


# Agenda Item 5.5

<b>CABINET</b> 6 October 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Aman Dalvi, Corporate Director of Development and Renewal	<b>Classification:</b> Unrestricted
<b>CPO Resolution: Aberfeldy Estate Phases 3, 4, 5 &amp; 6 (Poplar HARCA)</b>	

<b>Lead Member</b>	Councillor Rachel Blake, Cabinet Member for Housing and Development
<b>Originating Officer(s)</b>	Jackie Odunoye – Service Head for Strategy Regeneration & Sustainability Niall McGowan – Housing Regeneration Manager Monju Ali – Projects Officer, Housing Regeneration
<b>Wards affected</b>	Lansbury Ward
<b>Community Plan Theme</b>	A Great Place to Live
<b>Key Decision?</b>	Yes

## 1. EXECUTIVE SUMMARY

- 1.1 This report seeks agreement to the making of a Compulsory Purchase Order (CPO) and approval for the delegated authority to make and give effect to the CPO, which would address specific land interests (predominantly leasehold dwellings) on Phases 3, 4, 5 & 6 of the Aberfeldy Estate to facilitate:
- The delivery of the on-going Aberfeldy Estate regeneration programme in compliance with commitments to the Council and local residents
  - To deliver new homes for rent and sale
  - To deliver the new neighborhood center
  - To deliver new retail provision
  - To deliver new public realm and environmental change
- 1.2 The proposed CPO Resolution will progress the Mayor’s regeneration aims by enabling the Council’s registered provider partner, Poplar HARCA, to undertake this important housing and community renewal programme.
- 1.3 This report notes that the approach proposed is for a single CPO covering the remaining phases of the proposed estate regeneration scheme, to deliver the overall multi-phased renewal of Aberfeldy Estate. To ensure that land assembly takes place with minimal delay and the avoidance of additional costs which will otherwise impact on the scheme.
- 1.4 The proposed CPO once made would run in tandem with Poplar HARCA’s continuing efforts to achieve negotiated settlements with all land interests wherever possible. However, the use of the Council’s CPO powers is considered necessary and appropriate to progress the Aberfeldy regeneration scheme by reducing the risks arising in uncertainty with land assembly.

## 2. RECOMMENDATIONS

The Mayor in Cabinet is recommended to:-

- 2.1 Agree the making, confirming and implementation of a Compulsory Purchase Order (CPO) to include specific land interests that must be acquired to facilitate the redevelopment by Poplar HARCA of Aberfeldy Estate phases 3-6, to provide new housing and estate regeneration.
- 2.2 Subject to recommendation 2.6, delegate to the Corporate Director of Development and Renewal, after consultation with the Director of Law Probity and Governance (or their nominee), the power to effect the making, confirming and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the land shown edged red on the plan at **Appendix 1** including, but not limited to, the following procedural steps:
  - 2.2.1 Acquiring all known interests in land and any additional interests identified through the land referencing process within the CPO boundary, as shown at **Appendix 1**, either by private agreement or compulsorily, including those specific interests listed in **Appendix 3**.
  - 2.2.2 Appointing land referencing agents, making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making.
  - 2.2.3 Monitoring of negotiated agreements by Poplar HARCA with land owners or others as applicable, setting out the terms for withdrawal of objections to the CPO, including where appropriate seeking exclusion of land or new rights from the CPO.
  - 2.2.4 Seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981), including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary.
  - 2.2.5 Publication and service of notices of confirmation of the CPO and thereafter to execute and serve any General Vesting Declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area.
  - 2.2.6 Issuing of General Vesting Declarations and/or Notices to Treat in respect of the land/interests within the area edged red on the plan at **Appendix 1** and those listed at **Appendix 2**.
  - 2.2.7 Referral and conduct of disputes, relating to compulsory purchase compensation, at the Upper Tribunal (Lands Chamber).
  - 2.2.8 Transfer of any land interests compulsorily acquired by the Council to Poplar HARCA, for nil consideration, within a timescale to be agreed with Poplar HARCA.
  - 2.2.9 To agree the terms and conditions, including any consideration, of the transfer of the freehold or long leasehold interests to Poplar HARCA of the three land parcels referred to below and enter into such documentation necessary to complete the transactions.

- 2.2.10 To invoke its powers under section 237 of the Town and Country Planning Act 1990, or any other enabling power, to manage any Rights of Lights claims that may arise, including issuing any compensation payments.
- 2.3 Agree that the delegation set out in 2.2.9 should include the finalisation of all terms and conditions, including any financial consideration, for the transfer of the freehold interests to Poplar HARCA of the three land parcels described in section 10 (Land Disposal) below and identified on the plan at **Appendix 2**, the plots of land which are currently in the freehold ownership of the Council and are required by Poplar HARCA for the purposes of the delivery of the regeneration. The sites are:
- The 'Community Access Centre' and Multi Use Games Area on Aberfeldy Street on long lease to Poplar HARCA
  - Kirk Michael Road and adjoining pavement
  - The pavement fronting the existing shops at No.25-55 Aberfeldy Street
- 2.4 Determine that the use of CPO powers is exercised after balancing the rights of individual property owners with the requirement to obtain vacant possession of the site.
- 2.5 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 Delegate to the Corporate Director, Development and Renewal, in consultation with the Director of Law Probity and Governance (or their nominee), the power to agree the terms of and enter into an Indemnity Agreement with Poplar HARCA which provides a framework for the respective obligations of the Council and Poplar HARCA in the promotion and application of powers, including an obligation for the Council to transfer the land to Poplar HARCA for nil consideration, and the ability for the Council to recover its costs in conducting and managing the CPO, including all compensation costs to be paid.

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

- 3.1 The proposed CPO resolution will progress the Council's regeneration aims by enabling its provider/partner Poplar HARCA to roll out and deliver phases 3-6 of a major regeneration scheme on the Aberfeldy Estate. Poplar HARCA has requested that the Council exercises its powers to make a single CPO to safeguard land assembly across the proposed regeneration area, so that the scheme can be delivered in a timely and cost effective way, thus guaranteeing delivery of the social housing and other associated regeneration benefits for the community, whilst minimizing delays and additional costs to future phases.
- 3.2 Poplar HARCA will endeavour to acquire all of the affected land interests on a voluntary basis. Council officers are monitoring Poplar HARCA's negotiations, but this approach now needs to be supported by the formal use of Compulsory Purchase Powers. The CPO process would run in tandem with Poplar HARCA's efforts to secure vacant possession voluntarily, helping to ensure that land interests can ultimately be acquired, thus enabling the proposed re-development scheme to progress without indeterminate delays.
- 3.3 Under the single CPO approach it is expected that any land acquired through the CPO process will be vested only when it is needed to enable the next phase, which will allow

time for Poplar HARCA to secure voluntary settlements wherever possible, alongside the CPO process, which is in line with the approach the Council has adopted in recent years for itself and on behalf of regeneration partners.

- 3.4 The regeneration scheme is described in section 6, further to the already approved outlined planning consent for the whole scheme, additional planning approvals required under reserved matters are in place for phases 1 and 2 (with phase 1 nearly complete and phase 2 under construction) and a further reserved matters application has been submitted to the Council's Planning Department for phase 3. The scheme is therefore well underway and Poplar HARCA has asked that the CPO is made as soon as possible to help achieve land assembly for phase 3, particularly as this is due to start in 2016 and also includes much of the community hub elements. This phase and future phases maybe at risk if the CPO is not made. Council officers have been liaising closely with Poplar HARCA to review its strategy for land assembly and its approach to negotiations with affected land interests, which are underway.

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

- 4.1 The alternative option is to NOT agree to the proposed CPO. Poplar HARCA has stated that without a commitment from the Council to use CPO powers to support the delivery of the land assembly, it may not be able to progress the scheme, as the cost risk will be too high. 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:

- Risk of losing specific planned investment and commitment by Poplar HARCA to provide comprehensive regeneration across the wider area, including:
  - New affordable homes for people in housing need
  - Community hub with health and faith provision
  - New retail provision
  - Public realm and general neighbourhood regeneration
  - Planned investment in training and apprenticeships
- Risk of losing cross-subsidy from the homes for sale to provide the affordable homes in each phase.
- Risk to the land assembly, which cannot be guaranteed without resorting to compulsory purchase; thus development of the proposed new homes and estate regeneration would be jeopardised, or at the very least delayed. Delay leads to higher costs of land assembly and build costs, which in turn impacts upon overage and the level of additional affordable homes for the scheme as set out in the s106 Planning Agreement.
- Potentially higher costs for Poplar HARCA, i.e. by necessitating acquisitions at a higher than market value, which in turn could reduce scheme funding, the amount of affordable housing or overall financial viability.
- Uncertainty for tenants and leaseholders as to whether the scheme will progress, which will make it harder for them to make informed decisions about their future, or to get alternative accommodation which meets their requirements.
- Without a statutory CPO there would be no obligation on Poplar HARCA to reimburse leaseholders' additional costs for reaching voluntary settlements, such as surveying and legal fees.

- 4.2 Poplar HARCA has advised that it experienced difficulties in securing voluntary settlements on Phase 2 of the scheme which led to delays, and accordingly is urging that the Council supports its on-going negotiation efforts for future phases with the use of precautionary CPO powers.
- 4.3 Any liabilities which the Council may assume in becoming the 'Acquiring Authority' by making the CPO will be indemnified by Poplar HARCA in an agreement which will set out the responsibilities and requirements of both parties and fully underwrite the Council's costs.

## **5. DETAILS OF REPORT**

### **5.1 Meeting the Council's requirements for CPO**

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

- 5.2 This report seeks the Mayor's approval to make a CPO Resolution now. For the reasons set out in sections 3 and 4 of this report, it is important to commence the CPO processes for all the non-acquired land interests included in, or affected by the CPO land within the red-line boundary shown in **Appendix 1**. The report explains why the proposed CPO is needed to support the housing and wider regeneration work proposed on Aberfeldy Estate, which will provide crucial new homes for people in housing need.

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

- 5.4 Before making a CPO, Council officers require that Poplar HARCA demonstrates that it is and will continue to be vigorously seeking voluntary negotiated settlements with all those whose interests will be acquired, offering the full market value applicable and compensation compatible with statutory requirements. This includes reimbursement by Poplar HARCA for independent valuation and legal support, payment of the full market value for their property interest, and an appropriate compensation package to meet statutory requirements. This is achieved through regular meetings with Poplar HARCA's team as well as review of documentary evidence that supports the information provided during meetings.

- 5.5 It is emphasized that the CPO is the solution of last resort. Council officers will regularly meet Poplar HARCA's representatives to monitor progress in securing vacant possession through voluntary negotiation. Poplar HARCA's approach to voluntary negotiations with land interests is described in paragraph 6.12 below.

## **6. ABERFELDY ESTATE REGENERATION SCHEME**

- 6.1 Aberfeldy Estate is located in the East India and Lansbury Ward – see **Appendix 1, site location & CPO plan**. It was transferred to Poplar HARCA in two tranches, one in 1998 and another in 2007 following positive outcomes from ballots of residents. The transfer took place with the specific intention of securing significant improvement to the quality of

the homes and environment. At transfer, the parts of the estate to be regenerated comprised 297 homes, comprising 211 tenanted homes and 86 leasehold homes.

6.2 In the past four years, Poplar HARCA, in partnership with the Council, has embarked upon an extensive programme of place-making called 'Reshaping Poplar'. In addition to providing new homes, this programme seeks to transform the built 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. Examples of these are:

- Spotlight Centre
- St Paul's way Community Centre
- Significantly improved public realm of Brownfield estate
- Nutmeg Way pedestrian crossing

6.3 Poplar HARCA is comprehensively regenerating Aberfeldy over 6 phases, and investing over £300M in improvements to the area. Phase 1 is nearly complete and Phase 2 is under construction. Poplar HARCA has previously decanted or acquired 52 tenanted and 20 leasehold homes for the first 2 phases. The requested CPO will safeguard land assembly for the remaining phases 3-6, and decant for these phases will include the remaining 82 tenants and 66 leaseholders, as described in more detail in paragraphs 7.4 –7.7 below.

6.4 The London Thames Gateway Development Corporation (LTGDC) granted both outline planning permission for the whole Aberfeldy Estate scheme and detailed planning permission for Phase 1 of the scheme on 20 June 2012, and a detailed consent for Phase 2 of the scheme was obtained from the Council on 27 March 2014. The Council was a statutory consultee to the outline and Phase 1 planning applications. A Reserved Matters application for Phase 3 was submitted to the Council's Planning Department and validated on 20 July 2015, with a decision expected by November 2015.

6.5 Phases 3-6 of the Aberfeldy scheme will include:

- Demolition of 13 residential blocks
- Provision of 619 new homes across the phases, including:
  - 529 for private sale
  - 63 for social rent
  - 27 intermediate (including affordable rent)

The above figures are indicative as overall provision and tenure split within the consented scheme. Provision within each phase is determined in accordance with the agreed mechanism in the s106 agreement. The indicative split is 70% private: 30% social & intermediate by habitable rooms. However, when the scheme is fully delivered and taking the Aberfeldy Estate overall into account, the tenure split will be close to 50% private and 50% affordable.

- New retail hub with shopping parade }
  - New larger inclusive community hub }
  - New accessible health centre }
  - New multi-faith space in Phase 4 }
  - New vibrant public realm with associated open green spaces with shared surfaces and active frontages, with widened avenues to incorporate trees, dedicated cycle ways, roads and parking to serve local movement
- (All in Phase 3)*

6.6 The approved outline scheme delivers 25% affordable homes and guarantees to replace all of the social rented habitable rooms lost through demolition, and to provide a

minimum of 5% additional habitable rooms split 60/40 between rent and intermediate tenures.

6.7 At least 45% of all replacement social rented homes and additional affordable rented homes will be family sized (3+ bed). All homes provided as affordable housing will be let at social rents.

6.8 This current mix is supported by a detailed viability appraisal which will be re-run with the Council's Planners under the s106 provisions prior to the development of each phase and, where viable, the amount of affordable habitable rooms will be increased up to a maximum of 35% overall.

6.9 There are a number of reasons for the multi-phased approach:

6.9.1 The regeneration scheme has been developed to:

- provide the most efficient build programme
- create new community, faith, health and retail spaces in advance of existing spaces being removed; and to
- minimise disruption to other residents in the demolition and build processes.

6.10 It maximises the opportunity for internal decants from existing properties to the new affordable homes and provides the opportunity for leaseholders to acquire new properties within the re-developed parts of the estate, thus retaining existing communities. This has positive benefits in that those tenants being decanted or leaseholder properties acquired in Phases 3-6 wishing to remain part of the community will be able to do so, which in turn has a positive benefit in maintaining and building community cohesion.

6.11 To deliver these improvements Poplar HARCA needs the Council to use its CPO powers to assist with the acquisition of all land interests on a phased basis and ensure vacant possession so that the scheme can progress without delay. Poplar HARCA will continue to seek to acquire all interests through voluntary negotiations, but the CPO process for the remaining phases is an important element underpinning the delivery of the scheme.

#### 6.12 **Re-housing Offer**

Poplar HARCA has made the following commitment to its **tenants**:

- Awarded decant priority status
- Relocation to a suitable home of a type and size that meets their housing need
- Help with the cost of moving
- Home Loss payment
- Option to return to the new scheme for all existing tenants being decanted
- Existing former Council tenants who transferred to Poplar HARCA will keep their protected rights (such as Right to Buy) if they decant to another Poplar HARCA property.
- Other Poplar HARCA tenants will keep their assured tenancy rights if they choose to move within Poplar HARCA properties or to any other Housing Association

Poplar HARCA has made the following commitments to **resident leaseholders**:  
*(i.e. who live in the properties they own)*

- Full market value for property

- Home loss payment along with reasonable costs of relocation and legal/conveyancing fees, stamp duty etc.
- For leaseholders that cannot afford an alternative home the following options are available:
  - Shared ownership on Aberfeldy Estate
  - Shared equity arrangements on Aberfeldy Estate
  - Lease swap on Aberfeldy Estate
- Poplar HARCA has confirmed that it will hold properties within the development for existing resident owners to purchase for a direct move, if the owners are able to do so. For those who are not able to obtain a mortgage to buy a new replacement home the options outlined above will apply, and Poplar HARCA has confirmed it will help resident leaseholders further by way of its hardship policies where applicable.

Poplar HARCA has made the following commitments to **non-resident leaseholders**:

- Full market value for property
- Basic loss payment along with reasonable costs of relocation and legal fees, stamp duty etc. (applicable for 12 months from date of acquisition).

- 6.13 As per earlier phases, Poplar HARCA through its consultation process, drop in sessions and home visits, gathers information about the personal and financial circumstances of resident leaseholders, to identify any hardship considerations and to arrive at options that fit with each resident leaseholder's financial circumstances. Council officers monitoring the decant programme will regularly review this information to confirm that Poplar HARCA is providing robust options that meet the needs of all resident leaseholders.
- 6.14 Poplar HARCA is expected to be as flexible as possible in its efforts to negotiate with resident home-owners. However, the CPO is necessary to ensure that the land earmarked for development is secured as quickly as possible, to enable the development to begin.

## **7. PURPOSE OF DECANT AND ACQUISITION OF LAND INTERESTS**

- 7.1 The decant and the proposed CPO to ensure the acquisition of land interests will secure vacant possession and "clean title" of the site to enable phased re-development to commence in accordance with the following indicative timeline:
- Phase 3: Start 2016 – Complete 2018
  - Phase 4: Start 2017 – Complete 2019
  - Phase 5: Start 2018 – Complete 2020
  - Phase 6: Start 2020 – Complete 2022
- 7.2 Residents, landowners and local stakeholders were consulted by Poplar HARCA about the regeneration scheme with project updates, particularly in relation to the planning process, the options available and the construction programme. This has been done by way of regular newsletters/brochures, offering one-to-one meetings, web-site updates, social media, open days and community action days.
- 7.3 The CPO would run in tandem with Poplar HARCA's ongoing negotiations with the remaining dwelling owners (mixture of resident and non-resident), and other land interests, to seek voluntary settlements where possible. Poplar HARCA is currently offering to provide valuations for all leaseholders and to make settlement offers to try to



reach voluntary settlements with as many owners as possible, to minimise the need for acquisitions through the CPO route.

