

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 10 <sup>th</sup> April 2013	<b>Classification:</b> Unrestricted	<b>Report No:</b> CAB 97/123
<b>Report of:</b>  Corporate Director of Development and Renewal		<b>Title:</b>  Bow Bridge Estate (Poplar HARCA): updated CPO Resolution	
<b>Originating officer(s)</b> John Coker / Niall McGowan		<b>Wards Affected:</b> Bromley By Bow	

<b>Lead Member</b>	Cllr Rabina Khan
<b>Community Plan Theme</b>	A Great Place To Live
<b>Strategic Priority</b>	Providing quality affordable housing A safe and cohesive community - reducing fear of crime

## **1.SUMMARY**

- 1.1 This report seeks approval for delegated authority to make a Resolution for a Compulsory Purchase Order (CPO), which would address specific land interests on Bow Bridge Estate to facilitate the regeneration of the estate. This Resolution will assist the Council's registered provider partner, Poplar HARCA, to fulfill the joint regeneration commitment between the Council and Poplar HARCA on the estate.
- 1.2 Cabinet previously authorised a CPO on 7<sup>th</sup> November 2007. However due to the length of time that has elapsed and amendments to the regeneration proposals, a new resolution is required to reflect the current land interests to be acquired and to enable the regeneration programme to be delivered effectively.

## **2. DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Note that it is necessary to update the previous Cabinet Resolution (7<sup>th</sup> November 2007) which authorised a series of precautionary CPOs including specific land interests on Poplar HARCA's Bow Bridge Estate, to reflect variations in the land interests to be acquired since the previous approval, as explained in the report.
- 2.2 Delegate to the Corporate Director of Development and Renewal, together with the Assistant Chief Executive, after consultation with the Mayor and Cabinet Member for Housingpower to take all necessary steps including the making of a Compulsory Purchase Order (CPO), General Vesting Declaration or Notice to Treat in respect of the land shown edged red on the plan at Appendix 2 with regard to those interests set out in Appendix 1 including existing interests and new rights pursuant to Section 13 of the Local Government (Miscellaneous Provisions) Act 1976,

- 2.3 Delegate to the Corporate Director of Development and Renewal in consultation with the Assistant Chief Executive (Legal Services) the power to take all necessary procedural steps in making the compulsory purchase order including:-
- 2.3.1 Making of the compulsory purchase order as described in Recommendation 2.2, 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.
  - 2.3.2. Acquiring all interests in land and new interests identified through the referencing process within the CPO boundary shown at Appendix 2 either by private agreement or compulsorily
  - 2.3.3 Determination as to whether an individual Order shall be made under the provisions of Section 17 Housing Act 1985, or Section 226 Town and Country Planning Act 1990, as detailed in paragraphs 4.24 to 4.27 of the report (CAB 068/078), should the Assistant Chief Executive (Legal Services) consider this appropriate;
  - 2.3.4. Monitoring of negotiated agreements by Poplar HARCA with land owners or others as applicable, 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.
  - 2.3.5. Publication and service of 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.
  - 2.3.6. Referral and conduct of disputes relating to compulsory purchase compensation at the Upper Tribunal (Lands Chamber)
  - 2.3.7 Transfer of any land interests compulsorily acquired by the Council under the terms described in Recommendations 2.2 and 2.3 above to Poplar HARCA, once vacant possession is achieved.
- 2.4 Determine that the use of CPO powers is exercised where this is recommended in the report after balancing the rights of individual property owners with the requirement to obtain vacant possession of the site.
- 2.5 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.
- 2.6 Note that all costs incurred by the council, to manage and deliver CPO processes will be reimbursed by Poplar HARCA.

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

- 3.1 The decision requested is necessary to enable the making of a CPO, to support the delivery of a major regeneration scheme by Poplar HARCA on the Bow Bridge Estate.

This estate was transferred under the Stock Transfer Scheme by the Council to Poplar HARCA for redevelopment. Poplar HARCA has developed plans for its renewal for existing and future residents. Poplar HARCA has confirmed that these plans cannot be implemented without the use of CPO powers

- 3.2 Negotiations by Poplar HARCA to acquire the affected land interests on a voluntary basis are on-going and many properties have been successfully acquired since the initial CPO Resolution in 2007. Council officers are monitoring HARCA's negotiations, but this approach now needs to be supported by the formal process of Compulsory Purchase. The CPO would run in tandem with HARCA's efforts to secure vacant possession voluntarily, helping to ensure that land interests can ultimately be acquired, thus enabling the proposed redevelopment scheme to progress without indeterminate delays.

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

- 4.1 The alternative option is to NOT make the recommended Resolution for 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, including:

- risks of significant delays in achieving acquisitions if owners refuse to negotiate voluntary settlements, which in turn would delay or jeopardise key redevelopment proposals;
- potentially higher costs for Poplar HARCA, i.e. to complete voluntary acquisitions and/or through resultant contract penalties for delay, either of which could reduce scheme funding or overall financial viability;
- non-delivery on joint commitments by the council and Poplar HARCA to provide comprehensive regeneration, including new affordable homes for local residents;
- risk of investment in public realm and general neighbourhood regeneration being lost;
- risk of cross subsidy funding from the homes for sale to provide the affordable homes being lost

#### **5. BACKGROUND**

- 5.1 This report updates Members on regeneration work currently underway by Poplar HARCA on Bow Bridge Estate, which was transferred through the housing choice process to deliver major regeneration schemes and Decent Homes. The report seeks approval for measures required to assist Poplar HARCA to carry out its committed redevelopment work and achieve the regeneration aims which were integral to the transfer of the estate.

#### **5.2 Previous Approval for CPO.**

Cabinet (7<sup>th</sup> November 2007) previously authorised the Corporate Director of Development and Renewal to make a CPO to support Poplar HARCA's Bow Bridge regeneration project. The table in paragraph 6.5 below sets out the land interests included in the initial CPO Resolution and highlights that some of these can now be excluded from the updated CPO Resolution, i.e. where they have been acquired through voluntary negotiation by Poplar HARCA in the intervening period. Conversely a number of non-property land interests – such as electricity sub-stations and rights of way - are now included in the proposed updated CPO Resolution on legal advice, to ensure that any CPO taken forward is comprehensive.

### 5.3 **Meeting the Council's requirements for CPO.**

It has been the Council's approach to make CPOs to support its own or RSL partners' major regeneration projects. The need for this provision arises where acquisition of land interests (dwellings, shops, rights of way etc) is necessary to fulfil commitments to deliver new affordable homes, or to generate cross-subsidy from homes for sale to part-fund a wider regeneration programme.

5.4 Following the Cabinet Resolution of November 2007 the Bow Bridge CPO was not required immediately, pending further scheme design work by Poplar HARCA to achieve outline planning approval, secure financial arrangements for the project and confirm to the council that voluntary negotiations with all land interests were underway. The Strategic Development Committee of 16th August 2012 granted both outline planning permission for the whole Bow Bridge scheme and detailed planning permission for Phase 1 of the scheme.

5.5 The council also requires, when making a CPO that its RSL partner continues to vigorously seek voluntary negotiated settlements with all the home owners or others whose interests will be acquired, offering the full market value applicable and statutory compensation, plus relocation where this is appropriate. For example, resident (i.e. not absentee) dwelling owners will have access to independent valuation and legal support and will receive reimbursement to market value for their property interest.

5.6 It is emphasized that the CPO is the solution of last resort and council officers will regularly meet Poplar HARCA's representatives to monitor the RSL's progress in securing vacant possession through voluntary negotiation. For the reasons set out in Sections 3 and 4 above it is important to commence the CPO process for the land interests included in the Appendices to this report on Bow Bridge Estate. All land interests are set out in the Appendices to this report.

