

<b>Title of Report</b>	Woodberry Down Phase 4 Compulsory Purchase Order (CPO)	
<b>Key Decision No</b>	CHE S290	
<b>For Consideration By</b>	Cabinet	
<b>Meeting Date</b>	26 February 2024	
<b>Cabinet Member</b>	Cllr Nicholson, Deputy Mayor for Delivery, Inclusive Economy and Regeneration	
<b>Classification</b>	Open with Exempt Appendix	
<b>Ward(s) Affected</b>	Woodberry Down	
<b>Key Decision &amp; Reason</b>	Yes	Result in the Council incurring expenditure or savings which are significant having regard to the Council's budget for the service / function
<b>Implementation Date if Not Called In</b>	6 March 2024	
<b>Group Director</b>	Rickardo Hyatt, Group Director, Climate, Homes and Economy	

## 1. Cabinet Member's introduction

- 1.1. The regeneration of Woodberry Down is well underway. Phases 1 and 2 have been completed, delivering over 2,000 new homes, of which more than 500 are for social rent. Phase 3 is under construction. Phase 4 is the next phase of the regeneration to come forward.
- 1.2. In addition to new homes, the regeneration of Woodberry Down has already delivered a new community centre and library, and new retail and commercial space alongside the provision of three new parks. The proposals for Phase 4 will add significantly to both housing and high quality local infrastructure, for the benefit of existing and new residents. The housing mix will address local housing need with 43% of the proposed 511 units being affordable, of which 41% will be for social rent. 90% of the 511 new homes will be wheelchair adaptable and 10% fully wheelchair accessible. Phase 4 will include a new public square, together with 1,215 sqm new community and commercial floorspace, to form a new 'civic' centre and focus for Woodberry Down. Homes will be designed to high standards of thermal efficiency, reducing energy demand and the risk of fuel poverty. All of

these measures will help to support a thriving community and a more sustainable environment in Woodberry Down.

- 1.3. At its meeting on 28 February 2022 Cabinet gave approval for the following: for the serving of Initial Demolition notices on Phase 4; to award Decant Status to Council Tenants in Phase 4, and for Council Officers to begin the preparation of a CPO.
- 1.4. Since then, the Council has been pre-allocating secure tenants who currently live in the blocks in Phase 4 (Finmere, Keynsham, Kilpeck, Knaresborough, Leighfield and Lonsdale Houses) to a new home in Phase 3, as well as supporting tenants who do not wish to move to Phase 3 to find a new home off the estate.
- 1.5. On 18 July 2022 Cabinet also authorised the buy back of leasehold properties, further to a CPO indemnity being entered into. The CPO Indemnity Agreement for Phase 4 was signed in March 2023. The Council has also therefore been in negotiation with leasehold residents of the Phase 4 blocks in order to purchase the leasehold interests required to allow the regeneration to continue. The Council always seeks to acquire properties through negotiation rather than by compulsorily acquiring the remaining interests, however it is evident that in order to avoid incurring delays to Phase 4 of the Woodberry Down regeneration scheme the Council must be able to use its compulsory purchase powers in order to acquire interests where necessary. This is an approach that has been adopted in previous phases at Woodberry Down and elsewhere. Resident leaseholders are encouraged to remain on in Woodberry Down if they wish, in new homes they can afford via a shared equity offer which is explained below.
- 1.6. Any CPO for Phase 4 will need to be confirmed by the Secretary of State for the Department for Levelling Up, Housing & Communities, who will consider any objections to the making of the Order before reaching a decision.
- 1.7. The Council is committed to continuing to engage with affected residents of all tenures.
- 1.8. I commend this report to Cabinet.

## **2. Group Director's introduction**

- 2.1. The purpose of this report is to recommend that Cabinet agrees to make the London Borough of Hackney (Woodberry Down Phase 4) Compulsory Purchase Order 2024 ("the Order") to acquire the remaining leasehold and freehold interests, interests of secure tenants, and any private rights that may exist over the Order Land, to enable the regeneration of Woodberry Down to continue in accordance with the project programme.
- 2.2. This report contains the relevant documentation required to make the Order. An executive summary of the Order is set out in Section 4 of this report. A copy of the Order Schedule, the Statement of Reasons and the Equality

Impact Assessment report, which has to be submitted to the Secretary of State for the DLUHC for confirmation, are attached.

### **3. Recommendations**

**That Cabinet:**

- 3.1. Approve the draft London Borough of Hackney Woodberry Down (Phase 4) Compulsory Purchase Order 2024 as attached at Appendix 1 ("the Order"), the map identifying the Order Land ("the Order Land") as attached at Appendix 2 and the Statement of Reasons made in support of that Order and attached at Appendix 3 ("the Statement of Reasons") and the Equality Impact Assessment Report attached at Appendix 4.**
- 3.2. Authorise the Group Director of Climate, Homes and Economy, after consultation with the Acting Director of Legal, Democratic and Electoral Services to make any minor changes considered necessary to the Order, the Order Land, or the Statement of Reasons, and to approve the schedules of land and interests to be attached to the Order.**
- 3.3. Authorise the making of the Order under Section 226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act") and authorise the confirmation of the Order if the Council is given the power to do so by the Secretary of State under Section 14A of the Acquisition of Land Act 1981.**
- 3.4. Authorise the Group Director of Climate, Homes and Economy after consultation with the Acting Director of Legal, Democratic and Electoral Services, to issue notices and carry out actions under Section 172 of the Housing and Planning Act 2016 and, where necessary, to enter onto land and carry out surveys of any land which the Council proposes to acquire compulsorily.**
- 3.5. Authorise the Group Director of Climate Homes and Economy after consultation with the Acting Director of Legal, Democratic and Electoral Services and following confirmation of the Order, to publish and serve notice of confirmation of the Order, together with notice of the Council's intention to make a General Vesting Declaration ("GVD"), and to make one or more GVDs (and to serve all appropriate notices in connection therewith) or to serve notices to treat and notices of entry (as appropriate) in respect of the Order Land.**
- 3.6. Authorise the use of powers under the 1990 Act to secure the removal of any apparatus of statutory undertakers or communication code operators from the Order Land shown within the red line in the map in Appendix 2.**

- 3.7. **Authorise the acquisition by agreement of all third party interests in and over the Order Land under Section 227 of the 1990 Act before or after confirmation of the Order and in respect of any new rights required for the development or use of the Order Land.**
- 3.8. **Authorise the Group Director of Climate Homes and Economy after consultation with the Acting Director of Legal, Democratic and Electoral Services to take all necessary steps to override all third party interests and rights over the Order Land under Section 203 of the Housing & Planning Act 2016, and to pay such compensation and costs as is agreed between the parties or determined by the Upper Tribunal (Lands Chamber). This authorisation includes the publication and advertisement of the Order, serving appropriate notices, seeking confirmation of the Order, participation in a Public Inquiry (if required), taking all necessary steps to acquire relevant interests, and any other such steps as deemed appropriate to facilitate the development, redevelopment or improvement of the Order Land or to facilitate the Council's participation in a potential Public Inquiry.**
- 3.9. **Authorise the Group Director of Climate Homes and Economy after consultation with the Acting Director of Legal, Democratic and Electoral Services to enter into agreements and to make undertakings, contracts and transfers on behalf of the Council with third parties with interests in the Order Land.**
- 3.10. **Authorise the Group Director of Climate Homes and Economy after consultation with the Acting Director of Legal, Electoral and Democratic Services to create new rights in favour of the Order Land with parties otherwise affected by the Order in order to secure the withdrawal of objections to the confirmation of the Order, including but not limited to the removal of any land from the Order.**

4. **Reason(s) for decision**

- 4.1. The decision to use compulsory purchase powers will be as a last resort to ensure the continued delivery of the Woodberry Down regeneration programme. A full justification of the need for compulsory purchase powers in order to facilitate the regeneration of Phase 4 is set out in the Statement of Reasons attached to this report at Appendix 3. A summary of key issues has been provided below, although this summary should not be considered a substitute for the full text of the draft Statement of Reasons.

**Order Land**

- 4.2. The Order Land includes:
- Finmere, Keynsham, Kilpeck, Knaresborough, Leighfield and Lonsdale Houses;

- Any rights over the Order Land required for the purpose of constructing and implementing the proposed redevelopment.
- 4.3. The nature of the interests to be acquired include those of leaseholders, freeholders, secure tenants, and any private express or implied rights that may have been granted over the Order Land.
- 4.4. Land referencing to identify all owners, lessees, tenants, occupiers and other interests in the draft Order Land has been undertaken, the details of which are included in the Order Land and schedule contained within the draft Order. The Order Land and the draft Order (which is attached as an exempt appendix due to the nature of the information enclosed) has been compiled on the basis of the land referencing information made available to date and is subject to change. As further information is received, the Council will update the information in the Schedule as necessary.
- 4.5. Exercise of the Council's powers of compulsory purchase will ensure that all private rights, covenants and other qualifying interests by which the Order Land is burdened, details of which are recorded in the Schedule, will be acquired or rendered unenforceable, thereby ensuring there is no impediment to scheme delivery.
- 4.6. Land within the Phase 4 boundary which is not included in the Order Land but is required for the development will be appropriated for planning purposes pursuant to s122 of the Local Government Act 1972 and using s203 of the Housing and Planning Act 2016 to override any interests. The appropriation for planning purposes will require Cabinet approval to be referred at a later date .

### **Description of the proposed development**

- 4.7. The Woodberry Down regeneration is being delivered through a delivery partnership between Hackney Council, Berkeley Homes and Notting Hill Genesis. The scheme is set out in the Principal Development Agreement (PDA). Under the terms of this contract, Hackney Council must assemble the land and provide vacant possession for Berkeley Homes, who is responsible for delivering the development. Notting Hill Genesis takes on the management of all new social and affordable homes delivered through the scheme.
- 4.8. The original masterplan for Woodberry Down was adopted in 2007 and first updated in 2009, allowing for a five phase programme. Phase 1 comprised five 'kick start sites' and delivered a total of 1,433 homes.
- 4.9. In 2012 the masterplan was reviewed in consultation with local residents. The revised masterplan received planning consent in February 2014, with detailed permission for Phase 2, for 670 homes and 550 sqm of non-residential space, and outline permission for the remainder of the

scheme (Phases 3-8), comprising of up to 3,242 residential units, 10,921 sqm of commercial floorspace and the provision of a new open space, highway improvement works to Seven Sisters Road, and an energy centre.

- 4.10. Construction started at Woodberry Down in March 2009, and the first residents moved into their new homes in 2011. So far 2,317 homes have been completed, of which 537 are for social rent and 350 are shared ownership and shared equity. Phase 3 is under construction, with 117 homes for social rent due to complete in autumn 2024 (out of a total 584 homes). The phase will be fully completed in summer 2025.
- 4.11. In 2021, the delivery partners agreed to review the masterplan for the remaining phases at Woodberry Down. The 2014 masterplan was deemed to be no longer implementable as the timescales set in the outline permission for submission of Reserved Matters Applications (RMAs) could not be met. It was envisaged that a new hybrid planning application, with Phase 4 in detail and Phases 5-8 in outline would be developed. There proved, however, insufficient time to progress a hybrid application for Phases 4-8 without delaying the target start on site date for Phase 4. The partners therefore further agreed to bring forward a standalone planning application for Phase 4, with a clear timetable and process in place for agreeing a revised masterplan. This was set out in a Side Letter to the PDA which was approved by Cabinet in July 2022.
- 4.12. In October 2023 a detailed planning application for Phase 4 was submitted as a standalone application. The application is for 511 homes, of which 90 will be for social rent, and 132 for shared ownership/equity. In addition the scheme includes 1,215 sqm commercial or community floorspace set around a new 'central' square, on Woodberry Grove, which is intended to become a 'hub' for the Woodberry Down development.
- 4.13. The review of the masterplan for phases 5-8 is underway and an outline planning application is due to be submitted in Spring 2024.
- 4.14. Berkeley Homes intends to begin development of the Phase 4 site as soon as Phase 3 is complete. Phase 3 is due to complete by mid 2025, and the demolition of Phase 4 is intended to commence in summer 2025.

### **Enabling Powers**

- 4.15. The Acquiring Authority is the local planning authority for the Order Land.
- 4.16. Section 226 of the 1990 Act enables a local authority to acquire land compulsorily for planning purposes. Specifically, Section 226(1)(a) of the 1990 Act authorises a local authority to exercise its compulsory purchase powers if acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement of, or in relation to, the land being acquired.

- 4.17. Section 226(1)(A) of the 1990 Act prevents a local authority from exercising its powers under Section 226(1)(a) unless the local authority can demonstrate that the proposed development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects: the promotion or improvement of the economic, social, or environmental well-being of its area.
- 4.18. The Council is satisfied that the proposed use of compulsory purchase powers will result in the redevelopment of the Order Land in a manner which will bring about social, economic and environmental improvements through the provision of new residential dwellings and ancillary development. It will secure new open market and affordable housing in place of existing poor quality housing, thus securing both quantitative and qualitative improvements to the housing stock within the Borough.
- 4.19. The Acquisition of Land Act 1981 (as amended by the Planning and Compulsory Purchase Act 2004) sets out the process for compulsory acquisition and therefore applies to the Order. The acquiring authority is the Council.
- 4.20. The “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) (“the CPO Guidance”), recognises that the power in Section 226 of the 1990 Act provides a positive tool to help local authorities with planning powers to assemble land and implement proposals in their local plan or where a strong planning justification for the use of the power exists.
- 4.21. Among other things, the CPO Guidance states that land assembly must be in accordance with a clear strategic framework which is founded on an appropriate evidence base, and which has been the subject of consultation. The Council is confident that this is the case for Woodberry Down Phase 4.

#### **Purpose and Justification for Seeking to Compulsory Acquire the Legal Interests in the Blocks and Individual Properties**

- 4.22. Phase 4 is the fourth phase in an eight phase redevelopment programme for the Woodberry Down Estate, with Phases 1 and 2 complete, and Phase 3 well underway. As such it is a critical part of the programme which once developed will unlock the subsequent four phases of the comprehensive regeneration of the estate by providing new social rented homes to assist with rehousing residents from future phases.
- 4.23. In addition the proposals for Phase 4 include a new public square, which will provide a civic hub for the whole of Woodberry Down. The Cultural Strategy, that was submitted as part of the Phase 4 planning application, highlighted the Central Square as being a significant opportunity for the public realm to

reflect the local community and heritage of Woodberry Down through elements designed through a community co-design process.

- 4.24. In economic terms, the proposed redevelopment will deliver a sustainable mix of high quality new properties for outright sale, social rent and shared ownership. The existing properties are very costly to maintain and offer no opportunities for shared ownership. The new affordable homes will be maintained by Notting Hill Genesis, and the properties will be more cost effective for occupiers to heat. The shared ownership/shared equity properties will also provide opportunities for home ownership for existing and local residents who cannot afford to purchase a home outright on the open market. The construction of the development will offer a number of local employment benefits from apprenticeships to work experience placements. Local employment targets will be embedded in the construction contract to ensure the contractor/developer provides these much needed local employment opportunities. Furthermore the new commercial/community floorspace represents opportunities for new local employment.
- 4.25. In social terms, the new development will be of vastly improved design compared to the existing estate and will deliver a mixed and sustainable community. The detailed building designs for the new development will deliver higher quality housing, which is safe and secure, and provides both privacy and defensible space. Buildings will be integrated into the streetscape and safer, more accessible open areas, incorporating play and amenity for all age groups, will be provided. A communal garden with landscaping and play features, will serve all residents of the new blocks, regardless of tenure.
- 4.26. The proposed new development will deliver significant environmental benefits, including high quality, sustainable new housing, using sustainably sourced and recycled materials, alongside well designed public realm. Whilst the new development will be of a higher density than at present, it provides an opportunity to improve the quality of the Estate environment through tree planting, improved landscaping, and substantial cycle parking, creating environmental improvements alongside the social and economic benefits described above. The proposals will also deliver a biodiversity net gain.
- 4.27. The Council has a long and established reputation for large-scale, estate-based regeneration. Over the last two decades it has successfully transformed a number of large, deprived, mono-tenure estates into thriving mixed tenure communities. In addition to Phases 1 and 2 of Woodberry Down, successes include the redeveloped Colville, Holly Street, Haggerston West, Kings Crescent and Tower Court Estates.
- 4.28. The Council holds the freehold of the majority of the Order Land. However of the two hundred properties in Phase 4, fifty six had been acquired on a leasehold basis through the 'Right to Buy' at various locations across the Order Land: at the point when the Council commenced actively seeking to



buy back properties in conjunction with the potential CPO, there were forty one remaining leasehold properties (fifteen having been previously acquired by the Council). The Council seeks to acquire all the necessary interests by private agreement within a reasonable timescale, having already completed or agreed terms on thirteen properties, and with nineteen further offers in negotiation (at the time of writing).

- 4.29. It is recognised that it may not be possible to reach agreement by negotiation in all cases. In such cases the Council will need to exercise its compulsory purchase powers in order to acquire the legal interests of leaseholders and freeholders, as well as any other rights and interests required, together with adjoining roads and any private rights, including the rights of utilities, within the redline boundary of the Order Land as shown on the map. Even if the Order is confirmed, exercising those powers will remain a last resort and negotiations will be ongoing throughout the process.
- 4.30. The Council therefore seeks to make the Order so that it can, if necessary, compulsorily acquire the interests required to enable implementation of the proposed development.
- 4.31. The Council has already successfully acquired a number of leasehold and freehold interests across the estate by negotiation and, on previous phases, by using its powers of compulsory purchase. For the reasons outlined above, failure to acquire the remaining interests in Phase 4 would seriously jeopardise the programme and delivery of the regeneration project. Compulsory purchase powers will enable the regeneration to progress in accordance with a managed programme, providing certainty for site assembly and the implementation of the scheme. This will enable the Council’s regeneration objectives for the Order Land and for the wider Borough to be achieved. The use of compulsory purchase powers is therefore considered by the Council to be necessary and justifiably in the public interest.
- 4.32. It is the Council’s view that there is a compelling case in the public interest to acquire all of the remaining third party interests in the Order Land.

**Re-housing residents**

- 4.33. The table below illustrates the position as at December 2023 regarding the re-housing of secure tenants and the acquisition of leasehold properties in Phase 4.

Table 1 – No. of remaining secure tenants and leaseholders as at 31 December 2023:

Block/Property	Secure Tenants	Leaseholders	Voids/ Non-secure	Other

Finmere House	5	9	31	
Keynsham House	7	8	20	
Kilpeck House	1	9	25	
Knaresborough House	9	2	22	1
Leighfield House	5	5	15	
Lonsdale House	3	2	20	
<b>Total</b>	<b>30</b>	<b>35</b>	<b>133</b>	<b>1</b>

- 4.34. Consultation with residents, stakeholders and the wider community has taken place since proposals for the regeneration of Woodberry Down were first reviewed by Cabinet in November 2002. The Council has sought to encourage all residents to participate in consultation regarding the future of Woodberry Down. Consultation has included steering group meetings, surgeries, site visits and other organised events as outlined in the Statement of Reasons found at Appendix 3 of this report. The representative resident group, the Woodberry Down Community Organisation (WDCO), has been involved in all aspects of the regeneration since the beginning of the project, and has an effective and positive working relationship with all partners.

