

<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">CABINET</p> <p align="center">2 SEPTEMBER 2019</p>		
HARTOPP AND LANNOY POINTS		
Report of the Cabinet Member for Housing - Councillor Lisa Homan		
Open		
Classification - For Decision		
Key Decision: Yes		
Wards Affected: Munster Ward		
Accountable Director: Jo Rowlands, Strategic Director for the Economy		
<p>Report Author: Matt Rumble Head of Area Regeneration</p>	<p>Contact Details: Tel.: 07786 747488 Email: matt.rumble@lbhf.gov.uk</p>	

1. EXECUTIVE SUMMARY

- 1.1 The Council has undertaken extensive structural surveys to look at the condition of Hartopp and Lannoy Points, which are two Housing blocks. These surveys identified serious structural defects giving rise to significant Health and Safety issues.
- 1.2 On the 29th April 2019 the Council resolved to demolish the blocks. Demolition will require decanting of properties and acquisition of the third party interests.
- 1.3 This report seeks authority to make the compulsory purchase order (CPO) in respect of the two blocks and to acquire all outstanding property interests necessary and to ensure vacant possession of surrounding land and

structures can be obtained should the Council fail to reach a negotiated settlement for the purchase of the outstanding land and property interests.

- 1.4 This report also sets out a number of decisions required by the Council in order to progress with the preparation for making a CPO, including additional budget to acquire third party interests and to manage a CPO enquiry should it be necessary.

2. RECOMMENDATIONS

That Cabinet:

- 2.1 Authorises the making of a CPO for the land edged red on Plan 1 (appendix 1) pursuant to section 17 of the Housing Act 1985, to enable the demolition of Hartopp Point, Lannoy Point and achievement of a future qualitative gain in housing stock within 10 years of the confirmation of the 'Order'.
- 2.2 Delegates authority to the Strategic Director for the Economy, in consultation with the Assistant Director of Legal and Democratic services take all necessary steps to make the CPO, pursue its confirmation by the Inspector, Secretary of State (or the Council) to implement the CPO (these steps are set out in section 4.14 of this report).
- 2.3 Delegates authority to the Strategic Director for the Economy, in consultation with the Assistant Director of Legal and Democratic Services, to make General Vesting Declarations (GVDs) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or to serve notices to treat and notices of entry (if required) following confirmation of the order.
- 2.4 Delegates authority to the Strategic Director for the Economy, in consultation with the Assistant Director of Legal and Democratic Services, to issue and serve any warrants to obtain possession of property acquired by the Council following the execution of a GVD or service of a notice of entry relating to the order if it is considered appropriate to do so.
- 2.5 Delegates authority to the Strategic Director for the Economy, in consultation with the Assistant Director of Legal and Democratic Services, to acquire third party interests in the land within the CPO either by agreement or compulsorily and up to the value of the revised budget approved as part of this report.
- 2.6 Approves an increase in the property acquisition budget by £859,000 to ensure consistency in the offers made to acquire third party interests. This will be funded by HRA borrowing and takes the total Property Acquisition budget to £10,676,391.

- 2.7 Approves an additional budget of up to £250,000 to meet costs arising in preparing and presenting the Council's case, in the event of a CPO public inquiry being required and should such inquiry take place. This will be funded by HRA borrowing and takes the total CPO budget to £350,000.
- 2.8 Approves an extension to Avison Young's existing instruction in the event of an inquiry being required and that these costs will be met from the budget increase set out in 2.8. The value of the such extension is estimated at £60,000.
- 2.9 Approves a budget of up to £250,000 to procure design services (including surveys, cost consultancy and project management) to develop feasibility stage redevelopment options for the Order land to deliver a qualitative improvement in the council's housing stock and to enable community engagement on these options. This will be funded from HRA borrowing.

3. REASONS FOR DECISION

- 3.1. On 29th April 2019 the council's Cabinet resolved to demolish Hartopp and Lannoy Points.
- 3.2. Negotiations have been on-going to acquire Third Party interests in the blocks. Although Heads of Terms have been agreed for 9 leasehold interests (of 19) as of 1st August 2019, it is necessary to make a CPO to secure vacant possession of the blocks and to provide project and programme certainty, which targets demolition of both blocks by the end of December 2020.
- 3.3. The adjoining electricity sub-station forming part of the garage structure to be demolished will also be included within the CPO and is included in the order land plan (appendix 1)
- 3.4 It follows that the demolition project is at considerable risk if control of the land is not obtained within reasonable time or at a reasonable cost. In the absence of a CPO, or the authority to make and use a CPO if required, negotiations by the Council with parties with individual land interests could be very much more difficult and potentially more expensive, putting the deliverability of the project at risk.
- 3.5 The confirmation of a CPO can take up to 18 months if a Public Inquiry is required. The Council must therefore proceed with making the CPO now.
- 3.6 In order to use the powers under section 17 of the 1985 Housing Act to make a CPO it is necessary for the Council to commit *to delivering a qualitative gain*

in housing stock on Order site within 10 years of the confirmation of the Order. Therefore, a budget is sought to enable officers commence the process of design feasibility on proposals to re-provide genuinely affordable homes on the site, in order to deliver that qualitative gain. Once initial proposals are developed, and delivery strategies considered, