

REPORT FOR: CABINET

Date of Meeting:	28 October 2010
Subject:	Compulsory Purchase Orders (CPO's) for the Rayners Lane Estate and Mill Farm Close Estate
Key Decision:	Yes – The proposal may result in the Council incurring expenditure of £100k or more (although this will be reimbursed by Home Group and Catalyst Communities Housing Association)
Responsible Officer:	Paul Najsarek, Corporate Director Adults and Housing
Portfolio Holder:	Councillor Bob Currie, Portfolio Holder for Adults and Housing
Exempt:	No apart from Appendix 2 which is exempt from publication under paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)
Decision subject to Call-in:	Yes
Enclosures:	Appendix 1 – Draft Plans to be annexed to the CPO's Appendix 2 (Exempt) – Tables of Properties and Stage of Negotiations Appendix 3 - Draft Statements of Reasons

Due to the size of the appendices 1 and 3, these have been circulated to Cabinet Members, other key Members and officers only. The documents have been placed in the Members' Library and published with the agenda which can be viewed on the website.

Section 1 – Summary and Recommendations

This report sets out the reasons for making a Compulsory Purchase Order of the long leasehold interests at the Rayners Lane estate and Mill Farm Close estate as set out in the attached Plans and Schedules.

Recommendations:

Cabinet is requested to:

1. Authorise the acquisition by compulsory purchase under section 17(1)(b) of the Housing Act 1985 all estates and interests in the leasehold properties on the Rayners Lane estate and Mill Farm Close estate (as set out in the respective attached Tables of Properties and shown coloured pink and edged red on the draft plans annexed at Appendix 1) for the provision of housing accommodation on the grounds set out in this report, subject to the reimbursement by Home Group (HG) in respect of the Rayners Lane estate and Catalyst Communities Housing Association Limited (CCHA) in respect of Mill Farm Close estate of all costs and expenses incurred by the Council in carrying out the compulsory purchase.
2. In respect of the Rayners Lane estate, authorise the Corporate Director, Adults and Housing to agree the terms of and enter into the revised indemnity agreement agreed with Home Group in order that the costs incurred by the Council in pursuing the compulsory purchase order are met by Home Group.
3. Authorise the Corporate Director, Adults and Housing to agree and approve the final form of the Plans to be annexed to the Compulsory Purchase Orders delineating the exact boundaries of the properties set out in the Tables of Rayners Lane estate Properties and Mill Farm Close estate Properties annexed at Appendix 2 (the Plans to be entitled respectively 'Map referred to in the London Borough of Harrow (Rayners Lane Estate) Compulsory Purchase Order 2010' and 'Map referred to in the London Borough of Harrow (Mill Farm Close Estate) Compulsory Purchase Order 2010').

4. Authorise the Corporate Director, Adults and Housing to compile the Schedule of Properties to be annexed to the respective Compulsory Purchase Orders, listing all interests in the properties shown on the respective Tables of Properties annexed at Appendix 2.
5. Authorise the Corporate Director, Adults and Housing to make any amendments to the draft Statement of Reasons annexed at Appendix 3 as are considered necessary prior to their submission to the First Secretary of State.
6. Authorise the Director of Legal & Governance Services to make and seal the Compulsory Purchase Orders and to submit the Orders for confirmation by the First Secretary of State and Deputy Prime Minister to confirm the Compulsory Purchase Orders in the event that no objections are received, or to request modifications to the Orders if this is considered expedient to the confirmation of the Orders.
7. Authorise the Director of Legal and Governance Services to make all necessary applications or requests (as the case may be) for a “stopping up order” to be made pursuant to section 247 of the Town and Country Planning Act 1990 or under section 14 of the Highways Act 1980 or any other relevant enabling power for the stopping up or diversion of any existing highways within or around in the land subject to the compulsory purchase order, to enable the regeneration proposals to go ahead.
8. Authorise the Director of Legal & Governance Services to sign all notices in connection with the Compulsory Purchase Orders and, if objections are received, to make arrangements for public inquiries and to take all actions in connection with such inquiries including the appointment of Counsel.
9. Authorise the Director of Legal & Governance Services to make one or more General Vesting Declarations under the Compulsory Purchase (Vesting Declarations) Act 1981 in the event of the Compulsory Purchase Orders being confirmed and/or serve notices to treat and notices of entry and to take all other requisite steps pursuant to the compulsory acquisition procedures to obtain possession of properties if it is considered appropriate to do so, and to deal with any compensation issues, if necessary by way of reference to the Lands Tribunal.
10. Authorise the transfer of all properties acquired by the Council pursuant to the compulsory acquisition procedures to HG or CCHA in accordance with the terms of the Rayners Lane estate and Mill Farm Close estate Transfer documentation and otherwise on terms to be approved by the Corporate Director, Adults and Housing.

