

	<p>Executive 26th May 2009</p> <p>Report from the Director of Housing and Community Care</p>
<p>Ward Affected: Sudbury Ward</p>	
<p>Barham Park Estate Proposed Estate Regeneration</p>	

Forward Plan Ref: H&CC-08/09-16

Appendix 1 & 2 are not for publication

1.0 Summary

- 1.1 This report is to update Members on the progress that has been made on the Barham Park development since the last report to the Executive on 16 June 2008.
- 1.2 It also seeks members' decisions for a range of items in order to progress the regeneration objectives for the site.

2.0 Recommendations

- 2.1 That members approve the scheme as proposed in section 3 of this report. "The Scheme", consists of the demolition of the residential units on the Barham Park Estate, a commercial unit on the Harrow Road frontage and the re-provision of some 358 new units created for private sale, rent or intermediate tenure together with commercial/retail space and community space.
- 2.2 That Members agree to confirm the selection of Notting Hill Housing Trust ("NHHT") as the delivery partner for the redevelopment of the Barham Park Estate (the "Estate") in conjunction with its development partner, Countryside Properties ("CP UK Limited").
- 2.3 That members agree to dispose of the land currently comprised in the Estate to NHHT and/or CP UK Limited in accordance with the main terms set out in section 6 of this report.

- 2.4 That members authorise the Director of Housing and Community Care, in consultation with the Director of Finance and Corporate Resources and the Borough Solicitor, to enter into a Principal Development Agreement (“PDA”) with NHHT and CP UK Limited on such terms as the Director considers reasonable but reflecting the main terms set out in section 6 of this report subject to the Scheme receiving funding from the Homes and Communities Agency (HCA). Members should note that May 2009 is the target date to conclude negotiations.
- 2.5 That members authorise the Director of Housing and Community Care to enter into nomination agreements in respect of the newly constructed social housing units built as part of the redevelopment.
- 2.6 That Members authorise the Director of Housing and Community Care to consult with the existing residents of the Estate on the detailed proposals within the Scheme.
- 2.7 That Members authorise the immediate cessation of permanent lettings on the Estate in order to assist the decanting process and note that all decants will be given band A status to enable the Council to fulfil its obligation in the PDA..
- 2.5 That Members authorise the service of demolition notices in relation to properties on the Estate and authorise the Director of Housing and Community Care to issue all and any notices required to be issued in connection with such demolition.
- 2.6 That Members authorise the Director of Housing and Community Care to seek the Secretary of State’s consent to the phased disposal and redevelopment of the Estate for the purposes of ground 10A of Schedule 2 to the Housing Act 1985 to enable the Council to apply for a court order to obtain vacant possession of residential dwellings let under secure tenancies.
- 2.7 That Members authorise the Director of Housing and Community Care to seek the Secretary of State's consent for the disposal of the housing land on the Estate to NHHT and CP UK Limited in accordance with Section 32 of the Housing Act 1985 and section 25 of the Local Government Act 1988..
- 2.8 That Members note the proposed decant strategy for the redevelopment of the Estate in section 3 of this report and authorise the Director of Housing and Community Care to implement such strategy.
- 2.9 That Members authorise the Director of Housing and Community Care to commence and comply with the procedure as set out in section 122(2A) of the Local Government Act 1972 to agree that the open space land on 776-778 Harrow Road is no longer required for the purpose for which it is currently held and to appropriate the land for housing purposes. In addition to this, to consider any objections made to the appropriation, and unless there are objections received which in his opinion are significant, to implement the appropriation. If such objections are received then a further report will be brought back to the Executive for consideration.
- 2.10 That Members support the de-designation and re-use of the former Elms

Court Allotment site as a decant site for the Scheme and instruct officers to work with NHHT to secure appropriate development, subject to de-designation being supported by the Secretary of State.

- 2.13 That Members authorise the making of compulsory purchase orders (CPOs) to acquire (a) the leasehold interests listed in appendix 4 being interests in the Estate which leasehold interests are referred to hereafter as “the CPO Land” under section 226 (1)(a) of the Town and Country Planning Act 1990 and (b) any new rights in the CPO Land which may be required under section 13 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.14 That Members authorise the submission of the CPOs, once made, to the Secretary of State for confirmation, whilst at the same time seeking to acquire the land by private negotiated treaty on such terms as may be agreed by the Director of Finance and Corporate Resources..
- 2.15 That Members authorise the:
- 2.15.1 Director of Housing and Community Care to enter into agreements and make undertakings on behalf of the Council with the holders of interests in the CPO Land or parties otherwise affected by the Scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPOs and including the offering back of any part of the CPO Land not required by the Council after the completion of the development or the acquisition of rights over the CPO Land in place of freehold acquisition, where such agreements are appropriate;
- 2.15.2 Making of one or more general vesting declarations or service of Notices to Treat and Notices of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively should the CPOs be confirmed by the Secretary of State;
- 2.15.3 Service of all requisite notices on the holders of the CPO Land relating to the making and confirmation of the CPOs;
- 2.15.4 Director of Housing and Community Care to remove from the CPOs any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPOs (if so advised) and to alter the nature of the proposed acquisition from an acquisition of existing property interests to an acquisition of new rights (if so advised);
- 2.15.5 Director of Housing and Community Care within the defined boundary of the CPO Land, to acquire land and/or new rights by agreement either in advance of the confirmation of compulsory purchase powers, if so advised, or following the confirmation of compulsory powers by the Secretary of State;
- 2.17 That Members authorise the Director of Housing and Community Care, if so advised, to seek to acquire for the Council by agreement any interest in land wholly or partly within the limits of the CPO Land for which a blight notice has been validly served.

3.0 Background

3.1 Barham Park Estate comprises 214 dwellings made up of the mix below:

	Rented	Owned leasehold	Total
One bedroom flats.	78	5	83
Two bedroom flats	52	8	60
Three bedroom maisonettes	55	16	71
Total	185	29	214

3.2 The properties were constructed in 1970 using Resiform, a construction system of glass fibre reinforced polyester resin panels. The resin panels are prone to damage and are expensive to repair. The properties suffer from a range of problems associated with their age, design and construction. The majority of the window frames are metal and single glazed. Repairs/replacements to the windows are very difficult owing the construction of the walls. Damp penetration, condensation, poor insulation and high space heating costs are common complaints. The communal hallways and staircases are brick and concrete and are dark and forbidding.

3.3 The Estate is currently managed by Brent Housing Partnership (BHP), the Council's ALMO. BHP reports that a pattern of repairs is now starting to emerge which suggests that increasing amounts will need to be spent over and above the level of expenditure that would be expected to keep the buildings in good repair. A similar pattern of generic disrepair was evident some years ago at the Council's other Resiform estate, Church End in Harlesden. That estate has now been demolished and redeveloped by FortuneGate Housing, part of the Catalyst Housing Group.

