

	<p><b>Assets, Regeneration and Growth Committee</b></p> <p><b>3<sup>rd</sup> March 2015</b></p>
<b>Title</b>	<b>Brent Cross Cricklewood Compulsory Purchase Order (No. 1)</b>
<b>Report of</b>	Cath Shaw, Commissioning Director, Growth and Development
<b>Wards</b>	Childs Hill, Golders Green and West Hendon
<b>Status</b>	Public
<b>Enclosures</b>	Appendix 1 Plan of Proposed Boundary of CPO Appendix 2 Draft Statement of Reasons Appendix 3 Context plan showing proposed CPO 1 and CPO2 boundaries
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<h3>Summary</h3>
<p>This report requests that the Committee recommends to full Council the making of a compulsory purchase order (CPO) in respect of the land, interests and rights needed to deliver the first stage of the regeneration of Brent Cross Cricklewood as shown on the plan at Appendix 1, being the redevelopment of Brent Cross shopping centre and the regeneration of the land around it and the delivery of infrastructure needed to facilitate the regeneration of the land to the south of the North Circular including approval of the use of Ground 10A procedures to recover possession of properties within the area that are occupied by secure tenants and service of demolition notices to suspend the right to buy Council properties due for demolition.</p>

<h3>Recommendations</h3>
<p><b>1. The Committee is requested to note the content of this report and recommend the following to full Council for approval:</b></p>

<ul style="list-style-type: none"> <li>• That a compulsory purchase order (CPO) be made pursuant to the powers in section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) for the acquisition of the land shaded pink on the plan at Appendix 1 and pursuant to section 13 of the Local Government (Misc Provisions) Act 1976 to acquire new rights in respect of the land shaded blue on the said plan.</li> </ul>
<ul style="list-style-type: none"> <li>• That the appropriate Chief Officers be authorised to settle the final form and content of the CPO and associated documentation and take all action needed to pursue the CPO and secure its confirmation.</li> </ul>
<ul style="list-style-type: none"> <li>• That the appropriate Chief Officers be authorised, following the confirmation of the CPO, to implement the CPO powers and acquire title to and/or take possession of the land.</li> </ul>
<ul style="list-style-type: none"> <li>• That the appropriate Chief Officers be authorised to carry out the necessary procedures under Part 11 of the Housing Act 1985 and to use Ground 10A to obtain vacant possession of Council owned dwellings that are occupied by secure tenants in the area shown shaded pink on the plan at Appendix 1.</li> </ul>
<ul style="list-style-type: none"> <li>• That the appropriate Chief Officers be authorised to approve the service of Initial and Final Demolition Notices as required pursuant to the Housing Act 2004 to suspend the right to buy on properties due for demolition which are situated on the Whitefield Estate but fall within the Brent Cross North Development and on the Rosa Freedman Centre.</li> </ul>
<ul style="list-style-type: none"> <li>• That the appropriate Chief Officers be authorised to take all necessary steps to re-house secure tenants from the Sheltered Housing Units at Rosa Freeman and to pay statutory homeless and disturbance to those tenants.</li> </ul>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 This report is requesting that the Assets, Regeneration and Growth Committee recommends the making of a compulsory purchase order (CPO 1) and other related steps to full Council for approval in order to acquire the land and rights needed to enable the first stage of the comprehensive regeneration of Brent Cross Cricklewood to go ahead. The extent of the land acquisition needed for this first stage (including the land needed for the delivery of significant infrastructure which will support the regeneration of the wider Brent Cross Cricklewood scheme) is shown shaded pink and shaded blue on the plan at Appendix 1.
- 1.2 The Council's purpose in seeking to acquire the land shown on Appendix 1 is to facilitate its development, re-development and improvement by way of a mixed use scheme (comprising retail, leisure and office development; hotel development; industrial, storage and distribution development; community facilities; residential development; car parking; public transport infrastructure and facilities; major infrastructure and highway works, and public realm and

environmental improvement works) (“**the CPO1 Development**”). This forms an early phase of the wider Brent Cross Cricklewood regeneration scheme (“**BXC**”). The regeneration of the wider BXC area, one of the largest regeneration opportunities in London, is a long-standing objective of the Council and is a key regeneration priority of the London Mayor.

- 1.3 Hammerson UK and Standard Life Ltd (the Development Partners) will deliver the redevelopment of the shopping centre at Brent Cross and the land around it, together with the infrastructure required to support the comprehensive regeneration proposals. The Council will take the lead on the south side to deliver the southern parts of the Brent Cross Cricklewood Regeneration masterplan with a new development partner, including the land to be redeveloped in connection with the station improvements.
- 1.4 In addition to acquiring the land and interests needed for the Development Partners’ proposals for the shopping centre and its surrounds and the first development plot to the south of the North Circular, the CPO will secure the land and rights needed for the infrastructure that is needed for the regeneration to the south to come forward – without this infrastructure, the comprehensive regeneration of the area, as envisaged in the Council’s development plan and in the London Plan, will not happen.
- 1.5 The draft Statement of Reasons, which is the document that sets out the Council’s case and justification for making and pursuing the CPO, is found at Appendix 2. This will be served on all those affected by the CPO.
- 1.6 In order to authorise the officers to make and pursue the CPO, section 226 of the Town and Country Planning Act 1990 requires that members must be satisfied that the use of the compulsory powers will facilitate the development, redevelopment or improvement of land, and that it is likely to contribute towards the promotion or improvement of the economic, social and environmental well-being of the area. Further, members must be satisfied that there is a compelling case in the public interest for making and promoting CPO1, that the use of the powers is necessary and proportionate, and that the public benefits associated with the proposed regeneration will clearly outweigh the interference with the rights of those affected. These matters are explained and considered in more detail below and in the draft Statement of Reasons at Appendix 2.
- 1.7 The Council is in the process of procuring a development partner in respect of the southern parts of the BXC development referred to in paragraph 1.3 above for which the Council is taking the lead. This process is subject to a separate report being placed before this Committee to recommend to full Council the selection of the preferred development partner. A separate compulsory purchase order (“CPO2”) is proposed to be made to facilitate the delivery of the first phase of the south side development. This is also the subject of a separate report which has also been placed before members for consideration at this committee meeting. A plan showing the combined proposed CPO1 and CPO2 boundaries is at Appendix 3.

- 1.8 It is anticipated that further CPOs may be required as and when future phases of the southern development are ready to come forward, such as in respect of the land and rights needed to deliver the proposed new Thameslink Station. In this latter respect, the Council together with the Greater London Authority (GLA) are working with HM Government and Network Rail to confirm the funding strategy by mid March 2015. Compulsory purchase powers may be exercised for the land required for the station once the funding strategy is confirmed to ensure delivery by 2021.

## **2. UPDATE**

- 2.1 On 23rd July 2014, following the completion of the Section 106 agreement, the Section 73 planning permission for the comprehensive Brent Cross Cricklewood scheme (which amended the phasing of the original planning permission and made consequential changes) was granted. Planning permission is therefore now in place for the scheme. The Development Partners are now focusing on discharging the relevant conditions. The first reserved matter applications for the required residential relocations and Phase 1a relating to the critical road infrastructure and open space improvements were submitted earlier this month. The Development Partners are now preparing the necessary reserved matters applications in respect of the shopping centre to be submitted later this year.
- 2.2 On 8 September 2014, members gave authorisation for certain preparatory steps to be undertaken in connection with the making of a CPO, relating to private treaty negotiations and the land referencing exercise required to identify all parties with an interest in the land. GL Hearn will pursue negotiations with all such parties with a view to acquiring their interests by agreement wherever possible.
- 2.3 The Property Development Agreement and Co-operation Agreement (and an associated suite of documents) between the Development Partners and the Council, which deals with the delivery of the redevelopment and regeneration of the shopping centre and the land around it, and the delivery of the infrastructure needed for that and for the regeneration of the land to the south of the North Circular (“the Critical Infrastructure”), will be completed by 3<sup>rd</sup> March by the parties.
- 2.4 A CPO Indemnity Agreement, under which the Development Partners provide the Council with an indemnity in respect of the costs of promoting the CPO and the compensation payable to third parties whose land and interests are acquired pursuant to the CPO, is required to be completed by 3<sup>rd</sup> March by the parties in order for this Committee to consider this report and confirm the recommendations to full Council.

## **3. REASONS FOR RECOMMENDATIONS**

- 3.1 By virtue of Section 226(1)(a) of the Town and Country Planning Act 1990 the Council has the power to make a compulsory purchase order for any land in

its area if it thinks that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. It is the exercise of this power which the Committee is being asked to authorise.

- 3.2 Section 226(1A)(a) of the Act provides that the Council may not exercise the power unless it thinks that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.
- 3.3 The purpose in seeking to acquire the land the subject of CPO1 is to facilitate the development, re-development and improvement of it by way of a mixed use scheme (comprising retail, leisure and office development; hotel development; industrial, storage and distribution development; community facilities; residential development; car parking; public transport infrastructure and facilities; major infrastructure and highway works, and public realm and environmental improvement works) as the first stage of the ("BXC") scheme.
- 3.4 The CPO1 comprises Phases 1A (North) and 1B (North) of BXC. It includes the extension and improvement of the Shopping Centre; the provision of infrastructure associated with and required for the Shopping Centre; and significant infrastructure including in the south of the North Circular Road to support the redevelopment and regeneration of the wider BXC land, in particular development to the south of the North Circular Road.
- 3.5 The CPO1 Development will contribute to the economic, environmental and social well-being of its area by delivering important and wide ranging public benefits including investment in the shopping centre, new jobs, new residential accommodation and major infrastructure and environmental improvements which will "pump prime" the infrastructure provision to enable and facilitate future phases of regeneration in BXC, and in particular provide a considerable catalyst for development south of the North Circular Road.

### **Benefits of the Brent Cross Cricklewood Scheme**

- 3.6 The comprehensive regeneration of BXC is a long-standing objective of the Council and a key regeneration priority of the Mayor of London. At 151 Ha, it is one of the largest regeneration schemes in Europe. The London Plan identifies it as an Opportunity Area with an indicative employment capacity target of 20,000 jobs and a minimum new homes target of 7,500 homes. The Council's Core Strategy reinforces the significant comprehensive regeneration opportunity, which includes a new town centre, major new and improved transport and community facilities, and other infrastructure and public areas.
- 3.7 The BXC area is significantly constrained by the existing road network and rail infrastructure, but given its location at the connections between the M1 and the A406 and between the A5 and A41, it has the potential to be an attractive gateway into London. That potential is enhanced by the proximity to the Northern Line at Brent Cross station, the Midland mainline, and Brent Cross bus station.

- 3.8 Substantial infrastructure needs to be provided in order to realise the area's potential. The comprehensive redevelopment and improvement of the Brent Cross Shopping Centre and other major development in the area provides the opportunity for the major infrastructure to be funded and delivered that will enable and facilitate the wider BXC regeneration. In particular, in addition to major improvements to existing roads, public transport and social infrastructure, the BXC proposals will create strong and attractive linkages between the communities to the north and south of the North Circular.
- 3.9 The development of the BXC strategic gateway site will create a new town centre and residential quarter, uniting the areas north and south of the A406 North Circular Road, providing an attractive and vibrant place to live and work. It will contribute to the future prosperity of the Borough. The first phase alone is expected to create 3,000 construction jobs, and an additional 4,000 permanent jobs over the next 5-7 years. About 99,000 sqm of additional retail and commercial floorspace will be provided on the Order Land.
- 3.10 BXC is a key element of the Council's regeneration and housing programme and will provide over 7,540 new homes over the next 20 years, including affordable homes and replacement homes for the Whitefield Estate. BXC will also provide new and improved educational and health facilities for the community, and improved open space and recreational facilities for the community to enjoy and use.
- 3.11 The new Thameslink Station alongside the major highways and junction improvements (including those to junctions on the M1, A5, A406 (the North Circular), A407 and A41) will vastly improve the accessibility of the area and will help realise the regeneration of the area to its full potential. To address the existing barriers to accessibility between the communities to the north and south of the North Circular, as part of the first stage of development a series of bridges will be delivered including the Living Bridge (a new pedestrian and cycle bridge over the North Circular adjacent to Claremont Avenue and Market Square); the Templehof Bridge (replacing the existing Templehof Bridge over the North Circular); the A406/M1 Junction Pedestrian and Cycle Bridge – a new shared pedestrian and cycle bridge over the A406 adjacent to this improved junction; changes to the Staples Corner Pedestrian Bridge; 9 road bridges across the improved and diverted River Brent, and a further two bridges for the use of pedestrians and cyclists only.
- 3.12 The regeneration of BXC will be a major component of achieving the Council's priority objectives in its Corporate Plan 2013-2016, including to 'maintain the right environment for a strong diverse local economy', with the strategic objective under this priority being to sustain Barnet by 'promoting growth, development and success across the borough'.
- 3.13 The scheme also supports the achievement of the objectives set out in 'One Barnet - A Sustainable Community Strategy for Barnet 2010-2020', including:
- "Sharing opportunities for success' and 'choice and responsibility', where the proposals will provide high quality homes. The Scheme itself will offer more choice by providing a number of different housing options such as shared*

*equity, shared ownership and private homes for sale to residents and those in the wider community”*

- 3.14 In addition, it will further the strategic objectives in the Council’s Housing Strategy 2010-2025 which include:
- (a) increasing housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents; and
  - b) promoting mixed communities and maximising opportunities available for those wishing to own their home.
- 3.15 Substantial progress has therefore been made in relation to establishing the policy basis for the regeneration of BXC, and attention must now focus on delivery and the key issue of land assembly. Regeneration is to be realised on a phased basis. The early phases comprise the regeneration of the shopping centre and its environs; and the delivery of the Critical Infrastructure, and regeneration of land to the south of the North Circular. In order to achieve a comprehensive approach, the planning permission and Property Development Agreement will secure the Critical Infrastructure. The lack of such infrastructure has prevented the area being redeveloped in the past, and the scheme now being advanced by the Development Partners and the Council will secure the investment needed to deliver the infrastructure required to deliver the rest of the development.
- 3.16 Whilst a comprehensive approach is needed, more than one CPO will be promoted for the early stages. This is because of the separate processes and different developers required to deliver each stage of the comprehensive regeneration and because the stages will be funded separately. Members are therefore being asked to authorise the making of two separate CPOs: one to include the land needed for the land north of the North Circular and the Critical Infrastructure which will be delivered by the Development Partners (“CPO1”), and a separate CPO for the land to the south of the North Circular which will be delivered by the Council and its forthcoming new development partner (“CPO2”). The two CPOs are the subject of separate reports to this Committee, but it is proposed that the CPOs would be made at the same time, so as to enable them to be considered at the same public inquiry and on the same timetable.

### **Benefits of CPO1**

- 3.17 This report asks the Committee to recommend to full Council the making of the London Borough of Barnet (Brent Cross Cricklewood) Compulsory Purchase Order (No.1 ) 2015.
- 3.18 CPO1 is required to acquire the land and rights needed to facilitate the delivery of the first phases of BXC, namely Phase 1A (North) and Phase 1B (North) which will be delivered by the Development Partners. These phases include the major redevelopment and improvement of the Brent Cross Shopping Centre; the provision of infrastructure associated with and required for the redeveloped shopping centre; and significant infrastructure to support the redevelopment and regeneration of the wider BXC area, in particular development to the south of the North Circular Road.

- 3.19 Further detail on the Phase 1A (North) and Phase 1B (North) proposals is set out in section 5.3 of the draft Statement of Reasons at Appendix 2.
- 3.20 The land proposed to be included in CPO1 is shown shaded pink and shaded blue on the plan at Appendix 1 and is described in the draft Statement of Reasons at Appendix 2. The land is occupied for a variety of uses. In addition to the existing Brent Cross shopping centre, the land includes brownfield land in industrial use, land in railway use, residential dwellings, commercial and retail premises, areas of surface level car parking and highway land.
- 3.21 Those commercial owners and occupiers, including tenants in the shopping centre, who are affected have been contacted by the Development Partners and/or the Council, and discussions have taken place regarding the acquisition of the relevant land and rights.
- 3.22 With regard to the residents of the housing on the Whitefield Estate and the Rosa Freedman Centre discussions have been held with all residents regarding alternative accommodation. The residents of the Rosa Freedman Centre will be re-located within the Borough, and the Development Partners are procuring a registered provider to secure the successful relocation of the Council's tenants. Those residents who have exercised their right to buy their properties have been contacted by the Development Partners and the Council to explain the principles that will be applied to acquisitions by agreement. Drop in information sessions have also been held to address any questions or concerns owners may have. Negotiations with remaining owners will be actively pursued from Spring 2015 which is when the Council expects the Development Partners to have engaged a registered provider for the replacement housing in Phase 1A (North). Detailed questions regarding the purchase of a replacement home in the new development cannot be addressed until the registered provider has been appointed.
- 3.23 The Council intends to suspend the Housing Act 1985 right to buy for secure tenants living on the Whitefield Estate, in order to facilitate the re-development of the BXC Area. Full Council is being asked to authorise the service of Initial and Final Demolition Notices, in order to suspend the right to buy.
- 3.24 It should be noted that under the planning permission and associated section 106 agreement the Development Partners must implement and follow relocation strategies for the residents who are affected, and for the commercial occupiers included in any CPO made to deliver the scheme. This provides an additional control for the Council (as planning authority) in ensuring that the affected parties are provided with assistance to relocate.
- 3.25 Draft Statement of Reasons at Appendix 2 sets out in detail the rationale and justification for CPO1, including how the CPO1 Development will contribute to the achievement of the Council's regeneration and planning objectives, and result in substantial public benefits being realised, both within the land included in the CPO and in the wider area. Those details will not be rehearsed in this report, but it is essential that members review the draft Statement of Reasons before reaching a decision.



3.26 From section 8 of the draft Statement of Reasons, it will be seen that substantial public benefits will flow from the CPO1 Development proceeding, including:

- The extension and refurbishment of the existing Brent Cross Shopping Centre to provide additional and improved retail floorspace together with leisure, catering and community facilities.
- The creation of over 3,000 new jobs, many of which will be local, thus generating economic growth and prosperity in the area.
- The layout and capacity of the highways will be improved and will provide additional access and egress points. The new bus station will double the size of the existing facility, enhancing the modal shift between the private car and public transport.
- The provision of the new Living Bridge, the new Templehof Bridge and the diversion of the River Brent will create new east to west walking and cycling routes to improve connectivity between the Shopping Centre and the land south of the A406 North Circular Road. This will be a major contribution towards the provision of a new and integrated town centre.
- The quality of the public realm will be improved and there will be a network of streets and squares to create the basis of the new town centre. There will also be improved car parking facilities.
- Development of the land will act as a catalyst for the regeneration of the remainder of Phase 1 and of the wider BXC area. In particular, it will provide the infrastructure necessary to allow the regeneration of the land to the south of the A406 and the realisation of the potential of that area.

3.27 This clearly demonstrates that there is a compelling case in the public interest to make CPO1. Development of the land which is the subject of CPO1 will itself contribute very significantly to the economic, social and environmental well-being of the area and will also be an important catalyst for the development of the whole of Phase 1 and the wider BXC area.

3.28 Paragraph 16 of Appendix A to Circular 06/04: *Compulsory Purchase and the Crichel Down Rules* advises that in deciding whether or not to confirm a CPO, the Secretary of State can be expected to consider factors including the following:

- whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area or, where no such up-to-date framework exists, with the core strategy and any relevant Area Action Plans in the process of preparation in full consultation with the community;
- the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area;

- the potential financial viability of the scheme for which the land is being acquired; and
  - whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.
- 3.29 Members will also need to consider these factors in deciding whether to make CPO1.
- 3.30 As to the first factor (the planning framework for the area), the planning permission for the regeneration of Brent Cross Cricklewood gives effect to the policy requirement found in the Core Strategy and saved policies of the UDP, and as reflected in the London Plan, for a comprehensive approach across the whole area so that its potential can be fully realised. The development of the CPO1 land, including the delivery of the infrastructure, is essentially the first phase of that regeneration. The area is identified as an Opportunity Area in the London Plan, and as such is one of the Mayor's key regeneration areas for the City. Given its importance, it is vital that the area's regeneration benefits are maximised, and the use of the Council's CPO powers is key to ensuring that this happens.
- 3.31 As to the second factor (contributing to well-being), as explained above, the use of CPO powers to facilitate the redevelopment and regeneration of the land shown on the plan at Appendix 1 will contribute towards the Council's promotion of the economic, social and environmental well-being of the area, and to the achievement of the Council's regeneration and planning objectives, and will also result in substantial public benefits being realised, both within the land shown at Appendix 1, the whole of Phase 1 and in the wider BXC area.
- 3.32 As to the third factor (viability), planning permission has been granted for the development and regeneration of the whole of the wider BXC area. A mixed use scheme, including retail, business, leisure and residential development, is to be carried out on the land the subject of CPO1 as the first stage of the BXC regeneration scheme. It will also provide the essential infrastructure to support redevelopment and regeneration of the wider BXC area. There are no planning impediments to the development of the land.
- 3.33 The development of the CPO1 land is to be taken forward by the Council's Development Partners who have the experience and expertise to carry out the scheme. The Development Partners have provided Council officers with a general indication of funding intentions. Costs are under constant review and a value engineering exercise is being undertaken. The Council will work with the Development Partners to address funding issues in order to support the regeneration proposals. From officers' discussions with the Development Partners it is considered that there is a reasonable prospect of the CPO1 Development going ahead.
- 3.34 As to the fourth factor (other means of achieving the Council's purpose in acquiring the land), the purposes for which the land is to be acquired could not be achieved by any alternative means or by development in other locations. This is given further consideration in section 4 below.

- 3.35 The residential dwellings within the area of CPO1 will be re-provided within the Borough at the expense of the Council's development partners. Residents have been consulted on the re-provision and will continue to be fully informed.
- 3.36 There have been discussions with owners and occupiers regarding the acquisition of their interests and regarding parties' relocation requirements. Negotiations will take place and relocation opportunities will be considered. Owners and occupiers of commercial premises will be kept informed.
- 3.37 It is clear that, unless CPO1 is made and confirmed, the Council and the Development Partners would be unlikely to be able to assemble the land and interests needed for the key first phase of the regeneration of the area within a reasonable timescale.
- 3.38 Accordingly, the tests in section 226(1)(a) and section 226(1)(A) of the Town and Country Planning Act 1990 will be met, the guidance in paragraph 16 of Appendix A to the Circular will be satisfied, and there is a compelling case in the public interest for the making and confirmation of the CPO.

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

- 4.1 If the CPO is not made, then the only way of acquiring the land and interests needed to deliver the first phase of development would be by agreement. It is clear however that unless CPO1 is made and confirmed, the Council and the Development Partners would be unlikely to be able to assemble the land and interests needed for the key first phase of the regeneration of the area within a reasonable timescale.
- 4.2 Careful consideration has been given to the extent of the land and rights included in CPO1 and whether it is necessary to include all of these. All of the land shown on the plan at Appendix 1 is necessary to ensure that the CPO1 Developments can be delivered. The land is needed on its own terms in order to facilitate the delivery of Phases 1A (North) and 1B (North) on the land shown on the plan at Appendix 1. Development of that land will also facilitate the development of the land comprised within CPO2, and will facilitate the development of the wider BXC scheme which will confer substantial additional social, economic and environmental benefits on the area.

## **5. POST-DECISION IMPLEMENTATION**

- 5.1 It is proposed that, if authorised, the CPO will be made (executed) in approximately 4-5 weeks, after the date full Council approves the CPO. A specialist land referencing company (TerraQuest) has been engaged to identify all parties with interests in the area covered by the CPO so that they will all be served with the appropriate notices and be involved in the process if they so wish. Parties with interests in the land are required to be identified in a detailed schedule which, together with the CPO plan, forms the CPO.
- 5.2 After the CPO is made, a statutory notice of the making of the CPO will be served on all affected parties, advertised in the local press, and posted up on the site. The notices served on those affected will be accompanied by the Statement of Reasons, which sets out the background to and justification for the Council using its CPO powers. A draft of this document is found at Appendix 2. Service and advertisement of the statutory notices will take place shortly after the CPO is made.
- 5.3 Following service of the notices described above, those affected and members of the public will be given a period of 28 days within which to make representations including, if they see fit, object to the CPO. (The period required by law is a minimum of 21 days, but officers wish to provide the community and those affected with ample opportunity to make representations.)
- 5.4 If there are no objections, or if all objections made are withdrawn, then the Council may be authorised by the Secretary of State for Communities and Local Government to confirm the CPO1 itself. If there are objections and these are not withdrawn then the Secretary of State will arrange for a public inquiry to be held and will appoint an inspector to hold it. It is likely that a public inquiry would be held towards the end of 2015. Those affected and the public may attend and if they so wish, present their objections and cross-examine the Council's witnesses regarding the case for the CPO, and be cross-examined themselves on their objections.
- 5.5 Following the inquiry, the inspector will prepare a report in which a recommendation will be made to the Secretary of State as to whether CPO1 should be confirmed. The Secretary of State will then make his decision. This would be expected in mid-2016.
- 5.6 Following the confirmation of the CPO, the Council will have 3 years within which to exercise the powers and acquire the land and interests needed for the development.
- 5.7 In the event that full Council authorises the making of CPO2, CPO1 will be made at the same time as CPO2 and it is envisaged that the Secretary of State for Communities and Local Government will order that any public inquiry required for CPO2 will be con-joined and held at the same time as the inquiry for CPO1.

- 5.8 It should be noted that some highways orders will also need to be obtained to stop up or divert highways and footpaths, and to create new carriageways, to enable the first stage of development to proceed. Any objections will be considered at a public inquiry. It is envisaged that these applications will be made to a timetable that will enable the public inquiries for the two CPOs and for the highways orders to be con-joined.

## **6. IMPLICATIONS OF DECISION**

### **Corporate Priorities and Performance**

- 6.1 The regeneration of Brent Cross Cricklewood supports the Corporate Plan 2013-2016 priority '*To maintain the right environment for a strong diverse local economy*', and the strategic objective under this priority to sustain Barnet by '*promoting growth, development and success across the borough*'.
- 6.2 The Growth Strategy for Barnet recognised that regeneration and growth are vital for ensuring the future prosperity of the Borough and maintaining Barnet as a successful London suburb. The BXC regeneration proposals will play a major role in delivering this objective, doubling the size of the shopping centre and linking seamlessly to a new town centre for Barnet and North London across the North Circular Road. BXC is one of Barnet's priority regeneration areas, and will provide approximately 7,500 new homes over the next 20 years. It is a key part of the wider revitalisation of the A5 corridor, linking BXC with developments at West Hendon, Colindale and Edgware and improvements to Cricklewood Town Centre, to create a series of high quality modern suburbs.
- 6.3 The first phase of the BXC project includes the redevelopment of the shopping centre, creation of major new infrastructure, improved links to the existing tube station, and delivery of approximately 2,500 new homes over the next 8-10 years. This will create an estimated 3,000 construction jobs, and 4,000 permanent jobs.
- 6.4 A fuller explanation of the rationale for pursuing CPO1 and details of the benefits that will result are set out in the draft Statement of Reasons at Appendix 2.

### **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 6.5 There are two main elements of costs associated with the CPO process – the costs of preparing and pursuing the CPO itself, and the compensation and consideration to be paid to those whose land and interests are acquired.
- 6.6 In terms of the costs of pursuing the CPO, this will require input from internal and external resource covering various disciplines, including senior officers, legal input, surveying and valuation expertise, planning input, developer input, technical input from engineers and consultants, and the cost of witnesses at the public inquiry. There will also be costs associated with the organisation

and holding of the public inquiry.

- 6.7 The costs associated with pursuing CPO 1 are dealt with in an agreement known as the CPO Indemnity Agreement which is due to be entered into between the Development Partners and the Council by 3 March 2015. The Development Partners will meet all of this cost through that agreement.
- 6.8 In terms of the compensation payable to parties whose land is compulsorily acquired, or the consideration to be paid where private treaty agreements are reached, the Development Partners will pay all of this in relation to land and interests comprised within CPO1 pursuant to the terms of the CPO Indemnity Agreement. the indemnity is backed by security so the Council is fully protected.
- 6.9 The costs of implementing the Ground 10A exercise and all incidental costs will be borne by the Development Partners.

### **Legal and Constitutional References**

- 6.10 The CPO process is governed by law, principally the Acquisition of Land Act 1981. There is a public and lawful process which must be followed by the Council in order to secure the confirmation of CPO powers.
- 6.11 Under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) the Council, if authorised by the Secretary of State for Communities and Local Government, has the power to acquire land compulsorily where it thinks that the acquisition will facilitate the development, redevelopment or improvement of land. Section 226(1A) provides that the Council may only use this power if it thinks that doing so will contribute to the achievement of the economic, social and environmental well-being of the area. Members must therefore address these questions when deciding whether to authorise the use of the CPO powers. Members are again referred to the draft Statement of Reasons at Appendix 2, which explains the justification for the use of the CPO powers.
- 6.12 Also, under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 the Council is able to acquire new rights over land. Members will see that there are areas of land shaded blue on the plan at Appendix 1, which identifies the land which is not needed permanently for the development, but which are needed for the purposes of access, crane oversailing and to carry out works.
- 6.13 The Secretary of State will only confirm the CPO if he is satisfied that there is a compelling case in the public interest to do so. The draft Statement of Reasons at Appendix 2 is of direct relevance to members in this regard.
- 6.14 The Development Partners and the Council have been in discussions with those whose land and interests are required. Indeed, the Development Partners are under an obligation to do so in the CPO Indemnity Agreement. Efforts to acquire the land and interests by agreement will take place, but it is

clear that without the use of CPO powers it will not be possible to acquire all of the required land and interests within a reasonable timeframe.