### **Leaseholders**

- 4.35. At Woodberry Down, the original leaseholder and freeholder offer document was approved at Cabinet in July 2007. This included a range of options such as leasehold swap, shared equity and shared ownership. This document has been updated a number of times since then to reflect changes in legislation and minor amendments in Council policy, and to reflect improvements in the shared equity offer.
- 4.36. The most recent update of the Council's Woodberry Down Leaseholder and Freeholder Options Document was issued in Autumn 2022. The revised document provides a detailed 4 step guide to the buy-back process as well as an explanation of the CPO and related compensation. It offers all resident leaseholders opportunities to remain on the estate through the offer of shared equity in one of the properties newly built as part of the regeneration.
- 4.37. Throughout the regeneration programme, leaseholders in Phase 4 have had the opportunity to participate in consultation events and have been provided with regular updates through community events, WDCO Board meetings, Regeneration meetings involving WDCO representatives (such as the Design Committee and Round Table), and newsletters.
- 4.38. In July 2022 the Council's Cabinet authorised preparation of a CPO, buying back of leaseholder properties and awarding compensation to leaseholders.
- 4.39. The Council's Woodberry Down Regeneration Team has provided regular updates alongside specific information sessions since 2022. In June 2022 a

letter was sent to all Phase 4 leaseholders with an update about the likely next steps in relation to a CPO and buying back properties. Further to Cabinet authority to commence these processes, a 'notification letter' was sent in September 2022, to inform leaseholders that the Council was now actively seeking to buy back properties, commence preparation of a CPO, and was able to pay compensation to leaseholders upon completing buy backs. Three information sessions were held during the autumn, with a presentation and opportunity for questions and discussion. The updated Leaseholder and Freeholder Options Document was also provided to all leaseholders.

- 4.40. The offer of shared equity is where a leaseholder who lives in their property as their only or main residence, is eligible to purchase a share of a newly built flat by investing the equity from their current property together with their compensation paid when the Council buys back their property. The remaining value of the new property, since the new flats have a higher market value than the existing ones, is retained by Notting Hill Genesis. However, unlike with shared ownership, there is no rent to pay on the portion of the property that is not owned by the leaseholder. This enables resident leaseholders who may wish to remain living in Woodberry Down to do so. The shared equity offer is set out in detail in the Options Document, and has been subsequently highlighted and explained in communications to leaseholders. Information and marketing sessions were held in July and August 2023: working with NHG, details of the new properties were provided, to enable leaseholders to understand the options available, and next steps.
- 4.41. On 5 October 2023 a further detailed update letter was sent to all leaseholders advising again on timescales and options and explaining the need to engage prior to pursuing the CPO.
- 4.42. Each of the letters sent to leaseholders took the opportunity to include contact details for relevant staff, and promote the services of the Independent Tenant and Leaseholder Adviser (ITLA), which as well as being contactable by telephone and email, holds twice weekly 4 hour long drop-in sessions. In addition, translation of all materials circulated to leaseholders was offered, and was provided in Turkish as standard. A Turkish translator was also present at all information sessions, due to there being a number of resident leaseholders who are known to be Turkish speaking.
- 4.43. Since the commencement of the buyback process - when the 'notification letter' was sent in September 2022 - the Regeneration Team, working with the ITLA and Acquiring Agent, has made contact with all leaseholders. As of October 2023, 6 properties have been bought back, a further 7 have been agreed and are under legal instruction, and 19 offers have been made. The Regeneration Team and Acquiring Agent are actively and frequently reaching out to individuals as part of the engagement programme.

- 4.44. Of the forty one leaseholders at the start of the Phase, thirteen lived in the properties as their sole or main home, and twenty eight were non-resident, often renting their properties privately. Throughout the engagement with leaseholders tailored information has been provided to resident and non-resident leaseholders, and relevant contact details for non-resident leaseholders has been established, through a combination of existing records, active outreach and the land referencing process. Where a non-resident leaseholder has a tenant, it is their responsibility to keep the tenant informed and to serve the relevant notices. However the Council has also provided communications to all residents living in the blocks, and has shared contact details for the Regeneration Team and Housing Services if private tenants have questions or concerns about their housing circumstances.
- 4.45. As described above, in February 2023 all leaseholders received the Request for Information and Equality Impact Assessment pack, including detailed cover letters providing information specific to resident and non-resident leaseholders. The letter of 5 October 2023 noted above also provided an explanation of the IDN, in addition to the detailed update on the progress of the CPO, options and next steps.

### **Secure Tenants**

- 4.46. Secure tenants in Phase 4 were granted Decant Status in February 2022 following Cabinet approval. Decant Status allows tenants who wish to move away from Woodberry Down to bid for properties off the estate. It also increases their priority for rehousing and entitles them to receive Home Loss and Disturbance payments.
- 4.47. The Woodberry Down Regeneration Team, working with the Council's Decant Team, has undertaken a rigorous and detailed consultation process with secure tenants, including seven drop-in sessions from June 2021, pre-allocation confirmation letters, a secure tenant offer document revised in May 2022 and the phasing document referred to in 8.6 hand delivered in autumn 2022. Secure Tenants are offered a range of re-housing options and assistance with moving, including support and advice from the ITLA. All options have now been agreed with a planned September 2024 move programmed for 30 tenants (3 have left the estate by choice). Each Secure Tenant is allocated to a Decant Officer, who provides a regular point of contact and supports individuals through the allocation and rehousing process.
- 4.48. In February 2023 Secure Tenants received the Request for Information and Equality Impact Assessment pack, with a detailed cover letter providing details specific to this tenure. In autumn 2023 an Initial Demolition Notice (IDN) was delivered to individuals, together with a cover letter explaining the IDN and providing a wider update about the regeneration and CPO.