11. If required, authorise the Corporate Director, Adults and Housing to appoint referencing agents to undertake on behalf of the Council appropriate work in connection with the compulsory acquisition procedures.
12. Authorise the Director of Legal & Governance Services or the Corporate Director, Adults & Housing (as appropriate) to take any further actions required to make and implement the respective Compulsory Purchase Orders and to acquire the relevant properties.

Reason: (For recommendation)

To obtain authority to make Compulsory Purchase Orders (CPO) under the Housing Act 1985 for the leasehold properties on the Rayners Lane estate and Mill Farm Close estate as set out in the attached schedules to ensure that the agreed regeneration and redevelopment programme's can proceed to the timescales proposed to residents.

Section 2 – Report

2.1 Introduction

2.1.1 Both the Rayners Lane estate and Mill Farm Close estate have been transferred to housing associations to enable their comprehensive redevelopment and regeneration. This involves demolition of the majority of the homes transferred, including a number of long leasehold flats sold under the Right to Buy. Under the arrangements to transfer, the housing association's agreed to make every effort to purchase these long leasehold interests through agreement with the owners. The Council agreed to acquire any outstanding interests by way of compulsory purchase in the event that voluntary purchase could not be agreed.

2.1.2 Both HG and CCHA need the certainty that they will be able to acquire the remaining leasehold interests by December 2011 to enable their redevelopment programme's to proceed according to the timetable agreed with local residents and to ensure development costs do not escalate. The granting of a CPO can take up to 18 months if a Public Inquiry is required. The Council must therefore proceed with making the CPO's now.

2.1.3 Prior to the transfer, leaseholders on both estates were provided with a Leaseholder Offer document, which sets out the terms offered to leaseholders for voluntary acquisition of their properties by either HG or

CCHA. These terms ensure that no leaseholder would be worse off through agreeing voluntarily to sell as opposed to being compulsorily purchased. In addition long term leaseholders living on the estate at the time of transfer were provided with additional options enabling them to buy a new property on a rent free equity share basis.

2.1.4 Compensation payable to resident leaseholders under the relevant legislation includes payment of the market value of the property, a home loss payment of 10% of the value of the property, subject to a maximum of £47k, and a disturbance payment for the reasonable costs of moving.

2.1.5 Compensation payable to non-resident leaseholders under statute includes payment of the market value of the property, a basic loss payment of the lower of 7.5% of the value of the property and £75k, and disturbance payments in respect of buying a new property. Non resident leaseholders of both the Rayners Lane estate and Mill Farm Close estate are offered the equivalent compensation to that of resident leaseholders under the voluntary purchase arrangements, which is an enhancement on that offered under statute.

2.1.6 Disputes as to levels of compensation payable would be resolved by the Lands Tribunal. However failure to agree the level of compensation is not a ground for delaying or refusing the CPO.

Rayners Lane estate

2.1.7 The Council transferred the Rayners Lane estate to Home Group (HG) in October 2002 in order to facilitate the comprehensive regeneration of the estate. In July 2003 Cabinet resolved to make a CPO resolution for 2 properties in Phase 2 of the redevelopment of the estate. Cabinet also noted that further CPO requests might be made for the rest of the estate as and when required. This CPO was not pursued as the 2 properties were purchased voluntarily and the redevelopment proceeded.

2.1.8 A further resolution to make a CPO for the remaining 42 properties was made by Cabinet on the 16 March 2006 and work commenced to take the CPO forward. It is often the case that the act of making a resolution to grant a CPO encourages leaseholders who have been unwilling to enter into negotiations then to do so. HG has therefore been able to negotiate voluntarily purchases in order to enable the current phases of redevelopment to continue and it has not been necessary to conclude the CPO.

