

	<h2>Housing and Growth Committee</h2> <p>27/1/2020</p>
Title	Compulsory purchase of properties at Colindale Avenue, NW9
Report of	Chairman of Housing and Growth Committee
Wards	Colindale
Status	Public
Urgent	No
Key	Yes
Enclosures	<i>Appendix 1 – Colindale Station Red Line</i> <i>Appendix 2 – Colindale Station Eqs</i>
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Summary	
<p>This report seeks authority to make a Compulsory Purchase Order (CPO) in respect of a non-Council owned residential properties at 167 -173 and 1- 6 Agar House Colindale Avenue, together with car park and electricity substation to the rear and will be promoted using statutory powers under the Town and Country Planning Act 1990.</p> <p>The use of the Compulsory Purchase Order will be an option of last resort and will only be utilised where third party interests cannot be acquired through private treaty negotiations.</p>	

Recommendations

That the Committee agrees to;

1. authorise the Deputy Chief Executive (DCE) or other Chief Officer as delegated by the DCE to negotiate complete and sign a Compulsory Purchase Order (CPO) Indemnity and Development Agreement to ensure Transport for London (TfL) indemnify the Council for the full financial costs of the preparation, making, confirmation, and implementation of a CPO in respect of the properties, including Counsel's and back - dated professional fees.

- 2. authorise the making of and (if unopposed) the CPO for the Properties;**
- 3. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to issue and sign all orders, notices and certificates in connection with the making, confirmation and implementation of the CPO; including the signing, issuing and serving of referencing and requisition for information notices;**
- 4. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to make General Vesting Declarations (GVDs) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or to serve Notices to Treat and Notices of Entry (if required) following confirmation of the CPO;**
- 5. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to issue and serve any warrants to obtain possession of property acquired by the Council following the execution of a GVD or service of a Notice of Entry relating to the CPO if it is considered appropriate to do so;**
- 6. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to transfer all properties and proprietary interests acquired pursuant to the CPO to the relevant Development Partners in accordance with the terms of the CPO Indemnity and Development Agreement signed pursuant to 1 above.**
- 7. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to take any further necessary actions to secure the making, confirmation and implementation of the CPO;**
- 8. that the Deputy Chief Executive or other appropriate Chief Officer be authorised to appropriate to planning purposes any parcel of land within the red line planning application boundary plan for the scheme and/or the proposed CPO Plan (attached – Appendix 1) which is held by the Council for another purpose subject to obtaining any necessary statutory consents and/or compliance with any statutory procedures for such appropriation.**
- 9. that the Deputy Chief Executive or other appropriate officer be authorised to agree any compensation with those affected parties and to enter into any settlement/compromise Deed as may be needed to secure the withdrawal of objections to the CPO.**

1. WHY THIS REPORT IS NEEDED

- 1.1 As set out in this report, TfL has been actively engaging with the owners/occupiers to acquire the properties by private agreement and this will continue throughout the CPO process. However, at this stage, TfL haven't acquired any properties by Private Treaty. The above resolution is sought to authorise officers to begin work on the CPO process and carry out the usual preparation and pre-making of CPO actions. It is also hoped that the resolution will assist in negotiations to acquire the properties by Private Treaty.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The regeneration of the Colindale Area is a key priority for the Council. This is set out in policies from the Adopted Core Strategy 2012 and within the associated Colindale Area Action Plan. The planning application site is within the Colindale/ Burnt Oak 'Opportunity Area'(see below). A CPO is required to provide certainty with regard to site assembly in order to deliver the benefits of regeneration to Colindale Station and the wide area. Without a Compulsory Purchase Order as a "backstop", it would be very difficult to assemble the whole site through private treaty negotiations.

