

MUNICIPAL YEAR 2016/2017 REPORT NO. 256

MEETING TITLE AND DATE:

Cabinet
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REPORT OF:

Executive Director - Regeneration and
Environment

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Agenda – Part 1	Item 8
Subject: Meridian Water Zone 1: Highway Compulsory Purchase Order	
Wards: Upper Edmonton & Edmonton Green	
KD 4484	

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to recommend that Cabinet resolve to make the London Borough of Enfield (Leaside Road and Willoughby Lane) Compulsory Purchase Order (**CPO**) 2017, to assemble the necessary land to enable the delivery of Zone 1 of the Meridian Water Regeneration Programme, for which outline planning consent was granted by Planning Committee on 28 March 2017. This would include specific land interests of 1,550 square metres (0.38 acre) of unregistered land.
- 1.2 The proposed CPO will progress the Council's regeneration aims by enabling development works to proceed without impediment, which will (i) allow the delivery of the first phase of Meridian Water, and (ii) unlock the development of the wider Meridian Water Regeneration area. The scheme is being delivered in partnership with Barratt London Limited.
- 1.3 The Council have conducted extensive investigations into the areas of land required to deliver Zone 1 and has not been able to ascertain any ownership interests or occupiers in the land, which is unregistered. Therefore, the only course available to the Council is to exercise its powers of compulsory purchase, bringing these plots of land into Council ownership and enabling Zone 1 development to go ahead without impediment.

- 1.4 A draft Statement of Reasons for making the proposed CPO is attached to this Report at Appendix 1. Although the Statement of Reasons is non-statutory, it is an important document and, if the CPO is made, it will be served on relevant parties with the required statutory notices of making of the CPO. The draft Statement of Reasons has been prepared in accordance with Government's Guidance on Compulsory Purchase. Should the Cabinet resolve to proceed with the CPO, the draft Statement of Reasons will be finalised to reflect matters as at the time the Order is made and this is reflected in the delegation sought for the Executive Director – Regeneration and Environment (see Recommendations at 2.2).
- 1.5 This Report and the attached draft Statement of Reasons (see Appendix 1) describe the factors which are relevant to any decision on compulsory purchase, including the applicable planning policy framework, matters relevant to deliverability of the Zone 1 within a reasonable timeframe, its impact on affected land owners/occupiers and whether the proposals could be achieved by other means. It includes matters for Cabinet's consideration in relation to the Council's statutory powers, the public sector equality duty and the implications for the Human Rights of third parties. It addresses the overall question of whether there is a compelling case in the public interest for compulsory acquisition.
- 1.6 References are made to the draft attached Statement of Reasons throughout this Report, and Cabinet are asked to read that alongside the content of this Report.

2. RECOMMENDATIONS

That the Cabinet:

- 2.1. Resolve to make a Compulsory Purchase Order for the acquisition of unregistered land in the Zone 1 development at Meridian Water, entitled "The London Borough of Enfield (Leeside Road and Willoughby Lane) Compulsory Purchase Order 2017
- 2.2. Agree that there is a compelling case in the public interest to justify the making of a CPO to include specific land interests that must be acquired to facilitate the redevelopment of Zone 1 at Meridian Water for the reasons detailed in this Report and the draft Statement of Reasons.
- 2.3. To delegate to the Executive Director – Regeneration and Environment, the power to effect the making, confirming and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the land shown shaded on the plan at Appendix 2 including, but not limited to, the following procedural steps:
 - 2.3.1. making such amendments and additions to the draft Statement of Reasons as deemed necessary to properly reflect the Council's position regarding the proposed CPO so as to properly present the Council's case;
 - 2.3.2. making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making;
 - 2.3.3. monitoring of negotiated agreements with land owners or statutory undertakers as applicable, setting out the terms for withdrawal of any objections to the CPO, including where appropriate seeking exclusion of land or new rights from the CPO;
 - 2.3.4. seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981), including the preparation and presentation of the Council's case at any Public Inquiry which may be necessary;
 - 2.3.5. publication and service of notices of confirmation of the CPO and thereafter to execute and serve any General Vesting Declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area; and
 - 2.3.6. referral and conduct of disputes, relating to compulsory purchase compensation, at the Upper Tribunal (Lands Chamber).
- 2.4. Notes that although no persons have been identified as occupying or having an interest in the land, that the public interest in enabling the Zone 1 development to proceed outweighs any possible interference with convention rights.

3. Background to the Scheme

- 3.1 The Meridian Water regeneration area (**Meridian Water**) comprises approximately 85 hectares in the south east of the Borough and is one of the largest developable areas in London. Located within the Central Leaside growth area and the Mayor of London's wider Upper Lee Valley Opportunity Area, it has significant redevelopment potential.
- 3.2 On the 10 February 2016 Cabinet (KD4229) agreed the increase to the Neighbourhood Regeneration Capital Programme to fund the next stages of a number of regeneration initiatives which included acquisition of land at Meridian Water.
- 3.3 On 18 May 2016 Cabinet (KD4241) approved the decision to approve the outcome of the Meridian Water Master Development Partner procurement process. A joint bid between Barratt London Limited (the **Developer**) has been successful in being selected as the master developer.
- 3.4 On 6 September 2016 Cabinet (KD4348) passed a resolution stating that the Council agrees, in principle, to use its compulsory purchase powers for acquisition of land necessary for the delivery of the Meridian Water regeneration scheme.
- 3.5 On 25 January 2017 Full Council approved the draft submission version of an updated Edmonton Leaside Area Action Plan (**AAP**) for consultation, which once adopted provides planning policy support for the redevelopment and regeneration of Meridian Water.

Zone 1 and Scheme

- 3.6 The scheme underlying the CPO is the Meridian Water regeneration (the **Scheme**) which seeks to regenerate and comprehensively redevelop a large, underused brownfield site in Edmonton. The Scheme aims to provide 10,000 new homes, over 6,700 new jobs, a new railway station, new schools, health facilities and open spaces within a distinct new character area. Development of the Scheme is estimated to take place over the next 20 years.
- 3.7 Planning Committee resolved to grant outline planning consent (with all matters reserved except for access) the first development phase of the Scheme on 28 March 2017 subject to a referral to the Mayor of London and 145 conditions, including a condition requiring the developer to enter into a section 106 agreement for (Zone 1). This consent will be enabled by the CPO. comprises land situated on the west side of the West Anglia Mainline railway previously owned by National Grid and occupied by gas holders now removed, and part of the land to the east of the West Anglia Mainline railway known as the "Tear Drop" site. The elements of Zone 1 that are not the subject of the Order Land are already owned by the Council having been acquired from National Grid in 2 April 2015.
- 3.8 Zone 1 is a mixed-use redevelopment comprising: up to 725 residential units, new station building, platforms and associated interchange and drop-off facilities

including a pedestrian link across the railway, a maximum of 950 square metres retail (A1/A2/A3), floorspace, a maximum of 600 square metres of community (D1) floorspace, a maximum of 750 square metres of leisure (D2) floorspace, associated site infrastructure works including ground and remediation works, roads, cycle-ways and footpaths, utility works above and below ground, surface water drainage works, energy centre and associated plant, public open space and children's play areas, and various temporary meantime uses without structures (such as landscaping and open space).

- 3.9 A draft Statement of Reasons for making the proposed CPO has been prepared by Trowers and Hamlins and reviewed by Guy Roots QC and is attached to this Report at Appendix 1. Should the Cabinet resolve to proceed with the CPO, the draft Statement of Reasons will be finalised to reflect matters as at the time the Order is made. The Scheme and Zone 1 are described in more detail in paragraph 4 of the draft Statement of Reasons (**draft SoR**).

The Order Land

- 3.10 The land subject to the proposed CPO (the **Order Land**) is shown shaded pink on the plan attached to this Report at Appendix 2 (**CPO Plan**). The Order Land comprises three plots of unregistered land. Plots 1 and 2 are within the London Borough of Haringey (**LBH**) adjoining Zone 1 and Plot 3 is within the Zone 1 in Enfield. The Order Land can be described briefly as follows:
- 3.10.1 Plot 1 comprises an area of approximately 820 square metres, which forms an embankment adjacent to Leaside Road and Willoughby Road.
- 3.10.2 Plot 2 is an area of approximately 550 square metres of Willoughby Lane which is public highway and at present provides the existing means of access into the land acquired from National Grid. The surface of Plot 2 is currently within the ownership of LBH as highway authority, but it is not known who owns the sub-soil. The Order will not affect the status of Plot 2 as a highway maintainable at public expense.
- 3.10.3 Plot 3 comprises approximately 180 square metres of land within Zone 1 adjacent to the existing access to the former National Grid land from Willoughby Lane. Prior the Council's acquisition of the National Grid land, Plot 3 was used by National Grid as though it was within its ownership. As part of the conveyancing process it was established that Plot 3 was not part of National Grid's title. As details on ownership could not be established, so it was omitted from the transfer. It is considered by the Council likely to be a historic conveyancing error.
- 3.11 The Order Land is fully described within paragraph 3 of the draft SoR. The lands are required to assemble the land ownership interest around the main vehicular access into the development site.

- 3.12 The Order Land does not include any residential properties or business, or properties of any kind.
- 3.13 The Order does not seek any additional rights.

Statutory Powers

- 3.14 Section 226(1)(a) of the Town and Country Planning Act 1990 (the Act) enables the Council to acquire land compulsorily in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to land in its area. Section 226(1)(a) is subject to sub-section (1A) which provides that the Council must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic and/or social and/or environmental well-being of its area.
- 3.15 Section 226(3) of the Act enables the Council to acquire any land adjacent to land falling within sub-section (1) which is required for the purpose of executing works for facilitating the development or use of land within the Council's area. This is relevant to Plots 1 and 2 which are within LBH.
- 3.16 The Cabinet is directed to paragraphs 6 and 7 of the draft SoR which sets out how the proposed compulsory acquisition is considered to fall within the provisions of Section 226 and delivers the well-being objectives required by Section 226(1A). In summary it is considered that transformational change from the Scheme, as well as the discrete benefits of Zone 1 aim to deliver are likely to contribute to significantly improving the economic and social well-being of the Council's area. The Order Land facilitates Zone 1 by providing unencumbered legal rights over land required to develop the main access to Zone 1 and implement associated pedestrianised areas around the access.

Justification – Compelling Case in the Public Interest

- 3.17 The relevant considerations for the purposes of any resolution to use CPO powers are set out in this Report and the attached draft SoR. The Guidance on Compulsory Purchase and the Crichel Downs Rules for the disposal of land acquired by, or under the threat of, compulsion published in October 2015 by the Department for Communities and Local Government (the **Guidance**) also sets out the considerations to be applied when making a resolution to exercise such powers and the factors which will weigh with the Secretary of State when deciding whether to confirm a CPO. These factors include what might be described as the overarching considerations as follows:
- 3.17.1 a CPO should only be made where there is a compelling case in the public interest;
- 3.17.2 an acquiring authority should be sure that the purposes for which the compulsory purchase order is made justifying interfering with the human rights of those with an interest in the land affected. Particular

consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention;

- 3.17.3 the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement;
- 3.17.4 the acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation; and
- 3.17.5 the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required
- 3.18 As mentioned in paragraph 3.4 above, Cabinet has resolved in principle that use of compulsory purchase powers to acquire the land at Meridian Water is necessary to:
- Secure the delivery of the Scheme and its housing and job-creation objectives;
 - Facilitate the carrying out of the development within agreed costs and timescales in partnership with the Developer; and
 - Contribute to the promotion and improvement of the economic, social and environmental well-being of the Borough.
- 3.19 Since that resolution on 6 September 2016, officers consider that no material circumstances have arisen which have altered the basis for that decision. In fact the case for use of CPO powers has been strengthened with the granting of planning permission for Zone 1, consultation on an updated APP which robustly support the Scheme (including the use of CPO powers to deliver the Scheme) and signing of the MDFA with the Developer.
- 3.20 Planning policy supports for the Scheme and Zone 1 is strong in adopted policy and importantly in emerging policy, which is discussed in detail in paragraph 5 of the draft SoR. The general justification for use of CPO powers is contained within paragraph 7 of the draft SoR, which demonstrates the economic, social and regenerative benefits that implementing Zone 1 will provide.
- 3.21 Therefore the justification for the use of CPO powers has been determined in principle, however Cabinet will need to consider the specific use of those powers as on the Order Lands as recommended in this Report.
- 3.22 The specific need to acquire the Order Land is addressed in paragraph 3 of the draft SoR. In summary the Order Lands are required to secure full and unfettered legal access over land which will be involved in the construction of the main access