2.1.9 The current situation is that there are now 14 leasehold interests remaining to be purchased on the Rayners Lane estate as shown on the plans attached at Appendix 1. In order to ensure that the relevant interests are all captured in the CPO Schedule of Properties, land referencing agents are checking and updating the information previously obtained on the ownerships which relate to the outstanding properties. A separate report is attached at Appendix 2 as an exempt item detailing the stage of negotiation on each individual property in the Schedule. These interests must be purchased by October 2011 to enable the final phase of the redevelopment to proceed. Any delays with their acquisition will mean that the existing residents of the estate

continue to live with a part of the estate as a derelict building site and potentially increase costs for the redevelopment. Since the time of the last Cabinet report the plans and details of the phasing of the redevelopment has changed significantly and it is therefore necessary and prudent to obtain a new resolution to proceed with a CPO to ensure that the remaining interests can be acquired so that the redevelopment can be completed. Equally, whilst an indemnity agreement was entered into with Home Group previously to cover the Council's costs in pursuing a CPO, it is deemed prudent to enter into a fresh agreement, on largely the same terms, in order to secure coverage for the Council's costs in pursuing the 2010 CPO.

2.1.10 It is the intention of HG to continue to voluntarily purchase leasehold interests through negotiation with the owners including those that, to date have not accepted offers or who have not responded.

Mill Farm Close

2.1.11 The Council transferred the Mill Farm Close estate to CCHA on 26 April 2010, subject to the 24 long leases granted under the Right to Buy legislation. CCHA commenced negotiations with the leaseholders immediately following the transfer and have already purchased 3 properties voluntarily.

2.1.12 The first phase of the redevelopment of the estate commenced in September 2010 and it is anticipated that demolition of the first existing properties, which include leasehold interests to be acquired either by voluntary purchase or to be compulsorily purchased, will commence in October 2011. The demolition and further phases of the redevelopment can only proceed if all of the leasehold properties are purchased to meet the development timetable. Any delays in acquisition of the leasehold properties will delay rehousing of the existing tenants of the Mill Farm Close estate in their new homes and potentially increase the costs of the redevelopment. A plan of the remaining 21 properties to be acquired is attached at Appendix 1 and a separate report is attached at Appendix 2 as an exempt item detailing the stage of negotiation on each individual property.

2.1.13 CCHA will continue to voluntarily purchase interests through negotiation with the owners.

2.2 Options considered

2.2.1 No options were considered in relation to seeking a CPO, as it is considered necessary to obtain a CPO as a back-up in case agreements are not reached with leaseholders to acquire the relevant interests. In respect of the Rayners Lane estate the Council has considered the use of CPO powers on a number of previous occasions.

2.2.2 If the CPO is not obtained, it is possible that one or more of the leaseholders could refuse to sell and vacate their property, hence obstructing or delaying the regeneration of the estates. In consequence, the majority of residents on Rayners Lane estate and the Mill Farm Close Estate would fail to benefit from the promised regeneration proposals.

2.3 Legal Implications

2.3.1 A CPO would be made under Section 17 of the Housing Act 1985. Government guidance in Circular 06/04 provides that a CPO should only be made where there is a compelling case in the public interest, sufficient to justify interference with the human rights of those with an interest in the land.

2.3.2 Appendix E of the guidance deals with CPO's made under housing powers. Paragraph 4 of Appendix E states that the acquisition must achieve a quantitative or qualitative housing gain. Paragraph 7 of Appendix E states specifically that the acquisition of land for housing development is an acceptable use of compulsory purchase powers, including where it will make land available for private development or development by Housing Associations.

2.3.3 Compensation is payable under the Land Compensation Act 1961 and the Land Compensation Act 1973 (as amended).

2.4 Financial Implications

A CPO Indemnity Agreement has been completed for both the Rayners Lane estate and Mill Farm Close estate, under which HG/CCHA are obliged to meet all the Council's costs in making the CPO, including acquisition and compensation costs and legal costs. Given the passage of time, and the changing interest to be acquired in relation to the Rayners Lane estate, a revised indemnity agreement has been executed by Home Group and the Council. This report seeks delegated power for the agreement to be entered into.

Under the terms of the indemnity agreements any costs being incurred by the Council, for example staff time in preparing legal documentation will be charged to HG and CCHA and recovered. There should therefore be no direct financial costs to the Council.