3. BACKGROUND

- 3.1 The London Plan 2008 originally identified Colindale as an "Opportunity Area". This designation has been carried forward in the London Plan (2016) and the planning application site is within the Colindale/ Burnt Oak 'Opportunity Area'. The Colindale Area Action Plan (CAAP) was adopted by Barnet in 2010. The site falls within the 'Colindale Avenue Corridor of Change' (Policy 4.1).
- 3.2 The Barnet Core Strategy 2012 was adopted after the CAAP but references it at paragraph 1.3. 3.2. The CAAP, is a statutory planning document which forms part of the Barnet Local Development Framework. It provides policies and guidance to be used in the consideration of development proposals in Colindale, and is a material consideration in the determination of planning applications in the CAAP area.
- 3.3 The purpose of the CAAP is to ensure that development in Colindale takes place in a balanced and co - ordinated manner by setting out a comprehensive framework to guide, over the next 10 to 15 years, the delivery of housing, employment, leisure, associated community facilities, infrastructure, transport initiatives, and environmental enhancement.
- 3.4 Colindale is identified in the London Plan as an Opportunity Area and the CAAP provides a framework within which 10,000 new homes, a new heart for the area to provide retail, commercial and community facilities, 1000 jobs and significant public transport and highways improvements will be delivered.
- 3.5 The CAAP ensures that growth in Colindale is focused around an accessible and attractive new neighbourhood centre that serves the everyday needs of local people combined with an exciting transport interchange at Colindale underground station. To respond to this Colindale avenue itself will undergo significant changes, to support the creation of a traffic – calmed, mixed use boulevard providing a range of new retail and residential facilities.
- 3.6 Colindale is currently undergoing intense redevelopment. The existing London Underground Station has been assessed by Transport for London (TfL) as being inadequate to cope with the increased population. Additionally, it currently does not have step free access to the platform.

- 3.7 The Council is working closely with TfL and the GLA to develop the new underground station. To create the required capacity and step free access, the new station is to be re-built over the existing tracks. TfL has indicated that it considers this to be better value for money than a refurbishment of the existing station.
- 3.8 The Colindale Station Supplementary Planning Document (SPD) was adopted by the Council in February 2019. The document sets out an approach for delivering a new station, with step free access and increased capacity as well as a residential, mixed use proposal. The new station will be equipped to serve anticipated population growth in the area. Specifically, the SPD;
- Establishes the policy and design context
 - Provides supplementary detail to existing policy
 - Explains how development will be delivered
 - Engages all existing stakeholders
- 3.9 In February 2019, TfL submitted a hybrid planning application that was approved by the Council's Planning Committee on 24th July 2019. The benefits include:
- a new station with increased capacity, step free access to and from platforms;
 - 313 new residential homes within 3 new tower blocks, (of which 130 units will be in the 3rd tower block located on the site of the 10 Properties/rear car park);
 - 46% of the new homes will be affordable, although only 8% of the total number of units (25 units) have been offered at London Affordable Rent, the remaining as shared ownership
 - Improved public realm;
 - 855 sq.m of floor space for A1/A2/A3/A4/A5 and D1/D2 uses
- 3.10 The planning application site comprises;
- Colindale Underground Station and associated infrastructure;
 - A retail unit fronting Colindale Avenue (located within the existing ticket hall building);
 - A surface car-park providing 25 car-parking spaces; and
 - 167 – 173 Colindale Avenue and flats 1- 6 Agar House, Colindale Avenue with the rear car park and sub-station.
- 3.11 TfL are the freehold owners of the existing station, retail unit, and surface car park. However, there is land currently in private ownership which is required to complete the proposed residential elements of the scheme. This land includes 167-173 Colindale Avenue, 1-6 Agar House and the car park and electricity sub- station at the rear of Agar House.
- 3.12 TfL have now appointed consultants, Avison Young, to commence Private Treaty negotiations with the existing owners

4. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 4.1 Limiting the project boundary only to land currently controlled by TfL would likely mean building a single building on the site of the existing ticket hall. Issues would arise surrounding the mix of tenures within the single building, as well as site servicing and complications of constructability. As the footprint of the carpark on the other side is too small to provide a viable housing floorplate of 5-6 units per level this would reduce the scheme to just the West Block equating to a 168-unit scheme. The other solution would be an overbuild or over-station development scheme (OSD) which has already been ruled out.
- 4.2 An OSD was ruled out due to funding, and programme complications arising from design coordination and construction sequencing. To maximise the amount of time the station would be in operation and to minimise any disruption to commuters, the best strategy was to separate the procurement and construction timelines of the station and residential development by avoiding linked or bridging building infrastructure.

4.3 POST DECISION IMPLEMENTATION

- 4.4 The Council and TfL will agree and sign the CPO Indemnity and Development Agreement and LBB will commence the detailed preparation for the CPO implementation, TfL have commenced the process of procuring a development partner to take forward the residential development. Although not required to make the CPO, a Reserved Matters Planning application will be made in spring 2020 by the selected partner to seek full consent for the residential development.

