



City of Westminster Cabinet Report

Meeting:	Cabinet
Date:	13 December 2021
Classification:	General Release
Title:	Ebury Bridge Estate Renewal – Compulsory Purchase Order Resolution
Ward Affected:	Churchill Ward
City for All:	<p>The proposed comprehensive renewal of the Ebury Bridge Estate will meet the Council's City for All objectives, including:</p> <ul style="list-style-type: none">• Greener and Cleaner - the scheme will improve the quantity and quality of public realm in the area and will have an emphasis on green technology such as electric vehicle parking spaces and an ambitious sustainability strategy.• Vibrant Communities - the scheme has been designed with the Ebury Bridge Estate community in mind and includes a transparent engagement process with residents at its centre; delivering a range of tenures beneficial to the local residents and relieving overcrowding, as well as improvements to retail and community amenity for the residents and local community alike.• Smart City – Use of up-to-date technology in the management of the new homes and booking of community amenities.• Thriving Economy – creating an environment that unlocks business opportunities, broadens the economic base, and creates jobs for all. Through both Ebury Edge (meanwhile facility) and into the new development leveraging its proximity to Victoria and potential opportunities to attract businesses and enterprise into the area.
Key Decision:	Yes
Financial Summary:	<p>Both Phase 1 and Phase 2 of the Ebury Bridge Estate Renewal Scheme is a Council led development scheme that is to be 100% funded by the Council, supported through market sales of completed units and Council funds.</p> <p>A capital budget for the Ebury Phase 1 and 2 has been included in the Council's capital budget and was approved by the Cabinet on 8th March 2021.</p>
Report of:	Debbie Jackson, Executive Director, Growth Planning and Housing

1. Executive Summary

- 1.1 Ebury Bridge Estate is one of five priority housing estates identified in the Westminster Housing Renewal Strategy 2010 as requiring significant investment. Ebury Bridge Estate is one of Westminster's oldest housing estates with the majority of the buildings constructed in the 1930s. Nine buildings: Rye, Bucknill, Westbourne, Victoria, Bridge, Pimlico, Mercer, Dalton and Wellesley Houses completed in 1930/1931, make up the original northern part of the estate, with a further three buildings: Hillersdon, Doneraile and Cheylesmore Houses completed in 1938 at the southern end of the estate (in 1988 Cheylesmore House was subsequently bought out by the leaseholders of the block and no longer formed part of the estate). Edgson House on Ebury Bridge Road was added in 1955 and Wainwright House was built on to the rear of Wellesley House in the 1980s. The estate is predominantly residential except for the ground floor of Rye House and Bucknill House where there are a variety of small retail units along the Ebury Bridge Road frontage of both buildings.
- 1.2 The vision for Ebury Bridge Estate is to provide an increased range of affordable and market housing and bring about long-term physical, economic and social sustainability of the neighbourhood. The Council have been working with Ebury Bridge residents to create a new high quality neighbourhood that offers an attractive mix of homes (including affordable homes meeting a range of housing needs) shops, public realm and community facilities for a number of years. The comprehensive renewal proposals for the Ebury Bridge Estate project were approved by the Westminster City Council cabinet following thorough Section 105 consultation (under the Housing Act 1985) with residents on a preferred scenario in July 2018.
- 1.3 A hybrid planning application for the preferred scenario was developed in consultation with residents and local stakeholders. The Cabinet Member for Communities and Regeneration approved the planning approach for Ebury regeneration in March 2019 and a hybrid application was submitted in July 2020. The Ebury Bridge Estate renewal hybrid planning application sought to provide:
- a mixed use development in outline for residential floorspace and ancillary residential facilities (Class C3) non-residential floorspace comprising flexible retail (Classes A1 - A4), community (Class D1), leisure (Class D2) and workspace (Class B1) floorspace; provision of basement; new pedestrian and vehicular access; and associated amenity space, open space, plant, landscaping, car and cycle parking, refuse storage, servicing area, and other associated infrastructure works; and*
- detailed planning consent for Blocks 7 and 8 comprising residential floorspace and ancillary residential facilities (Class C3); provision of a basement; new pedestrian and vehicular access; and associated amenity space landscaping, car and cycle parking, refuse storage, servicing area, and other associated infrastructure works.*
- 1.4 On 13 July 2020 Cabinet gave "in principle" approval to the use of the Council's statutory compulsory purchase powers to assemble the Ebury Bridge Estate Renewal scheme site for phases beyond the first phase, should all reasonable attempts to acquire the necessary land and interests fail. This report provides an update on the progress made towards the renewal of the Ebury Bridge Estate and seeks Cabinet approval to progress to the making of a compulsory purchase order (the Order) of land and property required for the redevelopment of the Ebury Bridge Estate Renewal scheme beyond the first phase, whilst continuing to negotiate and complete acquisitions of legal interests, on the basis of the statutory Compulsory Purchase Compensation Code. The subsequent phase comprise the redevelopment of Bridge House, Westbourne House, Rye House, Bucknill House, Victoria House and Doneraile House.

- 1.5 Planning Permission was granted on 6th October 2021 following the completion of a section 106 Unilateral Undertaking.
- 1.6 The detailed part of the planning permission provides new homes comprising 226 residential units in two new buildings, providing the opportunity for existing residents to move into the first phase. This first phase has been designed to set the quality for the future phases for which outline planning permission has been obtained and will be self-delivered by the Council. The subsequent phases cover the redevelopment of the land which includes Bridge House, Westbourne House, Rye House, Bucknill House, Victoria House, and Doneraile House.
- 1.7 The Council has control of the land for which detailed planning permission has been secured and preparatory work started on the redevelopment of this area (Phase 1) in November 2021. The Council would wish to commence the development of Phase 2 subject to a reserved matters application and in line with the within the later stages of the construction programme.
- 1.8 The current construction programme, subject to completion of reserved matters applications for Phase 2a/2b and obtaining vacant position when required, is anticipated as follows:

	Phase 2a <i>(Bridge, Westbourne, Rye Houses)</i>	Phase 2b <i>(Bucknill, Victoria, Doneraile Houses)</i>
Demolition	May 2023	May 2024
Construction Starts	Jan 2024	Oct 2026
Construction Ends	Sept 2026	Dec 2030
Delivers	Blocks 1, 5 & 6	Blocks 2, 3, 4 & 9

- 1.9 The Council already owns significant freehold interests within the later phases of the Ebury Bridge Estate. There are, however, long leasehold interests that remain to be acquired by the Council with no certainty that these can be acquired by private treaty. The Guidance on Compulsory Purchase Process and The Crichel Down Rules dated July 2019, (the CPO Guidance) requires acquiring authorities to attempt to acquire land by agreement before embarking on the compulsory purchase process, although it is recognised that for schemes involving the acquisition of the number of interests, it is sensible to run the compulsory purchase process in parallel with ongoing negotiations.
- 1.10 Given the time required to complete the compulsory purchase process it would be sensible to now proceed to make a compulsory purchase order (CPO) to meet the aims of the Ebury Bridge regeneration. This report seeks Members' support for a resolution for the making of the CPO to assemble the remaining interests in the Ebury Bridge Estate Renewal scheme site which are not owned by the Council, should attempts to acquire the necessary land and interests by agreement continue to fail.
- 1.10 The extent of the land to be subject to the CPO ("the Order Land") is identified in the draft CPO Plan and Schedule attached to this report as Appendix 1 and Appendix 2 respectively.

2. Recommendations

Cabinet is invited to:

- 2.1 Agree, subject to the consideration of the matters set out in this report, to the making of a Compulsory Purchase Order pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990 in respect of the area identified in Appendix 1 to the report "draft CPO Plan" and the Schedule, to facilitate delivery of the development phases of the Ebury Bridge Estate Renewal redevelopment beyond the first phase;
- 2.2 Note that a full Statement of Reasons supporting the CPO had been substantially progressed and to delegate authority for its final approval to the Executive Director of Growth, Planning, and Housing.
- 2.3 Delegate authority to the Executive Director of Growth, Planning and Housing, in consultation with the Director of Law and Governance to:
- (a) agree amendments to the CPO Plan and CPO Schedule before the making of the Order (if required);
 - (b) take all steps to secure the making, confirmation and implementation of the Order including the publication and service of all notices and the promotion of the Council's case at any public inquiry;
 - (c) negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the Order and/or undertakings not to enforce the Order on specified terms, including (but not limited to) where appropriate seeking the exclusion of land from the Order, making provision for the payment of compensation and/or relocation;
 - (d) in the event the Order is confirmed by the Secretary of State or an Inspector in the case of delegation, to advertise and give notice of confirmation and thereafter to take all steps to implement the Order including, as applicable, to execute General Vesting Declarations and/or to serve Notices to Treat and Notices of Entry in respect of interests and rights in the Order Land; and
 - (e) take all steps in relation to any legal proceedings relating to the Order including defending or settling claims referred to the Upper Tribunal and/or applications to the courts and any appeals.
- 2.4 That Appendix 2 of this report is exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A Part 1, paragraph 3 (as amended), in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).