5.7 Poplar HARCA's approach to voluntary negotiations with land interests is outlined in paras 7.1 – 7.9 below.

## 6. **BOWBRIDGE ESTATE REGENERATION SCHEME**

6.1 Bow Bridge Estate is located in Bromley by Bow Ward – see Appendix 3, location map. It was transferred to Poplar HARCA on 27th November 2006 with the specific intention of securing significant improvement to the quality of the homes and environment. At transfer, the estate comprised 297 homes of which 245 were tenanted and 52 were leasehold

6.2 Poplar HARCA is comprehensively regenerating the estate. A scheme has been developed which is a combination of internal Decent Homes and external refurbishment of 169 properties, plus scaled back redevelopment of 130 homes. This involves limited demolition and making better use of existing space to provide the new homes, a renewed retail area and the addressing of anti-social behaviour. Improvements to the environment will enhance safety, security and better access issues, including provision of a Homezone. Overall, the redevelopment will supply in excess of 35% of the homes as affordable housing. The value of the refurbishment work exceeds £7 million; to date some £5.7 million has been expended.

6.3 Changes to the scheme Poplar HARCA envisaged in 2007, when the first CPO Resolution was agreed, reduced the scale of redevelopment, moving more tenanted homes into the Decent Homes programme and reducing the number of residential leasehold properties to be acquired.

- 6.4 In the past four years, Poplar HARCA has embarked upon an extensive programme of placemaking called Reshaping Poplar. In addition to providing new homes, this programme seeks to transform the quality of the environment and the quality of life in Poplar, with new and improved health facilities, schools, leisure facilities, retail and commercial workspace, green spaces and physical infrastructure. On BowBridge this will involve improvements to the quality of the environment, new and improved health facilities, an enhanced retail area, improved and more useable public spaces and redevelopment of the physical infrastructure to enhance the quality of life.
- 6.5 However, to deliver these significant improvements to the local area requires the acquisition of all land interests within the CPO area to ensure that the title to the land is clear which enables the scheme to progress without hindrance. Poplar HARCA will continue to seek to acquire all interests through voluntary negotiations, but the CPO process is an important element in ensure that clean title to all of the land can be secured.
- 6.6 Purpose of the decant and acquisition of land interests on BowBridge.**  
 HARCA's programme entails the demolition and redevelopment of 52 properties at Warren House (Nos 1 – 42) and Stroudley Walk (Nos 40 – 49), to be replaced with a mixture of new homes for rent and shared ownership and for sale.
- 6.6 The following table in paragraph 6.8 outlines Poplar HARCA's redevelopment proposals for Bow Bridge Estate including:
- 6.6.1 Comparison of the redevelopment outputs projected by Poplar HARCA in 2012 with those envisaged in 2007 when the first CPO Resolution was agreed;
- 6.6.2 Variations between the CPO Resolution of 2007 and the CPO Resolution proposed in this report, in terms of the land interests to be included; the number of residential and retail land interests to be acquired has decreased due to voluntarily negotiated settlements in the intervening period. The retail land interests to include in the CPO has decreased due partly to the scaling back of demolitions and also to a number of voluntarily negotiated settlements in the intervening period.
- 6.7 Under the current regeneration proposal Fairlie Court will not now be demolished but will be refurbished. Rainhill Way which was included in the 2007 resolution is no longer included in HARCA's redevelopment proposals.

6.8 **BowBridge Regeneration Scheme (Poplar HARCA) and the updated CPO required.**

<b>2007</b>	<b>2012</b>
<p><b><u>Proposed Redevelopment Scheme:</u></b> demolition of 93 homes and 20 shops. New-build of 438 dwellings.</p> <p><b><u>Land interests included in original CPO Resolution:</u></b> 25 residential dwellings and 20 shops comprising:</p> <p><b>Residential:</b> Stroudley Walk, E3 3EW. Nos. 42, 46.</p> <p>Warren Court, Bromley High Street, E3 3HB. Nos. 1, 4, 15, 22, 42.</p> <p>Fairlie Court, E3 3HG. Nos. 2, 4, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 20. Rainhill Way, E3 3JD. Nos. 8, 14, 32, 42</p> <p><b>Shops:</b> Bromley High Street E3 3HB: Nos. 22, 24, 26, 28, 28A</p> <p>Stroudley Walk, E3 3EW: Nos. 30, 32/38 (1 property), 31, 33, 35, 37, 39</p>	<p><b><u>Proposed Redevelopment Scheme:</u></b> demolition of 67 properties (including 15 shop units). New build of 130 new homes (including 38 for social rent a high proportion of which are large homes and intermediate tenures), revitalised retail area and new community space.</p> <p><b><u>Land interests to be retained in an updated CPO Resolution: (see Appendix 1):</u></b> only 2 residential dwellings and 9 retail shops remain to be acquired, as follows:</p> <p><b>Residential:</b> Stroudley Walk, E3 3EW. No 46 (1 dwelling – non-resident leaseholder).</p> <p>Warren Court, Bromley High Street, E3 3HB. No. 22 (1 dwelling – non - resident leaseholder)</p> <p><b>Shops</b> Bromley High Street E3 3HB. Nos. 22, 24, 28, 28A</p> <p>Stroudley Walk, E3 3EW. Nos. 30, 32/38 (1 property), 33, 37, 39.</p> <p><b><u>Land interests to be added to updated CPO Resolution:</u></b> Electricity Sub Station adjacent to Warren Court Rights of Way Wayleaves</p>

6.69 Planning approval was granted by the Strategic Development Committee on 16th August 2013 for redevelopment including: demolition of existing housing blocks and shop units in Warren House, Bromley High Street and Stroudley Walk and the new-build of 130 residential units, 380 sq m of retail space (flexible between use classes A1, A2 and A3) and up to 154 sq m community space.

- 6.10 Public paths and Right to Buy leaseholder entitlement to access to communal greens will not be restored as the new scheme will be built over these areas. However, public access will be available for relevant pathways in the new scheme.
- 6.11 The redevelopment will now be carried out in two phases, combining phases 1 and 2 from the original proposed three phase scheme. This provides 24 new homes for social rent, 10 new homes at affordable rent, 3 intermediate tenure and 93 homes for private sale. The latter element provides essential cross subsidy to fund the development of the affordable homes. The scheme is also in receipt of grant funding from the Homes and Communities Agency.
- 6.12 Outline and phase 1 detailed planning approval was granted on the 16th August 2012.

A detailed planning application for a revised Phases 1 and 2 of the scheme will be submitted by Poplar HARCA later in 2013. First demolitions and start on site are due autumn 2013. The scheme will benefit from HCA funding for the affordable rented homes to be built on the site. Phase 1 has received an allocation of grant funding in the recent bid round. Completion of this phase is required before March 2015, to take up the allocated grant funding. This is to ensure that sufficient sales can be generated to cover the cost of development and to ensure a funding stream for Phase 2.

- 6.13 As shown in the Table in 6.8 above the overall scheme housing outputs are similar to those envisaged in 2007, and these are already partially delivered, including a number of acquisitions and the delivery of refurbishment works to the estate. To complete the redevelopment element of the regeneration Poplar HARCA states it will deliver a further 37 homes for rent and shared ownership and 93 homes for private sale. The final figures are subject to the detailed planning application.
- 6.14 Property owners have been consulted by Poplar HARCA about the regeneration scheme. The support of the council in progressing a precautionary CPO on Bow Bridge Estate will help deliver a successful conclusion to the decant and leasehold acquisitions programme. The Bow Bridge CPO would run in tandem with Poplar HARCA's ongoing negotiations with the remaining 2 dwelling owners (both non-resident) and 9 retail leaseholders, to seek voluntary settlements if possible. Other land interests to be acquired / extinguished, which were not included in the 2007 CPO Resolution, are an Electricity Sub Station, Rights of Way and Way leaves. To date some 5 residential properties and 1 commercial property have been successfully purchased through negotiation, with a number of settlements currently being negotiated.

## **7. NEGOTIATING SETTLEMENTS**

- 7.1 The proposal for a CPO, to include property interests at the addresses listed in Appendix 1, is a precautionary measure to help ensure overall delivery of the scheme. Poplar HARCA will be required to continue negotiations with the remaining non-resident dwelling owners and with shop leaseholders to seek to achieve a complete decant without recourse to the full execution of the proposed CPO. Updating the CPO Resolution will not result in any reduction in efforts to continue negotiations to achieve vacant possession by voluntary sale. The CPO is however an important step to confirm the council's support for these schemes which the council jointly committed with Poplar HARCA to deliver through the housing choice/ stock transfer route.
- 7.2 There have been robust attempts to acquire all premises through negotiation. 5 residential property interests and 3 commercial premises have been acquired or vacated through negotiation. Only 2 residential properties (both non-resident) and 8 Commercial premises plus the GP surgery remain to be acquired/relocated.

7.3 Poplar HARCA is continuing to liaise closely and negotiate with all the remaining owners and occupiers. The Housing Regeneration Team monitors the financial and relocation offers made by HARCA to ensure compliance with the council's requirements as set out in paras. 5.3 - 5.6, to support the CPO route and with the stock transfer Housing Offer Document.

7.4 **Residential acquisitions**

Poplar HARCA has so far been successful in acquiring the majority of residential properties via negotiated settlements. It has adopted the good practice approach used by the council and some of its other RSL partners where land interests have been acquired to facilitate regeneration.

7.5 When a property is to be purchased the owner is encouraged to seek independent valuation advice to assist in negotiations with Poplar HARCA's Valuer, 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 receive an additional 10% of the final market value as a statutory Home Loss payment. Property.

Owners who do not occupy their homes may be 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 valuation professional 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 and reversions back to tenancies where there is insufficient capital in the existing property to enable the displaced leaseholder to purchase a new replacement home at current market values.

7.8 **Commercial leases (BowBridge Estate)**

Commercial premises remaining to be acquired are as follows:

7.8.1 4 retail units at the base of Warren House (Bromley High Street), part of the Phase 2 redevelopment;

7.8.2 5 retail/commercial premises in Stroudley Walk, one of which is occupied as a health centre. These units fall within Phase 3 of the development, which allows time for further negotiations to be undertaken.

7.9 Poplar HARCA confirms negotiations have been taking place with leaseholders of retail premises to establish their aspirations for maintaining their business, relocation and the



potential to return to the new retail units to be developed within the new scheme. These negotiations will be taken further in order to secure formal agreements following planning approval.

### **7.10 Poplar HARCA's approach to acquiring commercial premises**

Poplar HARCA advises it has recently introduced a draft policy that covers issues relating to the acquisition of commercial premises. The guiding principles of this draft policy are:

- Occupiers of Poplar HARCA commercial premises will be valued and treated with respect.
- Poplar HARCA services are available and accessible to all who are eligible to receive them.
- Poplar HARCA policies and procedures are applied consistently, impartially and equitably.
- Negotiations with occupiers of commercial properties will be fair and reasonable and based on prevailing market conditions and current legislation and associated guidance.

7.11 Poplar HARCA states it has no desire to force businesses to close and that it will enter into negotiation with all leaseholders and businesses to establish their requirements and to seek to negotiate a voluntary agreement on the acquisition of the lease and any business relocation that may result from this.

7.12 Leases for the occupation of retail premises on the Bow Bridge Estate fall into a number of categories. In all instances, Poplar HARCA aims to negotiate a voluntary agreement to secure vacant possession, but the approach to this will vary according to the category that each of the occupant's falls into.

7.13 HARCA's default offer to owners / occupiers of business premises is based on statutory provisions. Should it be required to rely on the council's CPO, business occupiers (with a compensatable interest) will be entitled to full compensation under the Compensation Code including:

- full market value (FMV) – based on agreement or determination by a third party in the absence of agreement;
- their reasonable relocation costs in moving to new premises;
- a basic loss payment equivalent to 7.5% of the FMV capped at £75,000, and an Occupiers Loss payment equivalent to 2.5% of the FMV or £2.50 sqm GIA, whichever is the highest, subject to a cap of £25,000;
- reimbursement for reasonable professional fees

### **7.13 Other Land Interests**

On Bow Bridge Estate there is an electricity substation where land has been leased to the provider. Whilst it is likely that agreement will be made with the suppliers for the relocation and/or enhancement of this service, a CPO resolution will support the necessity to reach such an agreement.

7.14 There are likely to be other minor land interests and rights which will need to be extinguished by CPO. These will include such matters as:

- Way leaves
- Rights of Way
- Third Party rights
- Rights to Light
- Oversailing rights

All land interests will be established via a referencing process and where appropriate, negotiated settlements will be reached to allow the redevelopment to proceed unhindered.

## **8. COMPULSORY PURCHASE**

8.1 Section 17 Housing Act 1985 (the 1985 Act) provides a power for a local housing authority 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
- acquisition of houses or buildings which may be made suitable as houses, together with any land occupied
- acquisition of land to provide facilities in connection with housing accommodation, and
- acquisition of land to carry out works in connection with providing housing

8.2 Land can be acquired under section 17 of the 1985 Act either by agreement or compulsorily. In summary the provisions of the legislation governing compulsory purchase contained in the Acquisition of Land Act 1981, the Compulsory Purchase Act 1965 and the Land Compensation Act 1961 apply in such cases.

8.3 Using compulsory purchase powers will facilitate the delivery of this regeneration project. The interests in the land currently are as listed in the body of the report.

8.4 Circular 06/2004 Paragraph 1 (Compulsory Purchase and the Crichel Down Rules) (“the Circular”) sets out guidance to acquiring authorities in England making compulsory purchase orders.

8.5 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.”

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.”

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 which 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 the Circular 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.”*

- 8.8 Appendix E of the Circular 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.

- 8.9 Consideration is given to the human rights implications of the decision to make a compulsory purchase order in section 14 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 the Bow Bridge Estate accords with the first two of these circumstances.

## **10. ESSENTIAL REQUIREMENTS FOR USE OF COMPULSORY PURCHASE**

10.1 The essential requirement for use of compulsory purchase powers under section 17 of the 1985 Act may be summarised as follows:

- That the Council is satisfied that acquisition will achieve a quantitative or qualitative housing gain.

10.2 Officers consider that this requirement is met in the case of Bow Bridge Estate. Poplar HARCA will be required to indemnify the Council in respect of all costs associated with the use of compulsory purchase powers, including compulsory purchase compensation and the costs of all specialist advice and officer time.

## **11. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

11.1 This report updates Members on Poplar HARCA's progress on the acquisition of land and properties on the Bow Bridge Estate following Cabinet approval to initiate a Compulsory Purchase Order process in November 2007. Approval is sought to reaffirm the mechanism for CPO proceedings to be implemented should the residential leasehold interest buyback programme not succeed in acquiring all of the appropriate property interests, and also requests the inclusion of an electricity substation within the process. 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.

11.2 There are no direct financial implications for the Authority of this process. The costs of the purchases and associated compensation packages are borne by Poplar HARCA. In addition, the cost of all officer time involved in the CPO process will also be recharged to Poplar HARCA.

## **12. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

12.1 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. Section 8 of the report sets out the background requirements of the Circular 06/04.

12.2 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.

- 12.3 Paragraph 22 of the memorandum to Circular 06/04 states that there must be a reasonable prospect of the scheme going ahead. Section 6 of the report sets out progress that Poplar HARCA has made in delivering refurbishment works on the estate and delivering Phase 1 of the redevelopment proposals.
- 12.4 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 Services). The properties and other interests to be acquired will include those set out in Appendix 1.
- 12.5 Whenever a Compulsory Purchase Order 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. Against this should be placed the benefit of improved housing and amenities for all occupants on the estate and the benefit to the well-being of the community gained by the scheme. The impact of this harm is lessened by the existence of rights of objection and a statutory compensation regime, which makes provision for loss payments to reflect the compulsory nature of the acquisition.
- 12.6 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 a Housing Association. Section 17(4) of the 1985 Act provides that the Secretary of State may not confirm a CPO unless he is satisfied that the land is likely to be required within 10 years. Once confirmed, compulsory purchase powers have a 3 year life. Given the proposed development timetable that Poplar HARCA are working to, the Council can be confident that the acquisition of all interests will be within the life of the CPO and will be reasonable in the context of the scheme.
- 12.7 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 authorities view, provision needs to be made. Details of the authority’s housing stock, by type may also be helpful.
- 12.8 As Poplar HARCA has largely been successful in acquiring properties and decanting its own tenants, there is not a need for a site specific rehousing strategy. Poplar HARCA will rehouse the remaining tenants via the Comprehensive Housing Register and will continue to endeavor to secure voluntary agreement to acquire the remaining two privately owned properties.
- 12.9 An alternative power the Council could use is Section 226(1) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act (as amended)) was amended by the Planning and Compulsory Purchase Act 2004 (the 2004 Act) to provide wider powers for local planning authorities to acquire land by compulsory purchase when the authority thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

12.10 Section 226(1A) of the 1990 Act (as amended) provides that an authority must not exercise the power under section 226(1) (a) "unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well being of their area" and be in the public interest. Land may also be acquired by agreement for the same purposes.

12.11 The essential requirement for use of compulsory purchase powers under section 226 of the 1990 Act (as amended) may be summarised as follows: That the Council is satisfied that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well being of their area

12.12 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 assesses the scheme as viable;
- The Council's Housing Association partner (Poplar HARCA) 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 (i.e. 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 interests 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 13 below).

### 13. **HUMAN RIGHTS IMPLICATIONS**

13.1. 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).

- 13.2 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.
- 13.3 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.

**14. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 14.1 The housing stock formerly owned by the council has suffered from a backlog of investment due to lack of resources. As a consequence, these properties suffer from poor thermal efficiency and inefficient heating systems resulting in higher than necessary fuel usage and the creation of fuel poverty. As Poplar HARCA have secured the resources to improve and regenerate these areas, the schemes will improve the living circumstances of residents as well as improving the environmental performance of new and existing property in the area.

**15. RISK MANAGEMENT IMPLICATIONS**

- 15.1 The key risks arising from this report are: -

Risk	Mitigating Actions
<ul style="list-style-type: none"> <li>• Failure by RSL to secure vacant possession of the leasehold interests listed in Appendix 1</li> <li>• Lengthy and costly delays to works programmes, which could also jeopardise the cross-subsidy to deliver the affordable homes.</li> <li>• Failure to deliver the promises made to residents.</li> </ul>	<ul style="list-style-type: none"> <li>• Delegated authority sought to make CPO where required, to operate in tandem with negotiated procedures.</li> <li>• Regular liaison with Poplar HARCA to anticipate difficulties within their buy-back programmes and address these through the measures proposed in this report.</li> <li>• Covenants put in place at transfer.               <ul style="list-style-type: none"> <li>• Partnership agreement in place.</li> <li>• Monitoring and reporting arrangements put in place.</li> </ul> </li> <li>• Council support to RPpartner to deliver the scheme, i.e. use of CPO powers.</li> </ul>

**16. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 16.1 Bow Bridge Estate has experienced issues of serious anti-social behaviour. The proposed redevelopments are applying the following principles to address the ASB issues:

- 16.1.1 The new shared surface street encourages people to use the shops which is in line with the desires of residents
- 16.1.2 Green tree lined route breathes life into the rundown area

- 16.1.3 The new road enables improved surveillance by the police to help discourage anti social behaviour
- 16.1.4 Stroudley Walk will be designed to create a low speed road environment, which is pedestrian priority, encouraging walking and cycling
- 16.1.5 New Civic Square which creates a retail focus allowing residents to have a central gathering area

**17. EFFICIENCY STATEMENT**

- 17.1 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.

**18. APPENDICES**

- 18.1 The report has the following appendices.

Appendix 1: Schedule of leasehold interests to be purchased

Appendix 2: BowBridgeEstate – map of land area proposed for a CPO

Appendix 3: Bow Bridge Estate – Location Plan

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**Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

None

Name and telephone number of holder and address where open to inspection.

Abad Uddin  
Housing Regeneration Team  
Directorate of Development & Renewal  
Mulberry Place (AH)  
5 Clove Crescent  
London  
E14 1BY  
0207 364 7799



## **Appendix 1**

### **Land Interests to be purchased: listed for inclusion in the proposed Compulsory Purchase Order**

#### **Leopold Estate: Poplar HARCA**

##### Residential Properties

Stroudley Walk, E3 3EW. No 46

Warren Court, Bromley High Street, E3 3HB. No. 22

##### Shops

Bromley High Street E3 3HB. Nos. 22, 24, 28, 28A

Stroudley Walk, E3 3EW. Nos. 30, 32/38 (1 property), 33, 37, 39.