### **Non-Secure Tenants and Private Tenants**

- 4.49. The Council has engaged in extensive consultation with all residents at Woodberry Down. This has included open meetings and surgeries which have been advertised to, and open to, all residents. The ITLA is available to support and advise all private tenants. As above, the phasing booklet was temporarily delivered to all addresses across the estate.
- 4.50. Homeless applicants placed in temporary housing - non-secure tenants - are supported by the Council's Downsizing and Rehousing Team (DART). DART wrote to all residents in Temporary Accommodation in Phase 4, in February 2023, to inform them that the Council is progressing with the regeneration, and that they would be required to move. The letter provided contact details, and information about the process of finding a new home. These residents are eligible to bid for a Council property, and where successful will be given a Secure Tenancy.
- 4.51. In February 2023 residents in Temporary Accommodation and Private Tenants also received the Request for Information and Equality Impact Assessment pack, as described above, including detailed cover letters providing information specific to these groups, including contact details for the Council's Housing Advice. In autumn 2023 a further letter to update residents in Temporary Accommodation about the progress of the CPO and the IDN was provided.
- 4.52. In respect of private tenants, all communications with leaseholders, who let their property, include reference to it being the leaseholder's responsibility to inform private tenant(s) about the CPO and to serve them with the correct notices. Contact details for the Council's Housing Advice team are provided.

### **Human Rights**

- 4.53. The Human Rights Act 1998 places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest and the use of such powers is proportionate to the ends being pursued.
- 4.54. It is acknowledged that the compulsory acquisition of the Order Land or the creation of new rights may amount to an interference with the human rights of those with an interest in the Order Land. Rights likely to be impacted include the right to peaceful enjoyment of possessions (Article 1) and the right to respect a person's private and family life, their home and correspondence under Article 8 of the European Convention on Human Rights ("ECHR"). Residents whose rights are affected will also have a right to a fair and public hearing under Article 6.
- 4.55. For the reasons outlined in 4.1 of this Report and the Statement of Reasons, the Council considers that the use of compulsory purchase powers to achieve the regeneration objectives for Phase 4 of Woodberry Down is proportionate to any interference with the above rights. Further, there is a

compelling case in the public interest for the redevelopment and therefore for the compulsory acquisition of the interests within the Order Land.

- 4.56. In respect of Article 6, any owner, lessee or occupier of land included in the Order will be notified and may have the opportunity to make representations to the Secretary of State and to be heard at a Public Inquiry before a decision is made as to whether or not the Order should be confirmed, and would in any event have legal rights under the Acquisition of Land Act 1981 to challenge any CPO made on the relevant statutory grounds.

### **Withdrawal of Right to Buy / Demolition Notices**

- 4.57. Initial Demolition Notices (IDNs) have been served on secure tenants in Phase 4 in accordance with the provisions of Section 138a and Schedule 5a of the Housing Act 1985, as amended by the Housing Act 2004, to prevent the Council from having to complete Right to Buy sales of properties within the Order Land. Schedule 5a sets out what must be included in the IDN, including the intention to demolish, the reasons for demolition, and identifying the period within which the landlord intends to demolish. The period set out in the IDN to carry out the demolition of the relevant properties cannot in any case expire more than five years after the date of the service of the Notice. The Council intends to serve Final Demolition Notices at the appropriate time.

### **Planning Position**

- 4.58. A detailed, standalone Planning Application for Phase 4 was submitted to the Council on 9 October 2023 (2023/2371). A decision is due in Spring 2024.
- 4.59. The masterplan for Woodberry Down is currently being reviewed. The original intention was for a hybrid Planning Application to be submitted, with outline permission for Phases 5 - 8 and detailed permission for Phase 4. However due to programme difficulties and a risk of an overall delay to Phase 4 it was agreed that Phase 4 be separated from the masterplan, to allow sufficient time to be given to the detail of the Phase 4 designs. The masterplan Planning Application is currently out for public consultation, and is due to be submitted in spring 2024.
- 4.60. Whilst Phase 4 stands alone from the masterplan, it is consistent with the design principles established for the new masterplan and is proposed in the context of the overall Woodberry Down regeneration.

### **Land Referencing**

- 4.61. The Order will include all occupiers and all interests that are included within the red line area identified on the Map at Appendix 2. All parties with an interest in the land, including tenants and residents in temporary

accommodation, have been written to as part of the land referencing process that precedes the making of the Order and all names and addresses will be included in the Schedule to the final Order.

### **Appropriation of Land for Planning Purposes**

- 4.62. The Council intends to appropriate the Order Land for planning purposes under Section 122 of the Local Government Act 1972 once it is no longer required for its current purpose. The Order Land will then benefit from the operation of Section 203 of the Housing and Planning Act 2016, which overrides existing rights that could prevent the development of the land from proceeding.

### **5. Details of alternative options considered and rejected**

- 5.1. Vacant possession of the Order Land is required in order for the redevelopment to be delivered. Vacant possession can only be achieved by acquiring the necessary leasehold and freehold interests that exist. The Council has and will continue to attempt to acquire these interests by negotiation, however, this may not be possible in all cases. Where agreement by negotiation is not possible the only other option is to acquire the interests through the exercise of the Council's powers of compulsory purchase.
- 5.2. Refurbishment is not an option as the current condition of the properties is generally poor and any refurbishment would be very expensive but still fall short of modern standards. This is detailed in earlier Cabinet reports, in particular the Cabinet Report of 4 November 2002, where 5 options for the Woodberry Down Estate, including demolition, were first put forward. The Council subsequently concluded that the demolition of the Estate and its replacement with modern residential accommodation, was the best and most cost effective option. This is reflected in the Woodberry Down site allocation in LP33, and further supported by building surveys conducted as part of the Phase 4 planning application.
- 5.3. Doing nothing is not an option as failure to secure vacant possession on Phase 4 would jeopardise the ability to realise the full vision of the Woodberry Down regeneration. Phase 4 is crucial to the overall development, by providing a central civic hub for Woodberry Down, with new shops, public space and services. Furthermore delivery of the remaining phases (Phases 4-8) mean that Council tenants in Phases 6 and 7 in Woodberry Down have an opportunity to move into a new home earlier than would be possible if Phase 4 is not delivered. Therefore, the redevelopment is vital in order to complete the wider programme and realise the associated benefits.

## 6. **Background**

### Policy Context

#### **6.1. Sustainable Community Strategy 2018 - 28**

- 6.1.1. Hackney's 'Sustainable Community Strategy 2018 – 2028' sets out a vision for mixed use neighbourhoods which cater to all ages, where residents have access to decent, stable and genuinely affordable housing that meets their needs. The strategy sets out five priority areas, and the regeneration of Woodberry Down, will assist in realising this vision.
- 6.1.2. The first priority creates areas where everyone can enjoy a good quality of life and where the whole community can benefit from growth. The Phase 4 proposals will provide a mix of homes including homes for social rent, shared ownership and shared equity, as well as privately owned homes. This mix provides for a range of needs. A communal garden will be shared amongst all tenures.
- 6.1.3. Priority two relates to enabling businesses and all residents to participate in economic prosperity and community life. The new public square will serve the whole Woodberry Down community, forming a civic hub, with space for shops and/or community space, welcoming to all and supporting the development of a cohesive community. New shops provide an opportunity for local enterprise and employment. Furthermore the construction of Phase 4 will create jobs, training and apprenticeship opportunities for local people, which will allow local residents and businesses to fulfil their potential and enjoy the benefits of increased prosperity.
- 6.1.4. The Sustainable Community Strategy also prioritises environmental sustainability; this is a key part of the Woodberry Down development and further detailed below.
- 6.1.5. The fourth priority of creating an open, cohesive, safer and supportive community will be achieved through the provision of the new square and high quality public realm around the site, together with improved landscaping and integrated opportunities for play.
- 6.1.6. The proposed improvements to the public realm will help create a healthy and safer neighbourhood which is pedestrian, cyclist and child friendly to support the fifth priority relating to promoting healthy and active residents.
- 6.1.7. In addition, the development of the new Woodberry Down masterplan references and strives to meet objectives from a number of Council policies. There is a stream of work to actively engage with young people, ensuring that younger peoples' voices are represented, aligning with the Child Friendly Places policy.



6.1.8. To date, the Woodberry Down regeneration has delivered 887 affordable homes, of which 537 are for social rent. Phase 3 is currently on site and will add a further 117 homes for social rent and 126 shared ownership/equity homes at Woodberry Down. The proposals for Phase 4 provide for a further 90 social rent and 132 shared ownership homes. The on-going delivery of homes for social rent and low cost home ownership helps to meet the need for additional affordable housing in the borough.

## **6.2. Local Plan 33**

6.2.1. MH1 Woodberry Down is the policy within LP33 that identifies Woodberry Down as a regeneration site. This policy includes principles specific to the site, including creating a mixed and balanced community, supporting and enhancing local ecology, improving connectivity, creating high quality public realm and play space, bringing forward new community and retail facilities and improving the quality of the surroundings. The Phase 4 proposal responds to each aspect of this policy.

6.2.2. Phase 4 proposals directly deliver on a number of other policies including within LP33, including LP1 Design Quality and Local Character, LP12 Meeting Housing Needs and Locations for New Homes, LP13 Affordable Housing, LP17 Housing Design, LP54 - 56 dealing with issues of sustainability, including (respectively) Water and Flooding, Overheating and Adapting to Climate Change and Mitigating Climate Change.

## **6.3. Housing Strategy**

6.4. In 2018 the Council published its five-year housing strategy, 'Delivering the homes Hackney needs', in which the long-term housing ambitions for Hackney were set out, based on a borough-wide consultation with residents. Building high quality, well-designed and genuinely affordable new homes was one of the key priorities of this strategy. These Phase 4 proposals will deliver on the relevant actions including increasing genuinely affordable housing, sustainable communities and design standards.

6.5. Ahead of the new 5-year Housing Strategy being published at the end of 2024, the Council has produced a Housing Strategy Position Paper which re-committed to housing and regeneration aims and set out ambitions for the coming year. One of the key themes of this document was 'Delivering the Homes that Hackney Needs'. These Phase 4 proposals will enable more genuinely affordable housing to be delivered in the borough at a time of critical need.

6.6. It will remain a priority to maximise genuinely affordable housing across all tenures and continue delivering well designed homes as the forthcoming strategy is developed next year.

## **Sustainability and climate change**

- 6.7. The regeneration of Woodberry Down will result in a more mixed community, given the mix of new housing being provided, as well as the improved community facilities and shared communal outdoor spaces and public realm.
- 6.8. Specifically in terms of environmental sustainability, a recent (2020) update to the Principal Development Agreement (PDA), which defines the terms of the regeneration brings the sustainability standards of the development in line with national and local policy, through delivering energy efficient buildings which will be connected to the new district heat network, increased biodiversity, high quality public realm with retained and new tree planting, and extensive cycle parking for residents of the blocks.
- 6.9. The high standards of sustainability which are embedded in the Phase 4 application will specifically contribute to the Council's Climate Action Plan (CAP) and are compliant with LP33. The scheme provides a SUDS plan with extensive measures to achieve a water run-off rate equivalent to a greenfield site; construction will include extensive re-use of existing materials and when built the scheme will embed multiple on-site carbon reduction measures including thermally efficient buildings, air source heat pumps (providing 80% of heating for homes) and extensive secure cycle parking for residents. The non-residential space will be built to BREEAM 'excellent' standards, and overall the development will provide a much higher quality local environment with a 15.6% improvement in biodiversity.
- 6.10. A Low Carbon Transition Plan for Woodberry Down has been written, providing a framework for the design of the energy centre being constructed within Phase 3, as well as connections on future phases to low carbon energy sources.

## **7. Equality impact assessment**

- 7.1. The Equality Act 2010 introduced the public sector equality duty. It covers the following nine protected characteristics: age, disability, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sex and sexual orientation.
- 7.2. Before making the Order, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity, and the need to foster good relations between persons who share a protected characteristic and those who do not. It must also discharge its duties during the course of the CPO process.
- 7.3. The Council has conducted an Equalities Impact Assessment which is proportionate to the potential impact of the Order on individuals or

communities. The Council has furthered its duty under the Equalities Act 2010 by preparing and considering the results of an Equalities Impact Assessment which considers the impact of the proposals on those with protected characteristics. This can be seen at Appendix 4.

- 7.4. The Council is committed to improving equality and making the Borough a place for everyone. In practice, this means ensuring all actions taken by the Council contribute to its equality objectives. The CPO process for Woodberry Down Phase 4 needs to ensure positive impacts on equality and diversity and safeguard against any negative impacts arising for those affected.
- 7.5. Hackney has a high level of persons with protected characteristics (under the Equalities Act 2010). It also has high levels of deprivation and overcrowding. It is believed that the regeneration of housing estates, which will provide new, improved housing in a better mix of sizes, improved accessibility and social infrastructure, will improve the quality of life of many residents, and will support the Borough in meeting its duty under the Equalities Act 2010. The CPO process, by allowing the Woodberry Down regeneration scheme to move forward, will help to facilitate this.
- 7.6. The Council has met with all secure tenants living in Phase 4 to discuss their personal circumstances and re-housing preferences. Three tenants opted to move to a property in another part of Hackney, and were supported by the Council to do so. The remaining 30 secure tenants have been pre-allocated a new home, in discussion with the tenant, in the newly built Phase 3. The tenants have had the opportunity to participate in selecting their preferred options for various decor of the new home, including tiles, flooring, and kitchen fittings, via the Tenants Choice offer. This process is in accordance with the Woodberry Down Secure Tenants Offer Document.
- 7.7. The Council has taken a similar approach with leaseholders. In September 2022 an updated Leaseholder and Freeholder Options Document was approved by Delegated Authority granted by Cabinet in February 2022. This document offers the options of shared equity and shared ownership for leaseholders living in the Order land that wish to continue living in the neighbourhood and within the same community, as well as support from the Council for all leaseholders affected by the CPO and the buy back process.
- 7.8. The shared equity offer was improved by the Council and the regeneration delivery partners in 2018, by removing the requirement for any minimum equity share to be invested, thereby making it more accessible to all leaseholders.
- 7.9. Engagement and consultation with all tenants and leaseholders impacted by the regeneration has been open and accessible to all. There are a number of elderly and/or vulnerable tenants affected by the redevelopment proposals, and they have been given additional support and advice by the Council's Housing Support Officer at Woodberry Down. As a result of thorough

engagement across a number of Council teams, including Housing Needs, Decants, and Property Services, as well as the services of the Independent Tenant and Leaseholder Adviser, considerable work has been undertaken to ensure all information is disseminated effectively.

- 7.10. The full Equalities Impact Assessment of the Woodberry Down Phase 4 CPO sets out a baseline of information on the existing residents and the local area. It assesses the impacts of the Order on the different groups affected (leaseholders as well as secure, non-secure and private tenants) and whether the Order could produce disadvantage or enhance opportunity for affected groups or individuals with protected characteristics. It then sets out recommendations to remove or reduce disadvantage for those affected and outlines relevant mitigation strategies.

### **Consultations**

- 7.11. Comprehensive and detailed consultation is an integral part of the delivery of Woodberry Down. Residents, stakeholders and all parties with an interest in the Order Land have been notified of the intention to commence the CPO process.
- 7.12. As part of the wider regeneration programme, Phase 4 has been the subject of regular updates at the WDCO Board meeting, as well as Round Table meetings with the scheme partners. Designs have been developed in close discussion with the Design Committee, which involves Berkeley Homes, the Council, Notting Hill Genesis and six members of WDCO. There have also been numerous consultation events held with residents throughout the regeneration programme.
- 7.13. Since the beginning of the regeneration, WDCO has been involved in all aspects of the regeneration. WDCO was involved with the development of the 2014 masterplan, and supported it, and is closely involved with the development of the new masterplan proposals through the Design Committee.
- 7.14. WDCO receives regular updates about the progression of the CPO and vacant possession. Residents in Phase 4 will be updated on the proposed CPO process through the WDCO Board meetings and the Round Table, as well as direct contact from the Regeneration, Decant and Downsizing and Rehousing Teams, working in coordination. Drop-in and information sessions have also been made available to residents.
- 7.15. In February 2023 a Request for Information pack was sent to all who have an interest in Phase 4, including residents of all tenures as well as non-resident leaseholders. A weekly drop-in over a month was available for anyone who needed support in completing the forms, or to ask questions, as well as contact details for Ardent, who were running the RfI exercise, relevant Council teams, and the ITLA.

- 7.16. The principal mechanisms for notifying residents about the CPO process have been through written communications and through the ongoing individual rehousing consultations and purchase negotiations with tenants and leaseholders respectively. The Council has emphasised that its objective will always be to reach agreement by negotiation wherever possible and that the Council's powers of compulsory purchase will only be used as a last resort.
- 7.17. Further detail regarding the consultation process can be found in the Statement of Reasons in Section 8.

### **Risk assessment**

- 7.18. The Council's powers of compulsory purchase are in themselves an important risk management tool. The authority to use these powers ensures that where negotiations to buy back leasehold interests by agreement have been unsuccessful, the Council can achieve vacant possession in a timely manner and avoid the risk of delay in delivering the Woodberry Down regeneration scheme. Such a delay would have financial and resource implications as well as having a negative impact on the residents of the Estate.
- 7.19. The exercise of CPO powers can be controversial and the Council is managing the potential risk through continued consultation and engagement with affected residents and stakeholders and by taking independent professional advice.

## **8. Comments of the Interim Group Director, Finance**

- 8.1. This report requests authorisation to make a compulsory purchase order for Woodberry Down Phase 4. These properties need to be demolished as part of the Woodberry Down regeneration project. CPO powers will only be used should it not be possible to reach a negotiated settlement.
- 8.2. In total, when Cabinet authorised making Phase 4 'in Phase' and progressing a CPO, there were 41 leasehold buybacks required. As of 1st December 2023, 35 repurchases remain outstanding. The HRA Capital Programme and Business Plan includes the cost of these repurchases and the Council's development cash flow and budget to deliver this phase. The budget includes provision for acquisition of the necessary interests including the making of a CPO.
- 8.3. As set out in sections 1.5 and 9.8.3 Berkeley Homes signed an agreement with the Council in March 2023 to indemnify costs incurred by the Council in connection with the Order, subject to certain conditions being met.
- 8.4. The making of the CPO will require some professional assistance which has been the subject of a procurement, and some legal costs. In total these costs

are not expected to exceed £300,000 and can be met within the approved capital budget.

- 8.5. A delay to the scheme would result in additional cost and the making of a CPO is intended to reduce the risk of any delay to the acquisition of necessary interests.
- 8.6. There are risks in relation to the project as a whole which are common to all large building projects and have been set out in previous reports. The specific risk in relation to making a CPO is that it may be challenged and therefore the reasons and legal background must be carefully prepared.

## 9. **Comments of the Acting Director of Legal, Democratic and Electoral Services**

### 9.1. **Making a Compulsory Purchase Order (“CPO”)**

- 9.1.1. The making of a CPO under S.226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 pursuant to the Mayor Scheme of Delegation is a decision to be made by the Mayor and Cabinet
- 9.1.2. Assembling the land for Phase 4 of the regeneration of Woodberry Down includes the land shown on the Map and the land is known as the Order Land.
- 9.1.3. Section 226 of the Town and Country Planning Act 1990 enables a local authority to exercise its compulsory purchase powers:
  - i. if it considers that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired (S.226(1)(a)); and
  - ii. provided that it considers that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area (S.226(1A)). Cabinet must therefore be satisfied on both counts.
- 9.1.4. The Council is proposing to make the Order for the purpose of facilitating the comprehensive continued redevelopment and regeneration of Woodberry Down.

### 9.2. **Confirmation of a Compulsory Purchase Order**

- 9.2.1. If Cabinet resolves to make the Order, the Order must be submitted to the Secretary of State for confirmation, notified to those persons affected by it, and advertised in the local press.

9.2.2. The Council cannot exercise its compulsory purchase powers until such time as the Order has been confirmed by the Secretary of State.

9.2.3. Following confirmation of a CPO the Council has three years within which to exercise its CPO powers.

### **9.3. Compensation**

9.3.1. It may be possible for the Council to acquire all the legal interests set out in Section 4.2 by negotiation before or after the Secretary of State decides whether or not to confirm the Order. Where the Council uses its compulsory purchase powers to acquire any of the legal interests, compensation will be payable. Compensation may be negotiated between the Council and the party from whom the interest is acquired, but in the event of no settlement being agreed then either party may refer a compensation claim to the Lands Chamber of the Upper Tribunal in order for it to rule on the level of compensation due.

9.3.2. Compensation costs have been included in the budget as noted in 8.2 above.

### **9.4. Duty to re-house**

9.4.1. Section 39 of the Land Compensation Act 1973 places an obligation on the Council to re-house any resident who is displaced from their home by the Council exercising its compulsory purchase powers if no suitable alternative residential accommodation on reasonable terms is available.

9.4.2. The Council has and intends to continue to work closely with all of the residents of the blocks/properties affected to identify suitable alternative accommodation for them. This should reduce the likelihood of a resident being unable to find suitable alternative accommodation on reasonable terms.

9.4.3. If, however, a situation does arise that a resident is unable to find suitable alternative residential accommodation on reasonable terms then case law has held that providing temporary accommodation and placing a person's name on the housing list would be sufficient to discharge the obligation to re-house placed on the Council by Section 39 of the Land Compensation Act 1973.

### **9.5. Human Rights**

9.5.1. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). Specific rights protected by the Convention include, amongst others:

- the right of everyone to the peaceful enjoyment of their possessions, which can only be impinged upon in the public interest and subject to relevant national and international laws;
- the right to a fair and public hearing for those affected by the making of a CPO, including those whose property rights are affected by the same; and
- the right to a private and family life, home and correspondence, which again can only be impinged upon in accordance with law and where such encroachment is necessary in the interest of national security, public safety or the economic well-being of the country.

The above rights would be affected by the use of compulsory purchase powers to acquire land and interests for the purpose of regenerating of Woodberry Down. However, the European Court has recognised that "regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole". Any interference with a Convention right must be necessary and proportionate.

9.5.2. In light of the significant public benefit which would arise from the regeneration of Woodberry Down, and the fact that the known owners and occupiers of the Order Land within the site have been contacted regarding the regeneration and will, should their land be compulsorily acquired, qualify for compensation under the compensation code, the Council has concluded that it would be appropriate to make the Order. It does not regard the Order as constituting an unlawful interference with any individuals' rights under the Convention, including in particular any property rights.

9.5.3. The Council is of the view that there is a compelling case in the public interest that the provision of new residential accommodation and the associated benefits of the scheme outweigh the impact on any private interests in the Order Land. It also believes that the use of compulsory purchase powers to achieve its regeneration objectives for Woodberry Down and the Borough more widely are proportionate to any potential interference with human rights.

## **9.6. Overriding Existing Rights**

9.6.1. Section 203 of the Housing and Planning Act 2016 authorises the erection, construction or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes if it is done in accordance with planning permission, even if it involves interference with an existing interest or right.

9.6.2. The effect of this Section is to ensure that where land is owned by a local authority and held for planning purposes then existing rights, which could prevent the development of that land from proceeding, can be overridden. Compensation may be claimable in respect of such rights when they are overridden.



9.6.3. The statutory provision has effect whether the development is undertaken by the local authority or a person deriving title from them. Accordingly, the Council's development partner will benefit from the operation of Section 203 as well.

## **9.7. Appropriation of Land for Planning Purposes**

9.7.1. In order for Section 203 to apply to all of the land required for Phase 4 of the regeneration of Woodberry Down, the land must be held for planning purposes. It will therefore be necessary to appropriate the Council's freehold interest in Phase 4 for planning purposes under Section 122 of the Local Government Act 1972 before the construction of the new development commences. The appropriation for planning purposes will be referred to Cabinet to resolve.

## **9.8. Principal Development Agreement (PDA)**

9.8.1. The PDA entered into on the 28 May 2010 between the Council, Berkeley Homes (North East London) Limited and Paddington Churches Housing Association, as amended by a First Deed of Variation made 28 February 2011, a Second Deed of Variation made 12 November 2014, a Third Deed of Variation made 13 November 2017 and a Fourth Deed of Variation made 4 December 2020 made between the same parties, obligates Berkeley Homes to provide an indemnity for the costs incurred by the Council in connection with a CPO, once a trigger date has been reached.

9.8.2. Under the terms of the PDA, the Council enters into a CPO Indemnity Agreement (CPOIA) further to planning consent being achieved and a successful (or waived) post-planning viability test (an agreed form of the CPOIA is included in Schedule 7 of the PDA). This trigger point is expected to be reached in spring 2024. However Berkeley Homes are targeting an start on site for Phase 4, which would require the Council to achieve Vacant Possession by June 2025.

9.8.3. As this would not allow sufficient time to achieve all of the leaseholder properties, the Council and Berkeley Homes therefore agreed to enter into a variation to the agreed form of the CPOIA for Phase 4 which allowed the programme for vacant possession to be brought forward.

9.8.4. However, Berkeley Homes is not required to repay the CPO costs to the Council until the Plot Unconditional Date for Plot 4 has been reached (i.e. for Phase 4), which is when the latest of the following has taken place:

- (a) a Satisfactory Planning Permission has been granted;
- (b) the Title Condition has been satisfied for that Phase;
- (c) Vacant Possession has been secured for that Phase; and

- (d) the Post Planning Viability Test for the relevant Phase showing that the Phase is Financially Viable or is deemed viable in accordance with the terms of the agreement has been carried out

### **Appendices**

**Appendix 2:** draft map showing the Order Lands

**Appendix 3:** Statement of Reasons

**Appendix 4:** Equality Impact Assessment report

### **Exempt**

**Appendix 1:** draft CPO Order and Schedule

By Virtue of Paragraph(s) (1) and (2) Part 1 of schedule 12A of the Local Government 1972 this appendix is exempt because it contains information relating to an individual and information which is likely to reveal the identity of individual and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Background documents**

None

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