3 Reasons for Decision

- 3.1 The Ebury Bridge Estate is one of the five priority estates identified in the Council's Housing Renewal Strategy (2010) as needing significant improvement and investment. In line with the Council's City for All objectives, the overarching objective of regenerating Ebury Bridge Estate is to create a comprehensive renewal that brings about physical, economic and sustainable change that creates additional homes and improves the lives of residents, businesses and visitors alike.
- 3.2 Whilst significant progress with property owners has been made in discussing acquisitions that will be necessary to deliver the proposals beyond the first phase of the Ebury Bridge Estate redevelopment, land assembly remains a critical issue for the delivery of this part of the scheme. Clearly the estate renewal cannot be delivered across properties that are

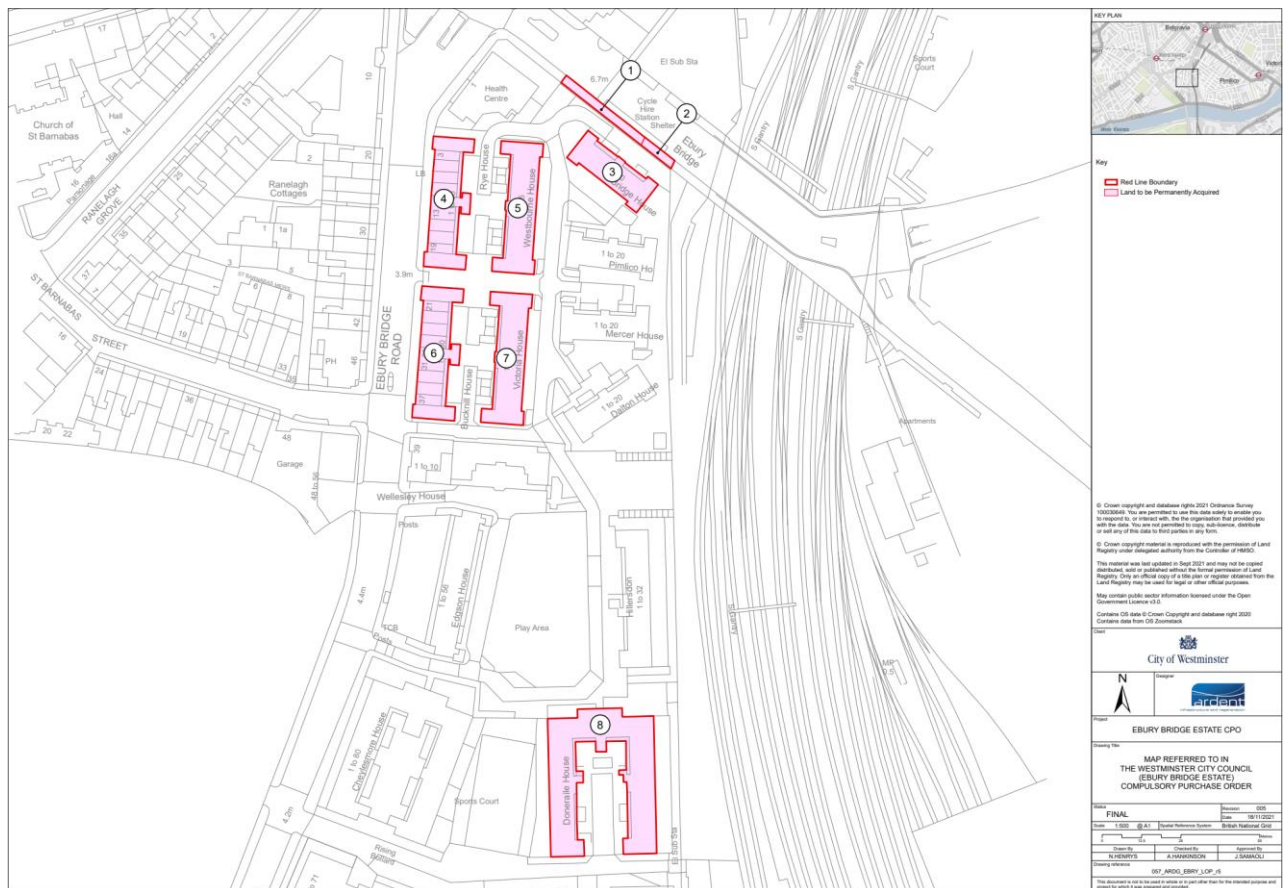
not wholly in the ownership or under the control of the Council and without this, certainty cannot be gained to the likely programme for delivery of the complete estate renewal.

- 3.3 To enable the comprehensive redevelopment of the Ebury Bridge Estate renewal all relevant land interests will need to be brought in, in a timely way. The government recognises in the CPO Guidance, that if acquiring authorities wait for negotiations to break down, this can have detrimental impacts on the timing of delivery of projects. Therefore, depending on when the land is required, the guidance considers it sensible for an acquiring authority to:
- plan a compulsory purchase as a contingency measure; and
 - initiate formal procedures.
- 3.4 Importantly, the CPO Guidance expressly recognises that such steps "*...help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations*".
- 3.5 The CPO Guidance requires acquiring authorities to attempt to acquire land by agreement before embarking on the CPO process, although it is recognised that for schemes involving the acquisition of the number of interests, it is sensible to run the CPO process in parallel with ongoing negotiations.
- 3.6 This report seeks Members' support for a resolution for the making of a compulsory purchase order to assemble the Ebury Bridge Estate Renewal scheme site for phases beyond the first phase.
- 3.7 The report for the in-principle resolution acknowledged that before the making of the Order members would need to be satisfied on the following:
- that there was a compelling case in the public interest;
 - that there were no planning, funding or other legal impediments to the Ebury Bridge Estate renewal being delivered;
 - that all reasonable attempts to acquire all interests by agreement have not been successful;
 - that there is justification for any interference with the human rights of those with an interest in the land affected; and
 - that any assessment of the impacts on residents, visitors and employees be measured and evaluated, with special focus on the likely effect of the proposals on those sharing protected characteristic (race, pregnancy, age, disability, gender reassignment, marriage/civil partnerships, religion/belief, sex, sexual orientation (as defined by the Equality Act 2010)) be made, in order for the Council to fully understand those impacts, and to consider measures to mitigate impact, make reasonable adjustment, and foster good relations between those sharing protected characteristics, and those who do not.
- 3.8 The remainder of this report and the draft Statement of Reasons at appendix 3 sets out the justification for the making of the Order.
- 3.9 The main benefit of the use of compulsory purchase powers is the certainty of being able to obtain vacant possession to a planned programme. This is vital in order give the Council confidence that the whole Ebury Bridge Estate renewal will be delivered and be reassured of the effective use of public funds deployed in the development of the project. The use of

compulsory purchase also provides a level of certainty on project programming which in turn would allow the Council to enter into commercially sound construction contracts. This is because, once the Order is confirmed and the legal challenge period has passed, the Order can be implemented and a date for vacant possession fixed in accordance with the project programme which can immediately follow or coincide with the programme for the first phase of redevelopment.

Proposed Order Land

- 3.10 The extent of the land to be subject to the Order ("Order Land") is identified in the Plan and Schedule attached to this report.
- 3.11 The Order Land includes (as shown in the map below) land to be permanently acquired namely part of the public highway, associated sub soil and boundary wall on Ebury Bridge Road; the communal areas and certain flats (being those subject to long leaseholder interests) in Bridge House, Westbourne House, Rye House, Bucknill House, Victoria House, and Doneraile House; and commercial premises on the ground floor of Rye House and Bucknill House comprising 3 Ebury Bridge Road, 11 to 13 Ebury Bridge Road, 29 to 31 Ebury Bridge Road and 33 Ebury Bridge Road.



Map 1 - Proposed Order Land

Land acquisition and negotiations

- 3.12 Part of the justification for obtaining confirmation of the Order will involve demonstrating that compulsory powers are necessary because the land required cannot be acquired by agreement. Compulsory purchase is seen as a last resort and the acquiring authority must be able to show that it has made genuine attempts to acquire the land by negotiation.