5.0 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The vision for 2020 expressed within the Council's corporate plan 2015- 2020 expresses the principles of fairness, responsibility and opportunity and the following strategic objectives;

- The council, working with local, regional and national partners, will strive to ensure that Barnet is the place of opportunity, where people can further their quality of life
- where people are helped to help themselves
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer

- 5.1.2 The plan proposes many achievements. Those particularly relevant to this initiative as follows;

- More involved and resilient communities, with residents taking on greater responsibility for their local areas
- There will be a broad offer of skills and employment programmes for all ages

- A clean and attractive environment, with well-maintained roads and pavements, flowing traffic, increased recycling
- A responsible approach to regeneration, with thousands of new homes built and job opportunities created
- Customer services will be intuitive and flexible

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

5.2.1 The cost of re-building the underground station and all related design and associated costs ('Project Costs') is estimated to be £26,514,000. Redrow is the major developer in the area and is currently re-developing the former Peel Centre site which is opposite the underground station. Redrow is making a significant contribution towards the redevelopment costs (£11.284m) by way of a S106 Agreement with the Council dated 23 December 2015. The Council has agreed to pay a total contribution of £2.975m as part of the Colindale Highways and Infrastructure approved Capital programme. TfL will also be providing a financial contribution of approximately £12.28m. In August 2018 the Council signed a funding agreement with TfL. In summary the station Project Costs will be funded from the following contributions:

Source	Funding contribution
Redrow s106	£11,284,000
LBB	£2,950,000
TfL	£12,280,000
Total	£26,514,000

5.2.2 The Council is working in partnership with the GLA and TfL. The GLA and TfL have an agreement whereby all CPO costs including the acquisition costs of the 10 Properties will be met in the first instance by the GLA. All the Council's CPO related costs will be met by TfL via a CPO indemnity agreement between LBB and TfL

5.2.3 The residential development will be funded in full by the development partner selected by TfL

5.3 Legal and Constitutional References

5.3.1 The terms of reference of the Housing and Growth Committee includes responsibility for regeneration strategy and oversee major regeneration schemes, asset management, employment strategy, business support and engagement.

5.3.2 The Council has the power through various enactments to make a Compulsory Order and to apply to the Secretary of State (SOS) for confirmation of the order.

5.3.3 Town and Country Planning Act 1990 Powers

5.3.4 The power commonly used by local authorities is Section 226(1) (a) of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004. The section provides that a local authority shall, on being authorised to do so by the SOS, have power to acquire compulsorily any land in their area if they are satisfied that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. However, the power must not be exercised unless the authority thinks that the development is likely to contribute to the achievement of the economic, social and environmental well-being of the area.

5.3.5 The regeneration of Colindale meets these requirements, as this report explains. The council and TfL have sought early legal advice from Queens Counsel who reviewed the legislation and 2019 HMCLG good practice guidance. He confirmed that there is a more than 50% probability that the SOS will confirm a CPO in relation to the existing properties for the purposes of delivering the development

5.3.6 The third party proprietary interests to be included within the CPO will be set out in the Order Schedule following the completion of the land referencing exercise. However, the plan attached at Appendix 1 shows the proposed CPO boundary. The final boundary of CPO land required may vary from this boundary, but it provides an indication of the affected areas. The CPO Order Land largely comprises residential properties.

5.3.7 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976

This section provides for the acquisition of new rights over land where such rights are not in existence when the order specifying them is made. In order to facilitate the delivery of the development it may be necessary to acquire new rights over the land for purposes such as crane over-sailing. The land over which the acquisition of new rights may be required is not yet confirmed, and will be confirmed following the requisitioning work. However, the plan attached at Appendix 1 shows the proposed CPO boundary. The rights required may fall outside this boundary, but it provides an indication of the affected areas.

5.3.8 In using the enabling powers pursuant to section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, the Council is using the most specific powers available to it for the purposes of the redevelopment of Colindale Station and surrounding area.

5.3.9 Government guidance on the use of compulsory purchase powers is set out in “Guidance on Compulsory Purchase Process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion”

2019 (“DHCLG CPO Guidance”) The guidance states that compulsory purchase orders should only be made where there is a compelling case in the public interest.

5.3.10 In resolving to make this CPO the Council has had full regard to the DHCLG CPO Guidance. The regeneration of the Colindale Station area provides a compelling case for the making of the CPO and will deliver real and tangible social, economic, and environmental benefits: para 3.9 refers and below;

The Development will result in a significant improvement in the quality and capacity of Colindale station, for which there is a clear need;

The Development is needed in order to assist in achieving the delivery of existing and draft London Plan housing targets (including for affordable housing) for the Colindale/Burnt Oak Opportunity Area; the housing stock, in particular affordable housing, will be significantly increased, improving the environmental and social wellbeing of the area. Overall the regeneration project will also include training and employment opportunities for residents within the borough, as well as proposals for improved transport links, improved public realm, improving the economic, social and environmental well-being of the area.

In urban design terms, the Development will:

- significantly enhance the public realm around the station
- result in a more active frontage along Colindale Avenue
- create a better transition between the higher-density development to the west and the lower-density development to the east
- help to achieve a more cohesive identity for Colindale in the light of the levels of development that have taken place, and are still taking place, since the adoption of the AAP;

5.3.11 Human Rights

5.3.12 The Human Rights Act 1998 requires (amongst others) that every public authority acts in a manner which is compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”). The following parts of the Convention are relevant to the Council’s exercise of its compulsory purchase powers:

5.3.13 Article 1 of the First Protocol – the right to peaceful enjoyment of possessions; Article 8 – respect for private and family life and home.

5.3.14 A decision to make this CPO must strike a fair balance between the public interest in the regeneration of the land and interference with private rights. Bearing in mind the fact that the exercise of compulsory purchase powers is a statutory process, the provisions for compensation to be paid to those affected and the compelling case in the public interest for the regeneration of the Colindale Station area, it is considered that the interference with private property rights is necessary, proportionate and strikes a fair balance towards meeting the Council’s objectives.

5.3.15 Those affected by the CPO will be informed and advised of their right to make representations to the relevant Secretary of State, to be heard at a public inquiry and of a fair entitlement to compensation (where applicable) thus ensuring consistency with Article 6: right to a fair hearing.

5.3.16 The Council's Constitution, Article 7 states the functions of the Housing and Growth Committee, includes responsibility for regeneration schemes and asset management.

5.3.17 The Council, Constitution, Article 10 Table A states that the Assets Regeneration and Growth Committee is responsible for authorising all acquisition of land for over £500k.

5.4 Risk Management

5.4.1 A CPO is essential if satisfactory private treaty acquisition of proprietary interests in the Property cannot be obtained. Whilst it is hoped that all interests in the Property can be acquired by negotiation, the Council's vision for the development of Colindale avenue may not be realised if negotiations are not successful. To avoid this potential risk, authority to make a CPO in respect of the properties will be sought in due course.

5.4.2 If a CPO is made and confirmed by the Secretary of State, the Council will be exposed to compensation from the owner of the Properties. If the owners of the Properties object to the making of the CPO the Council may also be exposed to the costs of a public inquiry. An indemnity agreement will be entered with TfL which provides for full reimbursement of Council costs in promoting and implementing the CPO, including all professional fees incurred to date. TfL will also continue their negotiations with the property owners to reach a point whereby the properties can be acquired without the need for CPO powers.

5.4.3 The CPO, when confirmed, ceases to be exercisable after the expiration of three years from the date of first publication of confirmation of the Order. However, it is anticipated that should the CPO be confirmed, it will be implemented as soon as possible in order that the Property can be vested in the Council before being transferred to TfL

5.4.4 There is a small risk that the Secretary of State consents could be refused. Lands will not be disposed of until consents are in place. If necessary the scheme would be revised and new consents sought. In mitigation of this risk the Council sought early advice from Queens Counsel (5.3.4 refers)

5.5 Equalities and Diversity

5.5.1 The Equality Act 2010 places a duty on the Council as follows:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are—

age;
disability;
gender reassignment;
pregnancy and maternity;
race;
religion or belief;
sex;
sexual orientation.

