

	<p>CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 16 December 2020</p>
<p>Title</p>	<p>Brent Cross Cricklewood – Hardships Buybacks and Call Option Agreements (CPO2)</p>
<p>Report of</p>	<p>Deputy Chief Executive in consultation with the Chairman of Housing and Growth Committee</p>
<p>Wards</p>	<p>Childs Hill, Golders Green and West Hendon</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix 1 - CPO1 and CPO2 site boundary Appendix 2 - Hardship Criterion Exempt Appendix 3 - Updated Whitefield Estate PCE (Not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended (as this relates to financial information))</p>
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Summary

This report seeks approval for the adoption of a formal Hardship Criteria in respect of those qualifying residential properties on the Whitefield Estate Part 2 required for the Brent Cross South and falling within CPO2 as shown shaded in pink on the plan (Appendix 1). Where property owners meet the hardship criteria as set out in the criteria, authority is sought to accelerate the purchase of these properties.

The report also confirms the decision of the Deputy Chief Executive to enter into call option agreements with property owners on the Whitefield Estate for the purchase of those properties required for the Brent Cross South and falling within CPO 2, as authorised by the Assets Regeneration and Growth Committee on the 8 September 2014.

Decisions
1. Where leaseholders meet the Hardship Criteria (Appendix 2), to confirm that the Deputy Chief Executive having consulted with the Chairman of the Housing and Growth Committee may authorise on behalf of the Council the acquisition of all the estate and interest held by each qualifying individual leaseholder on the Whitefield Estate Part 2 (“the Estate Rights”) in Brent Cross South (CPO2) at the new market values.
2. That any transactions authorised pursuant to 1 above be effected in accordance with the Heads of Terms as shall be agreed in respect of each property and for each acquisition to be supported by a separate COD.
3. To confirm that the Deputy Chief Executive or such other approved officer be authorised to instruct the preparation of the contracts and other appropriate required documentation for each acquisition in respect of a qualifying leaseholder referred to at 1 above to reflect the Heads of Terms and having regard to the best interests of the Council and to complete the same
4. To confirm that the Deputy Chief Executive be authorised to proceed to acquire on the basis of the use of Call Option Agreements (“the Option”) in such form as shall be agreed having regard to the best interests of the Council and to enter into and complete the same in respect of any of those residential property owners falling within Whitefield Estate Part 2 in CPO2.
5. To authorise residential acquisitions in the Whitefield Estate Part 2 by the Council at the updated market values as specified in the summary PCE as attached in the (exempted) Appendix 3.

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council is prioritising the acquisition of residential freehold and leasehold properties on the Whitefield Estate Part 1 (CPO1) being as those properties/ Estate Rights which are required for demolition first. As a result, the Council is prioritising the use of its financial resources on these interests and at present will only consider acquiring properties falling within Whitefield Estate Part 2 (CPO2) if the property owners are experiencing some form of hardship.
- 1.2 As the regeneration scheme progresses, some property owners falling within Whitefield Estate Part 2 may be experiencing hardship through an inability to sell their homes on the open market whilst achieving their full value. At present the Council is aware of two potential cases but further instances are likely to occur given the period of time until the properties are required which is in 2024. Accordingly, it is considered prudent to introduce formal hardship criteria and to implement an application process to assess cases so to ensure fairness and transparency in the decision-making process. Applicants will need to complete an application form and supply evidence to support their case for hardship, interviews will be conducted to verify circumstances and to collect any further information.
- 1.3 A Hardship Panel comprising representatives from the Council, and Barnet Homes will review the information gathered for each potential case and will determine whether it meets the criteria for approval. To make sure that those who are in the greatest need are provided with assistance.

- 1.4 For cases not approved, the applicant may choose to appeal against the decision. An appeals process will involve the BXC Programme Director undertaking a second review of the case material and any additional information provided by the applicant, to review the decision.
- 1.5 Properties that have been already acquired properties are currently being re-let through the Private Sector Leasing (PSL) scheme which provides properties for homeless families. This approach will continue to be adopted for future acquisitions. These properties are brought up to the required standard and furnished prior to re-letting. The justification for doing this is that these properties can be let to generate a rental income. Where an acquired property has a lifespan of less than 3 years, alternative letting options will be explored and this may include the use of property guardians.
- 1.6 With regards to the Call Option Agreements, these arrangements will allow property owners in Whitefield Estate Part 2 (CPO2) to agree an acquisition price and compensation sums up front. The agreement also set the conditions for any future sale if the option is exercised, which includes an agreed timescale for acquiring the property. It is important to note, that the option agreement will not preclude qualifying homeowner/owner occupier from making an application for a replacement property under the shared equity scheme as this application process will be separate.

2. REASONS FOR RECOMMENDATIONS

- 2.1 As mentioned earlier in the report some property owners are experiencing hardship and need to sell ahead of the date when their property is required for demolition. Through adopting a formal hardship criterion, property owners will have transparency as to how the Council will consider such applications and certainty that the Council will proceed to purchase such interest/s under a normal sale and purchase contract following acceptance of successful hardship applications. An owner can also accelerate the sale of his/her property post exchange of an option agreement if the hardship criteria are met and the Council agrees he/she is eligible.
- 2.2 With regards to the Call Option Agreements, these documents are commonly used when acquiring properties on regeneration schemes as they provide security to the homeowner on the market value and compensation sums and facilitate site assembly They also provide greater certainty to the Development Partners, as it provides a mechanism for them to call for the seller to sell them the property within an agreed timescale that reflects and better manages the project's delivery programme.
- 2.3 The residential acquisitions on the Whitefield Estate forms part of the land acquisition strategy and this land together with other interests are integral to the comprehensive delivery of Brent Cross Cricklewood Scheme.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council could proceed with the outright purchase of properties but it considers that this is not the appropriate approach given the timescale for when the properties are required and the financial resources available to the Council which are being focused on

the priority acquisitions in Whitefield Estate Part 1 (CPO1). This approach being advanced is considered as optimal.

4. POST DECISION IMPLEMENTATION

4.1 Newsteer Real Estate Advisors will continue to negotiate with Estate residents and prepare the Heads of Terms for each property acquisition. Officers will prepare the relevant documentation and HB Public Law will continue to draw up the relevant legal contracts and associated documentation as required for signing to reflect what has been agreed and to complete on these transactions.

4.2 Headline terms for the Call Option Agreements have been proposed to Whitefield Estate Part 2 residents and feedback has been received from appointed consultants. A standard form of call option agreement will be offered to all parties, and once the principal terms are finalised, HB Public Law will finalise the necessary legal documents. In summary, the options will include provisions for:

- (i) The fixing of the compensation payable, which will then be linked to the Land Registry House Price Index to reflect any upward changes in the residential property market. The compensation sum cannot fall below that initially agreed;
- (ii) A minimum notice period of 12 months' being provided to owner occupiers between the Council exercising the option and the owner needing to vacate, with some flexibility allowing the owner to shorten this period;
- (iii) The payment of a non-refundable option fee which will be paid by the Council on entering into the option, with it being deductible from the compensation payment if the option is called upon but which will be retained by the leaseholder if not. The contract will also provide for the return of the option fee if the seller defaults on completing or set against any statutory compensation that may become payable;
- (iv) Preserving an owner's eligibility to make an application for a deferred shared equity property under the shared equity scheme – this will continue to be assessed under the relevant criteria.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The reports to the Assets, Regeneration and Growth Committee describe in detail the ways in which the regeneration of Brent Cross Cricklewood supports the Council's Corporate Plan 2024 as updated. The reports relevant to this decision are included within the background documents.

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

Finance

5.2.1 The approved budget for BXS CPO2 Land Acquisitions is £29.488m. This is fully funded by BXS JVLP through the Project Agreement and CPO Indemnity Agreement completed on 30 March 2020. Actual spend to date is £4.259m. These acquisitions have been separately monitored through the existing Land Acquisitions budget. It is noted that £3.965m of actual spend has already been recovered BXS JVLP with the remaining £0.294m due this month. The current forecast for 2020/21 is £12.752m.

5.2.2 The cases approved by the Panel will be funded by BXS JVLP via the Hardship Agreement, where the Council provides BXS JVLP with a quarterly forecast of CPO2 acquisitions. These are supported by monthly meetings between the two parties. In some cases however, the Council may have to forward fund these acquisitions, as the timings for drawing down funds from BXS JVLP via the Homes England loan facility may be later than the date for completing the property transaction. The Council will recover these funds from BXS JVLP at the earliest opportunity and within the applicable financial year. In any case, each acquisition will be supported by a separate Chief Officer Decision which will be subject to financial due diligence.

Property

5.2.3 The market value of each property is determined by qualified surveyors, and additional payments (in line with the Land Compensation Acts 1961 & 1973 i.e. CPO compensation payments, home and basic loss, disturbance payments, SDLT, etc) are referred to in the agreed Heads of Terms.

5.3 Social Value

5.3.1 The Brent Cross Cricklewood programme will secure wider social, economic and environmental benefits. This is set out in more detail within the relevant sections of the Committee reports included within the background section of this DPR.

5.4 Legal and Constitutional References

5.4.1 The Council's Constitution Article 10 – Table A- Land and Property Transactions Authorisation Delegated Powers – states that any acquisition of a value between £189,330 and £500,000 must be authorised by a Full Delegated Powers Report signed by the Deputy Chief Executive in consultation with the Chairman of the Housing and Growth Committee.

5.4.2 The Council has a range of powers to enter into the legal agreements envisaged by this report, including the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011 to do anything that individuals can do subject to any specific restrictions contained in legislation and Section 111 of the Local Government Act 1972 which provides that a local authority has power to do anything which is calculated to facilitate, or is conducive or is incidental to, the discharge of its functions.

5.4.4 Additionally, the Council has the power to acquire and dispose of land in accordance with Sections 120 to 123(2A) of the Local Government Act 1972, subject to obtaining all appropriate consents and approvals.

5.4.4 The Council is required, notwithstanding that all CPO Orders required for the delivery of the Brent Cross Cricklewood Scheme have been confirmed, to take reasonable steps to acquire interests voluntarily rather than proceed to implement the CPO where possible in line with its duty to treat and to use its CPO powers as a last resort.

5.4.5 The Assets Regeneration and Growth Committee (8 September 2014) delegated authority to the appropriate Chief Officer to negotiate and enter into agreements to acquire by private treaty the land and interests in the areas shown on the plan at Appendix 1 and enter into

agreements and undertakings with the owners and/or occupiers of the land in CPO1 and CPO2 areas so as to facilitate its acquisition' as stated in the recommendation 1(a) of the report.

5.5 Risk Management

5.5.1 Property owners who are experiencing difficulties will need to provide evidence to support their case for hardship. This will help to ensure that only those who meet the criteria are prioritised before others in CPO2.

5.5.2 The BXS Developers will continue to acquire properties by agreement as required and this approach clearly demonstrates the Council's attempts to proactively engage with leaseholders, particularly those who are experiencing some form of hardship as defined in Appendix 2. Also, this approach falls in line with the Council's statutory duty mentioned above

5.6 Equalities and Diversity

5.6.1 The Hardship criterion adheres to Section 149 of the Equality Act 2010. This Act sets out the Public-Sector Equality Duty which requires public authorities and organisations acting on their behalf to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

5.6.1. The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex, and sexual orientation.

5.6.2. The development proposals for the Brent Cross Cricklewood scheme will make a significant contribution to the provision of additional, high quality affordable and private homes 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.

5.6.3. The delivery of the regeneration scheme is being conducted in consultation with the Whitefield Estate Residents. The Development Partners and Council/Re representatives regularly attend the Whitefield Estate Steering Group meetings to keep residents updated on matters. These meetings will continue throughout the duration of the regeneration scheme.

5.6.4. The original outline planning permission (2010) and the Section 73 permission (2013) has an Environmental Statement which includes the socio-economic impact assessment, this aspect is also covered by the Revised Design & Access Statement. An assessment of the socio-economic impact of the scheme is provided within Chapter 8 of ES where it explains the impacts on employment, housing and on the wider economy. Full details of the

assessment are in the Background Papers, paragraph 6.6.

5.6.5. The scheme proposals will contribute to the environmental and social well-being of its area by:

- promoting social inclusion and tackle deprivation and discrimination
- promoting a safe, well-lit and secure environment
- creating sustainable homes (building all homes to lifetime standards and 10% of properties will be wheelchair accessible or easily adaptable for wheelchair users)
- creating a diversity of employment opportunities available and accessible to local people
- improving accessibility to the sites due to the transport improvements and this will increase opportunities in the wider area
- providing a range of transport choices for all users of the site (pedestrian footpaths, cycle lanes, public transport, car access)
- improving the quality of the public realm, there will be a network of streets and squares to create the new town centre.

5.7 Corporate Parenting

5.7.1 None in the context of this report.

5.8 Consultation and Engagement

5.8.1 Extensive consultation has and will continue to be undertaken with the community to ensure that the scheme reflects local needs including the needs of those with protected characteristics.

5.8.2 The Council, Argent Related and L&Q regularly attend the Whitefield Estate Steering Group meeting and residents will continue to be supported through the monthly surgeries organised by the Resident Independent Advisor Service. In light of the Covid-19 pandemic, the Steering Group have been holding virtual meetings, where representatives from the Council, Argent Related and L&Q are in attendance.

6. BACKGROUND PAPERS

6.1 Assets, Regeneration and Growth Committee 8 September 2014, Brent Cross Cricklewood Report, CPO lands
<https://barnet.moderngov.co.uk/documents/s17302/Brent%20Cross%20Cricklewood%20-%20Report.pdf>

6.2 Assets, Regeneration and Growth Committee 3 March 2015, Brent Cross Cricklewood Report – Compulsory Purchase Order 2
<https://barnet.moderngov.co.uk/documents/s21572/Brent%20Cross%20Cricklewood%20Compulsory%20Purchase%20Order%20No.%202.pdf>

6.3 Planning Committee, 21 February 2018 approved RMA to build Plot 12, the location for the replacement home for Whitefield Estate Part 2, comprising 292 residential units, ancillary housing office, flexible retail, café, basement car park and plant
<https://barnet.moderngov.co.uk/documents/s45137/Committee%20Report.pdf>

- 6.4 Assets Regeneration and Growth Committee 12 March 2018, Brent Cross Cricklewood Project Update
<https://barnet.moderngov.co.uk/documents/s45457/Brent%20Cross%20Cricklewood%20Update%20Report.pdf>
- 6.5 Section 73 Application, Environmental Statement Volume 1a, October 2013, Chapter 8
https://publicaccess.barnet.gov.uk/online-applications/files/D148C21CA83573F07E44497AEBD38D64/pdf/F_04687_13-S73_VOLUME_1A_-_ENVIRONMENTAL_STATEMENT-3256411.pdf
- 6.6 Brent Cross Cricklewood Scheme - Whitefield Estate Acquisitions, 1 February 2017
<http://barnet.moderngov.co.uk/documents/s38064/Brent%20Cross%20Cricklewood%20Scheme%20-%20Whitefield%20Estate%20Acquisitions.pdf>
- 6.7 Policy and Resources, 24 September 2020, approved budget spend
<https://barnet.moderngov.co.uk/documents/s60231/Business%20Planning%202021%20to%202025%20and%20Budget%20Management%202021.pdf>

7. DECISION TAKER'S STATEMENT

- 7.1 I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.**

**Cath Shaw
Deputy Chief Executive**

Dated: 16.12.2020

**Approved by Cllr. Richard Cornelius
Chairman of the Housing &
Growth Committee**

Dated: 16.12.2020