##### Other Land Interests

Electricity Sub Station adjacent to Warren Court

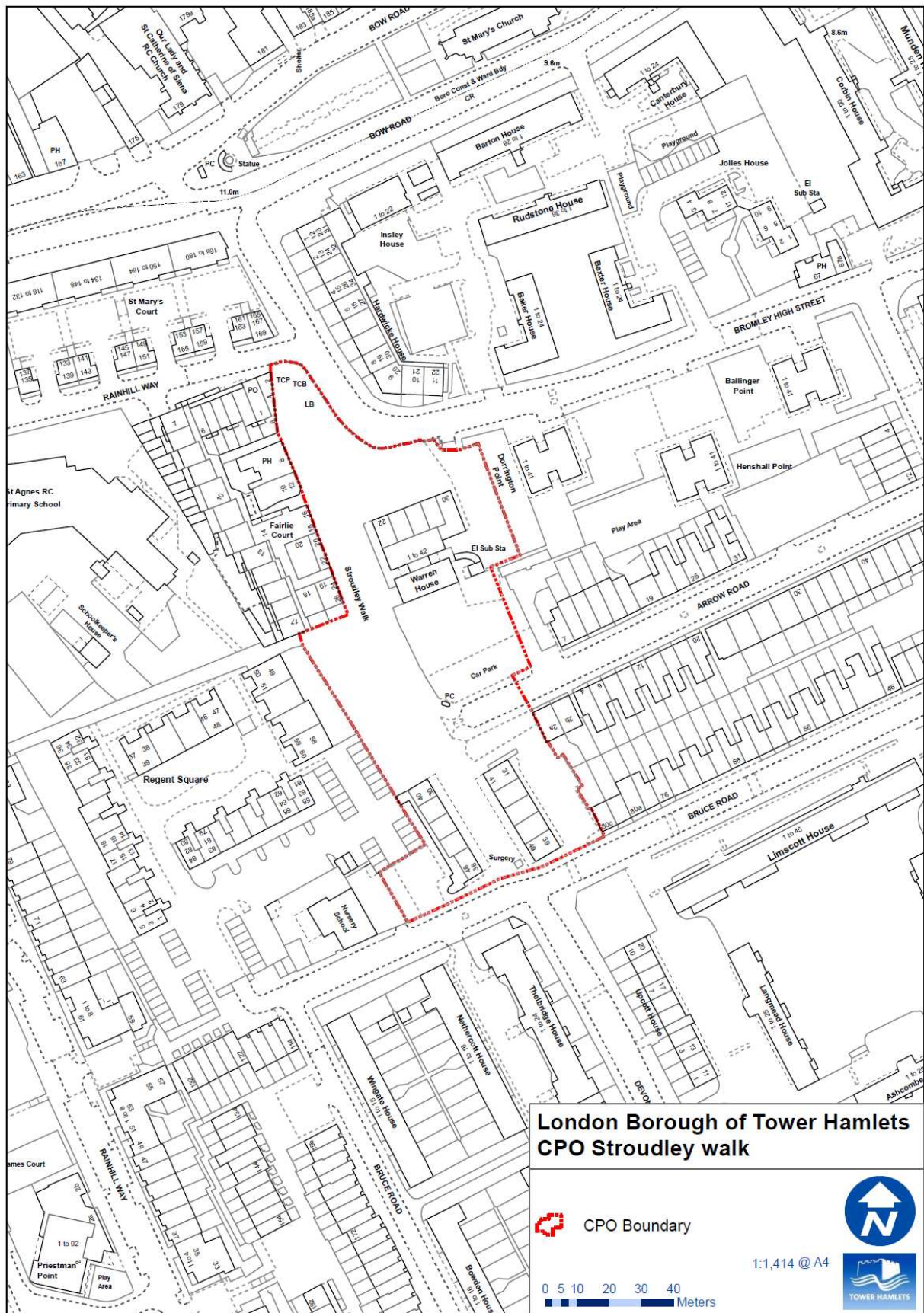
Rights of way

Way-leaves

Other non residential interests as identified during the land referencing within the red line boundary shown on the plan in Appendix 2

## Appendix 2

### Bow Bridge Estate – map of land area proposed for a CPO



Appendix 3

Bow Bridge Estate - Location map

