

	<p>Assets, Regeneration and Growth Committee</p> <p>15th December 2014</p>
<p>Title</p>	<p>Grahame Park Regeneration, Compulsory Purchase Order, Ground 10A and Related Consents</p>
<p>Report of</p>	<p>Lead Commissioner, Enterprise & Regeneration Director of Place, Re</p>
<p>Wards</p>	<p>Colindale</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Annex 1 – Plan showing the extent of Stage B Annex 2 – Plan showing the extent of Stage A and the Concourse Phase Prioritised Decant Area</p>
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Summary
<p>This report seeks necessary authorisations to progress the project including a resolution in principle to the exercise of compulsory purchase powers, Ground 10A possession proceedings and related consents</p>

Recommendations
<p>That the Assets, Regeneration and Growth Committee:</p> <ol style="list-style-type: none"> 1. resolve in principle the exercise of compulsory purchase powers (by the making of up to three separate compulsory purchase orders) to secure the delivery of Stage B of the Grahame Park Regeneration Scheme; 2. note that further report(s) will be brought to the Committee at later stages to seek authority to secure the making, confirmation and implementation of up to three separate Compulsory Purchase Orders (CPOs) for the acquisition of third party proprietary interests within Stage B; 3. authorise the appropriate Chief Officer to negotiate and complete a Compulsory Purchase Order Indemnity Agreement to ensure that Choices for Grahame Park (CfGP) and Genesis Housing Association GHA) indemnify the

Council for the full financial costs incurred in preparing, making and implementing the CPO(s).

- 4. authorise the commencement of all preparatory work required for the making of the CPO(s), including (but not limited to):**
 - (a) appointing land referencers to review all relevant proprietary interests with a view to producing a draft schedule and plan for the CPO(s);**
 - (b) the service of requests for information notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 on those who may be affected by the proposed CPO(s);**
- 5. That, the appropriate Chief Officer(s) be authorised to:**
 - (1) advertise the Council's intention to appropriate to a planning purpose any open space lands required to deliver Stage B of the Scheme pursuant to Section 122 of the Local Government Act 1972. In the event that representations are submitted in respect of the notice to appropriate open space these will be referred to the Assets, Regeneration and Growth Committee for consideration and determination; and**
 - (2) appropriate to planning purposes the housing and highways land required to deliver Stage B prior to disposal of such lands;**
- 6. authorise the appropriate Chief Officer(s) to submit an application to the Secretary of State for his consent to the disposal and redevelopment of land within Stage B of the Grahame Park Regeneration Scheme (for the purposes of Ground 10A) pursuant to Part V of Schedule 2 of the Housing Act 1985 ;**
- 7. delegate the service of Initial and Final Demolition Notices to suspend and/or terminate the exercise of the Right to Buy on properties due for demolition (as required for the delivery of the regeneration project), within Stage B, pursuant to sections 138A and 138B and Schedules 5 and 5A of the Housing Act 1985 (as amended) to the appropriate Chief Officer(s)**
- 8. authorise the appropriate Chief Officer to obtain all relevant consents necessary to secure the delivery of the regeneration of Stage B**

1. BACKGROUND INFORMATION

- 1.1** In January 2001 the Council embarked upon a scheme for the regeneration of the Grahame Park Estate ("the Estate") which aimed to transform it into a thriving, mixed tenure community with improved transport links and enhanced community facilities. On 30th January 2007 the Council entered into a Principal Development Agreement (PDA) with Choices For Grahame Park (CFGP) a special delivery vehicle created by Genesis Housing Association (GHA).
- 1.2** On 8 September 2014, officers presented a report to members of this Committee providing an update on the progress made to date on the Grahame Park Regeneration Scheme in addition to setting out a proposal for Stage B of the Scheme. As previously reported, the Scheme is divided into two distinct stages; A and B. Stage A is currently underway and is divided into nine phases. In total, Stage A will deliver 677 homes of which, 325 (48%) will

be residential units for sale on the open market or rent and 352 (52%) will be affordable housing units.

- 1.3 A review of Stage B, undertaken by RegenFirst on behalf of the Council and completed August 2013, identified a significant viability gap and the need for public sector investment. In the March 2014 budget the government announced the establishment of the Estate Regeneration Fund (ERF), a £150 million fund to “kick-start” and accelerate the regeneration of large estates, through fully recoverable loans, helping to boost housing supply. GHA were invited to submit an expression of interest and on 12 September 2014, submitted a major bid relating to the Grahame Park Regeneration Scheme. If successful the funding will:
- enable GHA to obtain a low-cost loan, over a loan period of 20 years secured initially against GHA housing stock elsewhere
 - enable the demolition of the concourse to occur at an earlier date (e.g. estimated start on site 2017/18)
 - need to be expended within approximately four years of award.

Accelerating demolition of the Concourse

- 1.4 In the event that the GHA bid is successful it is proposed that the funding will be directed towards progressing Stage B of the Scheme and in particular accelerating the demolition of the Concourse. It is envisaged that those secure tenants falling within Plots 10, 11 and 12 of the Concourse will be the first to be decanted into the new homes being built on Plots 5 and 6. 55 secure tenants are currently being decanted into Plot 3 (plot numbers are shown on plans attached at Annex 1 and 2)

2 PROGRESSING STAGE B

Compulsory Purchase Powers

- 2.1 As already stated, if successful GHA will have approximately four years within which to expend any funding. In order to advance the demolition of the Concourse, CFGP will require vacant possession of the land. Within the Concourse there are approximately 630 residential units and 31 commercial units of which 25 units are third party proprietary interests (i.e. interests held by parties other than the Council). In the first instance, the Council and CFGP will seek to acquire all third party proprietary interests through private treaty negotiations however, in order to secure the delivery of the Scheme officers are seeking a resolution in principle for the Council to exercise compulsory purchase powers where necessary. The power to compulsorily acquire third party proprietary interests would only be exercised as a last resort in the event that those interests cannot be obtained by private treaty.

Resolution in principle to exercise compulsory purchase powers

- 2.2 Officers are currently working alongside CFGP towards reviewing and revising the masterplan for Stage B of the Scheme. Given the strict timeframe within which the developer will have to expend any monies allocated from the ERF and the fact that the CPO process can take 12 months (or longer in some cases) to complete, the Council will need to commence some background work in the event that it exercises its powers to compulsorily acquire third party proprietary interests. At this stage, officers are seeking a resolution in principle to make up to three separate Compulsory Purchase Orders (CPOs) to secure the delivery of Stage B of the Scheme. Given that the proposals for Stage B are work in progress, the large number of interests to be acquired and the overall proposed delivery timescale, it is practical to consider that a number of CPOs may be required to deliver Stage B as a whole.
- 2.3 It should be noted that officers will seek a specific resolution for the making of each CPO and it is likely that the first such resolution will be sought in Spring 2015. It is not possible to provide members of this Committee with all the relevant information relating to the CPOs as officers are still working towards identifying the land interests required to deliver Stage B. As and when it is necessary to obtain a resolution for the making of a CPO officers will provide members with an update on the scheme proposals which will underpin the order.
- 2.4 Consultants will be appointed to assist the Council with the preparation, making and progression of any CPO. Officers are seeking authority to appoint land referencers to identify third party proprietary interests, and serve appropriate notices.

CPO Indemnity Agreement

- 2.5 The Council will recover the costs incurred in preparing, promoting and implementing the CPO(s) (including the recovery of professional fees), by entering into an indemnity agreement with CFGP and GHA. The Committee is therefore requested to authorise the appropriate Chief Officer(s) to negotiate and complete the CPO Indemnity Agreement on behalf of the Council.

Ground 10A

- 2.6 A successful land assembly exercise is required to deliver Stage B of the Scheme which requires the relocation of existing tenants to suitable alternative premises. In order to relocate the existing secure tenants within Stage B officers will need to consult with residents prior to seeking Secretary of State Ground 10A approval under the Schedule 2 of the Housing Act 1985. Such consent from the Secretary of State will enable the Council to serve notices under the Housing Act 1985 to gain vacant possession of those homes occupied by secure tenants.
- 2.7 Officers are therefore seeking authority to be delegated to the appropriate Chief Officer(s) to undertake the Ground 10A process in respect of Stage B.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 In order to deliver the regeneration of Stage B, CfGP will require vacant possession of the land. Although the Council and its development partner will seek to acquire relevant interests within Stage B through private treaty negotiation, in order to secure the delivery of Stage B within the programmed timescales the use of CPO powers as a last resort will mitigate against any potential risk that it may not be possible to acquire all interests by agreement.

4. IMPLICATIONS OF DECISION

4.1 Corporate Priorities and Performance

- 4.1.1 The regeneration of the Grahame Park estate supports the Corporate Plan priority of 'To maintain the right environment for a strong diverse local economy' and the strategic objective under this priority to sustain Barnet by 'promoting growth, development and success across the borough'.

- 4.1.2 Furthermore the regeneration scheme complies with strategic objectives in the Council's Housing Strategy 2010-2025 which include:

1. Increasing housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents; and
2. Promoting mixed communities and maximising opportunities available for those wishing to own their home.

- 4.1.3 The accelerated programme will also support Barnet's 'Health and Well-being Strategy 2012-2015' through its core value of '*wellbeing in the community*' which is *creating circumstances that better enable people to be healthier and have greater life opportunities*. Central to the programme will be the re-provision of a new health centre to serve the needs of Grahame Park residents and beyond.

4.2 Legal and Constitutional References

- 4.2.1 The Council has the power through various enactments to make a Compulsory Order and to apply to the Secretary of State for confirmation of the order

- 4.2.2 The power commonly used by local authorities is Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended). The section provides that a local authority shall, on being authorised to do so by the Secretary of State, 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.