- 3.13 The Council has made significant efforts to acquire all interest by voluntary agreement and this can be thoroughly evidenced. The Guidance expects that the Council will be required to continue those efforts and detailed evidence of those further efforts should be available prior to the making of a CPO.
- 3.14 The Council has been seeking to acquire the entire development site through private treaty negotiation to enable delivery of the regeneration proposals. At the start of the purchase process there were 140 long leasehold interests throughout the site that needed to be acquired by the Council. Of the leasehold interest approximately, half were owned by non-resident lessees.
- 3.15 Since negotiations with lessees to acquire those leasehold interests began in April 2014, the Council and its agent Westminster Community Homes ("WCH") have purchased 103 properties with a further 7 owned by WCH. WCH has agreed to transfer the properties back to the Council in line with the vacant possession timeline. Of the remaining 30 leasehold interests to be acquired 8 are currently under offer to the Council and a further 7 in active negotiations. Efforts continue to be made with the final 15 leaseholders yet to enter into negotiations to sell by agreement.
- 3.16 With regard to council tenants, there were a total of 198 secure tenants who would need to be rehoused during both phases. Since 2014 Phase 1 residents were prioritised and all Phase 1 tenants have been rehoused. In terms of the subsequent phases, there are 49 secure tenants remaining in Phase 2 that need to be rehoused.
- 3.17 The Phase 1 proposals will provide 226 new homes across two buildings, and will include 98 council homes, providing the opportunity for returning council tenants to move into the first phase. The Phase 1 homes are expected to be completed in May 2024.
- 3.18 There are currently four long standing retail interests within the Ebury Bridge Estate. We are actively working with them, to find an alternative location or agree on ending their lease with a payment of compensation. Presently two long term retail users in have expressed their wish to stay until they need to leave in 2026, whilst the two other long term users have advised that they would like to move to an alternative location or accept a payment of compensation once the CPO has been served.
- 3.19 Additionally to this, the Council has hired an independent advisor, who works with the retailers to support their needs and give them independent advice about their retail future.
- 3.20 The Council also appointed Malcolm Hollis LLP ("Hollis") as a specialist Rights of Light advisor. The consultants have undertaken an assessment of the Estate and the surrounding properties to provide analysis identifying those properties which may suffer a material infringement of their right of light as a result of the implementation of the proposed scheme. The analysis has now been completed and a strategy agreed with the Council whereby affected property owners identified as likely to suffer a material infringement will be contacted to seek entry into a formal release of the relevant rights in consideration for a payment based upon valuation advice provided by Hollis. Rights which may be enjoyed by property owners on the estate, adjoining the estate and also by tenants on the estate and which could potentially prevent implementation of the scheme can, as a remedy of last resort, be addressed through appropriation and the use of section 203 of the Housing and Planning Act 2016 where appropriate agreement is not reached.

The need and justification for the use the Council's CPO Powers

- 3.21 Whilst the Council are seeking to acquire the required interests through negotiation, consistent with other schemes of this nature, it is important to have measures in place to

manage the risk of any third parties being unwilling to voluntarily agree to sell their interests within the required timescale or at a reasonable cost.

- 3.22 In order to compulsorily acquire land the Council must have a relevant statutory power that authorises such acquisition. In addition the Council must use the most specific and appropriate power available to it. In the case of a CPO in connection with the Ebury Bridge Estate renewal it has been decided that the Council's planning powers under section 226 of the Town and Country Planning Act 1990 ("the Act") are the most appropriate, as the proposals would make a major positive contribution to the economic, social and environmental well-being of the area and so meet with the requirements of this statutory power.
- 3.23 Detailed advice to acquiring authorities on the use of compulsory purchase powers is set out in the CPO Guidance. The CPO Guidance provides helpful information on the matters which the Secretary of State will take into account when considering whether or not to confirm a CPO, so should be fully considered by Members now in relation to the making and implementing of the Order. These matters as they relate to the Ebury Bridge Estate renewal are considered below.
- 3.24 The Guidance states that in considering whether or not to confirm a CPO, the Secretary of State will have regard to the extent to which the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and National Planning Policy Framework.
- 3.25 Westminster Council adopted the Westminster City Plan 2019 – 2040 on 21 April 2021. It sets out the vision for the City of Westminster up to and beyond 2040, putting in place a policy framework that would deliver this vision. Many of its policies are therefore of high relevance to the Ebury Bridge Estate scheme.
- 3.26 Policies 8 and 9 within the City Plan 2019-2040 are geared towards encouraging applicants to come forward with more housing, optimising housing delivery sites and finding new innovative ways to deliver more homes. Through this approach, there is an expectation that the London Plan derived target of 20,685 homes across the plan period (2019-2040) will be exceeded.
- 3.27 Policy 6 within the City Plan 2019-2040 sets out that Ebury Bridge Estate Housing Renewal Area is a spatial development priority with the aim to bring about much needed housing growth and improvements to existing stock. The policy states that the renewal of the Ebury Bridge Estate will deliver the following priorities: approximately 750 new high-quality homes; enhanced connections to the wider area through improved public realm and green infrastructure; innovative and high-quality design to ensure the most efficient use of land and improvements to the Ebury Bridge Local Centre in the form of new retail accommodation and community facilities.
- 3.28 The proposed development would have a residential density of 420 units per hectare and compares with 180 units per hectare as existing. In the London Plan (2021) which also forms part of the Development Plan, higher density residential developments are those with a density of at least 350 units per hectare. A key benefit of the proposed scheme is that it intensifies the use of land and provides a high density form of development to support additional homes, which is further promoted in areas that are well connected by public transport and walking and cycling routes to jobs, services, infrastructure and amenities.
- 3.29 The proposed boost to housing supply, improvements to the quality of homes, the provision of new retail accommodation and community facilities and the provision of enhanced public realm for residents is strongly supported by adopted national, regional and local policy objectives and by policies within the City Plan 2019-2040. It is specifically

supported by Policy 6 of the City Plan 2019-2040 which sets out the priorities for the Ebury Bridge Estate Housing Renewal Area.

3.30 In the context of the above, the Council is satisfied that use of the Council's powers of compulsory purchase for site assembly is justified and that the purpose for which the land is being acquired fits in with the adopted planning framework for the area. The proposals also fit in with the Council's emerging local plan, "City Plan 2019-2040" where the Site is designated as a spatial development priority.

3.31 The CPO Guidance states that the Council must demonstrate a 'compelling case in the public interest', and that the public benefits that will arise from the purpose for which the land is to be acquired (i.e. the scheme) outweigh the impact on those affected. The Council must demonstrate both the need for the scheme in principle and in general and the need to acquire each and every parcel of land included in the CPO. On the basis of the legal advice and the Guidance, officers are of the view that such a compelling case can be demonstrated from the desirability of implementing the scheme – in particular from the following substantial wider benefits resulting from it:

- **New and improved homes**

Westminster has an acute need for additional homes covering a range of tenures, especially affordable housing, which the Ebury Bridge Estate regeneration will help to deliver. The scheme will provide a mixture of market, intermediate and social housing. The proposals will significantly increase the amount of affordable housing floor space in line with the Council's adopted policies. This will be achieved by the uplift in the density of development on the site.

- **Outdoor Space**

Additional amenity space will be provided for residents in the form of roof terraces, balconies and residential gardens. At present, none of the homes on the Estate have private amenity space, so this will represent significant qualitative and quantitative improvement to residents' quality of life. Most of the proposed flats are dual aspect and all have private balconies or winter gardens. There are also communal gardens, courtyards and roof terraces.

- **Communal Uses**

The scheme also provides for replacement landscaping, children's play space an improved and larger community facilities as well as new Class A1/A2/A3/A4/B1/D1/D2 space.

The Scheme will improve the overall safety of the Estate by removing a number of loiter spaces within the housing block entrances.

3.32 Implementation of the Scheme will ensure that the 5 key objectives of the Council's 2010 Housing Renewal Strategy as set out below will be fulfilled:

- to increase the supply and quality of affordable housing to meet a variety of local needs including for families;
- to improve the quality of the local environment with outstanding green and open spaces that promotes low energy consumption and environmental sustainability;
- to promote a high quality of life for people of all ages and backgrounds in safe cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities;

- to enable people to maximise economic opportunity with housing tenure with support for training, employment and enterprise, and housing tenures which help those in work to remain in the City;
- to create a more distinct sense of neighbourhood ending the physical divide between Westminster's estates and surrounding streets.

3.33 The Council must also demonstrate that there are no other impediments to proceeding with the Scheme, for example the need for planning permission, other consents or physical constraints. The planning application in relation to the Ebury Bridge Estate Renewal was submitted in July 2020 and planning permission was granted on 6 October 2021. Officers are satisfied that, there are no fundamental impediments to the implementation of the Scheme and that the Scheme will proceed if the Order is confirmed as explained further in the draft Statement of Reasons.

Funding and resourcing

3.34 The Council also needs to demonstrate that it has, or at least will obtain, the resources necessary not only to pay compensation for the land but also to implement those parts of the Scheme which include the Order Land. The reason for this requirement is to avoid a situation in which private land has been acquired compulsorily for a purpose which, in the event, cannot be achieved for lack of funds.

3.35 Both Phase 1 and Phase 2 of the Ebury Bridge Estate Renewal Scheme is a Council (or Council owned company) led development scheme that is to be 100% funded by the Council, supported through market sales of completed units and Council funds.

3.36 A capital budget for the Ebury Phase 1 and 2 has been included in the Council's capital budget and was approved by the Cabinet on 8th March 2021.

3.37 The vacant possession of blocks across the estate has enabled land assembly work to progress at pace. This has included the demolition of 7 of the 13 existing residential blocks, ground investigations, utility diversions and initial groundworks that have prepared the Phase 1 site for redevelopment. The Phase 1 programme allowed for the successful completion of all necessary Phase 1 site preparation works for the main works, piling activity, to commence in November 2021.

3.38 The procurement of a design and build contractor was successfully undertaken and Bouygues (U.K.) Limited (BYUK) have been working with the team under a Pre-Construction Services Agreement and have offered a value for money fixed price works package for the delivery of Phase 1. There is also scope within the contract for BYUK to deliver phase 2 of the scheme, pending good performance.

Whether the purpose for compulsorily acquiring the land could be achieved by other means

3.39 Officers are satisfied that all of the land identified is necessary to deliver the proposed development. The purpose for which land and any rights are proposed to be acquired is to enable the comprehensive redevelopment of the application site (in which the Order Land falls) in accordance with the adopted planning policy framework and the preferred option developed with residents. The planning permission which has been granted secures the comprehensive redevelopment in general accordance with those policies.