- 6.15 Those who wish to object to the CPO may do so and are entitled to be heard at a public inquiry held to consider the case for, and the objections to, the CPO. Those whose land and interests are acquired will be entitled to compensation calculated on the basis of legislation and related case law known as the “Compensation Code”.
- 6.16 Consideration must also be given to the interference with rights protected by the Human Rights Act 1998, including Article 8 (respect for private and family life and home), and Article 1 (the right to peaceful enjoyment of possessions) of the European Convention on Human Rights. A decision to make a CPO must strike a fair balance between the public interest associated with the regeneration of the land and the interference with private rights. With the implementation of relocation strategies; the attempts to acquire by agreement; the fact that parties will receive fair compensation under the “Compensation Code”, and the fact that there is a compelling case in the public interest for the exercise of the Council’s CPO powers, it is considered that the interference with the private rights of those affected that would be the inevitable result of the exercise of compulsory purchase powers conferred by CPO1 would be lawful, justified and proportionate. The draft Statement of Reasons, at Appendix 2, also addresses the balance that must be struck in this respect.
- 6.17 Though the Council anticipates the willing co-operation of tenants living in Whitefield Estate it may need to rely upon the Ground 10A provisions to obtain possession of the existing homes in order to enable the regeneration to proceed. Ground 10A permits a local authority to obtain possession orders to enable a redevelopment to proceed which has been approved by the Secretary of State in accordance with Part V of Schedule 2 of the Housing Act 1985.
- 6.18 The Secretary of State will only provide his approval under Part V where the local authority serves written notice on the affected secure tenants stating:
  - (a) the main features of the scheme;
  - (b) that the local authority intends to apply to the Secretary of State for his approval of the scheme;
  - (c) the legal effect of such approval in particular the ability of the local authority to rely on Ground 10A in possession proceedings.
- 6.19 Part V requires a local authority to allow the secure tenants to make representations to it about the proposal. The period for consultation must be no less than 28 days from the date of the notice provided to tenants.
- 6.20 Prior to making the application to the Secretary of State the local authority must consider the representations made to it by the secure tenants.
- 6.21 Part V consultation will commence shortly once the Development Partners have selected the preferred Registered Provider. However, officers have been regularly consulting with the Whitefield Steering Group and the Development Partners and Council officers have consulted with residents at

Whitefield Public Open Meetings on the scheme proposals and on the process to select a Registered Provider.

- 6.22 Section 138A and Schedule 5A of the Housing Act 1985 as inserted by section 182 of the Housing Act 2004 empowers the Council to serve initial demolition notices to suspend the right of secure tenants to exercise their Right to Buy and service of final demolition notices to terminate the right of a secure tenant to the Right to Buy. These notices must be served in accordance with the statutory provisions in order for them to be effective.
- 6.23 Council Constitution, Responsibility for Functions paragraph 6.1 states that “Any Committee may decide to report on any matter to Council. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions”
- 6.24 Council Constitution, Responsibility for Functions, Annex A – sets out the terms of reference of the Assets, Regeneration and Growth Committee which is to:
- “Oversee major regeneration schemes – including those of key housing estates”; and
  - “Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.”
- 6.25 Council Constitution - Management of Asset, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop appropriate change of use of, or dispose of assets within its Asset portfolio.

### **Risk Management**

- 6.26 The key risks can be summarised as follows:
- 6.27 Affected parties failing to be identified in the CPO – a specialist land referencing firm, TerraQuest, have been appointed to undertake the land referencing exercise to mitigate against this risk. The discussions being held by the Development Partners with those affected when seeking to acquire their land and interests also help to identify the parties with interests in the area.
- 6.28 The preparation of a CPO and related documents is a technical and complex area, carrying a risk of challenge. However, the Council has retained experienced and expert external legal advice and the documents have been reviewed by leading counsel.
- 6.29 The cost of preparing the CPO for the land around the shopping centre and the Critical Infrastructure. Through the Property Development Agreement and the CPO Indemnity Agreement, these costs fall on the Development Partners and may be the subject of security. As such, the Council is protected.
- 6.30 There is a risk that owners and occupiers will seek sums in excess of the



estimates for the costs of land acquisition. This risk has been mitigated through the receipt of professional valuation advice and the setting of appropriate budgets. An uncapped indemnity has been provided to the Council by the Development Partners through the CPO Indemnity Agreement.

- 6.31 There is a small risk that the Secretary of State consents could be refused. Lands will not be disposed of until all necessary consents are in place. If necessary the scheme would be revised and new consents would be sought

### **Equalities and Diversity**

- 6.32 The public sector equality duty under section 149 of the Equality Act 2010 (“PSED”) requires the Council to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. ‘Protected characteristics’ are: gender, race and disability, sexual orientation, age, religion or belief, pregnancy and maternity and gender reassignment.
- 6.33 The Council is committed to improving the quality of life for all and wider participation in the economic, educational, cultural, social and community life in the Borough.
- 6.34 The development proposals for the BXC scheme will make a significant contribution to the provision of additional, high quality affordable housing units in the Borough as well as providing employment through the creation of a new town centre with leisure, health and educational facilities. The delivery of the Thameslink Station will enhance public transport provision and improve accessibility and provide greater choice for all. It should be emphasised that a fully integrated and accessible town centre will be created as part of these proposals.
- 6.35 An Equalities Impact analysis was carried out in respect of the Outline Planning Application granted in 2010, which took fully into account the demographic makeup of the regeneration area and addressed the impact on the protected characteristics. This anticipated a significant positive impact from the regeneration proposals.
- 6.36 BXC is an opportunity to extend Barnet’s success as a desirable and attractive suburb, by creating a new urban village for London which sets the tone for future evolution of the borough more widely and emphasises the need to create a place that makes residents, workers and visitors feel good – inviting people to meet and spend time in the spaces, and to walk or cycle.
- 6.37 Importantly, the requirements highlight that BXC will be place for people of all ages, with housing mix that reflects different life stages, a range of housing tenures, and public spaces which are accessible to all. It emphasises that promoting health and wellbeing and reducing dependency will be ingrained in

the place.

## **Consultation and Engagement**

6.38 Extensive consultation has and will continue to be undertaken with key stakeholders and the community to ensure that the BXC scheme reflects local needs including the needs of those with protected characteristics, as well as securing the future of North London's only regional shopping centre.

6.39 There has also been consultation and engagement with local stakeholders and the community during the planning process, and the CPO process is designed to allow parties an opportunity to make representations and, if desired, attend a public inquiry and state their cases.

## **7. BACKGROUND PAPERS**

7.1 Cabinet, 26 April 2004 (Decision Item 8) – approved the adoption of the Cricklewood, Brent Cross and West Hendon Development Framework as Supplementary Planning Guidance.

7.2 Cabinet, 29 March 2005 (Decision Item 6) – agreed to enter into a Collaboration Agreement with the development partnership (Cricklewood Regeneration Limited, Hammerson and Standard Life). [<http://barnet.moderngov.co.uk/Data/Cabinet/200503291900/Agenda/Document%204.pdf>]

7.3 Cabinet, 5 December 2005 (Decision Item 7) – approved, amongst other matters, that 1) the Eastern Lands Addendum be adopted as Supplementary Planning Guidance; and 2) the Eastern Lands Supplementary Guidance is incorporated into the Cricklewood, Brent Cross and West Hendon Development Framework. [<http://barnet.moderngov.co.uk/Data/Cabinet/200512051900/Agenda/Document%204.pdf>]

7.4 Cabinet Resources Committee, 25 March 2008 (Decision Item 16) – approved the outline terms so far agreed with the Brent Cross partners and Cricklewood Redevelopment Limited, including the proposals for the finalisation of the financial terms, be approved in principle subject to the outcome of Counsel's advice on procurement issues, and that the finally agreed terms for the Development Framework Agreement and the Principal Development Agreements be reported to a future meeting of the Cabinet for approval. <http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/200803251900/Agenda/Document%2015.pdf>

7.5 Cabinet, 21 October 2009 (Decision Item 7) – approved the terms and conditions of entering into the Development Framework Agreement and the Principal Development Agreements, subject to approval of the Brookfield Europe and Hammerson Guarantor companies by the Director of Finance and the Leader of the Council, and the approval of the appropriate land transaction and financial arrangements by the Secretary of State. The approval was also

subject to agreement of the plans, the historic costs and the form of the legal documents.

<http://barnet.moderngov.co.uk/CeListDocuments.aspx?Committeeld=120&MeetingId=306&DF=21%2f10%2f2009&Ver=2>

- 7.6 Cabinet Resources Committee, 19 October 2010 (Decision Item 5) – approved the changes to the terms and conditions of the Development Framework Agreement and the two Principal Development Agreements regarding Brent Cross Cricklewood (as considered and approved by Cabinet in October 2009)  
[<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201010191900/Agenda/Document%203.pdf>]
- 7.7 Cabinet Resources Committee, 18 April 2013 (Decision Item 14) - noted that the Brent Cross Cricklewood Development Partners wished to modify the existing planning consent to allow re-phasing; approved that the Director for Place begin preparations to enable the Council to procure a development partner to deliver the regeneration of the southern parts of Brent Cross Cricklewood Regeneration Area and confirmed the continued appointment of the external advisors for the Brent Cross Cricklewood Regeneration project, and the procurement of appropriate additional advice, and to delegate authority to the Director for Place to deal with necessary contractual issues or arrangements.  
[<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=8369&ISATT=1#search=%22Brent%20Cross%20%22>]
- 7.8 Cabinet Resources Committee, 16 January 2014 (Decision Item 6) - approved the changes to the terms of the Brent Cross Principal Development Agreement (as considered and approved by CRC in October 2010) and the terms for the Co-operation Agreement as set out in Section 9 of this report; authorised the Chief Executive in consultation with the Leader of the Council to agree the detail of the Brent Cross Principal Development Agreement and Co-operation Agreement; approved commencement of market testing through the issue of a Prior Information Notice to inform the delivery strategy for the Brent Cross Cricklewood South area; and approve that the Council enter into negotiations with landowners to acquire land required in advance of any Compulsory Purchase Order, subject to approval of the bid for capital funding by Cabinet on 25 February 2014; and approved that the Council continue the design and development work to develop the business case and funding strategy for delivery of the Thameslink Station, subject to approval of the capital funding bid by Cabinet on 25 February 2014; and delegate authority to the Strategic Director for Growth and Environment to procure the necessary advice and consultants to progress the Brent Cross project workstreams and deal with the related contractual issues and arrangements.  
[<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=12505&ISATT=1#search=%22Brent%20Cross%20%22>]
- 7.9 Assets, Regeneration & Growth Committee, 8 September 2014 (Decision Item 10) – approved the appropriate Chief Officers be authorised to negotiate and enter into agreements to acquire by private treaty the land and interests and;

to approve and enter into agreements and undertakings with the owners and/or occupiers of the land in the said areas so as to facilitate its acquisition.  
<http://barnet.moderngov.co.uk/documents/s17302/Brent%20Cross%20Cricklewood%20-%20Report.pdf>