- 7.4 Poplar HARCA's demolition programme which will be facilitated by the proposed CPO will be delivered in 4 phases, including 13 blocks of flats which are in Poplar HARCA's freehold ownership, and a number of retail units. The residential properties to be demolished include 200 rental units and 66 leasehold properties. The tables below show the numbers of tenants, leaseholders and retail units to be decanted and/or acquired in each phase. Decant status has already been secured through the Common Housing Register and positive progress is being made with relocating tenants.

**Phase 3: Blocks to be demolished**

- Adams House
- Arapalies House
- Athenia House
- Jones House
- Sam March House
- Theseus House
- Trident House

The following table sets out the current tenure of the residential properties:

**Phase 3**

Leasehold Properties to be acquired for demolition:

Block	Leasehold Properties in Block	Leaseholds Terms agreed – with solicitors	Leaseholds acquired	Leaseholder acquisitions outstanding
Adams House	3	0	0	3
Arapalies House	4	0	0	4
Athenia House	10	0	0	10
Jones House	2	0	0	2
Sam March House	5	0	1	4
Theseus House	10	5	1	9
Trident House	7	1	1	6
<b>Total</b>	<b>41</b>	<b>6</b>	<b>3</b>	<b>38</b>

Tenanted Properties to be decanted:

Block	Rented units in block	Void in use as Temporary Accom	Tenants awaiting rehousing
Adams House	15	11	4
Arapalies House	11	8	3
Athenia House	14	5	9
Jones House	16	15	1
Sam March House	13	13	0
Theseus House	14	9	5
Trident House	8	6	2
<b>Total</b>	<b>91</b>	<b>67</b>	<b>24</b>

- 7.5 In Phase 3, 38 Leaseholders remain, of whom 16 are currently believed to be resident and 23 non-resident: 7 of these owners are understood to have agreed terms for sale to Poplar HARCA with three acquisitions completed. There are currently 24 tenants waiting decant, of whom 12 have accepted offers to relocate to the neighbouring new Phase 1 development or other local properties.

**Phase 4: Residential properties to be demolished**

- 7.6 Residential flats directly above retail shops at 25-55 Aberfeldy Street – See **Appendix 3** for full details.

The following table sets out the current use of the residential properties:

Block	No of Properties	Leasehold properties to be acquired	Tenants awaiting rehousing	Void / temporary accommodation
Aberfeldy Street 25A – 55A	16	8	7	1
Aberfeldy Street 36A – 50A	6	3	1	2
<b>Total</b>	<b>22</b>	<b>11</b>	<b>8</b>	<b>3</b>

- 7.7 In phase 4, there are 11 leaseholders, 10 of whom are currently believed to be resident and 1 is non-resident. There are 8 tenants remaining to be decanted.

**Phase 5: Blocks and building to be demolished**

- Heather House
- Tartan House
- Thistle House
- Neighbourhood (CAC) centre

The following table sets out the current use of the residential properties:

Block	No of Properties	Leasehold properties to be acquired	Tenants awaiting rehousing	Void / temporary accommodation
Heather House	16	4	10	2
Tartan House	18	4	14	0
Thistle House	16	3	13	0
<b>Total</b>	<b>50</b>	<b>11</b>	<b>37</b>	<b>2</b>

In Phase 5 there are 11 leaseholders, of whom 8 are currently believed to be resident and 3 are non-resident; 37 tenants remaining to be decanted.

**Phase 6: Block to be demolished**

- Jura House

Block	No of Properties	Lease hold properties to be acquired	Tenants rehousing outstanding	Void
Jura House	12	<b>3</b>	<b>9</b>	0

In phase 6 there are 3 leaseholders, all currently believed to be resident. There are currently 9 tenants remaining to be decanted.

**8. NEGOTIATING SETTLEMENTS WITH PRIVATE INTERESTS**

- 8.1 To deliver Phases 3-6 it is necessary for Poplar HARCA to acquire **66** residential leaseholders and **21** retail properties. Poplar HARCA has undertaken a full referencing exercise to determine all land ownership and interests that will need to be acquired or extinguished through the CPO: this is reflected in the Schedule of Interests to be acquired **Appendix 3**.

- 8.2 Commercial interests are set out at **Appendix 3**, all of which must be acquired to enable Phase 4 of the scheme. There are 5 retail properties where existing leases are due to expire before they are required for the scheme.
- 8.3 Poplar HARCA is required to seek and continue negotiations with the remaining land interests, to acquire all interests by agreement wherever possible, without having to rely on the CPO unless this becomes absolutely necessary.
- 8.4 Approving the making of the Order under delegation will not result in any reduction in efforts to continue negotiations to achieve vacant possession by voluntary agreement, and indeed should stimulate those negotiations by commencement of the formal process. The CPO is however, an essential step which signals the Council's support for Poplar HARCA's scheme, which will provide significant housing, community and educational benefits to local residents, by safeguarding full land assembly.
- 8.5 The Housing Regeneration Team will monitor the financial and relocation offers made by HARCA to ensure compliance with the Council's requirements to support the CPO route.

### **Residential Property Acquisitions**

- 8.6 Poplar HARCA has commenced the process of engagement to acquire leasehold premises and has so far been successful in preliminary negotiations to communicate with the affected leaseholders and to offer settlements. It has adopted a similar good practice approach to that used by the Council, some of its other Registered Provider Partners and its own extensive experience from previous schemes, where land interests have been acquired to facilitate regeneration.
- 8.7 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.
- 8.8 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.
- 8.9 As indicated in paragraph 6.12 above Poplar HARCA is offering further options such as lease swaps, conversion to shared equity or shared ownership options where there is insufficient capital in the existing property and hardship circumstances within the family to enable the displaced leaseholder to purchase a new replacement home at current market values and to remain in the area.

### **Commercial Leases (Aberfeldy Estate)**

- 8.10 There are 21 shops to be acquired and demolished, at 25-55 Aberfeldy Street, all in Phase 4. Poplar HARCA confirms negotiations have started with leaseholders / occupiers of all retail premises to establish their aspirations for maintaining their business, and the options for relocation. Irrespective of the length of the lease remaining,

and whether or not a leaseholder has a statutory right to renew it, Poplar HARCA will do the following to secure voluntary settlements or possession of these shop premises:

- Offer active businesses relocation to new premises within the scheme on commercial terms
- Guarantee automatic relocation offers to premises both on and off site

8.11 Poplar HARCA has in place a policy which guides its approach to acquiring commercial premises via voluntary agreements in a regeneration scheme. The guiding principles are:

- Occupiers of Poplar HARCA commercial premises will be valued and treated with respect.
- Negotiations with occupiers of commercial properties will be fair and reasonable and based on prevailing market conditions and current legislation and associated guidance.
- Poplar HARCA's policies and procedures are applied consistently, impartially and equitably.

8.12 The policy sets out the approach that Poplar HARCA will apply in securing vacant possession of the retail premises to secure vacant possession through:

- Negotiating voluntary settlements
- Securing vacant possession through use of the Landlord and Tenant Act for expired leases
- Acquisition via compulsory purchase by the Council

8.13 The policy sets out how Poplar HARCA will endeavour to secure possession through negotiated settlements, only utilising the other options where the interest owner does not fully engage in negotiations to secure a settlement. Poplar HARCA will use all reasonable endeavours to maintain shopkeepers in business if this is their preferred option. Using their own resources, support from other local housing associations and premises in the private market, Poplar HARCA aims to secure the offer of alternative premises to which shopkeepers can relocate to continue their business activities.

8.14 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.

8.15 Poplar HARCA has appointed a surveying/valuation service to undertake detailed negotiations with commercial leaseholders to review their intentions and to plan how these can be met.

- Where the preference is for relocation within the new scheme Poplar HARCA advises that there should be sufficient provision to facilitate this in phase 3.
- Where the retailer prefers off site relocation, Poplar HARCA will provide support in identifying suitable alternative premises.
- If the option chosen by the business owner is to extinguish the business, then Poplar HARCA will take advice on an appropriate fee to achieve this, but will also have regard to any representations from professional surveyors appointed by the retailer.

- 8.16 Poplar HARCA encourages all commercial interest owners to obtain independent valuation and appoint a valuer to negotiate on their behalf. Poplar HARCA will reimburse reasonable costs incurred by the commercial property leaseholders and businesses with legal and valuation professional fees to support independent valuation and negotiation services.
- 8.17 Poplar 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

### **Other Relocations**

- 8.18 There are 4 community based groups that have use of retail units as listed within the schedule in **Appendix 3 and described below:**
- South Bromley Forum (SBF)
  - Aberfeldy Islamic Cultural Centre (AICC)
  - Poplar Bangladeshi Community Project (PBCP)
  - Culloden Bangladeshi Parents Association (CBPA)

Under the transfer agreement with the Council, Poplar HARCA has an obligation to provide suitable provision for the Aberfeldy Islamic Cultural Centre (AICC) and temporary re-provision is being made available for them in Phase 5 of the scheme. Poplar HARCA is working closely with the AICC on the arrangements for the relocation to a permanent home which is planned to be within the new faith space in phase 4.