- 4.2.3 The regeneration of the Grahame Park Estate is a key priority for the Council as identified in the Core Strategy 2012 and will improve the quality of housing stock. Reports seeking authority to make the CPO(s) will provide more information on the statutory power(s) to be used and how the regeneration proposals meet any relevant statutory tests. Subsequent reports will also demonstrate that the Council has had regard to guidance set out in Circular 06/2004 “Compulsory Purchase and the Critchel Down Rules”.

Prior to making the CPO(s) consideration will be given to the provisions of the Human Rights Act 1998 including Article 8 (respect for private and family life and home) and Article 1 of the First Protocol (right to peaceful enjoyment of possessions). Any decision to make a compulsory purchase order must strike a fair balance between the public interest in the regeneration of the land and interference with private rights.

- 4.2.4 The Council has the power (subject to Secretary of State consent) to dispose of land held for housing purposes under Section 32 of the Housing Act 1985. Under Section 123 of the Local Government Act 1972 where the Council intends to dispose of land at less than best consideration it will require Secretary of State consent.

- 4.2.5 The Council requires consent from the Secretary of State under Section 25 of the Local Government Act 1988. This consent from the Secretary of State is required where a local authority is transferring land at nil value for the purpose of amongst other things the acquisition and construction of accommodation which is intended to be privately let as housing accommodation. The Principal Development Agreement includes a condition precedent which stipulates that this consent must be obtained by the Council

- 4.2.6 Council Constitution, Responsibility for Functions, Annex A – sets out the terms of reference of the Assets, Regeneration and Growth Committee which is to

- “Oversee major regeneration schemes – including those of key housing estates”; and
- “Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.”.

- 4.2.7 Constitution - Management of Asset, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop appropriate change of use of, or dispose of assets within its portfolio.

- 4.2.8 It is proposed that, in order to overcome any potential claims of “adverse user” rights arising from the development, Chief Officers be authorised to appropriate such land to planning purposes pursuant to Section 122 of the Local Government Act 1972, (such appropriations will only take place just prior to any transfer of the land to CfGP). Following the appropriation (and

works carried out on the land in accordance with the planning permission) any rights of adverse user will become a compensatable claim.

- 4.2.9 Notice of any intention to appropriate any public open space will be published in accordance with the relevant statutory provisions. Where any representations are received they will be reported to the Committee for further consideration and the decision as to whether to confirm the appropriation will be made by committee members. In the event that the Council does not receive any representations the Committee is requested to authorise the appropriate Chief Officer(s) to confirm the appropriation.

4.3 Risk Management

- 4.3.1 A CPO is essential to enable satisfactory completion of the project. Whilst it is hoped that all outstanding property interests can be acquired by negotiation, the project cannot proceed with the risk that negotiations may not prove successful in all cases and the scheme be brought to halt. To avoid this potential risk to the financial viability of the scheme and its satisfactory delivery officers are seeking a resolution in principle to the making of up to three CPO(s) in order to work towards progressing the redevelopment of Stage B of the Scheme.

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

- 4.3.3 A continuing risk to the viability of the project is the possibility that more secure tenants will exercise the Right to Buy. This leads to increased acquisitions costs. The service of initial and final demolition notices pursuant to the Housing Act 1985 (as amended), will mitigate against this risk by suspending the exercise of right to buy transactions within Stage B of the Scheme.

4.4 Equalities and Diversity

- 4.4.1 Pursuant to the Equality Act 2010 ("the Act"), the Council has a legislative duty to have 'due regard' to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between those with a protected characteristic and those without; and promoting good relations between those with protected characteristics and those without. The Authority has an agreed policy on how it will comply with its obligations. The 'protected characteristics' are gender, age, race, disability, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation. In accordance with this act the Council will be undertaking an Equalities Impact Assessment (EIA) as part of the Supplementary Planning Document.

- 4.4.2 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. This benefits all sections of society by directly addressing the shortage of housing in the Borough across all tenures.

5 Consultation and Engagement

- 5.1.1 Effective resident engagement will be central to the success of the accelerated programme. There is a pressing requirement to engage residents and provide certainty following a period of relative inactivity across the estate as a whole. However this requirement needs to be balanced against a degree of perceived consultation fatigue and scepticism.
- 5.1.2 In addition the various work-streams required to deliver the regeneration (Supplementary Planning Document, CPO, re-housing, Ground 10A etc) all have a requirement for consultation (and/or enable representations to be made). GHA, in full consultation with LBB, will develop a Resident Engagement Strategy to address all these needs.
- 5.1.3 LBB and GHA already engage / consult with residents through the use of newsletters and resident surgeries, to provide information relating to the redevelopment of the estate. The Council has recently strengthened its resources through the appointment of Priority Estates Project (PEP) as the Independent Resident Advisors for the current phase of redevelopment. PEP replace SOLON, the previous advisors.

6 BACKGROUND PAPERS

- 6.1 8th September 2014 ARG Committee Paper – link to Committee Paper:- <http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?Id=5390>