Option Appraisal

3.4 In successfully setting up its ALMO, the Council secured funding to bring the majority of its remaining housing stock up to the decent homes standard by 2010. In making the ALMO bid, it was made clear that in a couple of areas the cost of work required to achieve the decent homes standard was too great to be covered by any additional resources which might be gained via the ALMO. One of these was the South Kilburn area and the other the Estate.

3.5 In 2002 the Council acted on professional advice on the condition on the Estate and decided that the Estate should be redeveloped and therefore the Estate was not included in BHP's decent homes programme, as their main priority at the time, was to concentrate on the repair and refurbishment of the bulk of the Council's stock. The professional advice received also concluded, with residents, that complete redevelopment was most likely to be the best option. The Council undertook a selection process for a housing association in late 2003 involving the ten housing associations on the Council's Joint Commissioning Registered Social Landlord partner list. This resulted in the Council selecting NHHT as its preferred partner in December 2004. The proposals from NHHT made it clear that the approach was in partnership with

CP UK Limited, the July 2004 questionnaire outlining their plans in detail.

- 3.6 The selection of the preferred housing association was carried out in two stages. The first stage was to select the housing associations that would be invited to put forward proposals on the basis of pre-qualification questionnaires. Four housing associations got through the first stage. The second stage was to invite those four housing associations to submit proposals including design proposals and a business plan. Each housing association teamed up with a developer partner and architects in order to produce the necessary plans, though two of them dropped out further into the process. NHHT's partners were CP UK Limited and PRP architects and they have continued working together. Evidence of this joint working is in the background papers to the report to the Executive recommending NHHT's selection which Members approved in December 2004.
- 3.7 Although in December 2004, the Executive selected NHHT as the preferred partner to take forward the regeneration of the Estate, it was recognised that the design proposals that they had submitted would not be acceptable and more detailed work would need to be carried out. However, this was also the case for the remaining housing association. Therefore the final selection was based on which housing association offered the best overall approach and the best prospect of achieving a viable and deliverable scheme.
- 3.8 Throughout 2005 NHHT together with CP UK Limited and PRP architects worked on proposals and liaised with Council departments including housing and planning as well as consulting with tenants. Despite extensive efforts, it was not possible to produce a scheme which was financially viable without building a significant number of homes for sale as cross-subsidy contribution to the overall scheme. In April 2006 NHHT presented proposals that consisted of 495 units of which 84 were off the Estate on the Harrow Road on a site that NHHT had purchased. It would have also involved using 10% of Maybank open space and necessitated an additional access route from Central Road.
- 3.9 This proposal would have allowed the inclusion of Housing Corporation funding for the offsite units (Maybank and Harrow Road frontage) though this was still insufficient to clear the deficit. It should be noted that at the same time officers bid to the London Housing Board for estate regeneration funding, however this bid was rejected. This option of 495 units was rejected by tenants who wished to see a lower density scheme and in addition a petition to the Executive in July 2006 strongly opposed the additional access route. Brent planners also did not support the proposed scheme at these density levels.
- 3.10 NHHT worked on further proposals which officers presented to the Council's leadership in November 2006 who met with NHHT in January 2007. Although the density of the overall scheme was reduced and the increase on the estate itself was limited to 300 homes, there was still a financial deficit that would need central government funding. In addition there was a body of opinion on the Estate which was opposed to NHHT continuing to be involved.

The focus of work had been to arrive at a financially viable and deliverable scheme that would enable all current residents on the Estate to be rehoused

satisfactorily. No decision had been made on whether this would be on the basis of a tenanted stock transfer as a viable scheme had yet to be produced.

The Scheme

3.11 The current proposals are for a mixed tenure development (social rent, Intermediate tenure, private ownership), as shown below.

	Private sale	Social Rented	Intermediate Tenure
1b2p flat	48	40	29
2b3p flat.	88	21	32
2b4p flat	26	20	4
3b5p maisonette		9	
3b5p house.	9	27	
4b6p house		5	
Totals	171	122	65

3.12 The Scheme covers the area including the Estate itself, plus two adjacent areas of land owned by NHHT:

- The Harrow Road frontage site, 721-733 Harrow Road HA0 2LL, was purchased by NHHT in December 2005 specifically for inclusion in the Estates' redevelopment plans. The site is currently occupied by a car sales showroom and MoT garage. Whilst this site could be developed on a stand-alone basis, its potential is significantly enhanced by combining it with the Council's adjoining land.
- 89 Central Road HA0 2LQ, an end-of-terrace house, was purchased by NHHT in July 2006. At that time, the redevelopment proposals for the Estate envisaged that a second full vehicular access road would be required, and it was intended to achieve this by demolishing 89 Central Road. The Council's current thinking is that, for the number of units now proposed, a secondary 'emergency only' access will be required. It is hoped that this can be achieved by using part of the garden of 89 Central Road to widen the footpath which runs alongside it. It is also proposed to incorporate some of the property's rear garden into the redevelopment area. In the meantime, 89 Central Road is let by NHHT on a 'market rent' assured shorthold tenancy basis.

3.13 Some of the house sizes may be adjusted as design work develops. The sizes and numbers of rented houses, for example, may adjust to better suit the needs of decanting tenants. And those of private sale may adjust to better suit demand from prospective purchasers. Some of the affordable rented homes are also likely to be adjusted to meet the mobility needs of decanting tenants, including to full wheelchair user standards.

3.14 The ground floor area of the flats block fronting onto the Harrow Road would provide commercial/retail space. A further area has been earmarked for use as a community space, partly to replace the existing residents' association office and meeting room. The specification and use of this community space will be agreed with residents. The redevelopment proposals for the Estate

are shown below.



3.15 It is currently envisaged that the Estate will be redeveloped in three phases over a period of some five years. Start on site is envisaged to be around March 2010. The first phase will comprise of two areas, Phases 1A and 1B, at the eastern end of the Estate (adjacent to the Council-owned Maybank open space) and the western end of the (incorporating the NHHT owned site fronting the Harrow Road). Phases 1A and 1B would run concurrently, and be followed by a further two phases to complete the redevelopment.



3.16 It is proposed that the Council and NHHT will work together on the process of decanting the existing homes in order to obtain vacant possession to enable each development phase to commence. The demolition programme is due to start in March 2010 with the development programme to commence around June 2010. The complete programme is as shown below:-

New Build Phase 1A & 1B	June 2010 – June 2012
New Build Phase 2	September 2011 – October 2013
New Build Phase 3	December 2012 – June 2015

3.17 Phases 1A and 1B combined will require the decanting of 55 tenanted

properties and the purchase (by NHHT) of nine leasehold properties. NHHT proposes, with Council support, to seek NAHP funding for a programme of 'purchase and repair' acquisitions in the vicinity to "kick-start" the first phase decant process. This is in line with current discussions with HCA.

- 3.18 All of the existing tenants will be rehoused though not all on the Estate. A proportion of tenants decanted off site would be given the option of the right to return to the newly built estate, if they so desired to return. However not all tenants would be offered this facility as a number of tenants would be rehoused permanently away from the Estate given the lower number of rented properties that will be built within the Estate. There will also be opportunities for access to intermediate home products.
- 3.19 For phases two and three, all new properties will be built to match existing tenants needs as well as increasing the number of properties for intermediate tenures and for market rented/outright sale.
- 3.20 The revised Masterplan for the Estate plans to achieve Code for Sustainable Homes level 3. A higher code level 4 is contingent on HCA funding. CL4 achieves a much greater CO2 saving 44% on 2006 Building Regulations as opposed to 25% as CL3. The Council will also have to refer the application to the Mayor of London who will require 20% of the energy requirements to be met by renewables.
- 3.21 The revised plan incorporates as many as possible of the environmental wishes of residents presented to us during the earlier consultation process, such as retaining all of the Maybank Open Space, building a number of family houses with gardens, building in as much public open space as possible (aided by providing some of the required parking sunken underneath a public green area).
- 3.22 The plans include ample recycling storage provision and bicycle storage sheds
- 3.23 An introduction of an access point provided from Central Road for the sole use of emergency vehicles. This is necessary in case there should be an emergency either on the Estate or on the railway line or at the Station which requires a number of vehicles to be able to access the area. The planning submission will seek for the access to be gated and landscaped to minimise the risk or misuse of the facility.
- 3.24 The proposal is that the transfer of the land for the redevelopment will be made in three agreed phases upon the Council obtaining vacant possession of each phase. Such transfers are subject to permission being granted by the Secretary of State on Ground 10A of Schedule 2 to the Housing Act 1985, and disposal under Section 32 of the Housing Act 1985. Although every effort will be made to obtain possession of the secure tenanted properties with the tenant's consent, the Council will need, as a fallback position, to obtain the Secretary of State's consent to the disposal and redevelopment of the Estate for the purposes of obtaining vacant possession of the secure tenanted dwellings on ground 10A of Schedule 2 to the Housing Act 1985. The procedure required to obtain possession of the properties through these means is set out in Part V of Schedule 2 to the Housing Act 1985.

Funding Routes

- 3.25 At each stage the redevelopment proposals have necessitated additional funding either from cross subsidy from private sales which would have resulted in an over densified scheme, or from government grants, or a combination of the two. Up until now it was either the Council or NHHT who had bid for money from either the London Housing Board or the Housing Corporation. NHHT and CP UK Limited raised the potential of English Partnerships (EP) funding with council officers in November 2007. Countryside had accessed this funding on schemes in the Thames Gateway. This funding was only available to private developers and housing associations rather than Local Authorities. EP had expressed interest in funding areas outside of the Thames Gateway. Council officers met with EP who confirmed this approach and that they were willing to consider proposals in Brent. Given the reorganisation of EP, this funding is being sought from the HCA who are now responsible for the administering of such grant funding, as explained further in paragraph 4.1.

Proposals submitted to English Partnerships/HCA

- 3.26 As CP UK Limited had an established relationship with EP, had received this grant on other schemes and would be the recipients of the gap funding grant, they led on the submission of a pre-application to EP which requested a gap funded total of nearly £10m. The Council was informed that the pre-application would be considered by the EP regional board by September 2008 after which point the Council would be notified whether the application was successful.
- 3.27 The proposal submitted was:-
- ★ 358 units in total
 - ★ 300 within the existing estate,
 - ★ 58 on Harrow Road,
 - ★ No development on Maybank open space,
 - ★ No secondary road access required,
 - ★ Scheme in line with previous discussions with residents and ward members.
- 3.28 EP's appointed Thomas Lister to appraise the pre-application. Further information was sought. EP informed NHHT and CP UK Limited that the pre-application would be considered in November 2008.

4.0 Homes & Communities Agency

- 4.1 The Housing and Regeneration Act 2008 received Royal Assent in July, paving the way for the official launch of the two proposed agencies - HCA and the Tenants Services Authority (TSA) - on 1 December 2008, as set out in the Act. The HCA was established to join up the delivery of housing and regeneration, bringing together the functions of EP, the investment functions of the Housing Corporation, the Academy for Sustainable Communities and key housing and regeneration programmes delivered by Communities and Local Government.

- 4.2 In November 2008 CP UK Limited was informed that due to the formation of the new HCA, this would now be considered at the HCA board on 1st December 2008 and CP UK Limited would be notified if the application could then proceed to the next stage (full assessment). Officers met with HCA officials on 8th December 2008 and were informed that the scheme would be considered by the national board in January 2009, at which point the parties would be informed of their intentions to contribute funding for the Estate.
- 4.3 A delegation of HCA officials visited the Estate site on 16th January 2009, and was given a detailed explanation of the Scheme.
- 4.4 On 30th January 2009, the Council was informed that the scheme was withdrawn from the HCA's gap funding programme, and that the scheme was earmarked for funding from the NAHP. Meetings in early February 2009 between the Council, NHHT and CP UK Limited with HCA discussed the principles of funding and the out puts for the scheme. HCA was sufficiently encouraged to make a commitment to fund the scheme, however further detailed work is required before a final funding provision will be made public.
- 4.5 NHHT has submitted the scheme to HCA for an allocation from the NAHP 2008-11 funding pot for the as part of a package of schemes. Officers have spoken to HCA who have confirmed that there is an in principle approval to fund the scheme. Funding has been allocated on a phased basis in line with the scheme proposals.

5.0 Consultation with Residents

- 5.1 The report of 16th June 2008 details the resident consultation to date, which included the survey undertaken by Council Officers in April 2008. Council officers hold a surgery on the Estate every Thursday afternoon and are rolling out a programme of home visits to eventually interview all Estate residents.
- 5.2 It should be recognised that the last formal engagement with all residents, apart from the survey above and not including 1st April 2009, was in January 2007.
- 5.3 Brent officers have maintained a presence on the Estate for the purposes of enabling the Council to assess the residents' actual need and to facilitate a relationship of trust between the Council and the Estate's residents. Since the survey was circulated a number of appointments with residents on the Estate have been carried out and will continue to be carried out in preparation for developing the planning application. There is also in progress an ongoing desk top analysis of council records and previous tenancy survey work that has been done on the Estate to establish the housing needs and aspirations of the residents.
- 5.4 Residents participated in the appointment of an Independent Tenant Advisor and appointed Priority Estates Project (PEP) with the main contact being George Varughese, (formally of PPCR, the previous ITA for the Estate). The Tenants Association meets regularly with PEP. Tenants and leaseholders will be able contact the ITA directly on any queries that may be applicable to the scheme.

- 5.5 An Estate-wide consultation meeting was held on 1st April 2009. Over 120 residents were registered as attending the meeting. The meeting served a number of functions:-
- 5.5.1 It informed residents that we now have external funding to deliver the scheme.
- 5.5.2 It brought residents up to date on the current proposals to take forward the scheme.
- 5.5.3 It informed residents that they will be influential in taking the scheme forward through a resident led focus group which will look at all aspects of the offer to residents.
- 5.5.4 Residents were able to get questions answered on a range of issues that potentially affects them, and finally,
- 5.5.5 It demonstrated the commitment from all parties, the Council, NHHT, CP UK Ltd and PEP to work together to ensure that the scheme is delivered.
- 5.6 Once Members have approved the proposed redevelopment programme on the Estate then the resident consultation process will be rolled out by the Council, NHHT and CP UK Limited staff. The Focus Group has now been set up. The first meeting was held on 30th April 2009 from a list of tenants that attended the 1st April 2009 meeting. Fortnightly meetings are planned for the next four months.
- 5.7 The Council is committed to consulting the residents and will undertake to do a test of opinion through an independent organisation (like the NOP) to gauge views and opinions of all residents.

6.0 Principal Development Agreement

- 6.1 The PDA is the main legal document that will bind the parties to a contractual commitment to deliver the Estate regeneration programme. The parties to the PDA are the Council, NHHT and their partnering developers, CP UK Limited.
- 6.2 The PDA is structured so that the Estate is split into three phases of development as set out in section 3 of this report. A lease will be granted to either NHHT or CP UK Limited upon the following having been obtained:
- 6.2.1 grant funding from the HCA;
- 6.2.2 detailed planning permission;
- 6.2.2 vacant possession of the dwellings within the phase;
- 6.2.3 all necessary consents;
- 6.2.4 a nomination agreement executed by the Council and NHHT;
- 6.2.5 building contracts for the works to be carried out on the phase executed by NHHT, CP UK Limited and the contractor; and
- 6.2.6 agreement between the parties that the development of the relevant phase is viable within the context of the HCA's viability criteria.
- 6.3 Insofar as the building within each phase consist of 60% or a higher

percentage of affordable housing, the lease will be granted to NHHT. Insofar as the buildings within each phase consist solely of private sale dwellings, the lease will be granted to CP UK Limited. Where the buildings within each phase consist of both affordable and private sale dwellings, generally the lease will be granted to NHHT.

6.3.1 There are specific reasons for granting direct leases of the private sale dwellings to CP UK Limited –

- on draw down of each phase and grant of any leases, CP UK Limited will be making a payment for the Private Housing Land in respect of which it is being granted a lease. This consideration is calculated by taking the net income (from each phase taking into account the anticipated open market value) received by CP UK Limited from the sale of the private dwellings and deducting from this sum the project costs incurred and also deducting CP UK Limited's developers return (of 18% of the project income). All figures that are taken into account when calculating this payment are open to scrutiny by the Council and if there is any dispute as to the suggested price being paid then the matter is to be referred to one or more independent valuers for resolution. Once agreed or determined this money will be paid into a designated bank account and will only be released to NHHT in several stages against certified completion of certain stages of the construction of the Affordable Housing. This is to protect against the money being paid to NHHT at the outset and then NHHT defaulting themselves in the construction of the affordable housing. CP UK Limited's payment is in effect a cross-subsidy to the costs of redeveloping the affordable housing;
- in view of the payments being made by CP UK Limited above, CP UK Limited were not prepared to rely on NHHT being granted a lease of the whole of each phase and simply relying on an underlease from NHHT. The reason for this being that if NHHT were to default and their lease to be forfeited, CP UK Limited's underlease and interest in the scheme would be in jeopardy. Further, NHHT were not prepared to take on obligations to build out the private housing essentially because this would have been ultra vires for them;
- the direct granting of the private housing lease from the Council to CP UK Limited in fact gives the Council some control over the construction of the private housing. CP UK Limited have an obligation to build this housing and failure to do so could result in their lease being forfeited;
- the PDA provides that on each phase the grant of the leases to NHHT and CP UK Limited have to be made simultaneously. In other words a situation could not arise where only the lease to CP UK Limited is granted. The development obligations of NHHT and CP UK Limited in relation to the affordable housing and the private housing very much sit side by side under the terms of the CDA.

- 6.4 Once the development of the phase has reached practical completion the Council will be obligated to transfer the Council's freehold interest in the private sale housing to CP UK Limited and the affordable housing to NHHT.
- 6.5 The lease structure affords the Council greater protection than transferring the freehold interest prior to the commencement of the development which is particularly advantageous given the uncertainties in the current economic climate. In the event that either CP UK Limited or NHHT fail to develop a phase, breach a material covenant of the PDA or if either NHHT or CP UK Limited become insolvent, the Council would be able to forfeit the lease taking ownership of the phase in whatever state of construction it is in and complete the development. Compensatory provisions apply in the event that the Council gain a windfall with regard to taking over a partially completed development or also in the event that the Council are out of pocket with regard to having to complete the development. There are also options within the PDA allowing for NHHT or CP UK Limited to seek another development partner within a certain timescale, prior to the Council's ability to forfeit the lease.
- 6.6 The other main provisions within the PDA include:
- 6.6.1 the costs involved in the phase/scheme, the revenue generated and all figures associated with the viability of the phase/scheme will be open to review and inspection by the Council and conducted by NHHT and CP UK Limited on an open book basis;
- 6.6.2 NHHT and/or Countryside have agreed to reimburse the Council for the majority if not all of the reasonable costs it incurs with regard to appointing its professional team to carry out work in relation to the development, for the CPO costs that the Council incurs, and for all payments the Council is statutorily required to make under legislation to leaseholders and tenants;
- 6.6.3 the parties are to work together to develop the master plan for the redevelopment. It is the master plan that will be submitted to the local planning authority as part of NHHT and CP UK Limited's application for planning permission;
- 6.6.4 in the event there is any surplus income generated from the development of the Estate after the project costs and the developer's profit has been retained, the surplus income is to be divided between the parties with CP UK Limited receiving 50%, and the Council and NHHT each receiving 25% subject to the terms of the grant agreement.
- 6.6.5 The Council shall be primarily responsible for decanting the tenants and leaseholders in accordance with a decanting strategy that is to be agreed between NHHT and the Council as outlined in section 7 below of this report. Section 9 of this report outlines the arrangement that NHHT and the Council have made with regard to the decanting of tenants.
- 6.7 The PDA needs to be agreed by May 2009 in order for the project to be able to achieve start on site by March 2010. Members are asked to approve the main terms of the overall transaction and to authorise the Director of Housing and Community Care to negotiate and agree the final terms of the

agreement.

- 6.8 In summary, the Council will be transferring its land to NHHT and CP UK Limited at nil value (subject to the potential receipt of a proportion of any surplus income as explained in paragraph 6.6.4 above). However, in return it is securing nomination rights to much improved accommodation on the Estate. Given that scheme requires substantial gap funding in order to be viable, it would not in practice be possible to find a housing association and developer willing to proceed with it, if the Council sought a payment for the value of its land

7.0 Cessation of Lettings & Withdrawal of Right to Buys on the Estate

- 7.1 The proposed start on site date must occur before the end of March 2010. HCA has indicated that the grant funding is conditional upon achieving an early start date before 31 March 2010.
- 7.2 The Council is required to remove all tenants in phase 1 (either through the rehousing options through NHHT, with our other RSL partners or through any available units that the Council may have available) to provide a vacant site to fulfil the requirements of the PDA.
- 7.3 In order to facilitate the Council meeting this requirement, all decants in Barham Park will be given band (a) status so that it enables the Council to fulfil its obligations.
- 7.4 The sooner decanting starts the more likelihood there is of meeting the 31 March 2010 deadline to start phases 1A and 1B. Therefore an end to permanent lettings with immediate effect would enable Council officers and NHHT to start to move people who may otherwise be very hard to move because the housing that they need is in short supply. There have been six relets on the Estate in the last six months and approximately 30 households already registered on the transfer list. It will be difficult for the Scheme to commence start on site for the spring of 2010 unless permission is granted to immediately cease all permanent lettings with the exception of inter-estate transfers, for instance to ease overcrowding of families already living on the Estate.
- 7.5 The business model allows for the buy-out of all the current leaseholders (29). If the right to buy is not withdrawn immediately from tenants currently living on the estate then the viability of the scheme will be compromised.
- 7.6 Members are therefore asked to authorise the cessation of permanent lettings for the estate and also withdraw the provision of right to buy from existing tenants on the estate upon the Council serving demolition notices.
- 7.7 Members are also asked to note that all decants will be awarded band (a) status to enable the Council to fulfil its obligation in the PDA.

8.0 Consents

- 8.1 The Council's original intention to effect a transfer of the site was through a ballot of the tenants – and it was anticipated that a simple majority vote would enable the transfer of the whole site. Given the requirement for the Council

to provide a vacant site by March 2010 the officers are recommending that the Council pursues the vacant land transfer option. The PDA requires the Council to grant a leasehold interest for the purposes of commencing the redevelopment to NHHT or CP UK Limited with vacant possession, therefore the Council will need to arrange the decanting of all residents (and the buyback of all leases) in a phase before the lease for that particular phase can be granted.

- 8.2 Although every effort will be made to achieve vacant possession of the properties voluntarily, it is necessary for the Council to have in place a mechanism whereby possession of the secure tenanted properties can be gained through the courts as a last resort.
- 8.3 It is the Council's intention to obtain vacant possession of the secure tenanted properties under ground 10A of schedule 2 of the Housing Act 1985. Ground 10A allows the landlord to obtain vacant possession of the secure tenanted property where that property is located within an area that the subject of a redevelopment scheme approved by the Secretary of State. The Council will ensure that prior to seeking vacant possession of the relevant property suitable alternative accommodation is or has been offered to all secure tenants and the requirements under Part V of Schedule 2 to the Housing Act 1985 before seeking the Secretary of State's consent are complied with.
- 8.4 Members are asked to authorise the Director of Housing and Community Care to seek the consent of the Secretary of State to use ground 10A of schedule 2 of the Housing Act 1985 to obtain vacant possession of the properties on the land and section 32 of the Housing Act 1985 for the eventual disposal of the land.

Compulsory Purchase Orders

- 8.5 In order to achieve vacant parcels of land it will be necessary to buy-back leaseholders within the development. As with the use of ground 10A, officers will seek to obtain possession through negotiations with the Leaseholders within the development area.
- 8.6 Every attempt will be made to achieve buy backs by mutual agreement with the owners in a process of negotiation based on paying market value for replacement of a similar home, plus statutory expenses and compensation payments and this has been very successful in other projects in Brent. The Council will need to comply with the procedures for making and confirming compulsory purchase orders as set out in the Acquisition of Land Act 1981, the Compulsory Purchase of Land Regulations 2004 and the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990 if the Council decides to acquire leasehold interests under its CPO powers.
- 8.7 There are 29 leaseholders on site. A full list is attached at appendix 4. Whilst best endeavours to reach a mutually agreed settlement with leaseholders will be made, there is no guarantee that agreement will be reached with all leaseholders on this site. Officers are therefore recommending members to authorise the making of Compulsory Purchase Orders in respect of these leasehold interests in case it is not possible to

acquire them voluntarily.

- 8.8 As part of the decant strategy, NHHT are pursuing a range of options. Two of them include purchasing Council owned sites. The first one is 776-778 Harrow Road, which is located on the Estate and directly opposite the area being redeveloped. The proposal is to demolish the two cottages and reprovide around 11 units on site within the boundaries of the cottage areas. The cottages are deemed to be on public open space and in order to appropriate the use of that open space land for another of the Council's functions, the Council will need to follow the procedure as set out in paragraph 12.17 below so that the Council will be able to use it for the Scheme.
- 8.9 Members are therefore required to authorise the Director of Housing and Community Care to start and follow the procedure as set out in section 122(2A) of the Local Government Act 1972 to appropriate the open space land to its housing function to enable the land to be disposed to NNHT pursuant to the Scheme.
- 8.10 The other site that NHHT have proposals for is the Elms Court Allotment site. (Site Map included as appendix 7) The site has been derelict for a number of years, and there is no waiting list for the site. The Council is currently seeking de-designation of the allotment site, so that NHHT proposals to build 12 flats and 15 houses can be progressed. It is anticipated that a response will be received by the time that the Executive meet. If the Secretary of State supports de-designation of the former allotment site, your officers seek an in-principle support to work towards the submission of a planning application with NHHT.
- 8.11 It is necessary to consider the human rights implications of making CPOs. The Convention Rights applicable to the making of any CPO orders are Articles, 6 and 8 and Articles 1 of the First Protocol. The position is summarised in para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04.
- 8.12 Article 6 provides that:
- 8.12.1 *"In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law"*
- 8.13 Consultation has already taken place with communities that will be affected by any orders made, and further consultation is proposed as set out in this report.
- 8.14 All those affected by the Orders will be informed and will have the right to make representations to the Secretary of State and to be heard at a Public Inquiry. Those directly affected by the Order will also be entitled to compensation for any losses that they may incur as a result of the acquisition.

- 8.15 Article 1 of the First Protocol states that:
- 8.15.1 *“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “(n)o one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law....”*
- 8.16 Whilst occupiers and owners will be deprived of their property if an Order is confirmed, this will be done in accordance with the law. It is being done in the public interest as required by Article 1 of the First Protocol. The reasons for this are set out in this Report.
- 8.17 Members need to ensure that there is a reasonable prospect of the Scheme underpinning the CPO proceeding. This is addressed in paragraph 12.10 below
- 8.18 The consequences of abandoning a confirmed CPO depends on:
- (a) whether a notice to treat or entry has been served on the owner of the land or not; and
- (b) whether the Council has entered the land following the service of the notice or made a General Vesting Declaration in respect of the land. .
- 8.19 The passing of a resolution to make a CPO does not trigger the right to serve a blight notice. However, residential occupiers could claim blight after a CPO has been submitted to the Secretary of State for confirmation and notices have been served on owners and occupiers.
- 8.20 If the CPO is not acted upon at all, then no compensation is payable. Where notice to treat and entry have been served, and then not acted upon, the Council is under an obligation to inform the owner of the withdrawal of the notices or expiry as the case may be (as notice to treat has a life span of three years from date of service) and will be liable to pay compensation to the owner for all losses and expenses occasioned to him by the giving of the notice and its ceasing to have effect. The amount of compensation shall in default of agreement be assessed by the Land’s Tribunal. Interest is payable on the Compensation.

9.0 Decant & Rehousing Strategy

- 9.1 The framework for the decanting procedure that the Council and NHHT are to follow when agreeing the decanting plan is attached at Appendix 7 of the PDA.
- 9.2 Phases 1A and 1B require the rehousing of 55 households off the Estate in order for the demolition of the blocks within these phases to take place. Where possible the right to return will be offered to those for whom suitable accommodation will be rebuilt on the Estate (it will not be possible for instance for those with a need larger than 4 bed to return as no properties of this size will be built). It is usually the case that many people who initially ask for the right to return do not eventually take it up if they are happily settled in a property and location that they like.

- 9.3 It is also intended where possible to offer need plus one to those who currently under occupy their homes by two rooms or more on the Estate. This proposal can assist the Council as tenants of larger properties may wish to move to smaller accommodation, but may require an extra room for example a vulnerable client who requires a live-in carer. By making this requirement binds NHHT to making this offer in their offer document to residents.
- 9.4 To facilitate transparency in the decant process the Council's V5 database will be used. All direct offers will be managed through the V5 database. Any offers made through Locata will be recorded on the Locata database. Any future sites that NHHT purchase for the Barham Park scheme will also be managed through the Council's V5 database.

Purchase and Repair Programme

- 9.5 NHHT has entered into negotiation with the HCA to carry out a Purchase and Repair (P&R) projects with the specific object of providing properties of suitable size and location to meet the housing needs of households, who will need to be decanted off the Estate in phases 1A and 1B.
- 9.6 Indications are favourable that HCA are currently predisposed to fund such Schemes and there are properties around the area that are available for purchase. The Council and NHHT are working very closely to ensure that a pipeline of properties are built up to support the decant needs of phase 1A and phase 1B. The use of P&R properties for decanting is dependent on members agreeing the cessation of permanent lettings, as addressed in Section 7 of this report.

Purchase of Additional Sites in the immediate vicinity of Barham Park

- 9.7 As highlighted in 8.8 to 8.10, NHHT is seeking to purchase from the Council two additional sites and a third site from a private owner in the neighbourhood of Barham Park. The sale of the Council's sites will be the subject of a separate report to the Executive.
- 9.8 It is NHHT's intention to seek NAHP funding from the HCA to develop these sites with the specific types of property that are particularly required for decants from the Estate. There have been positive discussions with HCA who are fully aware of these sites as well as a programme of purchase and repair that will allow the acquisition of homes of site to kick start the decant process.
- 9.9 The draft plans that have been prepared for these sites include in particular high quality single person dwellings and large family houses with gardens.

10.0 Timescales to progress

- 10.1 The project time line for the planning process requires planning permission to be obtained in time for the work to start on the Estate before 31 March 2010 as a condition of HCA's funding allocation to the Scheme. HCA have indicated that they require a start on site date on or prior to 31 March 2010 due pressures within their 2010/11 programme given the competition for HCA resources across the Country.

- 10.2 Given the above scenario – it is imperative that CP UK Limited commences with the site clearance work on or prior to 31 March 2010. This is sufficient to guarantee HCA funding.
- 10.3 Once the requisite approvals have been sought, officers can proceed to start the decanting and rehousing process. For those who wish to stay with the Council then, where possible, attempts will be made to find suitable Council accommodation. However, given the issues with the lack of Council housing supply, nominations to other housing association properties will be the most likely route to assist the decant process, as well as the strategies highlighted above.

11.0 Financial implications:

- 11.1 The redevelopment project is to be carried out at no additional cost to Brent Council, apart from the disposal of it's land and properties on the estate. The business plan indicates a requirement for funding in the region of £17.955m NPV. Should this be met from the HCA resources, then there will be no required contribution, apart from the land and properties on the Estate, from the Council.
- 11.2 Tribal, the Council's financial advisors on this project has interrogated the latest financial model. They report that the total grant now being requested (has increased to £17.955m, which is the amount NHHT are saying would be required to achieve a break-even NPV on the scheme.
- 11.3 In total the current bid produces a net cost of the scheme in the region of £18.4m. Whilst the current scheme has a net cost of £18.4m, in order to ensure that the scheme is neutral in NPV terms, actual grant of £17.955m is being requested.
- 11.4 When calculated on a per unit basis (using the number of affordable rented units plus the equivalent retained proportion of the Intermediate tenure units, a total of 187 units), the grant now being requested equates to around £96,000 per unit.
- 11.5 The business plan for the scheme covers the cost of leaseholder buy-outs, the decant costs, the compensations payable, the Council's costs and all relevant costs to ensure that the scheme can be delivered. In relation to RTB's, there has only been 1 sale completed of a three bedroom property in the last three years on the Estate. Given the nature of the current economic climate, it is officers view that it is very unlikely that there will be a high level of Capital Receipts generated from the estate – even if the demolition notices were not served. The financial assumptions are attached at confidential appendix 1

Rents

- 11.6 Rent for General Needs have been based on Target Rent for 2009/10 as set out in the table below:

Property Type	Current Rent	Discounted Rent Yr 1	Difference
---------------	--------------	----------------------	------------

1b2p Flat	£76.69	£97.14	£20.45
2b3p Flat	£86.29	£105.16	£18.87
3b5p Maisonette	£94.29	£117.16	£22.87
3b5p House	-	£117.16	
4b6p House	-	£123.85	
Average Rent	£85.76	£106.48*	£20.73

★ Includes the average of 1 to 3 bed properties only.

- 11.7 Members are asked to note the average increase in rent charge by £20.73 per week. This is a direct impact for new properties built, in comparison to the existing properties with their inherent problems. The PDA provides that NHHT shall ensure the rents for the social housing dwellings will be set and managed in line with the TSA's requirements so that the rents will converge with the target rents in accordance with the TSA requirements and any appropriate circulars issued from time to time.
- 11.8 To ease the transition from the existing rents to the new rents, it is proposed the first letting will be at target rent less £10. Rent increases in the subsequent years will be £2 per week plus inflation. The target rent will be reached in year 6.
- 11.9 The approach taken by NHHT is to assume vacant transfer of sites and support provided by the Council on the decanting ahead of the sites transferring. Subject to prior negotiation and approval by NHHT and/or Countryside, NHHT and/or Countryside shall reimburse the Council for the fees of advisers and consultants appointed to the development of the Estate by the Council up to a maximum sum of £250,000 for the first phase. At each phase the viability model for the next phase will include a maximum sum for the Council's anticipated costs.
- 11.10 The phased transfer of the properties to another landlord means that the Council will no longer be in full receipt of rental income from the Estate, once the freehold of the Estate has transferred. However, the Council will also not have liabilities in respect of management, repairs and maintenance for these properties on the Estate, once the estate is fully transferred. The net loss in rent will be compensated by an increase in subsidy in respect of the transferred properties due to the removal of guideline rent and management / maintenance and major repairs allowances, with there being no change in the position regarding housing debt, which will continue to be subsidised. The original decision to exclude them from the decent homes programme significantly reduced the total expenditure on the decent homes programme as the properties would have disproportionately expensive to upgrade and had been declared beyond economic repair by the Hunters Report commissioned then.
- 11.11 The proposed acquisition of the other Council owned sites by NHHT is expected to be disposed of at market value. NHHT will be submitting an application for NAHP grant funding for both sites and are also working up a planning application for both sites. Members will consider a report for disposal from the Director of Finance & Corporate Resources at a future meeting of this Committee.

Scheme Risks

11.12 Below are the main risks to the scheme:-

11.12.1 Insufficient units available for decanting phase 1A & 1B. This is the key risk to the Council. The Council is technically responsible for providing vacant land for NHHT and CP UK Limited. The Council is relying on NHHT to provide units for decant through the P&R programme (up to 55 units to match the needs of the decanting tenants) and NHHT will also be purchasing sites from the Council to provide up to an 39 additional affordable rented units. The timing of the decants is critical as the Council needs to ensure that the main site (phase 1A & 1B) is vacant before March 2010 – in order that drawn down of HCA funds can be achieved. The Council will need to consider it's available stock to assist the decanting of the Estate – however this needs to take into account the homelessness needs across the borough when considering the utilisation of it's own stock.

11.12.2 Insufficient funding for the scheme from HCA. The PDA allows the parties to consider what revisions could be made to enable the scheme to progress. The Council would need to consider a range of measures such as reduction in the need of affordable rented units to be switched to private sale, application to other bodies for funding and what other contributions could be made by the partners. If in the event that scheme was considered to be unviable, then a further report would be presented to members with other options to take the scheme forward.

11.12.3 One or more phase is not financially viable. The PDA allows for longstop dates for each phase. At the beginning of each phase a viability assessment is made to determine the viability of that phase. If the phase is considered to be unviable, quarterly reviews are built in so that the partners can consider options to make the phase viable. If no agreement can be reached by the longstop date for the phase, then the Council have the ability to determine the contract.

11.12.4 NHHT or CP UK Limited are made insolvent during the development phase. The PDA allows for the parties to find alternative partners to complete their responsibilities for a period (6 months to find an alternative developer) and then gives step- in rights for the Council to find other partners to complete the Scheme, beyond the 6 months. The Council would be able to recoup it's costs through the process of sale to another party.

12.0 Legal Implications

Section 32 of the Housing Act 1985

12.1 Where the Council disposes of properties that are currently being used for housing purposes, it must obtain the Secretary of State's specific consent under section 32 of the Housing Act 1985, unless the general consents issued under that section applies. At this stage, it is envisaged that the general consents do not apply in this case for the Scheme.

Section 25 of the Local Government Act 1988

- 12.2 The Council has the power to provide any person or organisation with financial assistance for the acquisition or management of any property that is or intended to be let as privately let housing under section 24 of the Local Government 1988 (“the 1988 Act”). Under section 25 of the 1988 Act, this power (or any other power) cannot be exercised without consent from the Secretary of State where there is financial assistance provided or where any gratuitous benefit is provided by the Council. Under section 25(5) of the 1988 Act, “gratuitous benefit” includes a benefit consisting in the disposal of any land or other property and where the benefit is for either no consideration or a consideration in money or money’s worth which is significantly less than the value of the benefit (disposal of the Council’s land) provided by the Council.

Ground 10a of Schedule 2 to the Housing Act 1985

- 12.3 The Council is required to obtain the approval of the redevelopment scheme from the Secretary of State when seeking to re-house secure tenants who will not leave the properties that are due to be demolished. Before seeking approval, the Council is required to consult with tenants. Approval will enable the Council to use Ground 10A of Schedule 2 to the Housing Act 1985 to obtain possession of the dwellings let under secure tenancies and provide the tenants with suitable alternative accommodation.
- 12.4 The Council will need to follow the procedure under paragraph 2 of Part V of Schedule 2 to the Housing Act 1985 before applying to the Secretary of State for approval to use Ground 10A of Schedule 2 to the Housing Act 1985. The paragraph states that the landlord must first:
- (a) serve a notice in writing on all secure tenants whose dwellings are affected by the scheme, stating: the main features of the scheme (or the scheme as it will be after a proposed variation to it); that the Secretary of State’s (or Housing Corporation’s) approval is to be sought; and the effect of such approval in relation to proceedings for possession of the dwellings;
 - (b) inform the tenants that they have a specified period (which must be at least 28 days) in which to make representations to the landlord; and
 - (c) consider any representations received during that period.
- 12.5 Unlike a tenanted transfer however no formal ballot will be carried out. However the Secretary of State before giving its consent will consider the following:-
- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood;
 - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme; and
 - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord.

- 12.6 The landlord, in this case the Council, must not apply to the Secretary of State for approval of a scheme unless the statutory consultation procedure has been carried out.

Compulsory Purchase Order (CPO)

- 12.7 The Council has power to make a compulsory purchase order under section 226 (1)(a) of the Town and Country Planning Act 1990 if it thinks that the acquisition will “facilitate the carrying out of development, redevelopment or improvement or in relation to the land”. Under section 226(1)(A) the Council must not exercise the power under sub paragraph (a) unless it thinks that they development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects – (a) the promotion or improvement of the economic wellbeing of their area; (b) the promotion or improvement of the social wellbeing of their area; (c) the promotion or improvement of the environmental wellbeing of their area.
- 12.8 Compulsory purchase orders must only be made if the Council is satisfied that there is a compelling public interest to do so. Para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04 states:
- 12.8.1 *“A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, 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.”*
- 12.9 For the reasons set out in this report, it is considered that there is such a compelling case and that the public interest requires that the order be made in order to carry through the necessary redevelopment of the CPO Land.
- 12.10 Further, in making the order there should be no impediments to its eventual implementation. Para’s 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/04 advise (in part):
- 12.10.1 *“22. In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or license. Where planning permission will be required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld...”*
- 12.11 Members will note that there will be sufficient funds available to meet the compensation costs for the acquisition of the land, since NHHT will agree to meet these under the PDA. Officers consider that there is a reasonable prospect of the Scheme going ahead subject to HCA funding being obtained. Whilst planning permission has not been granted for the development, it is

considered that there is no obvious reason why it might be withheld, taking into account that a Masterplan has already been approved (albeit that it is now intended to revise this slightly). Accordingly, it is considered that there are unlikely to be any impediments to implementation.

- 12.12 The acquisition procedure is governed by the Acquisition of Land Act 1981, the Compulsory Purchase of Land Regulations 2004 and the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990.
- 12.13 The CPO must be advertised locally and copies served on any owners, lessees, tenants (whatever the tenancy period), occupiers, all persons interested in, or having power to sell and convey or release, the land subject to the CPO. In addition the CPO must be served on persons whose land is not acquired under the CPO but nevertheless may have a claim for injurious affection under Section 10 of the Compulsory Purchase Act 1965, such as owners of rights of access to and from the public highway, easements and covenants that are affected by the CPO. Officers are currently preparing a detailed Statement of Reasons setting out the justification for compulsory acquisition. This statement will cover all the issues set out in this Report.
- 12.14 If any duly made objections are not withdrawn, the Secretary of State must hold an Inquiry and consider the conclusions and recommendations of the Inspector before confirming the Order.
- 12.15 Before and during the compulsory acquisition process, the Council is expected to continue the process of seeking to acquire the properties sought by negotiation and private agreement: see Part 1 of the Memorandum to Circular 06/04 Paras. 24 and 25. Para. 25 notes that “undertaking informal negotiations in parallel with making preparations for a compulsory purchase order can help to build up a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect...”.
- 12.16 Any dispute as to the amount of compensation to be paid is referred to the Lands Tribunal for determination. A facility also exists for owners to obtain a certificate of appropriate alternative development to determine alternative planning uses for any property the subject of a CPO to assist with the determination of compensation whether or not the matter is referred to the Lands Tribunal to agree.
- 12.17 **Withdrawal of Right to Buy / Demolition Notices**

Initial Demolition notices will need to be served on secure tenants in accordance with the provisions of Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004 to prevent the Council from having to complete right to buy sales. Schedule 5A sets out what must be included in the Initial Demolition Notice, including the intention to demolish, the reasons for demolition and identifying the period within which the landlord intends to demolish. The period set out in the notice to carry out the demolition works must be more than reasonable to carry out the proposed demolition of the relevant properties or in any case not expire more than five years after the date of service of the notice.

12.18 Public Open Space

If the Council wants to use open space land for other purposes, it must appropriate the open space land for use for another of the Council's functions. The procedure to follow in order to bring this about is set out in section 122 of the Local Government Act 1972 (LGA 1972). Under section 122(2A) of the LGA 1972, in order to appropriate land for another function as allowed under section 122(1) of the LGA 1972, the Council cannot appropriate any land consisting of or forming part of open space to another function unless before appropriating the land, they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed appropriation which may be made. Once this procedure has taken place, the Council can decide to use the open space land for another function, including a housing function and in turn, this can enable the Council to dispose of this land pursuant to the Scheme. The Council will also need to advertise the projected sale of any open space land under Section 123(2A) of the Local Government Act 1972.

De-Designation of allotment site

- 12.19 Elm Park Garden allotments are designated as statutory allotments and therefore the Council needs to obtain the Secretary of State's consent under Section 8 of the Allotments Acts 1908-25 to the disposal of the land. Advertising will also be required under Section 123(2A) of the Local Government Act 1972.

13.0 Diversity Implications

- 13.1 The Sudbury Ward 2001 census data shows that in the Sudbury Ward levels of Asian residents, pensioners, economically inactive residents, unemployed residents and those with long term illnesses and those caring for others are all above the Borough average. All the work done to date by means of the April 2008 postal survey, desk top analysis of available data and Council records and face to face contacts with residents shows that the levels of disadvantaged groups is high on the Estate.
- 13.2 People disadvantaged by old age, infirmity or low income, or a combination of these factors, need to spend more on heating than less disadvantaged groups who tend to spend less time at home and move around more within the home.
- 13.3 The poor thermal efficiency of the homes on the Estate, which is a major factor in the buildings' failure to meet Decent Homes standards, means that a high proportion of the money spent on heating by the residents is wasted by the heat being lost from the homes.
- 13.4 The relocation of the current residents into newly built homes on the Estate, or into newly built or refurbished homes elsewhere will have a positive effect on the quality of life of the residents by improving their level of comfort and the financial position of the current residents of the Estate, many of whom are vulnerable and/or disadvantaged as the evidence to date suggests that many are currently living in fuel poverty.

14.0 Conclusion

- 14.1 Members are asked to note that these proposals now require members approval of the overall scheme.
- 14.2 It is dependent on the anticipated funding from the HCA. HCA requires that the project achieves a start on site before 31 March 2010.
- 14.3 It is dependent upon the PDA being entered into with NHHT and CP UK Limited with the Council by May 2009
- 14.4 It is necessary for members to agree to the end of permanent lettings to the Estate so that the NHHT can start on its P & R scheme in collaboration with the HCA. This is an important part of the decanting process for the Estate.
- 14.5 It is dependent upon the Council achieving the necessary consents as identified in section 8 and 12 of this report to progress the Scheme.
- 14.6 Members are asked to approve the decisions required in section 2 of this report. Once members decisions are made, Officers will take the appropriate steps to implement members' decisions.

Background Papers

Barham Park Estate proposals

Briefing Note Barham Park Redevelopment Options

Item No.7, Forward Planning Select Committee 23 April 2008

Barham Park Estate- Executive Report 16 June 2008

Anyone wishing to inspect these documents should contact:

Robert Johnson,

Housing Regeneration Team

Tel. 020 8937 2269

E:mail : robert.johnson@brent.gov.uk

Martin Cheeseman

Director of Housing and Community Care