into Zone 1 at Leaside Road and Willoughby Lane. The CPO will ensure that legal rights to construct and maintain the area are clear and that issues associated with the unregistered land will not delay or prevent construction of the access and Zone 1 more generally (see Appendix 3 showing proposed junction layout of new road access into Zone 1 from Leaside Road).

- 3.23 As mentioned no residential properties or business, or property of any kind is included within the Order Land.
- 3.24 There are no direct impacts on individual rights arising from the CPO, and indirect impacts from development of Zone 1 and minimised and controlled by other legislation and the planning permission. Therefore the compelling case in the public interest arising from the benefits of Zone 1, plainly outweigh any possible interference with individual rights.

Efforts to Acquire by Agreement

- 3.25 The Order Land is unregistered and efforts to ascertain ownership have not been successful. As ownership cannot be traced it has not been possible to attempt to acquire the land by agreement. The efforts made to trace ownership are addressed in paragraph 9 of the draft SoR.
- 3.26 The Guidance art paragraph 16 states acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, *save for lands where land ownership is unknown or in question*. The Council have made reasonable efforts to ascertain ownership in compliance with the Guidance. As these efforts have found no parties with an interest in the land, attempts to acquire the land by agreement are not required.
- 3.27 Cabinet should note that the CPO will be publicised and in accordance with requirement of the legislation which will include adverts in newspapers and site notices. This will give additional opportunity for any persons with an interest in the Order Land, if any exist, to become aware of the CPO and have the opportunity to make representations. In the unlikely event this occurs officers would reconsider the position of the CPO, particularly against the right of any such persons and enter into discussions to acquire their land by agreement.
- 3.28 The Council are in discussion with the LBH in relation to adopting the embankment strip (plot 1) along Leaside Road. The Council has also informed LBH of its intention to CPO this land, and discussions are ongoing to this regard.

Impediments

- 3.29 There are no impediments to the delivery of Zone 1 and officers consider that there are realistic prospects of the Zone1 being brought forward within the near future, with an anticipated start of works in autumn 2017.
- 3.30 The key consent required has been obtained, when planning permission was granted for Zone 1. It is considered that the conditions and planning obligation

relating to the Zone 1 permission can be complied with. There are no other consents required in order to implement the development. In respect of later phases of the Scheme a strong adopted and emerging policy framework is in place meaning that future planning applications, if in accordance with those policies are likely to be supported.

- 3.31 LBH have entered into an agreement under highways legislation with the Council that relates to the construction of the access into Zone 1 on highways within their area.
- 3.32 An order stopping up adopted highway will be required for part of Willoughby Lane from LBH, and the subsoil of that highway land is part of the Order Land relating to this CPO. The stopping up order is required before occupation of some of the proposed residential units. LBH support the principle of stopping up this highway land and it is not considered this represents an impediment.
- 3.33 Agreements are in place with the Developer and Network Rail relating to development of Zone 1.
- 3.34 Furthermore there are no physical impediments to developing Zone 1.
- 3.35 These matters are addressed in detail in paragraphs 8 and 10 of the draft SoR.

Resource Implications

- 3.36 Subject to Cabinet approval the Council intends to enter into a Master Developer Framework Agreement with its preferred Developer, Barratt London a wholly owned subsidiary of Barratt Developments PLC, one of the UK's leading residential development companies. Officers are satisfied that the Developer has the resources and commitment to effectively deliver Zone 1, as well as future phases of the Scheme.
- 3.37 In addition, Network Rail, developing the station element of Zone 1 have secured funding for this, as well as other improvements to the West Anglia Mainline including a third railway track.
- 3.38 These matters are addressed in detail in paragraph 9 of the draft SoR.

Conclusion on Justification

- 3.39 The need for Zone 1, in delivering the development, the necessity of acquiring the Order Land is acknowledged and supported in the adopted planning policy framework as summarised above and in the draft SoR.
- 3.40 Zone 1 fulfils key planning objectives and providing a significant contribution to housing supply and important transport/accessibility benefits thereby improving the economic, social and environmental well-being of the area.

- 3.41 Delivery of Zone 1 is important to the delivery of the Scheme as a whole which will deliver the full range of economic, social and environmental benefits to the Council's area as outlined above, including 10,000 homes and over 6,700 jobs.
- 3.42 Officers consider that there is a reasonable prospect that Zone 1 as well as further phases of the Scheme will proceed, due to agreements with the Developer and third parties (such as the GLA and Network Rail). Planning permission has been granted for Zone 1 and there are no other consents or physical impediments that it is considered will prevent implementation or delivery.
- 3.43 Due to the fact ownership of the Order Land cannot be traced there are no realistic alternatives to the compulsory acquisition of the Order Land to achieve the purposes of the proposed Order.
- 3.44 The impact on the human rights of those likely to be affected by the proposed CPO is considered in section 10 below, although as there are no owners or occupiers identified as being affected by the CPO, officers consider there are no substantive impacts on individual rights.
- 3.45 The impact of CPO in the context of the Equalities Act 2010 is considered in section 9 of this Report.
- 3.46 In the officers' view, there is a compelling case in the public interest sufficient to justify the making of the CPO.

Timetable

- 3.47 Once a CPO is made, the programme is no longer wholly in the control of the Council, but is subject to a timetable led by the Planning Inspector. This said, Trowers have provided an outline indication of the timetable process:
- 3.47.1 If no objections are received, it should be possible to confirm the CPO by summer 2017.
- 3.47.2 If there are objections, these objections will need to be addressed before the CPO is confirmed. We anticipate that the parties most likely to object are the statutory undertakers, for example from National Grid. Trowers have considerable experience of dealing with such objectors, and we are already in discussions with National Grid about the development. It is anticipated that such objections could be addressed in 4-6 weeks.
- 3.47.3 If there are objections that cannot be resolved, a Public Inquiry would need to be called by the Planning Inspector. This process could take 6 months, meaning that, if successful, the CPO would be confirmed in March/April 2018. While according to the current timetable the Master Developer intend to start on site in early 2018, this delay in the confirmation of the CPO would not prevent early phases of construction from beginning. In fact, the elements of the development for which this

land ownership is required, including the stopped up of Willoughby Lane and landscaping of the Leaside Road Junction entrance into the site, will be undertaken towards the end of the construction phase.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Cabinet could choose not to pursue this CPO at this time. This may result in delays to starting development due to uncertainty on the part of the Developer around landownership interests on the Order Land. This may result in significant delays to implementing development and delays to the economic and social benefits the scheme will bring.

5. REASONS FOR RECOMMENDATIONS

- 5.1 Acquisition of the Order Lands will enable the Council to exercise control over the land required to implement development of Zone 1 of the Meridian Water regeneration area.
- 5.2 Any delays to Zone 1 will result in considerably delayed (or potentially reduced) economic and social benefits for the borough and the local area. Issues with Zone 1, being the first development phase, are particularly sensitive as this phase unlocks the development potential and financial viability of later phases.
- 5.3 Resolving the issue of land ownership of the Order Land will provide a greater level of certainty over the timescales associated with the development and to increase developer and stakeholder confidence in the delivery of the Scheme.
- 5.4 Acquisition of these plots would remove an important obstacle to development of Zone 1 and therefore will make a positive contribution towards signing the MDFA.
- 5.5 Undertaking this CPO adds value to the site, adding 0.38 acre of land in Willoughby Lane Zone 1 to the Council's land ownership. Land assembly is part of the Council's obligations under the MDFA (it is not a responsibility of Barratt). While the Council would have to incur any costs associated with this acquisition (see Part 2 of this report), these would be recuperated when the Zone 1 land is disposed of to the Master Developer and the Council receives a capital receipt based on the agreed financial model with the Master Developer.
- 5.6 Granting of the CPO will address a potential impediment to planning permission for Zone 1.

6. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

See Part 2 of this Report

6.2 Legal Implications

- 6.2.1 The Council is empowered under section 226(1)(a) of the Act 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 make a compulsory acquisition 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 it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. 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. According to the Guidance the Council's area includes part of its area.
- 6.2.2 Section 226(3) of the Act confirms the Council's CPO powers extend to lands adjoining land which is required for the purpose of executing works for facilitating the development or use of the primary land. This is relevant to Plots 1 and 2 of the Order Lands which are outside of the Zone 1 boundary.
- 6.2.3 The Acquisition of Land Act 1981 (the **1981 Act**) governs the procedures which apply to such an acquisition, the Compulsory Purchase Act 1965 governs post-confirmation procedures and the Land Compensation Act 1961 governs the amount and assessment of compensation.
- 6.2.4 The Council may dispose of the land under section 233 of the Act for the purpose of bringing it forward for development or otherwise facilitating development. Any such disposal must be for the best consideration that can reasonably be obtained, unless the Secretary of State's consent is obtained. By a combination of sections 226 and 233 of the Act, it is open to the Council to compulsorily acquire land for planning purposes and then transfer it to a developer partner.
- 6.2.5 The 1981 Act provides that the authorisation of a compulsory purchase is to be conferred by a CPO. A CPO is required to be made in a prescribed form and must describe by reference to a map the land to which it applies. If the Council makes a CPO, it must submit the CPO to the Secretary of State for confirmation. Prior to submission to the Secretary of State, the Council must publish notice of the making of the CPO specifying that the order has been made, describing the land and the purpose for which it is required, naming a place where the order and map may be inspected and specifying a time which (and the manner in which) objections may be made. The Council must also serve a notice in prescribed form on affected owners, lessees, tenants or occupiers (if any exist) of the land allowing them the opportunity to object. The procedure for confirmation is specified in the 1981 Act and may require the conduct of a public inquiry if there are objections.
- 6.2.6 As an acquisition under the Act will extinguish third party rights, the Council will need to take care that it does not contravene the rights of individuals under the European Convention on Human Rights (the **ECHR**). Section 6 of the Human

Rights Act 1998 makes it lawful for the Council to act in any way which is incompatible with a right under the ECHR. Pursuant to Article 1 of the First Protocol to the ECHR, every person is entitled to the peaceful enjoyment of his or her possessions and no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. In order to avoid contravening individual human rights by making a CPO, it must be demonstrated that the CPO is in the public interest and that it is necessary and proportionate to make the CPO. It is considered that, as the requirements of section 226 (1) and (1A) of the Act have been fulfilled (i.e. the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area), this will provide a very substantial basis upon which to make the case that the scheme is policy based and is consistent with statutory objectives.

- 6.2.7 The fact of the land being held or acquired (whether through private treaty of a CPO) for planning purposes is important because of the operation of section 203 of the Housing and Planning Act 2016. This provides that the building or maintenance of any work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised if it is done in accordance with planning permission, notwithstanding that it involves—(a) interference with an interest or right to which this section applies, or (b) a breach of a restriction as to the user of land arising by virtue of a contract. The interests and rights to which this section applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- 6.2.8 The making of a CPO should be a last resort and should be preceded by vigorous attempts to buy the land by agreement. However the Guidance and legislation allow for CPOs relating land with untraceable owners. The Council must make reasonable efforts to ascertain ownership and follow the requisite service and publication procedures required by the section 6 of the 1981 Act and section 329 of the Act after the CPO is made.
- 6.2.9 The Guidance provides guidance to acquiring authorities in England on the use of compulsory acquisition powers, although is guidance only and may be adapted to the particular circumstances. The Guidance has been referred to, as appropriate, in the preparation of this report and the draft SoR.
- 6.2.10 Before making a CPO, 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. Some form of equality analysis will be required which is proportionate to the potential impact of the CPO on individuals or communities.
- 6.2.11 The making of a CPO is an executive function, by virtue of section 9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities)

(England) Regulations 2000. Pursuant to section 9E(2) of the Local Government Act 2000, the Cabinet may arrange for the discharge of an executive function by an officer of the authority.

6.2.12 Once a CPO is confirmed the Council can then take steps to acquire land either by serving a notice to treat and notice of entry in accordance with the 1981 Act or by serving a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981. Consideration would need to be given to the most appropriate route and the procedure set out by legislation must be followed.

6.2.13 Persons having interests in the land acquired compulsorily will be entitled to compensation. Although the liability to pay compensation will arise only after the Council has exercised its power to acquire land following confirmation of the CPO, it is important that some consideration is given to compensation at this stage. Payment is in accordance with the 'compensation code' which is the law as set out in the Land Compensation Acts 1961 and 1973 and the Compulsory Purchase Act 1965, as amended by subsequent legislation and supplemented by case law.

6.2.14 Where land acquired has untraceable owners, the procedure for assessment of and paying compensation is set out in the Land Compensation Act 1965 or the Compulsory Purchase (Vesting Declarations) Act 1981 and the Upper Tribunal (Lands Chamber) Guidance dated January 2016. This may require payment of sums into court to be held for any potential owners, returnable after the right to seek compensation has expired (six years after the date of entry onto the land: section 9(1), Limitation Act 1980 and *Hillingdon London Borough Council v ARC Limited [1999] Ch 139*). The procedures differ depending on whether land is acquired by way of notice or general vesting declaration.

6.3 **Property Implications**

The valuation methodology used in calculating the value of this site is consistent with the best practise principles of acquiring land under compulsory purchase.

The council has the option of either setting aside the capital requirement or taking insurance against any future claims coming forward. The viability calculations for the comprehensive Meridian Water scheme will need to factor in the cost of taking out this insurance.

7. **KEY RISKS**

Risk The CPO is not confirmed in part or in whole. The result would be that access into the Site as planned from Leese Road is not obtainable. Although this is a serious risk, the likelihood of it materialising is very low due to the untraceable ownership of the Order Land.

Mitigation The development proposals and planning application (particularly its design and access elements) for Zone 1 will need to be revised to allow alternative access and permeability through the site. This may lead to delays including in

terms of securing planning consent, and may impact on the viability and outputs of the scheme.

Risk Objection received to the CPO by a statutory undertaker. This has a moderate likelihood as statutory undertakers with apparatus or facilities in or around land affected by CPOs routinely object to ensure their rights will not be affected. If an objection is received the Council would be required to provide assurances in order to allow for withdrawal of the objection. Any objection to the CPO may cause delay while negotiations are undertaken to reach agreement for the objection to be withdrawn or while the objections are determined by the Secretary of State at a public inquiry.

Mitigation Consultation with statutory undertakers to understand their requirements in advance of launching a CPO. In particular, National Grid has been consulted and discussions have been positive. If objections are received the Council will work proactively to reach agreement to overcome objections in the most cost effective and timely manner possible.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The Regeneration of Meridian Water Zone 1 will promote fairness for all members of the local community through consulting the community on the proposals and by the planned provision of new commercial, community and residential development that is appropriately accessible to the local community.

8.2 Growth and Sustainability

Growth and sustainability are central to the proposals for Meridian Water – Zone 1, The proposed development (see Planning Application) will provide growth in terms of increasing the supply of quality housing in the area; improving the quality and quantity of commercial space; and by including one or more community uses that will facilitate appropriate community activities.

8.3 Strong Communities

The proposals for Zone 1 - aim to increase home ownership levels in the area which will create a more mixed community and support greater footfall in the area. The proposed redevelopment will also provide a range of unit sizes to accommodate a diversity of community and commercial uses, and improving the public realm will facilitate the free flow of people between zone 1 and the new station.

9. EQUALITIES IMPACT IMPLICATIONS

9.1 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

9.2 Officers have taken this into account in the assessment of the CPO and the Cabinet must be mindful of this duty when considering the recommendations in the Report.

9.3 The Order by assisting with implementation of the scheme will have a positive impact on equalities in general. To ensure that this is the case an Equalities Impact Assessment has been prepared by the Strategic Planning team to support the AAP submission. The Zone 1 planning application was also subject an equalities impact assessment.

9.4 Further CPO publication and notification consultation process has been served to notify all relevant parties likely to be impacted by the Order. However, additional regard has been given to any potential impact upon the protected characteristics outlined by the Equalities Act 2010 Section 149 and the provisions contained therein. It is considered that due regard has been given to the impact of Zone 1 on all relevant groups with protected characteristics.

9.5 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the ECHR. Articles 6 and 8 and Article 1 of the First Protocol are potentially relevant to the compulsory purchase of land:-

9.5.1 Article 6 provides that everyone is entitled to a fair and public hearing in the determination of his civil rights and obligations. The statutory procedures applicable to compulsory purchase, which include the right to object and provide for judicial review, are sufficient to satisfy the requirements of this Article.

9.5.2 Article 8 provides that everyone has the right to respect for his private and family life and that there shall be no interference by a public authority with the exercise of this right except in accordance with the law, where there is a legitimate aim and where it is fair and

proportionate in the public interest. Since the Order Land is not occupied, this Article is not engaged in this case

- 9.5.3 Article 1 of the First Protocol provides for the peaceful enjoyment of possessions (including property) and that no one shall be deprived of possessions except in the public interest and subject to the conditions provided for by law.
- 9.6 If the Order is confirmed, and if any person can show that he held an interest in any of the Order Land, that person will be entitled to compensation which will be assessed in accordance with the relevant statutory provisions sometimes referred to for short as the Compulsory Purchase Compensation Code.
- 9.7 The reference in Article 1 of the First Protocol to “the public interest” means that, in deciding whether to make and confirm a compulsory purchase order, a fair balance must be struck between the public benefit sought and the interference with the rights in question.
- 9.8 In making this Order, the Council considers that there is a compelling case in the public interest to enable the Zone 1 development to proceed here in order to secure the economic regeneration, environmental and public benefits which the Zone 1 development will bring.
- 9.9 Since Plots 1 and 3 are not currently used for any purpose and Plot 2 is highway land, and since no one who has any interest in the Order Land has been identified (apart from LBH in relation to Plot 2), the Council considers that the public interest to enable the Zone 1 development to proceed outweighs any possible interference with convention rights.
- 9.10 The Council is of the view, therefore, that the Order is compatible with the ECHR.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

Delivery of a comprehensive regeneration scheme at Meridian Water is a corporate priority within the Council’s Business Plan for 2016-2018. Completion of the Masterplan and the delivery of phased infrastructure improvements including increased rail services, station improvements and new homes will help to meet the strategic priority: “a borough that attracts inward investment and supports sustainable regeneration and growth.”

11. PUBLIC HEALTH IMPLICATIONS

There are no Public Health Implications directly arising from this CPO, but the benefits of remediating and regeneration the former Gasholder Site of Zone 1 into a clean, accessible neighbourhood is likely to have positive public health benefits.

12. HEALTH AND SAFETY IMPLICATIONS

There are no immediate Health and Safety implications of this CPO, however, in accordance with the Core Strategy, all new areas brought forward for development will have appropriate provision of green space, parks, as well as sufficient access to new community, sports and health facilities to support the new communities.

Background Papers

None

Appendices

Appendix 1: Statement of Reasons (current draft 06.04.2017)

Appendix 2: CPO Plan of Leaside Road Junction

Appendix 3: Proposed Leaside Road Junction Layout