will be reasonable in the context of the scheme.
- 8.7 When applying for confirmation of a compulsory purchase order made under these provisions the authority will include in its statement of reasons for making the order information regarding needs for the provision of further housing accommodation in its area. This

information should normally include total number of dwellings in the district, unfit dwellings, other dwellings in need of renovation and vacant dwellings; total number of households and the number for which, in the authority's view, provision needs to be made. Details of the authority's housing stock, by type, may also be helpful. Details of the agreement with the developer for the ultimate provision and management of the new housing in Phases 2 and 3 will also be required.

- 8.8 The value of the project is well above the threshold for the application of the Public Contract Regulations 2006. The Competitive Dialogue process described above has been undertaken in compliance with the Regulations and the process has been supported by both internal and external legal advice throughout. The final award will be subject to a 10 day Alcatel 'standstill' period under the Regulations.
- 8.9 The project and the procurement process have been thoroughly vetted to ensure they comply with the European Union State Aid Rules.
- 8.10 The re-housing arrangements are set out in the possession strategy in appendix 4. Section 39 of the Land Compensation Act 1973 sets out the statutory duty to rehouse residential occupiers and the possession strategy at Appendix 4 satisfies this requirement.
- 8.11 In summary, the making of the CPO satisfies the tests to which it will be subject on confirmation:
- Making the CPO for the scheme is within the Council's powers;
  - The Council assess the scheme as viable
  - The Council has clear proposals for the use of the acquired land
  - There is no impediment to the grant of planning permission
  - The promotion of the CPO is reasonable (ie; not premature) in the context of the programme for the scheme both in terms of the exercise of compulsory powers and the completion of the scheme itself
  - Finally, there is a compelling case in the public interest for compulsory purchase powers and the human rights of those affected have been carefully considered and any interference is deemed to be justified (see Section 9 below).

## **9. HUMAN RIGHTS IMPLICATIONS OF THE CPO**

- 9.1. 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 respect for, private and family life**, in respect of which the likely health impacts of the proposals, will need to be taken into account in evaluating the scheme (Convention Article 8).

9.2 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.

9.3 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.

## 10. ONE TOWER HAMLETS CONSIDERATIONS

10.1 This scheme will contribute to One Tower Hamlets objectives. The three objectives are to reduce inequalities; ensure community cohesion; and, strengthen community leadership.

10.2 On **reducing inequalities**, the new scheme proposed will lead to an increase in affordable housing on the site. The scheme will also lead to new socio economic infrastructure for the area, ie, new health, community and retail facilities that will improve community well-being for local residents.

10.3 On **ensuring community cohesion**, the Council is working with community representatives to facilitate the regeneration project, and minimise disruption. The new scheme is intended to achieve transformational change and the HCA objective of high quality 'Place Making'.

- 10.4 On **strengthening community leadership**, the Council continues to work closely with residents. The successful redevelopment of Blackwall Reach and the Robin Hood Gardens Estate is predicated on continuing successful engagement with residents and other local stakeholders and the Council will continue to work with residents on that basis.

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 The comments on risk associated with this project have been divided into three broad areas: finance; process; and community. Overall there are high risks associated with this project and set out below is the Council's approach to addressing and reducing them.
- 11.2 On **financial** risks, since Cabinet considered this Project in July 2009, the housing market has been negatively impacted by the 'credit crunch' arising from financial turmoil in the national and international financial markets. The impacts have been characterised by a reduction in demand for market housing for sale; reduction in mortgage finance for purchasers; and reduction in private finance available for developers. This has contributed to an overall lack of confidence in the housing market which has had a considerable impact on large projects of this nature. This has required the Council to work with the Homes and Communities Agency to seek to commit resources to support the project.
- 11.3 The most significant work is now securing proposed HCA support uncertainties on the availability of public funds for such initiatives. Promotion of the CPO may give rise to blight claims where qualifying owners within the CPO boundary can require the Council to acquire their interest. Such claims can be submitted once the CPO has been made and submitted to the Secretary of State ie: prior to confirmation. Successful blight claimants will be paid the market value for their property plus additional payments payable under the compensation code. If the CPO is confirmed and CPO powers are implemented then owners will receive market value for their interests plus loss and disturbance payments where they qualify. The Council has the resources as set out in the finance comments above to meet these claims.

## **12. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 12.1 There are three key sustainability benefits to this project. Firstly, it is planned that all the new residential development will meet a minimum standard of Code for Sustainable Homes Level 4, which is higher (and better) than the standard being delivered elsewhere in London. There may be scope to deliver a higher standard in the latter stages of the

project. Overall, the scheme will also seek to facilitate better approaches to energy conservation and recycling of waste.

- 11.2 Secondly, a key element of the sustainability agenda is using land in urban environments to maximum effect. This both maximises the value of the land itself and in strategic planning terms, reduces pressure to build on greenfield sites. Issues relating to the effective use of land are set out in the efficiency statement.
- 11.3 Thirdly the proposals involve the development of a high quality environment that will encourage bio diversity as well as providing recreation space and amenity.

**Local Government Act, 1972 Section 100D (As amended)  
List of “Background Papers” used in the preparation of this report**

**Brief description of “back ground papers”**

Contact Officer: Chris Worby  
ext. [5257](#)

Cabinet Reports July 2009, March 2010  
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- Appendix 1: Blackwall Reach Scheme Plan**  
**Appendix 2: Phased Plan for Blackwall Reach**  
**Appendix 3: Summary of Charter**  
**Appendix 4: Possession/Compensation Strategy**  
**Appendix 5: Residential Interests in Phases 2 and 3 Appendix 5A Interests Phase 4 and Phase 1A/1B**  
**Appendix 6: Land Ownerships**