- 5.5.2 This report has considered the Equality Act 2010 and how its proposals are designed to reduce the inequalities of outcome which result from socio-economic disadvantage. The Council is committed to improving the quality of life and wider participation for all the economic, educational, cultural, and social and community life within the borough. This is achieved by pursuing successful regeneration of the Borough's regeneration areas, in this instance Colindale. This benefits all sections of society by directly addressing the shortage of housing in the Borough across all tenures.
- 5.5.3 The Council is aware that within the Colindale Area there may be residents for whom English is a second language. The Council will offer a translation service when sending out CPO literature; additionally, all those affected will be advised to seek independent legal advice so they fully understand the CPO process.
- 5.5.4 All owners and/or residents within the CPO boundary will be affected by the Compulsory Purchase Order. The Council and its partners will endeavour to reduce this effect by extensive consultation. Consultation has and will continue to be undertaken with the residents and wider community to ensure that the Scheme reflects local needs. In this regard, a Partnership Board has been established who meet on a regular basis to discuss the regeneration proposals.
- 5.5.5 Having had due regard to its duty under the Equality Act 2010, the Council is confident that the delivery of the Scheme will contribute towards the social, economic, educational and cultural improvements for existing and future residents of Colindale. It will also increase levels of social inclusion within a mixed and diverse community.
- 5.5.6 An Equalities Impact Assessment(EQIA)was prepared as a supporting document for the Colindale Underground Station Supplementary Planning Document (SPD). The purpose was to ensure the proposed SPD for Colindale Underground Station integrated the best outcome for those affected by spatial development and mitigated any negative impacts, in respect of the protected characteristics defined by the Equality Act 2010.
- 5.5.7 A detailed assessment was undertaken which stated whether the proposals had a direct or indirect impact on groups with protected equality characteristics Furthermore, where a direct or indirect impact was identified an assessment was made how that group of people will were affected.

A further Equalities statement (attached at appendix 2) has been undertaken, focussed on the station re-development, to provide the council with the necessary information to assist in undertaking an EQIA and discharging its Public Sector Equality Duty with respect to both the grant of the planning application and the potential use of CPO powers. Attached to this is Barnet Council's Equalities Impact Assessment Form

5.6 Consultation and Engagement

- Consultation on the development proposals commenced in July 2018 with the Council's initial consultation for the SPD. The following list of key stakeholders was invited to a drop – in meeting to discuss the draft SPD;
- Residents associations
- Religious/spiritual groups
- Schools
- Landowners/developers
- Voluntary/community bodies
- Health bodies
- Business bodies
- Emergency and other organisations
- Ward Councillors

In total 13 people, mainly local residents, attended the drop-in; Further one to one meetings were held with residents from within the SPD area

- 5.6.1 This initial consultation was followed up with a six - week statutory consultation period commencing in October 2018 which comprised further drop – in sessions and leaflets/letters sent to 200 households in the immediate area. The SPD was finally approved by the council in February 2019
- 5.6.2 In November 2018 TfL carried out a consultation on its plans for up - grading the station and surrounding area. This formed the basis of the statement of community involvement which was included as part of the hybrid planning application. Consultation was carried out in accordance with national policy guidelines set out in the Government's national planning policy framework. Activities included;
 - Leaflets sent to 11,725 local homes and 160 local businesses
 - Creation of a consultation portal
 - Letter/briefings to local stakeholders and politicians
 - Two days of public exhibition at the RSF museum
 - A total of 242 feedback forms returned, the majority supported the principle of re-development and improvements in the local area
- 5.6.3 In February 2019 TfL submitted a hybrid panning application which was subsequently approved by the Council in August 2019. A total of 2385 local residents were consulted on the planning application by letter on 12.03.2019. The application was advertised in the local press on 21 March 2019 and site notices were put up on site on 21 March 2019. As a result of the consultation,

a total of 45 responses have were received with 41 objections and 4 letters neither supporting or opposing the application. The consultation process carried out for this application was appropriate for a development of this nature. The extent of consultation exceeded the requirements of national planning legislation and the Council's own adopted policy.

- 5.6.4 Consultation has and continues to be undertaken with the owners and occupiers of the properties affected by the CPO as well as the wider community, to ensure that the station regeneration proposals reflect local need. TfL has commenced negotiations to acquire with all affected parties, and this will continue throughout the CPO process. Updates and information will also be available on the Council's web site. In addition, surveyors representing the Development Partners are regularly in contact with those affected, giving them the opportunity to discuss their particular issues or concerns relating to the CPO process.

6.0 Social Value

- The development of Colindale station brings with it with it a range of social value, including;
- Enhancement including new retail and transport opportunities within an area already designated as a local hub
- The creation of large scale local employment and training opportunities in a disadvantaged neighbourhood with disproportionately high levels of unemployment
- Major new housing, highways and other key infrastructure developments

7.0 BACKGROUND PAPERS

- 7.1 <https://engage.barnet.gov.uk/draft-colindale-underground-station-spd>