3.40 Whilst the proposals will be delivered in phases, the Council needs certainty that all land required to deliver the scheme is within its control. If compulsory purchase is not

achieved then the redevelopment of the Ebury Bridge Estate will be limited to the initial phase, reflecting the smaller area within the Council's ownership. This would thwart or delay much needed redevelopment of the area and the reduced scheme would not achieve a comprehensive redevelopment and result in considerably less benefit to the local community. The additional residential units (including an uplift in affordable housing), public realm and enhanced pedestrian links would be lost. It would also not resolve the future of the Estate, which is of poor quality, does not make efficient use of land and has significant maintenance costs.

Human Rights and the Case for Compulsory Acquisition

- 3.41 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 that the use of such powers is proportionate to the ends being pursued.
- 3.42 In reaching their decision, Members should take account of the provisions of the Human Rights Act 1998. As a public authority, the Council must not act in a way which is incompatible with a Convention right protected by the Human Rights Act 1998. The relevant human rights protected by the 1998 Act which are engaged by the decision to authorise the compulsory purchase are those Article 8 (right to a private and family life), Article 1 of the First Protocol of the Convention and Article 6 (1) (right to a fair and impartial public hearing within a reasonable time).
- 3.43 A key provision of the CPO Guidance is the need for there to be a "compelling case in the public interest" for compulsory acquisition. It is necessary in this to consider Convention rights which are engaged by and potentially affected by the making and confirmation of a CPO. In relation to Article 1 of the First Protocol of the European Convention which provides a right for the peaceful enjoyment of possessions, a fair balance is required to be struck between the public interest and private rights in relation to possessions/property. Article 8 is not an absolute but qualified right, such that any interference with the right to respect for a person's private and family life and home must be proportionate to any legitimate aims, such as promoting regeneration for the well-being of the area. "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim
- 3.44 Article 6(1) is engaged because the CPO process involves determinations as to third party rights of individuals, as to which they have the right to a fair hearing. Similarly, to Article 8, the Article 6(1) rights are also qualified and some restrictions may be justified to pursue legitimate aims and provided that they are proportionate. Potentially affected individuals have had the opportunity to date to object to the redevelopment proposals through the planning process. Individuals whose human rights could potentially be interfered with as a result of the CPO can object to the validity of the CPO and such objections would be considered at an independent public inquiry, which would afford the objectors a fair hearing of their concerns. Failing agreement on the compensation arising from the CPO, any affected individuals have the right to pursue a claim for compensation in the Lands Tribunal. It is deemed that the process affords affected individuals sufficient opportunity to a right to a fair hearing.
- 3.45 The proposed development has been a long term objective of the Council and fits within the Council's planning framework for the area. The development will be transformational for the Ebury Bridge Estate and the wider area, creating new homes and delivering significant regenerative benefits. Overall, having regard to the potential of the development proposals and the CPO enabling it, to deliver significant regeneration benefits and improvements to the social, economic and environmental well-being of the area, it is considered that the potential for some degree of interference with Article 8 and Protocol 1 rights is necessary in the interests of well-being of the area, it is in the general

public interest and is deemed proportionate to those legitimate aims. Any interests acquired or any interference with third party rights will carry a right to compensation in accordance with the Compulsory Purchase Code and the opportunity to a fair and impartial hearing in that regard.

4 Financial Implications

- 4.1 Under a CPO, property or rights are acquired at open market value but disregarding any increase (or decrease) in value attributable to the Scheme for which the land is acquired. Affected parties may also be entitled to other compensation for loss payments and disturbance depending on circumstances. The Council will be responsible for paying all compensation to landowners, whether payable by purchases through voluntary negotiation or through the CPO process.
- 4.2 As noted above, both Phase 1 and Phase 2 of the Ebury Bridge Estate Renewal Scheme is a Council (or Council owned company) led development scheme that is to be 100% funded by the Council, supported through market sales of completed units and Council funds.
- 4.3 A capital budget for the Ebury Phase 1 and 2 has been included in the Council's capital budget and was approved by the Cabinet on 8th March 2021 and the total costs of delivering this project including acquisitions has been included within the budget.
- 4.3 As per planning viability the total cost of delivering the project including the land acquisitions can be supported by sale of private units and internal Council funding.
- 4.4 The WCC is fully committed to the delivery of the scheme and spent about £109m on costs including acquisitions, demolition and planning costs.

5. Equality Implications

- 5.1 Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

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

- 5.2 In deciding whether to resolve to make a CPO, the Council must pay due regard to its Public Sector Equality Duty ("PSED"), as set out in section 149 of the Equalities Act 2010. Consideration must also be given to whether, if the decision is made to go ahead, it will be possible to mitigate any adverse impact on a protected group or to take steps to promote equality of opportunity by, for example, treating an affected group more favourably.
- 5.3 Officers have had regard to the Council's PSED in the assessment of the case for making a CPO and Members must be mindful of this duty when considering the recommendations in this report. Those with an interest in the Order Land will be affected by the

implementation of any made CPO, if confirmed. An Equalities Impact Assessment has been undertaken on the potential impact of the proposal and any necessary mitigation strategy, to ensure that due regard has been taken of the Council's PSED.

- 5.4 Equalities Impact Assessments have informed the design, resident-led decisions in respect of the scheme, and the negotiations with those with an interest in the Order Land. The planning application for the development proposal also assessed the potential impact on equalities and social cohesion.
- 5.5 A further assessment of any equalities impact of the CPO has been undertaken. The assessment carried out has considered:
- whether the CPO will affect any groups or individuals with protected characteristics and if so what steps can be taken to minimise any impacts;
 - whether there are any long term social and economic benefits to those with protected characteristics arising from the development facilitated by the CPO;
 - any other impacts across any protected groups arising from both the construction and operational phases of development;
- 5.6 The further assessment found that there are remaining residents on the Estate with protected characteristics. The Council has, however, sought to mitigate the impact on those protected characteristics through a range of reasonable and proportionate measures focused on engagement, compensation options, and the benefits of the redevelopment in order to improve the outcomes of the redevelopment for the current and future Estate community.
- 5.7 The EQIA acknowledged that the effects on protected characteristics are being managed through engagement and consultation and the mitigation measures set out in the Policy for Tenants in Housing Renewal Areas, the Policy for Leaseholders in Housing Renewal Areas and the support developed by the Council for businesses included in the Order.
- 5.8 The EQIA concluded, therefore, that where any negotiations of property acquisition to facilitate the redevelopment is deemed to not be possible and compulsory purchase must be used, equality risks have been addressed. There is, therefore, a case for the use of the CPO, if it is required to facilitate the development.

6. Legal Implications

- 6.1 The Council is empowered under section 226(1)(a) of the Town and Country Planning Act 1990 as amended, to acquire any land in its area if it is satisfied that the proposed acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council may utilise its compulsory purchase powers under section 226 of the TCPA:
- (a) if it thinks the acquisition will facilitate the carrying out of development, or redevelopment or improvement on, or in relation to the land or
 - (b) which is required for a purpose which is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- 6.2 In order to make an acquisition under (a), the Council must also consider that the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area.

- 6.3 In this case the proposal is to seek approval to make a CPO for the purpose of facilitating the comprehensive redevelopment of the Order Land to enable the delivery of the redevelopment beyond the first phase. The redevelopment is overall considered to make a major positive contribution to the economic, social and environmental well-being of the area.
- 6.4 The Acquisition of Land Act 1981 governs the procedures which apply to compulsory acquisition. The Compulsory Purchase Act 1965 governs post-confirmation procedures and the Land Compensation Act 1961 governs the amount and assessment of compensation. The Local Government (Miscellaneous Provisions) Act 1976 governs the granting of new rights. Further implications relating to requirements of the CPO Guidance are as set out above and would need to be considered by Cabinet in detail at the time of making a CPO. The Human Rights and equalities aspects of a CPO are also reviewed above at paragraphs 3.41 to 3.45 and paragraph 5.

7. Carbon Impact

- 7.1 The CPO is required to ensure that the entire order land can be acquired and renewed. The project will be next zero within 14 years of completion, by using carbon offsetting and using energy efficient heat pumps for heating and cooling the new properties.

8. Consultation

- 8.1 The Ebury Regeneration team have worked with the local community to ensure that all key stakeholders are engaged and aware of the renewal scheme. We have ensured that all residents are fully aware of the support they will receive throughout the renewal process and the details of the accompanying policies.
- 8.2 Since the re-start of the project in 2017 we have created a resident steering group called the Community Futures Group and worked with them to ensure that they are able to influence all key decisions around the renewal of the estate; this has also included having residents as part of our procurement panels when selecting contractors.
- 8.3 Local ward councilors have also been kept up to date with the project through regular meetings and visits to the estate with officers. We have also shared a briefing note with the details of the forthcoming Cabinet paper and invited them to comment. We will continue to consult ward councillors as the project progresses.

If you have any queries about this Report, please contact:

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Appendices

- Appendix 1: Plan showing the extent of the Order Land (in Draft);
Appendix 2: Schedule of Interests (in Draft) – exempt from publication;
Appendix 3: Statement of Reasons (in Draft).

Background Papers

None