

Cabinet 31 January 2024	 TOWER HAMLETS
Report of: Paul Patterson – Director of Housing & Regeneration	Classification: Part Exempt
Title: Harriott, Apsley & Pattison (HAP) Houses Regeneration Scheme: Appropriation of Land for Planning Purposes and In-Principle Resolution to make a Compulsory Purchase Order	

Lead Member	Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housebuilding
Originating Officer(s)	Abad Uddin
Wards affected	Stepney Green
Key Decision?	Yes
Forward Plan Notice Published	Yes
Reason for Key Decision	Financial threshold and impact on residents
Strategic Plan Priority / Outcome	1. People are aspirational, independent and have equal access to opportunities; 2. A borough that our residents are proud of and love to live in;

1. EXECUTIVE SUMMARY

1.1 This report seeks authorisation for Officers to proceed with the appropriation of land for planning purposes under section 122 of the Local Government Act 1972 to facilitate the regeneration of the property known as the Harriott, Apsley & Pattison (HAP) Houses ("the Land"), adjacent to the Clichy Estate, the boundaries of which are shown in red on the plan at Appendix 1.

The report also seeks:

- 1.1.1 agreement in principle that the Council pursue the use of its compulsory purchase powers to facilitate the regeneration of the Land to deliver the regeneration objectives; and
- 1.1.2 approval of the proposal to relocate the Redcoat Community Centre and Mosque (RCCM) situated on the Land in accordance with previous Cabinet approval on, 15 December 2021 and approval to delegate the terms of an agreement for lease of a new facility to the Corporate Director of Housing and Regeneration.

- 1.2 Approval of this report's recommendations will help facilitate the regeneration of the Land comprising demolition of existing buildings to provide circa 407 residential units, including circa 180 affordable units (including re-provided units), and community floorspace with associated landscaped communal amenity space, accessible car parking, secure cycle parking spaces and refuse / recycling storage.

RECOMMENDATIONS:

The Mayor in Cabinet is recommended to:

1. **Confirm** that the Land (outlined in red on the plan attached at Appendix 1) is no longer required for those purposes for which it is held (housing and open space);
2. **Approve** the appropriation of the Land for planning purposes to facilitate the redevelopment for residential and community uses pursuant to section 122(1) of the Local Government Act 1972 (subject to 2.1.3 below);
3. **Delegate** authority to the Corporate Director of Housing and Regeneration in consultation with the Mayor, to take all necessary steps to affect the appropriation of the Land for planning purposes in accordance with section 122(1) of the Local Government Act 1972, including applying to the Secretary of State for consent to the appropriation of the parts of the Land held for housing purposes pursuant to section 19(2) of the Housing Act 1985;
4. **Delegate** to the Corporate Director of Housing and Regeneration, the authority to appoint external consultants to assess and agree any compensation and claims arising from redevelopment of the Land;
5. **Delegate** authority to the Director of Housing and Regeneration and the Director of Legal Services and Monitoring Officer, in consultation with the Mayor, to agree the terms of and enter into any documentation required to settle any property matters necessary to progress the regeneration scheme;
6. **Agree** the proposals to relocate the Redcoat Community Centre and Mosque in accordance with the approach set out in section 8 of this report and to delegate the terms for disposal of a lease of a new facility to the Corporate Director of Housing and Regeneration in consultation with the Mayor;
7. **Agree in principle**, further to the Cabinet report dated 15 December 2021, that the Council can pursue the use of compulsory purchase powers to support the delivery of the redevelopment of the Land and the objectives of the scheme to acquire any outstanding interests in the Land; and
8. **Agree in principle** to authorise the making, seeking confirmation and implementation of a CPO in order to facilitate the redevelopment of the Site and, to provide new and improved housing, and community facility. Note the intention to bring a further report to the Mayor in Cabinet later in 2024 recommending the formal making of a compulsory purchase order.

2. REASONS FOR THE DECISIONS

- 2.1 The decisions sought in this report are to enable the delivery of more than 400 new homes and a new community centre on Council-owned land currently occupied by housing blocks (known collectively as Harriott House, Apsley House and Pattison House), comprising 100 flats and maisonettes, and two community buildings.
- 2.2 The regeneration of HAP (Harriott, Apsley and Pattison Houses) has been identified as a priority in the new council homes programme. Cabinet on 15 December 2021 made various resolutions to progress the delivery of the regeneration project at Stepney for the redevelopment of Harriott, Apsley, Pattison Houses, including approving a budget to progress the delivery. The report also authorised officers to enter into agreement with affected landowners necessary to facilitate the scheme.
- 2.3 The redevelopment of Harriott, Apsley, Pattison Houses will secure a number of public benefits, including:
- i) Increasing the supply of affordable housing, for which there is an acute need;
 - ii) Providing local economic investment, including job and training opportunities;
 - iii) Improving housing stock; and
 - iv) Improving public realm.
- 2.4 It is therefore considered that the scheme would contribute towards the promotion and improvement of the economic, social and environmental well-being of the borough.
- 2.5 An appropriation of the Land is required to mitigate against the proposed redevelopment of the HAP being frustrated or delayed by legal injunction and to ensure the delivery of the scheme.

3. ALTERNATIVE OPTIONS

- 3.1 Do nothing option: if the Council decides not to appropriate the Land, then there is the potential that affected interest holders could bring injunction proceedings which could stop the construction of the project or significantly delay its delivery. Doing nothing could therefore significantly delay the delivery of the regeneration and the new affordable homes.

4. BACKGROUND INFORMATION

- 4.1 Increasing the supply of affordable housing is a significant priority for the London Borough of Tower Hamlets. There are currently more than 20,000 households on the Council's Housing Register, of which at least 50% are in

urgent housing need. As part of meeting the need for affordable homes several Council-owned sites across the borough have been identified for infill development. The Harriott, Apsley and Pattison Houses (HAP), is one of those opportunity sites identified in the Stepney Green area.

- 4.2 London with a population of approximately 9 million people, is expected to grow to over 10 million over the next two decades. In east and southeast London, an increase of 600,000 is forecasted to reach a population of 2.9 million by 2031. Providing sufficient housing and employment to meet current and future demand is a strategic priority for London's Local Authorities, the Mayor of London, and the Government. The borough's emerging Local Plan identifies the need to accommodate 30,601 new homes and 78,975 new jobs by 2031.
- 4.3 Housing has an important role in shaping healthy places, preventing ill health, supporting residents into work and tackling child poverty. The Council has a corporate objective to deliver 1000 social homes every year.
- 4.4 The Land comprises residential flats, the Redcoat Community Centre and Mosque and associated open space. The Council is the freeholder owner of the Land but there are a number of resident and non-resident leaseholders.
- 4.5 The Land is situated in the Stepney Green ward, has an overall area of approximately 1.79 hectares and comprises three housing blocks and two community buildings. Built in 1954, the three mid to high rise housing blocks, comprise 100 flats and maisonettes, of which 36 are social rented homes, 34 are owned and occupied by resident leaseholders and the remainder owned by non-resident (investor) leaseholders. The community provision includes the Redcoat Centre, a single storey building from which Adult Services were delivered and Redcoat Community Centre (mosque), comprising 4 connected single-storey portacabin structures. All buildings are within the Council's freehold ownership. In total, there are 58 car parking spaces.
- 4.6 In July 2019, the Council started to talk to residents of HAP, the Redcoat Community Centre and Mosque and other stakeholders about the potential to regenerate this estate. A Resident Ballot was subsequently held between 18th March and 9th April 2020. The majority of residents voted in favour of redevelopment. As part of a comprehensive consultation process, local residents and stakeholders have contributed to the vision for the future development and the emerging design proposals.
- 4.7 In September 2020, the report to Cabinet on the capital programme, confirmed that the regeneration of HAP was the next priority for funding as part of the new Council homes programme. At that time, funding was identified and allocated to the first 1,000 homes programme and capacity within the Housing Revenue Account for the next phase was being assessed. The review of the HRA Business Plan by Savills has established that the HAP redevelopment can be afforded.
- 4.8 The total scheme costs for the entire redevelopment are estimated to be in the region of £215.000m. In July 2019, Cabinet approved a budget of

£2.000m to deliver the design and consultation stage for this scheme, increased to £2.753m in November 2021. This has funded the pre-development stage from initial consultation to planning submission. On 15 December 2021, Cabinet approved a budget of a further £86.000m for the first three years of the scheme to include land assembly costs and settlements, design and planning fees, and fees associated with procurement and legal activities. Cabinet also delegated powers to officers to enter into necessary agreements with affected landowners to deliver the scheme.

4.9 The Council's offer (Appendix 3) was presented to residents prior to the opening of ballot. The following promises were made to residents:

- We will keep the community together
- More council homes for social rent
- Reduced crime and anti-social behaviour through better design
- New homes at social rents for all existing council tenants
- Options to suit every resident leaseholder
- Addressing overcrowding on the estate through the provision of new affordable homes
- One move to a new home, wherever possible
- Financial compensation and all reasonable moving costs paid
- Current street parking permits guaranteed
- Residents' Panel representing residents in decision making and shaping the future of their estate
- Door-to-door moving support for older and vulnerable residents

4.10 The Council commenced the buyback programme in June 2023 and is in active negotiations with leaseholders who have a land interest on the site. Acquisition or agreements in relation to property interests is necessary to progress with the development in accordance with the programme.

4.11 Planning permission ref. PA/21/02703 was granted on 9 August 2023 in respect of the regeneration of the Land (the "2023 Permission"). The Council intends to submit a further application to secure a new location on the Land for the Redcoat Community Centre and Mosque so that it is located within a standalone building, rather than being located below residential flats as per the consented 2023 Permission.

4.12 The proposed development comprises the phased demolition of all of the existing buildings and structures on the site and redevelopment in the

anticipated form of up to 12 new housing blocks (arranged in separate configurations of 6 inter-linked blocks each) ranging from 3-8 storeys in height, containing approximately 407 units of Class C3 residential accommodation overall and a Class D1 community use facility. The scheme and its benefits are explained in more detail below.

- 4.13 The Invitation To Tender (ITT) is expected to be published by early 2024. Negotiations with bidders will commence by mid next year, with a final report to cabinet by the end of the year.

5. APPROPRIATION

5.1 Background

- 5.1.1 The Land is predominantly held for housing purposes. The Council has also identified that there are areas within the Land that could constitute open space.
- 5.1.2 Section 122 of the Local Government Act 1972 provides a power to the Council to appropriate land from one purpose to another. This purpose can be any purpose for which the Council is authorised to acquire land by agreement. The Council must consider whether the Land is no longer needed in the public interest of the locality for the purpose for which it is held. The Council should not make the appropriation unless it considers that interference with rights are necessary.
- 5.1.3 Without the exercise of the Council's appropriation powers, parties who are affected by the diminution of their rights to light have the potential ability to bring injunctive proceedings to prevent the development. This could potentially halt the project and could result in a delay to the delivery of the development.
- 5.1.4 Once the Land is appropriated for planning purposes, the Council will be able to exercise powers under section 203 of the Housing and Planning Act 2016 to interfere with existing rights annexed to adjoining land that may adversely affect the Land. Section 203 does not extinguish adjoining owners' rights but allows a specific development to proceed in accordance with the grant of planning permission. The statutory objective of S203 is that, provided that the development is undertaken in accordance with a planning permission and subject to other criteria being satisfied, a local authority should be permitted to develop its land in the manner in which it, acting bona fide, considers will serve the public interest and to that end it is recognised that a local authority should be permitted to interfere with third part rights.
- 5.1.5 There are four requirements that must be fulfilled in order for section 203 to be exercised are:
- i) the site must be acquired or appropriated by a local authority for planning purposes;

- ii) there is planning consent for the building or maintenance work or use;
- iii) a local authority could (if not already the owner) acquire the site compulsorily for the purposes of carrying out works (including construction and maintenance works), or for the use of the land permitted by the relevant planning consent; and
- iv) the work or use in question relates to the purposes for which the land was appropriated.

5.1.6 The effect of section 203 is to enable the development to proceed and authorises the interference of those rights. Third parties whose rights are infringed are entitled to compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by section 203. This is addressed in section 204.

5.1.7 Section 204(2) confirms that compensation should be calculated on the same basis as compensation payable under section 7 and 10 of the Compulsory Purchase Act 1965. The amount of compensation payable is the diminution in the value of the affected interest. Any dispute about compensation payable may be referred or determined by the Upper Tribunal.

5.1.8 The Council has commissioned a Rights of Light Analysis Report (Appendix 4) to assess the potential effects of the development on any rights of light to some neighbouring properties and businesses outside the Land. There are some restrictive covenants and rights of statutory providers on the Estate that may also be interfered with. The risk of injunction means that the Council should consider the use of its statutory powers to ensure that the development proceeds.

5.1.9 As a result of the above, authority is sought to authorise the Corporate Director of Housing and Regeneration to appropriate for planning purposes under section 122 of the Local Government Act 1972 and authority to settle any compensation claims arising from the appropriation.

5.2 **Appropriation Notices**

5.2.1 The Land which is subject to appropriation for planning purposes could be construed to include open space. Before an appropriation of open space, the Council must advertise its intention to appropriate by way of a public notice for two consecutive weeks in a local newspaper and it must consider any representations made as a result of the intention to appropriate. Public notices advertising the Council's intention to appropriate the Land were published on 14 December and 21 December 2023 in the Docklands and East London Advertiser.

5.2.2 As the Land also includes parts held for housing purposes, the Council will need to seek the consent of the Secretary of State prior to the appropriation pursuant to section 19(2) of the Housing Act 1985.

5.3 Why the Land is no longer needed to its current purposes

5.3.1 To appropriate the Land, it must be considered to be "no longer required for the purpose for which it is held immediately before the appropriation".

5.3.2 It is considered that the current housing and open space results in an ineffective use of the Land. The existing blocks are poorly organised on the Land with lots of open space that has little practical value to residents (and the general locality) and is costly to maintain. There is an opportunity to replace relatively low-density, poor-quality housing with higher densities of high-quality homes and more homes for larger families. Significant improvements can also be made to the living environment for residents and the public realm.

5.3.3 Capacity studies and the grant of the 2023 Permission have shown that regeneration of the Land offers the opportunity to provide in the region of over 400 new homes, in place of the existing 100 homes. In comparison to other estates in the borough, the Land has great potential for site optimisation and potentially a significant net increase in the number of homes including new affordable Council homes.

5.3.4 The current housing on the Land is also outdated and inefficient and is consequently not suitable for modern day living. In particular, the housing suffers from:

- Poor thermal and acoustic insulation in comparison to current building regulation requirements resulting in a higher fuel cost;
- Poor quality public realm including inadequate refuse disposal and collection facilities and poor-quality external amenity provision;
- Inadequate security to the area leaves individual homes vulnerable to anti-social behaviour (ASB) and low-level crimes.

5.3.5 The Council does not consider that these issues can be addressed through refurbishment of the estate or by piecemeal regeneration.

6. THE SCHEME AND ITS PUBLIC BENEFITS

6.1 The Scheme

6.1.1 The scheme proposes the comprehensive redevelopment of the Land. For the purpose of the 2023 Permission, the scheme is described as follows: Redevelopment of the site comprising demolition of existing buildings (including Harriott House, Apsley House, Pattison House, The Redcoat Centre and Redcoat Community Centre) to provide 407 residential units (Class C3) and 1,150m² of community use (Class F.2) provided across buildings ranging in height from 4-8 storeys, together with associated landscaped communal amenity space, accessible car parking, secure cycle parking spaces and refuse/recycling storage facilities.

- 6.1.2 As noted above, the Council intends to submit a further planning application to vary the layout of the scheme to provide for a standalone building to the Redcoat Community Centre and Mosque. The Council considers that the revised scheme, which would deliver qualitative and quantitative improvements to the existing housing stock to meet local housing need, improve social facilities and environmental amenity, is supported at all levels of current planning policy.
- 6.1.3 The proposed development (pursuant to the revised proposals) comprises the phased demolition of all of the existing buildings and structures on the site and redevelopment in the anticipated form of up to [12 new housing blocks, ranging from 3-8 storeys in height, to provide at least 407 new homes and a standalone community building].
- 6.1.4 The proposed new homes are arranged within two perimeter blocks, with a new central green street between them. Each has its own secure private internal courtyard. The proposed scheme will provide an improved accessible, well-connected and sustainable network of open space and high-quality public realm.
- 6.1.5 Each building within the perimeter blocks will have its own secure entrance and the right-hand perimeter block will have podium parking for the wheelchair-accessible homes. All the buildings will have separation distances of at least 18m to maintain good levels of privacy and prevent any unreasonable overlooking.
- 6.1.6 The new homes are being designed to meet the planning policy requirements for sustainability, aiming to achieve an estimated site-wide CO2 emission reduction of at least 45% over the Target Emission Rate (TER) using the SAP 10 emission factors, through a combination of energy conservation measures, renewable heat, and electricity generation technologies, such as Photovoltaic solar panels (PV) and Air Source Heat Pumps (ASHP)
- 6.1.7 As will all new developments, this scheme will be car-free, with the exception of the provision being made for accessible car parking on site. Existing tenants will be able to retain their rights to apply for a parking permit after transferring into one of the new homes in the proposed development, but this will be for general on-street parking only (CPZ permit). Provision will be made for cycle parking in accordance with planning policy requirements.

6.1.8 The tables below detail the new homes to be provided: -

Table 1 – Schedule of re-provided homes accommodation

Tenure Type	Tenure Mix - Units (%)	Unit Mix	
		Unit Size	Unit Count
Existing Resident Leaseholders	28	1 Bed	0
		2 Bed	4
		3 Bed	19
		4 Bed	5
Existing Secure Tenants	35	1 Bed	1
		2 Bed	9
		3 Bed	20
		4 Bed	5
TOTAL REPROVISION	63		

Table 2 – Schedule of accommodation for new scheme

Tenure Type	Tenure Mix - Units (%)	Unit Mix	
		Unit Size	Unit Count
Affordable Rent	112 (32.6%)	1 Bed	28
		2 Bed	26
		3 Bed	40
		4 Bed	18
Private Sales	232 (67.4%)	1 Bed	87
		2 Bed	118
		3 Bed	27
		4 Bed	0
TOTAL ADDITIONALITY	344		
TOTAL OF 407 HOMES			

6.2 Public benefits

6.2.1 A summary of the benefits of the scheme is as follows.

6.2.2 **Social benefits** in summary - The residential proposals for the Land comprise the re-provision of high-quality affordable housing to compensate for the loss of the existing poor quality housing stock which will help meet local housing needs. The proposals will also introduce new residents to the area and expand the local community. The provision of a range of dwelling sizes will meet the needs of different occupiers and will assist in creating a strong and balanced community. The scheme will also be an opportunity for

children of existing residents who are on the housing register to be rehoused in the new development at the same time as their parents. This offer is open to all secure tenants and resident leaseholders and applicable to one member per household.

6.2.3 Drawing on the above, the headline social benefits are:

- A total of 112 new affordable rented homes;
- 36 replacement social rent homes for existing tenants, & 112 additional grant funded homes at affordable rents
- which includes 22 homes to be provided for qualifying adult children of secure tenants and resident leaseholders;
- 28 homes for shared equity sale to enable resident leaseholders to remain on the new development;
- 56% of all additional rent homes are family size;
- 34 (10% of additional homes) are wheelchair accessible homes;
- A new and improved community centre/mosque;
- 232 market homes to cross subsidise the affordable housing provision and provide diversity of tenure; and
- All new homes will meet modern living standards.

6.2.4 Of the total 407 new homes being developed, 344 of these are additional homes, of which 232 (637 habitable rooms) are private and 112 (456 habitable rooms) affordable. Of the 344 homes being provided, 41% on a per habitable room basis are being provided at affordable rents.

6.2.5 **Economic benefits** in summary - The proposed development will also contribute to economic growth during the construction period. The construction of new development creates a range of employment opportunities within the local and wider economy and has been acknowledged by the Government as a key driver for boosting housing delivery as required by the National Planning Policy Framework (NPPF). Construction of the development will support jobs directly on site as well as indirect support to additional jobs in the supply chain. The proposals will also contribute to the economic role of sustainable development by delivering land to improve choice and competition in the residential marketplace. The procurement process will seek to secure employment and training opportunities are targeted at local people to ensure residents of the borough have the chance to benefit from the employment the scheme will deliver.

6.2.6 **Environmental benefits** in summary - The redevelopment of the Land will remove the existing poor-quality buildings and extensive hard surfacing and under-utilised land around the Land and will provide new buildings of high-

quality design that will improve the contribution of the site to the local area. The proposals include extensive improvements to the public realm, improving the local environment for residents. The proposals seek to introduce a variety of soft landscaping areas to the Land comprising communal garden spaces located in the courtyard areas and a centrally located new square which will deliver ecological and environmental benefits to the site and surrounding area. There will be scope for play with play equipment targeted to 0–5-year age range, as well as multigenerational spaces such as the allotments in the courtyards which could be allocated to households to allow them to grow their own fresh produce. The new buildings will have green roofs to encourage biodiversity. New homes will be built to modern standards which will reduce negative environmental impacts.

- 6.2.7 The scheme is delivering the Council's Local Plan targets for delivery of affordable homes, place making, decarbonising our housing stock, homes that meet high sustainability standards.

7. REDCOAT COMMUNITY CENTRE AND MOSQUE (RCCM)

- 7.1 The new standalone facility is more desirable for the community group as it will make management much easier, as the previous design was part of a housing complex which meant careful monitoring of noise and users around the building. The new facility will provide clear demarcation of services to the estate and to the community building. The community group always had a desire for its own facility hence why they initially submitted their own planning application to develop on the existing land. This opportunity will allow them to be part of the wider regeneration scheme and also get a purpose-built facility.

8. NEXT STEPS

- 8.1 The scheme will be delivered two major phases. The first phase will involve the demolition of the existing Redcoat office which is located in the corner of Stepney Way and Wellesley Street and also the removal of the existing pram sheds next to Harriott House. Once those sites are clear phase 1 construction will commence and will take approximately 2.5 years to complete. This will produce 109 homes which residents from the three buildings will be decanted into in a single move.
- 8.2 Once the decant has been complete, phase 2 will commence. Phase 2 will involve the demolition of Harriott, Apsley and Pattison Houses and the remaining construction will commence, and it will take a further 3 years to complete.
- 8.3 In total the scheme's construction period will take approximately 5 to 6 years to complete. The programme for the scheme aims to maintain the running of the Redcoat Community centre while the construction period for phase 1 takes place. It is envisaged that the Redcoat Community Centre will also move in a single decant in phase 1, which will ensure a normal running of service and that there will be no severe disruptions to the congregation.

- 8.4 The Council is in the process of procuring a development partner to deliver the scheme and further reports shall be made to the Mayor in Cabinet in respect of the appointment of any such partner.
- 8.5 The Council will continue with its attempts to voluntarily achieve negotiated settlements with all property interests wherever possible in accordance with its landlord offer (Appendix 3), an approach consistent with DLUHC's guidance on the compulsory purchase process and The Crichel Down Rules (2019) (the 'CPO Guidance'). To date, the Council has acquired 2 resident leaseholders' interest and 2 non-resident leaseholders' interests in the Land, leaving a total of 65 leasehold interests to be acquired (comprising 32 resident leaseholders and 33 non-resident leaseholders).
- 8.6 Notwithstanding that the Council shall continue to negotiate with all affected leaseholders, given the number of outstanding interests in the Land, the Council reasonably considers that it may be necessary to acquire all remaining interests by way of a compulsory purchase order.
- 8.7 The CPO Guidance sets out the policy tests that the Government will expect acquiring authorities to satisfy when making a CPO. In accordance with the CPO Guidance:
- 8.7.1 the Council should use compulsory purchase powers only where it is expedient to do so; and
- 8.7.2 a compulsory purchase order should only be made where there is a compelling case in the public interest for doing so.
- 8.8 In preparation for a potential compulsory purchase order, the Council has instructed land referencer's to help identify all interests in the Land and has instructed solicitors to advise on the making of any compulsory purchase order.
- 8.9 It is envisaged that a report will be presented to the Mayor in Cabinet later in 2024 seeking authority to make a compulsory purchase order. The Council will, nonetheless, continue to proactively progress negotiations to voluntarily acquire all remaining property interests in the Land and, in line with the CPO Guidance, will continue these negotiations in tandem with any compulsory purchase order that is made.

9. EQUALITIES IMPACT ASSESSMENT

- 9.1 The Council has a public sector equality duty under the Equalities Act 2010 to have due regard to:
- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;

- Advance equality of opportunity between people who share those protected characteristics and people who do not;
 - Foster good relations between people who share those characteristics and people who do not.
- 9.2 As part of the regeneration scheme, the Council has been working closely with residents to ensure they are consulted on all aspects of the new development. Working closely has ensured that we listen to residents and understand their needs and also how the development will have an impact on their lives.
- 9.3 As part of the Equalities Impact Assessment (EqIA) that was brought to Cabinet in 2021, the Council carried out a survey with the residents from HAP. A telephone and door knocking exercise was conducted and the survey responses formed part of the EqIA outcome. The EqIA has since been updated and a desktop exercise was carried out to reflect some of changes to the scheme.
- 9.4 The appended EQIA report (Appendix 2) highlights how the regeneration programme has sought to deliver a range of positive impacts, while mitigating a number of negative impacts on certain protected characteristics during the transition phase.
- 9.5 A summary of these impacts, specifically in terms of equality is set out below:
- Housing needs that respond to a wide range of protected characteristics will be positively enhanced through the development of these new units providing opportunities for housing;
 - There will be more homes designed to lifetime homes standards and with disability access;
 - Improving the housing stock will provide more homes for more people, to higher standards and hence improve the quality of accommodation for residents currently on the estate;
 - The design of the new development will use sustainable forms of energy such as centralised heating and hot water and photovoltaics to generate electricity. Combined with high levels of thermal insulation, it is hoped this will enable lower running costs for residents (depending on their usage and temperature preferences);
 - Application of Considerate Contractor requirements to minimise negative impact during construction period;
 - There will be an expansion of housing offer (additional units) for those on the waiting list and also hidden household members, many of whom come from protected characteristics;

- The needs of older people and those with disabilities will be enhanced by the development of properties built to lifetime homes standards;
- Families will have units that are in much better condition than they are currently;
- There will be more 3 and 4 bed units which will address the overcrowding experienced by some of the existing residents of HAP, both tenants and leaseholders. As well as meet the needs of those families across the borough in overcrowded conditions; and
- The new homes will be built to meet residents' specific housing needs such as the inclusion of aids and adaptations. As well as considering design features that ensure the safety of vulnerable children and adults with severe learning difficulties such as autism.

9.6 Working in close collaboration between Council departments, the ITLA and residents themselves will ensure we reduce or even eradicate these impacts.

10. BETTERMENT OF REGENERATION SCHEME

10.1 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.

10.2 As the number of applicants joining the housing register for social housing increases, the supply is not there to maintain the demand. One of the ways to address this concern is to build more homes. This regeneration scheme will help towards that target of creating additional homes that will go onto house residents from the housing register.

10.3 The Scheme has been designed to fully conform with the principles of 'successful estate regeneration schemes' set out in the Mayor's Good Practice Guide to Estate Regeneration. The overarching objectives of the Scheme are aimed at delivering safe and better-quality homes for local people, increasing the overall supply of new and affordable homes, and improving the quality of the local environment. Underpinning this approach is a commitment to ensuring that there is a full right to remain for the existing social tenants and resident leaseholders, so that the households can remain on their 'estate' by moving no more than once.

10.4 The key objectives are as follows:

- keep the community together
- provide more council homes for rent
- reduce crime and anti-social behaviour through better design
- new homes at social rents for all existing council tenants
- addressing overcrowding on the estate through the provision of new affordable homes
- reprovision of Community building

11. BEST VALUE (BV) IMPLICATIONS

- 11.1 The Council is required to consider the value for money implications of its decisions and to secure best value in the provision of all its services. The proposed regeneration scheme will be funded largely by a combination of GLA funding, Right to Buy receipts and capital funding. It is also envisaged that the sales income from the private sales units will help cross subsidise some of the scheme costs. The scheme will also attract New Homes Bonus and additional Council Tax and Business Rates for the Council.
- 11.2 The disposal of leases to RCCM and Vibrance will be conducted within Best Value considerations.

12. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 12.1 The housing stock on the estate was built around the mid-1960s and over the years the environmental performance standards have reduced. The Council has tried to maintain the efficiency of properties through the Decent Homes standard, but due to the age of the buildings, the impact can only go so far.
- 12.2 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 for households that are expected to occupy the new homes within the scheme. The development will maximise reductions in carbon dioxide emissions through the implementation of energy efficiency measures.

13. RISK MANAGEMENT IMPLICATIONS

- 13.1 The Council is working to progress the regeneration proposal. The programme has some time risks due to the need for non-residential leaseholders to vacate the properties. The programme is being monitored closely. The appropriation of the Land will support the programme delivery if the need arises.

14. FINANCIAL RISKS

- 14.1 Financial risks may arise if the project costs are far greater than projected then the scheme funding could be severely impacted.
- 14.2 There is also the risk of the private sales units not yielding the amount of overage that has been estimated. This in turn could have an impact on the financial model.
- 14.3 The appropriation will support avoid any halt or delay which may arise had an appropriation not been made and the scheme is halted or delayed because of an injunction sought by someone with a right in or over the Land.

15. COMMENTS OF THE CHIEF FINANCE OFFICER

- 15.1 The regeneration of HAP (Harriott, Apsley and Pattison Houses) has been identified as a priority in the new council homes programme. Cabinet on 15 December 2021 made various resolutions to progress the delivery of the regeneration of Harriott, Apsley, Pattison Houses, including approving a budget to progress its delivery. This budget provision totalled £86m to cover the first phase of the development. The overall project is estimated to cost £215m and will deliver 407 homes. Budget has yet to be approved for the remainder of the scheme.
- 15.2 The first phase of the HAP scheme has been included in the new build programme that has been modelled in the updated HRA Business Plan. The scheme is affordable within the constraints that the business plan operates. The £86m of funding has been identified from a number of sources, including grant, s106 funding, RTB receipt and prudential borrowing.
- 15.3 This report is seeking approval to proceed with the appropriation of land for planning purposes under section 122 of the Local Government Act 1972 to facilitate the regeneration of the site. There are no direct financial implications from the appropriation itself, however, residents and businesses affected adversely by rights of light both within the redevelopment area and neighbouring it will be able to claim compensation resulting from the reduced value of their property. These costs have been built into the overall scheme costs.
- 16.4 The report is also seeking agreement to pursue compulsory purchase orders where necessary to facilitate the regeneration of the site and the relocation of the Community Centre and Mosque. Again, the associated costs of these activities form part of the approved budget for the scheme.

16. COMMENTS OF LEGAL SERVICES

- 16.1 Under section 122 of the Local Government Act 1972 (LGA), appropriation may be made where the land is no longer needed in the public interest of the locality for the purpose for which it is held immediately before appropriation. In this regard, a broad view of local need (taking account of the interests of all residents in the locality), has to be taken and officers consider that this test has been met. Officers are also satisfied that the use of appropriation would be in the public interest and proportionate to the objectives of the redevelopment scheme for the purpose of the Human Rights Act 1998.
- 16.2 This report seeks approval from the Mayor in cabinet to appropriate, under section 122 of the LGA, land belonging to the Council which is currently held for housing purposes and parts of which are open space. The land is now required for planning purposes for redevelopment which consists of affordable units and commercial space.
- 16.3 Any reference to appropriation for planning purposes is, by virtue of the provisions in section 246 of the Town and Country Planning Act 1990

(TCPA), regarded as a reference to appropriation for the purposes for which land can compulsorily be acquired under section 226 TCPA.

- 16.4 By virtue of s226(1A) TCPA a local authority must not exercise the power granted under s226(1)(a) unless the development, redevelopment or improvement on or in relation to the land is likely, they think, to contribute to the achievement, the promotion or improvement of any one of more of the following objectives - the economic, the social and/or the environmental wellbeing of the area. This report details that the proposed development will provide new dwellings and amenity space.
- 16.5 The Council must also be satisfied that the Land is no longer required for the statutory purposes for which it was originally held before the appropriation. This “surplus to requirements” component of s122 of the LGA enables the Council to prioritise relative needs. It follows that the Council is entitled to look at the current use of the Land as well as the prospective use of the Land and on this project, what the Land can deliver. The Council can consider matters such as whether sufficient use is currently made of the Land and the need to secure an enhanced form of redevelopment.
- 16.6 Appropriation however requires more than a mere decision to hold land for a different purpose. An authority cannot properly appropriate land to planning purposes unless it considers that the resulting interference with third party rights is necessary. A local authority cannot properly appropriate land to planning purposes unless it considers that it has good reason to interfere with third party rights which would be overridden by section 203 of the Housing and Planning Act 2016 as outlined below.
- 16.7 Reliance on s203 of the Housing and Planning Act 2016 to override the rights of adjoining owners and any other property rights on an appropriation of land for planning purposes is dependent upon the requirements in s226 TCPA, having been satisfied that there is a compelling case in the public interest for the appropriation of this land, having regard to the European Convention on Human Rights must apply before the redevelopment of the Land commences.
- 16.8 The enabling provisions in s203 (1) and (4) of the Housing and Planning Act 2016 are required for the construction, maintenance and use of the redevelopment, to the extent that this will interfere with private rights of adjoining owners. Several adjoining private landowners enjoy rights of light (“Owners”) which will be affected by the new development. The operative provisions in section 203-207 are necessary in order to override these rights as well as to override other property rights, including any unknown rights that may impede the construction or use of the units on the Land.
- 16.9 In order to ensure that the redevelopment can proceed within the agreed timescale and cost it is necessary for the Council to appropriate the site for planning purposes. This will not preclude negotiations with the Owners and the Owners are entitled to compensation.

16.10 If the Council were to commence the development works without appropriating the site from housing to planning purposes, it would potentially be infringing those affected Owners' rights to light. The remedy for such an infringement by the affected Owners is an injunction. It is an equitable remedy and is within the court's discretion to grant. The court can award damages where it considers this an adequate remedy. If the adjoining owners choose to institute proceedings for an actionable injury the court might also grant an injunction pending the court's decision on whether there has been an infringement of their rights or not. The consequences of this for the Council will be to set back commencement of the development and delivery.

16.11 Human Rights and Equalities Implications

16.11.1 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council must also have regard to potential interference with Article 1 and Article 8 of the European Convention on Human Rights (ECHR). Issues relating to

16.11.2 Article 1 of the First Protocol of the European Convention on Human Rights (ECHR) provides that every natural or legal person is entitled to peaceful enjoyment of their possessions ("human rights"). Appropriation of property engages s.203 to authorise interference with rights of light involves interference with a person's rights under this Article. As these rights are enjoyed by corporate bodies as well as individuals all of those whose rights will be affected can claim an infringement. However, the right to peaceful enjoyment of possessions provided under this Article is a qualified rather than absolute right, as the wording of Article 1 of Protocol 1 permits the deprivation of an individual's possessions where it is in the public interest and subject to the conditions provided for by law and by the general principles of international law.

16.11.3 Article 8(1) provides that everyone has the right to respect for his private and family life, his home and his correspondence. Article 8 would be engaged as a result of interference with rights to light to a private residence. Article 8(2) allows for interference which is "in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health and morals, or for the protection of the rights and freedoms of others".

16.11.4 There must therefore be a balancing exercise between the public interest and the individual's rights whereby any interference in the individual's rights must be necessary and proportionate. "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim, thereby striking a "fair balance" between the rights of the individual and the rights of the public.

16.11.5 Planning permission has been granted for the development of the Land and, whilst a revised planning consent is being sought, it is considered that the revised scheme will accord with national and local planning policies. The public benefits arising from the development, and thus the public interest, are set out earlier in this report. Furthermore, notwithstanding the overriding of their 'rights to light', compensation will still be available to those who are affected. On this basis it is considered that the public interest in facilitating the development of the Land outweighs the rights of the individuals to peaceful enjoyment of their possessions and to their homes and that the proposed use of s.203 powers results in a proportionate infringement.

Linked Reports, Appendices and Background Documents

Linked Report - Cabinet report 15 December 2021

Appendices

Appendix 1 – Harriott, Apsley, Pattison (HAP) Houses – Appropriation Plan

Appendix 2 – Equalities Impact Assessment (Sept 2023)

Appendix 3 – HAP Landlord Offer (Feb 2020)

Appendix 4 – Rights of Light Analysis Report - EXEMPT

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

[Rehousing guide for resident leaseholders of Harriott, Apsley and Pattison House – selling your property to the council \(November 2020\)](#)

[A guide for non-resident leaseholders of Harriott, Apsley and Pattison House – selling your property to the Council](#)

[A guide for Council Secure Tenants - Harriott, Apsley and Pattison House \(November 2020\)](#)

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