- 8.19 The other community groups in situ have been granted short term use of vacant shops with no ongoing commitment for re-provision. Provision of a new larger community space is being made within the scheme in phase 3, which Poplar HARCA advises will be available for use by all local community groups.

### **Other Land Interests**

- 8.20 On Aberfeldy 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 reinforce the necessity to reach such an agreement.
  - The Council owns the freehold of the "Community Access Centre" (CAC) and adjoining Multi Use Games Area (MUGA), which is leased to Poplar HARCA. Agreement will need to be reached in relation to an acquisition or a land swap.

- There is a small piece of pedestrian footpath land fronting No.25-55 Aberfeldy Street. The land is in the Council's ownership which is required for the development. Agreement will need to be reached in relation either to acquisition or a land swap.
- There is an estate access road named "Kirk Michael Road" and adjoining pavement in the Council's ownership, which also adjoins Culloden Primary School and one of its access gates. The road does not form part of the Councils' adopted highways. Agreement will need to be reached in relation to its original stock transfer date and relocation of the existing school access gate.
- There are two plots of land in the ownership of Telford Homes Plc. These plots of land are currently used as a car park and a small landscaped area. Poplar HARCA are currently in negotiations with Telford Homes in acquiring these plots of land.

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

- Way-leaves
- Rights of Way
- Third Party rights
- Rights to Light
- Over-sailing rights

8.22 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.

## **9. Rights of Light**

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

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

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

9.4 The effect of the proposed CPO on any such owners would not be to compulsorily purchase their property, but rather to override any entitlement to injunct against the development of Poplar HARCA's approved scheme and to automatically convert any such entitlement into a claim for compensation. Their right to full statutory compensation would not be affected.

9.5 Detailed design work has not yet been carried out for phases 4, 5 and 6 of the Aberfeldy scheme. Nevertheless expert assessments based on the phase parameters of the

consented outline scheme indicate that 24 premises may potentially be impacted in this way, subject to tenure and individual property-based entitlements.

9.6 In terms of the proposed CPO for Aberfeldy, Poplar HARCA has undertaken that once any interference with the Rights of Light of any properties adjoining the land within the red line area becomes ascertainable and quantifiable - both in the extent of the interference and the calculation of entitlements for compensation - it will use reasonable endeavours to devise a detailed scheme in relation to each phase of the development that seeks so far as possible to reduce any such impacts and reach voluntary settlements with all those affected. The use of compulsory purchase powers does not affect the absolute entitlement of any affected owners to compensation; it merely prevents the risk of injunctions to halt development. This process will be reflected in the Indemnity Agreement between the Council and Poplar HARCA in order to assess the detailed design scheme with the above objectives in mind and to ensure that Council officers will be able to regularly review and monitor Poplar HARCA's ongoing negotiations with rights of light claimants, just as they will do for other affected land interests directly affected by the CPO.

9.7 It is proposed that, following the confirmation of the Order, land interests will be vested by the Council in phases. At this point actionable rights will cease, whilst remaining fully compensatable. The Council will be able to request the following information at each vesting stage, to ensure that Poplar HARCA is engaging appropriately with all affected claimants:

- disclosure of technical rights of light assessments, including actionable claims;
- details of the estimated compensation schedule and HARCA's current offers (e.g. "book value" and the multiple being offered);
- details of any covenants in leases which prohibit rights of light entitlements, i.e. in some right to buy / transferred council homes which would otherwise have been affected;
- details of ongoing, robust negotiations with all those owners who have actionable rights of light claims, and evidence that injunction has been threatened and/or is a real risk;
- update on general negotiations with other land interests to date, including leaseholders etc.;
- confirmation that reasonable alternatives to the extinguishment of rights of light have been fully explored by HARCA, e.g. design solutions considered in liaison with Planners and, where applicable, evidence of revised designs and non-material amendments, to avoid the necessity of using the powers;

9.8 Poplar HARCA has commissioned a specialist Rights of Light surveyor to undertake a preliminary assessment of the scheme using the approved outline planning consent and building massing, to establish how many premises around the development site are likely to be affected by rights of light impacts. The assessment has currently identified 24 potentially affected properties, the details of which are summarised in the tables below:



### Phase 3

No.	Addresses	Extent of affect
1	1 - 14 Wharf view court	No actionable injuries
2	8 Athol Square	No actionable injuries
3	51 - 57 Athol Square	Actionable claim
4	1 - 7 Athol Square	Actionable claim
5	45 - 50 Athol Square	No actionable injuries
6	Culloden Primary School	No actionable injuries
7	Aberfeldy Tavern and previous building	Actionable claim
8	1 Wooster Gardens	No actionable injuries
9	1 Ada Gardens	No actionable injuries
10	1 Goodway Gardens	No actionable injuries
11	30 Goodway Gardens	Actionable claim
12	2 Goodway Gardens	Potentially actionable claim
13	Travelodge, East India Dock Road	Actionable claim

### Phases 4-6

No.	Addresses	Extent of affect
14	2 - 12 Lansbury Gardens	Potential for actionable claim
15	1 - 7 Wooster Gardens	No actionable injuries
16	9 - 15 Wooster Gardens	No actionable injuries
17	Aberfeldy Tavern Public House	Potential for actionable claim
18	54 Sherman House	Unlikely to be actionable injuries
19	Culloden Primary School	Potential for actionable claim

20	St Nicholas Church centre	Potential for actionable claim
21	Kilbrennan House	Potential for actionable claim
22	Balmore Close	Potential for actionable claim
23	1 - 146 Balfron Tower	Unlikely to be actionable injuries
24	Carradale House	Unlikely to be actionable injuries

## 10. **LAND DISPOSAL**

10.1 The CPO boundary includes land parcels currently in the freehold ownership of the Council (see **Appendix 2**) which are required by Poplar HARCA to facilitate the development and to deliver the regeneration: -

- The 'Community Access Centre' and Multi Use Games Area on Aberfeldy Street
- Kirk Michael Road and adjoining pavement
- The footpath fronting No.25-55 Aberfeldy Street

10.2 The Council has retained external consultants to advise on the value of the various land parcels for the purpose of negotiating the terms and conditions, including any consideration, for the transfer of these freehold or long leasehold interests to Poplar HARCA.

10.3 In addition there are two plots of land in use as a private car park on land owned by Telford Homes Plc which are further discussed in section 10.17 below.

### 10.4 **Community Access Centre and Multi Use Games Area**

10.5 Within the CPO boundary and in particular phase 5 of the scheme is an existing community centre facility and adjoining multi use games area (MUGA), which the Council has freehold ownership over. The building is currently on a long term lease to Poplar HARCA with a commitment to deliver local community services. As part of the CPO request, Poplar HARCA would also like to acquire the community centre and adjoining MUGA in order to obtain freehold status across the site.

10.6 As part of the proposed regeneration scheme, Poplar HARCA has agreed the re-provision of the current Community Access Centre (CAC) within Phase 3 of the regeneration scheme for which land assembly is currently underway.

10.7 The proposed community centre will be larger than the current facility (Current 513 SqM – Proposed 926 SqM). This excludes the separate provision of a faith space which is to be provided within Phase 5 of the scheme. The advice offered to all current users and providers of services at the existing CAC is that they will relocate to the new CAC, which will be built and ready before the current facility is demolished.

10.8 With regards to replacement play space for the MUGA, the outline planning permission fully considers the re-provision of all play space in detail, both within the site and in the context of the surrounding area. The permission established a strategy, via the Design and Access Statement (Document AV04a dated October 2011, pages 139 to 143) that

sets out play provision for the Aberfeldy New Village taking account of the type, quality and proximity of the existing provision, including the MUGA on Aberfeldy Street, the adventure play equipment for older children at Braithwaite Park, the quiet play opportunities and the amphitheatre at Millennium Green and the multi-sports courts at Leven Road, all of which are within a short walking distance of the site. Overall, the outline planning permission concludes that the play area provision introduced within the masterplan area will result in a significant increase in re-provision - providing a total of 4,500 sqm of play space where only 1,674 sqm originally existed.

10.9 In conclusion, there is no place within the masterplan area that would appropriately accommodate a replacement caged playing pitch, whereas this exists within the wider area (Leven Road). The new courtyards within the development are ideal for toddler play, and this is what is being introduced as supported by the outline consent. Older play is accommodated to the required standard within the new masterplan linear green. Planning Officers have advised that Poplar HARCA's proposal in respect of the future loss of this MUGA is acceptable in the context of its re-provision elsewhere and therefore the disposal proposed is supported.

#### 10.10 **Kirk Michael Road and footpath fronting No.25-55 Aberfeldy Street**

10.11 Part of the proposed development site land also includes two plots of land in the ownership of the Council. These plots are Kirk Michael road and the adjoining pavement and the footpath fronting the retail units at No.25-55 Aberfeldy Street.

10.12 Kirk Michael Road does not form part of the Council's adopted highway, instead it is an estate access road maintained by Poplar HARCA. Kirk Michael Road and its adjoining pavement also abuts a gated access point to the adjoining Culloden Primary School and the rear access to the shops along 25-55 Aberfeldy Street. Both these plots of land were not included in the stock transfer in 2008 in order to preserve ways of access to Culloden Primary school and the retail units. This has resulted in an anomaly where since the transfer has taken place Poplar HARCA has been maintaining Kirk Michael Road but now requires the land for its own regeneration programme.

10.13 Under the new development scheme Kirk Michael Road and adjoining pavement, the shop units and the pavement fronting No.25-55 Aberfeldy Street will form part of new homes with rear gardens abutting the Culloden Primary School boundary. The existing shop units will be re-provided in phase 3 of the development and therefore Kirk Michael Road will no longer be needed.

#### 10.14 **Culloden Primary School – New Access Point**

10.15 Poplar HARCA has confirmed it has agreed with Culloden Primary School to provide an alternative safe access route along Blair Street to replace that which will be closed if HARCA acquires and builds across Kirk Michael Road, utilising either the existing gate on to that street or creating a new one (this would be subject to any necessary planning requirements).

10.16 Poplar HARCA has also agreed to fund the associated design costs, the costs of re-locating the access point and any reasonable costs associated with any additional works to the planned sensory garden area in the school. The proposed changes will form part of Poplar HARCA's ongoing consultation strategy who will manage any consultation required and work with the school and all other interested parties to keep them informed at the appropriate time.

- 10.17 **Other Interests to be acquired - Telford Homes Land**  
Part of the proposed development site land includes two plots of land in the ownership of Telford Homes Plc. These plots of land are currently used as a car park to Julius House and a small landscaped area adjacent to the car park access to Wharf View Court. As part of the development scheme the car park area is to be reconfigured which will lead to an improved environment, but a reduction in car parking space.
- 10.18 Poplar HARCA has provided evidence it has approached Telford Homes with a view to acquiring these sites as well as the freeholds of Franklin, Julius and Sherman Houses through a voluntary acquisition. The blocks themselves are to remain unaltered and do not impact on the Aberfeldy Estate development. However, the associated parking areas for Julius House and a minor impact on Franklin House do and their acquisition is needed to facilitate the new development and access to completed new blocks. In principle, this acquisition has been agreed by Telford Homes, subject to finalising commercial terms. However, until such time as the voluntary acquisition is completed Poplar HARCA has requested that LBTH include these two plots of land within the CPO area.
- 10.19 The scheme will have some impact on residents of the neighbouring Julius House in that Poplar HARCA seeks to acquire from the freeholder the current car parking area, which can then be improved by incorporating this area into the wider landscape plan for the estate. This will have a limited impact upon the total amount of car parking space and this is subject to current consultation with the residents of the block.
- 10.20 Poplar HARCA has confirmed there are 12 existing parking spaces associated with Julius House that are currently leased, 11 are owned by a single individual and 1 by a company, Vendforce. Poplar HARCA are in dialogue with Vendforce regarding assignment of this lease to Poplar HARCA. Importantly, none of the properties at Julius House have an automatic right to a car parking space as part of the demise. The new development will replace 9 spaces in the immediate vicinity of Julius House and it is planned to offer 3 further parking spaces which are slightly further afield in order to re-provide all spaces.
- 10.21 Primary pedestrian access to the block is via East India Dock Road via a small footbridge over a grassed area. This area is included in the proposals for landscaping, but this will not impact upon access.
- 10.22 Vehicular access to the car park may be impacted upon during the works programme as will pedestrian access over an estate path to the north of the block. All pedestrian and vehicular access will be maintained as far as possible during the works programme and will be fully reinstated at the end of the programme.
- 10.23 The residents of Julius House will enjoy the benefit of living in an improved environment at the end of the works with a vastly improved retail/community area as well as access to improved green corridors and play space for children. Poplar HARCA undertook a consultation on 27 July 2015 with residents of Julius House to inform them about the development and impact to the car park space.

## 11. **COMPULSORY PURCHASE**

- 11.1 Using compulsory purchase powers will facilitate the delivery of this regeneration project. The current known interests in the land are listed in **Appendix 3**, but other interests may emerge through land referencing across the red-line area for each of the proposed CPOs.

- 11.2 Circular 06/2004 Paragraph 1 (Compulsory Purchase and the Crichel Down Rules) (“the Circular”) sets out statutory guidance to acquiring authorities in England making CPO’s.
- 11.3 The Circular states that “Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute toward effective and efficient urban and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay.”
- 11.4 The Circular, para 24, sets out that “acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail.”
- 11.5 The Circular also sets out (para 24) that acquiring authorities “should plan a compulsory purchase timetable at the same time as conducting negotiations.” This is to reflect the amount of time that needs to be allowed to complete the compulsory purchase process. The guidance goes on to state “it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will help to make the seriousness of the authority’s intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”
- 11.6 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.”*
- 11.7 Paragraph 19 of Circular 06/04 states –
- “If an acquiring authority does not have a clear idea of how it intends to use the land which it is proposing to acquire, and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest... Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss.”*
- 11.8 Consideration is given to the human rights implications of the decision to make a CPO in section 15 below.
- 12. WHEN COMPULSORY PURCHASE IS TO BE USED**
- 12.1 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
- 12.2 The use of CPO in the case of the Aberfeldy Estate accords with the first two of these circumstances.

### **13. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 13.1 This report updates Members on Poplar HARCA's progress on the acquisition of land and properties on the Aberfeldy Estate, and seeks approval for Compulsory Purchase Order proceedings to be implemented should efforts to acquire all of the appropriate property interests by agreement fail. Arranging for these back-up procedures to be put in place now will reduce any subsequent delays in the regeneration programme that will arise if agreements cannot be reached with individual owners.
- 13.2 The report seeks approval to enter into a CPO Indemnity Agreement with Poplar HARCA (recommendation 2.6). Subject to this being approved, there are no overall financial implications for the Authority because the costs of the purchases and associated compensation packages will be borne by Poplar HARCA, with the cost of all officer time involved in the CPO process also being recharged to the organisation. As part of the indemnity arrangements it will be necessary for the financial standing of Poplar HARCA to be assessed, particularly in light of the recent Government announcements on rent reductions within the social rented sector.
- 13.3 The costs of officer time and legal fees to be met by Poplar HARCA will be dependent on whether or not the CPO is challenged at a public inquiry. In that case, the reimbursement for staff and legal costs incurred could exceed £100,000. The costs to be incurred by Poplar HARCA to acquire the multiple land interests are likely to exceed £17 million.
- 13.4 It should be noted that the Council owns several sites within the redevelopment area, and it is proposed that ultimately these will be disposed to Poplar HARCA. Details are provided within paragraphs 10.5 to 10.13, and concern the Community Access Centre and Multi Use Games Area on Aberfeldy Street, land at Kirk Michael Road and the footpath fronting 25-55 Aberfeldy Street. Future reports will need to consider the arrangements on how these sites will be acquired by Poplar HARCA, together with the proposals for the reprovision of the amenities and appropriate financial compensation.
- 13.5 The redevelopment area also includes Culloden Primary School. The proposed redevelopment impacts upon the access to the school, and as part of the consultation process, Poplar HARCA has agreed to finance the relocation of the access points, together with necessary associated works.
- 13.6 On completion of the CPO process, any properties that were not acquired via negotiation will ultimately be vested in the Council. At that stage it will be necessary to formally agree to transfer the interests of these properties to Poplar HARCA at nil consideration in accordance with the terms of the proposed indemnity agreement.

## 14. LEGAL COMMENTS

- 14.1 The Council is empowered under section 226 (1)(a) of the Town and Country Planning Act 1990 (“TCPA”) as amended, to acquire any land in its area if it is satisfied that the proposed acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.
- 14.2 The Council may make a compulsory acquisition under section 226 of the TCPA (a) if it thinks the acquisition will facilitate the carrying out of development or redevelopment or improvement on or in relation to the land or (b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. In order to make an acquisition under (a), the Council must also consider that the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area.
- 14.3 The Acquisition of Land Act 1981 (“**the 1981 Act**”) governs the procedures which apply to such an acquisition, the Compulsory Purchase Act 1965 (“**the 1965 Act**”) governs post-confirmation procedures and the Land Compensation Act 1961 (“**the 1961 Act**”) governs the amount and assessment of compensation.
- 14.4 The Council may dispose of the land under section 233 of the TCPA for the purpose of bringing it forward for development or otherwise facilitating development. Any such disposal must be for the best consideration that can reasonably be obtained, unless the Secretary of State’s consent is obtained. By a combination of sections 226 and 233 of the TCPA, it is open to the Council to compulsorily acquire land for planning purposes and then transfer it to a developer or Registered Provider partner.
- 14.5 It is further noted as set out in paragraph 2.3 above that the proposed scheme will require disposal to Poplar HARCA of three parcels of land, each of which are currently in the freehold ownership of the Council. To the extent that these parcels of land have not been acquired or appropriated for planning purposes (in which case the powers under paragraph 14.4 above apply), the Council has the power under section 123 of the Local Government Act 1972 to dispose of its land in any manner it may wish. Except in the case of a short tenancy, the consideration or such disposal must be the best that can reasonably be obtained. Otherwise, the Council requires the consent of the Secretary of State for such a disposal.
- 14.6 To the extent that any of the three parcels of land is housing land, the general power of disposal outlined in paragraph 14.5 does not apply, which is instead covered by section 32 of the Housing Act 1985. Pursuant to that section the Council may dispose of land held for housing purposes with the consent of the Secretary of State.
- 14.7 The Secretary of State has given general consent for specified categories of disposal of housing land in the General Housing Consents 2013. Pursuant to paragraph A3.1.1 of the General Housing Consent, the Council may dispose of housing land at market value.
- 14.8 The Council is a best value authority within the meaning of section 3 of the Local Government Act 1999 and is obliged to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. The report confirms at paragraph 10.2 that the Council has retained external valuers for the purpose of negotiating the consideration and terms for disposal of these parcels of land. Such a process may be sufficient to demonstrate best consideration or market value for the purposes of the disposal powers identified in the paragraphs above. Officers will nevertheless need to keep under consideration whether the process is delivering the best consideration or

market value (as the case may be) to ensure the Council complies with its statutory requirements.

- 14.9 The 1981 Act provides that the authorisation of a compulsory purchase is to be conferred by an order, called a compulsory purchase order (“**CPO**”). A CPO is required to be made in a prescribed form and must describe by reference to a map the land to which it applies. If the Council makes a CPO, it must submit the CPO to the Secretary of State for confirmation. Prior to submission to the Secretary of State, the Council must publish notice of the making of the CPO specifying that the order has been made, describing the land and the purpose for which it is required, naming a place where the order and map may be inspected and specifying a time which (and the manner in which) objections may be made. The Council must also serve a notice in prescribed form on affected owners, lessees, tenants or occupiers of the land allowing them the opportunity to object. The procedure for confirmation is specified in the 1981 Act and may require the conduct of a public inquiry if there are objections.
- 14.10 As an acquisition will extinguish third party rights, the Council will need to take care that it does not contravene the rights of individuals under the European Convention on Human Rights (“**ECHR**”). Section 6 of the Human Rights Act 1998 makes it unlawful for the Council to act in any way which is incompatible with a right under the ECHR. Pursuant to Article 1 of the First Protocol to the ECHR, every person is entitled to the peaceful enjoyment of his or her possessions and no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. In order to avoid contravening individual human rights by making a CPO, it must be demonstrated that the CPO is in the public interest and that it is necessary and proportionate to make the CPO. Counsel’s opinion has been obtained in respect of Human Rights issues. It is considered that, as the requirements of S226 (1) and (1a) have been fulfilled (i.e. the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area), this will provide a very substantial basis upon which to make the case that the scheme is policy based and is consistent with statutory objectives .
- 14.11 The fact of the land being held or acquired (whether through private treaty or a CPO) for planning purposes is important because of the operation of s.237 of the TCPA. This provides that the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised if it is done in accordance with planning permission, notwithstanding that it involves—(a) interference with an interest or right to which this section applies, or (b) a breach of a restriction as to the user of land arising by virtue of a contract. Moreover section (1A) provides that, subject to subsection (3), the use of any land in England which has been acquired or appropriated by a local authority for planning purposes (whether the use is by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is in accordance with planning permission even if the use involves—(a) interference with an interest or right to which this section applies, or (b) a breach of a restriction as to the user of land arising by virtue of a contract. The interests and rights to which this section applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support. Accordingly, any rights of light (which are covered in detail in paragraph 9) are included under this section. The obligations of Poplar HARCA to fulfil the statutory obligations in this respect are dealt with in paragraph 9.7 of this report.
- 14.12 As this entire cost of the project is being underwritten by Poplar HARCA, an Indemnity Agreement between this Council and Poplar HARCA is to be entered into prior to making the CPO in order to protect the financial interests of the Council. Given that the proposed



scheme will involve a transfer back of the land acquired at a nil consideration to Poplar HARCA, the consent of the Commissioners will be required to enter into the Indemnity Agreement. Commissioner consent will also be required in respect of the transfer of the land referred to in paragraph 2.3 of this report (i.e. land in present ownership of the Council). Pending finalisation of the terms of the Indemnity Agreement, an undertaking for legal and other related costs has been given by the solicitors acting on behalf of Poplar HARCA for all work carried out since the 1<sup>st</sup> March 2015 limited to £50,000. It is envisaged that this sum should be sufficient to underwrite costs until such time as the Indemnity Agreement is completed.

- 14.13 The making of a CPO should be a last resort and should be preceded by vigorous attempts to acquire the land interests by agreement. There should be evidence of intransigence on the part of owners such that the development is put at risk. It must be clear that the development offers public benefits, such as improved housing and amenities for the estate. The balance of interests between the protection of individual rights and the public benefits to be obtained must be considered and there should be a compelling case in the public interest for the CPO. In doing so it may be noted that the impact on individual rights is lessened by the existence of rights of objection and a statutory compensation regime which includes payments above the market price to compensate for the involuntary nature of the process.
- 14.14 The Government Circular 06/2004, which was issued on 31 October 2004, provides guidance to acquiring authorities in England on the use of compulsory acquisition powers. The guidance has been referred to, as appropriate, in the preparation of this report.
- 14.15 Before making a CPO, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Some form of equality analysis will be required which is proportionate to the potential impact of the CPO on individuals or communities.
- 14.16 The making of a CPO is an executive function, by virtue of section 9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Pursuant to section 9E(2) of the Local Government Act 2000, the Mayor may arrange for the discharge of an executive function by an officer of the authority.

## **15. HUMAN RIGHTS IMPLICATIONS**

- 15.1. 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 (Convention Article 2).*

15.2 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.

15.3 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.

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

16.1 The housing stock transferred from the Council to Poplar HARCA was designed to an environmental performance consistent with standards for build in place at the time the properties were built (mid 1900's). The performance standards will have been improved to a limited degree in the social; housing properties through investment to bring them to the Decent Homes standard, but these improvements will not have been applied to all of the leasehold properties.

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

## **17. CRIME AND DISORDER REDUCTION IMPLICATIONS**

17.1 Aberfeldy Estate has experienced significant issues of anti-social behaviour (ASB). These ASB issues are exacerbated by the design and isolated nature of the estate, caused by being surrounded by major roads. These major roads and the associated underpasses and bridges provide easy access to other local estates as well as fast 'getaway' routes. This enables those committing ASB to easily evade police and other enforcement activities.

17.2 The nature of the ASB largely relates to so called 'postcode gangs' but there are recent developments of further incursions into the area by a gang known to be introducing a drug culture and engaging local teenagers to further develop this culture. This particular gang is known to be violent and all gang members are armed with knives.

17.3 Further physical factors which contribute to the ability for the gangs to conduct ASB are the poor estate lighting and lack of CCTV in the locality.

17.4 The proposed redevelopments are applying the following principles to address the ASB issues:

- The Masterplan seeks to achieve the development of a vibrant core to the new neighbourhood. This is achieved by relocating the existing retail core south along

Aberfeldy Street, The position of the new hub is designed to be an anchor to draw footfall through the site, via the new A13 crossing.

- This will ensure that the public realm of the scheme is truly public with people walking through to go to the commercial/community uses.
- Aberfeldy Gateway is a key arrival point into this new community, the new pedestrian crossing traversing the busy East India Dock Road connects this area to the East India Dock DLR reinforcing this as a primary location for retail and community uses.
- The widening of Aberfeldy Street at this location creates long sightlines from the south; the scale of the adjacent blocks reinforces the urban nature of this shared surface public space. The eastern block marks the arrival point and brings the commercial uses into clear visibility from the A13.
- The new shared surface street encourages people to use the shops which is in line with the desires of residents
- The commercial hub includes the potential for a small amount of A3 space to accommodate a cafe/bar or restaurant. This will be of a relatively small scale and will service the occupants of Aberfeldy and the immediate environs.
- The facilities are grouped around a new public space featuring dancing water jets that offer children opportunities to play at the point where the new East India Green interfaces with the space. The aim is to create a lively space, a new focus for the residents of Aberfeldy and visitors alike.
- The A12 transformed into boulevard faced with active frontages, widened edges to incorporate avenues of trees, dedicated cycle ways, roads and parking to serve local movement
- Provision of new community and faith space
- Delivering the principles and requirements of the Secured by Design application and Checklist

## **18. EFFICIENCY STATEMENT**

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

## **19. ONE TOWER HAMLETS CONSIDERATIONS**

- 19.1 The council has a range of statutory duties to facilitate development in the borough and provide affordable homes for local residents. Regeneration and development is a key factor to ensuring economic prosperity for the individual and for the community. The council has to plan for the overall social infrastructure to meet the needs of the rising local population.

## **20. RISK IMPLICATIONS**

- 20.1 The risks associated with not agreeing the CPO resolutions for each project are set out in Section 4 of the report. Failure to acquire the land interests through negotiation could jeopardize the Aberfeldy Estate regeneration proposals unless this risk is off-set by taking steps to make a precautionary CPO in each area, to acquire the land interests identified in this report.
- 20.2 The council is working with Poplar HARCA on the redevelopment proposal. The programme bears some time risks due to the need to vacate the residential and

commercial properties. The programme is being monitored closely. The CPO resolution for Aberfeldy Estate will support the programme delivery if the need arises.

### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- None.

#### **Appendices**

Appendix 1: Aberfeldy Estate - Site Location & CPO Boundary Plan (ph3-6)

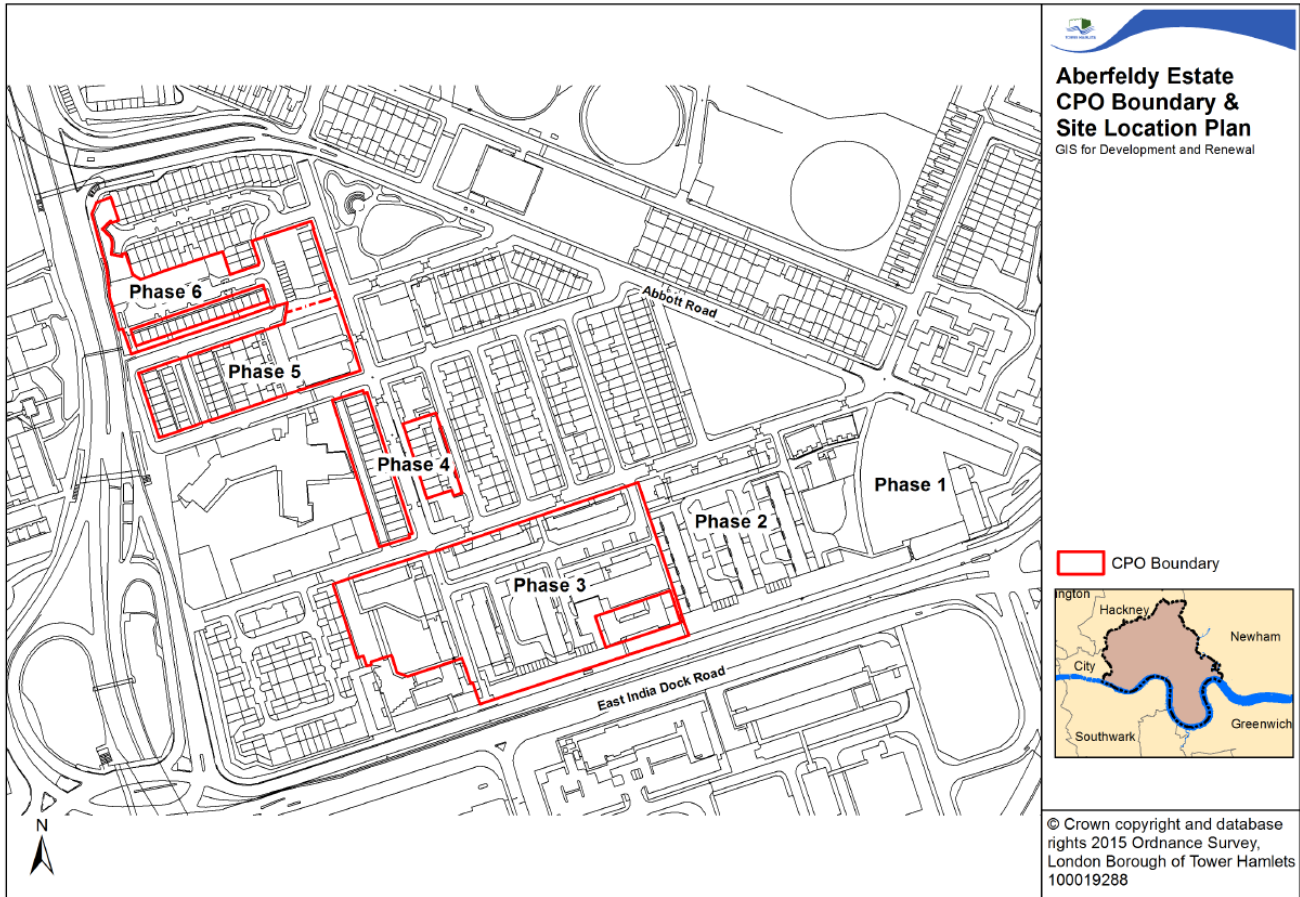
Appendix 2: Aberfeldy Estate - Land Disposal Plan (ph3-6)

Appendix 3: Aberfeldy Estate - Schedule of all Land Interests to be acquired

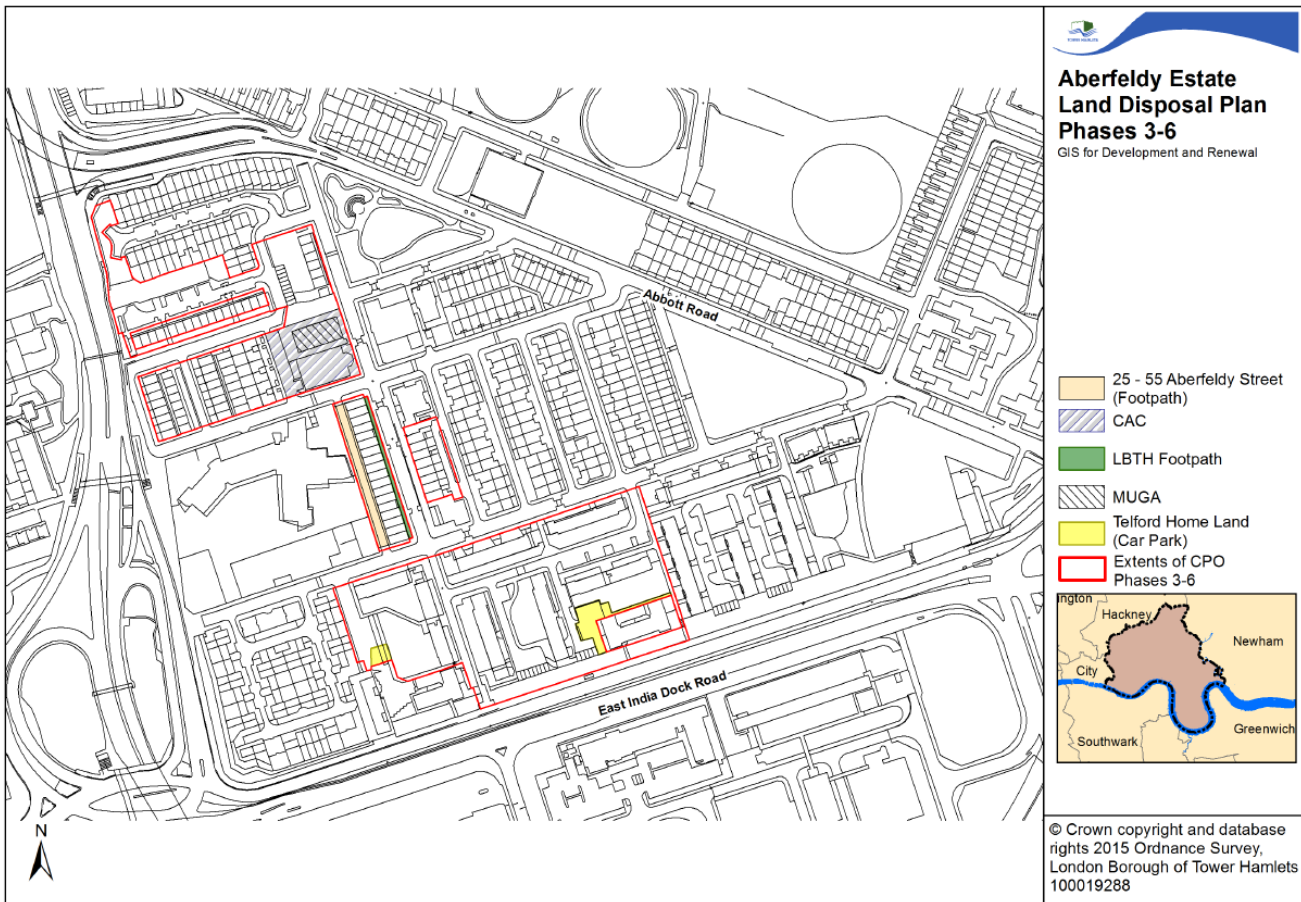
#### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None.

**Appendix 1:  
Aberfeldy Estate – CPO Boundary & Site Location Plan (phases 3-6)**



**Appendix 2:  
Aberfeldy Estate – Land Disposal Plan (phases 3-6)**



### Appendix 3:

#### 1. Aberfeldy Estate Phase 3-6 - Schedule of all Land Interests to be acquired

**Land interests to be purchased: Listed for inclusion in the proposed Compulsory Purchase Order**

**The leasehold properties known as:-**

#### Phase 3

2 Adams House E14 0NS
4 Adams House E14 0NS
17 Adams House E14 0NS
2 Arapiles House E14 0PH
3 Arapiles House E14 0PH
10 Arapiles House E14 0PH
12 Arapiles House E14 0PH
2 Athenia House E14 0PA
5 Athenia House E14 0PA
6 Athenia House E14 0PA
7 Athenia House E14 0PA
8 Athenia House E14 0PA
9 Athenia House E14 0PA
11 Athenia House E14 0PA
16 Athenia House E14 0PA
17 Athenia House E14 0PA
19 Athenia House E14 0PA
7 Jones House E14 0NT
11 Jones House E14 0NT
3 Sam March House E14 0PG
7 Sam March House E14 0PG
8 Sam March House E14 0PG
17 Sam March House E14 0PG
1 Theseus House E14 0QA
6 Theseus House E14 0QA
11 Theseus House E14 0QA
14 Theseus House E14 0QA
16 Theseus House E14 0QA
18 Theseus House E14 0QA
20 Theseus House E14 0QA
22 Theseus House E14 0QA
2 Trident House E14 0NX
4 Trident House E14 0NX
6 Trident House E14 0NX
12 Trident House E14 0NX
14 Trident House E14 0NX
15 Trident House E14 0NX

Phase 4

27A Aberfeldy Street E14 0NU
31A Aberfeldy Street E14 0NU
37A Aberfeldy Street E14 0NU
41A Aberfeldy Street E14 0NU
49A Aberfeldy Street E14 0NU
51A Aberfeldy Street E14 0NU
53A Aberfeldy Street E14 0NU
55A Aberfeldy Street E14 0NU
44A Aberfeldy Street E14 0NU
46A Aberfeldy Street E14 0NU
50A Aberfeldy Street E14 0NU

Phase 5

2 Heather House	E14 0PE
5 Heather House	E14 0PE
7 Heather House	E14 0PE
11 Heather House	E14 0PE
8 Tartan House	E14 0PF
14 Tartan House	E14 0PF
17 Tartan House	E14 0PF
18 Tartan House	E14 0PF
4 Thistle House	E14 0PD
11 Thistle House	E14 0PD
14 Thistle House	E14 0PD

Phase 6

65 Jura House	E14 0QB
69 Jura House	E14 0QB
71 Jura House	E14 0QB



## 2. Aberfeldy Estate Phase 3-6 - Schedule of Tenanted Interests to be decanted

### Residential tenanted interests to be decanted: Listed for inclusion in the proposed Compulsory Purchase Order

#### The tenanted properties known as:-

##### Phase 3

1 Adams House E14 ONS  
3 Adams House E14 ONS  
5 Adams House E14 ONS  
6 Adams House E14 ONS  
7 Adams House E14 ONS  
8 Adams House E14 ONS  
9 Adams House E14 ONS  
10 Adams House E14 ONS  
11 Adams House E14 ONS  
12 Adams House E14 ONS  
13 Adams House E14 ONS  
14 Adams House E14 ONS  
15 Adams House E14 ONS  
16 Adams House E14 ONS  
18 Adams House E14 ONS

1 Arapiles House  
4 Arapiles House  
5 Arapiles House  
6 Arapiles House  
7 Arapiles House  
8 Arapiles House  
9 Arapiles House  
11 Arapiles House  
13 Arapiles House  
14 Arapiles House  
15 Arapiles House

1 Athenia House  
2A Athenia House  
3 Athenia House  
4 Athenia House  
10 Athenia House  
12 Athenia House  
13 Athenia House  
14 Athenia House  
15 Athenia House  
18 Athenia House  
20 Athenia House  
21 Athenia House  
22 Athenia House

23 Athenia House

1 Jones House

2 Jones House

3 Jones House

4 Jones House

5 Jones House

6 Jones House

8 Jones House

9 Jones House

10 Jones House

12 Jones House

13 Jones House

14 Jones House

15 Jones House

16 Jones House

17 Jones House

18 Jones House

1 Sam March House

2 Sam March House

4 Sam March House

5 Sam March House

6 Sam March House

9 Sam March House

10 Sam March House

11 Sam March House

12 Sam March House

13 Sam March House

15 Sam March House

16 Sam March House

18 Sam March House

1 Trident House

3 Trident House

5 Trident House

8 Trident House

9 Trident House

10 Trident House

11 Trident House

13 Trident House

2 Theseus House

3 Theseus House

3A Theseus House

4 Theseus House

5 Theseus House

7 Theseus House

8 Theseus House

9 Theseus House

10 Theseus House

- 15 Theseus House
- 17 Theseus House
- 19 Theseus House
- 21 Theseus House
- 23 Theseus House

Phase 4

- 25A Aberfeldy Street
- 29A Aberfeldy Street
- 33A Aberfeldy Street
- 35A Aberfeldy Street
- 39A Aberfeldy Street
- 43A Aberfeldy Street
- 45A Aberfeldy Street
- 47A Aberfeldy Street
- 36A Aberfeldy Street
- 42A Aberfeldy Street
- 48A Aberfeldy Street

Phase 5

- 1 Heather House
- 3 Heather House
- 4 Heather House
- 6 Heather House
- 8 Heather House
- 9 Heather House
- 10 Heather House
- 12 Heather House
- 13 Heather House
- 14 Heather House
- 15 Heather House
- 16 Heather House
- 1 Tartan House
- 2 Tartan House
- 3 Tartan House
- 4 Tartan House
- 5 Tartan House
- 6 Tartan House
- 7 Tartan House
- 9 Tartan House
- 10 Tartan House
- 11 Tartan House
- 12 Tartan House
- 13 Tartan House
- 15 Tartan House

- 16 Tartan House
- 1 Thistle House
- 2 Thistle House
- 3 Thistle House
- 5 Thistle House
- 6 Thistle House
- 7 Thistle House
- 8 Thistle House
- 9 Thistle House
- 10 Thistle House
- 12 Thistle House
- 13 Thistle House
- 15 Thistle House
- 16 Thistle House

Phase 6

- 57 Jura House
- 59 Jura House
- 61 Jura House
- 63 Jura House
- 67 Jura House
- 73 Jura House
- 75 Jura House
- 77 Jura House
- 79 Jura House

### 3. Aberfeldy Estate - Schedule of Commercial Interests to be acquired

The commercial interests known at 25-55 Aberfeldy Street are as:

Unit	Tenant	Business	Lease details	Comments	Additional Notes
No.25	MA Malik	Chicken Takeaway	20 year lease from 28/04/01	Lease term expires in 2021	
No.27	South Bromley Forum	Community Facility	5 year lease from 22/12/03	Lease term expired 22/12/08	Supplemental 5 year lease from 22/09/2008
No.29	VACANT (was Eurasia frozen food)	VACANT	20 year lease from 24/03/97	Lease term expires in 2017	
No.31	BC & SB Patel	Newsagent/off licence	10 year lease from 1/9/04	Lease term expires in 2014	
No.33	J Parker	Dry cleaners	20 year lease from 29/1/03	Lease term expires in 2023	
No.35	IS Birdi	Pharmacy	20 year lease from 9/3/89	Lease term expired 9/3/09	Supplemental 15 year Lease from 09/03/2009
No.36	Aberfeldy Islamic Cultural Centre	Mosque	No details	No details	
No.37	S Miah	Clothing	20 year lease from 29/9/00	Lease term expires in 2020	
No.38	Aberfeldy Islamic Cultural Centre	Mosque	No details	No details	
No.39	Poplar Bangladeshi Community Project	Community facility	20 year lease from 20/12/01	Lease term expires in 2021	
No.40	AS Sheikh	Café	10 year lease from 10/11/01	Lease term expired 10/11/11	
No.41	AS Sheikh	Household goods	20 year lease from 25/12/01	Lease term expires in 2021	
No.42-44	P Monnan	Grocery	20 year lease on no 42 from 29/9/05 20 year lease on no 44 from 29/9/98	Lease term expires on no 42 in 2025 Lease term expires on no 44 in 2018	
No.43	VACANT	VACANT	20 year lease from 1/1/04	Lease term expires in	

				2024	
No.45-47	AS Sheikh	Mini-supermarket	20 year lease from 25/12/01	Lease term expires in 2021	
No.46	VACANT	VACANT	No lease in place	Vacant possession secured	
No.48	B Hussain	Furniture	No details	No details	
No.49-51	Culloden Bangladeshi Parents Assoc	Community facility	15 year lease from 9/03	Lease term expires in 2018	
No.50	VACANT	VACANT	20 year lease from 29/04/05	Lease term expires in 2025	
No.53	D Stone & A Miles	Heating/plumbing	10 Year lease from 21/04/2003	Lease term expired in 2013	
No.55	HW Mak	Chinese takeaway	20 year lease from 25/12/03	Lease term expires in 2023	

**Other Land Interests:**

Electricity substation adjacent to the southern boundary of Phase 4  
Rights of way  
Over sailing  
Way-leaves  
Telecommunications equipment

Other non-residential interests as identified during the land referencing process within the red line boundary shown on the plan in Appendix 1

Acquire interests in land and new rights within the compulsory purchase order boundary either by private agreement or compulsorily.

Acquire new rights arising from the compulsory purchase order in relation to properties outside of the red line area