2.5 Performance Issues

The regeneration of both estates contributes to the overall delivery of new homes in Harrow and affordable homes measured under NI 155. The Mill Farm Close estate will contribute to future delivery targets from 2012/13 yet to be agreed with the Mayor and is a key priority for the Council as set out in the Housing Ambition Plan and Housing Strategy.

2.6 Environmental Impact

The redevelopment of both estates will have a positive environmental impact by making better use of the existing brownfield land and demolishing the existing poor quality and energy inefficient homes.

They will make a positive contribution to the council's climate change strategy by delivering improved energy efficiency, provision of renewable energy and

providing adaptation to climate change through the planting of trees, sustainable urban drainage etc.

These estates contain two of the borough's seven SOAs (Super Output Areas) within the lowest decile of disposable income (nationally) and therefore eligible for upgrading under CESP (Community Energy Saving Programme). Redevelopment of these areas will also help to address fuel poverty within the borough – without recourse to CESP. The Climate Change Strategy review, elsewhere on the agenda, contains more detail on CESP and Affordable Warmth/Fuel Poverty Strategy

2.7 Risk Management Implications

Risk included on Directorate risk register? Yes

Separate risk register in place? Yes for Mill Farm Close estate

The main risk associated with the proposed compulsory purchase is a delay in delivering the regeneration proposals if leaseholders do not voluntarily agree the sale of their homes. This risk is mitigated by the excellent voluntary compensation scheme and the proposals for compulsory purchase outlined in this report.

In relation to obtaining the CPO, the main risk is that the Secretary of State might refuse to confirm the CPO, or otherwise that there could be delay in obtaining the CPO due to objections from leaseholders or other occupiers of the leasehold properties, or if it was necessary to hold a public inquiry. Delay in obtaining the CPO would delay the redevelopment proposals.

2.8 Equalities implications

- 2.8.1 A partial Equalities Impact Assessment (EqIA) was completed for the Mill Farm Close estate in October 2008, followed by a Housing Needs survey of residents once CCHA had been confirmed as the preferred RSL partner, to ensure that the redevelopment proposals enabled specific needs to be met whilst providing better opportunities to meet future needs. A full EqIA was then concluded in February 2010. Both the physical design of the new estate and supporting community initiatives have been designed to tackle adverse impacts identified by this EqIA.
- 2.8.2 A further EqIA has been undertaken to consider any impacts specifically in relation to the proposed CPO for both the Rayners Lane and Mill Farm Close estates. This concludes that whilst there may be limited adverse impacts relating to leaseholders with disabilities or socio-economic impacts these are mitigated through both the voluntary and statutory compensation schemes available.
- 2.8.3 The decision to proceed with the regeneration of both estates was only taken after widespread and lengthy consultation with the local community. All residents including leaseholders were given ample opportunity to contribute to the proposals including the agreement of the voluntary compensation scheme and a confidential ballot of all

tenants and leaseholders resulted in the vast majority voting in favour of the proposals.

2.9 Corporate Priorities

2.9.1 The regeneration and redevelopment of the Rayners Lane estate and Mill Farm Close estate contributes to the following corporate priorities:

2.9.2 Improve support for vulnerable people – the new homes will be better designed to meet the needs of people with disabilities and in the right mix to meet the needs of larger families. Improved thermal performance will also help to address fuel poverty in these areas.

2.9.3 Build stronger communities – the residents will have a continued right to be involved in the transformation of their estate through estate forums and a programme of complementary community initiatives is already in place on the Rayners Lane estate and being taken forward for Mill Farm Close estate.

Section 3 - Statutory Officer Clearance

Name: Donna Edwards	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 4 October 2010		
Name: Matthew Adams	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 5 October 2010		

Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 28 September 2010		

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker



on behalf of the
Divisional Director
(Environmental
Services)

Date: 1 October 2010

Section 6 - Contact Details and Background Papers

Contact: Alison Pegg, Housing Partnerships and Strategy Manager, 020 8424 1933 Email: Alison.pegg@harrow.gov.uk

Background Papers: Mill Farm Close - Cabinet Reports dated 14 February 2008, 23 October 2008 and 18 March 2010
Leaseholder consultation document

Rayners Lane – Cabinet report 16 March 2006, Formal consultation documents

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE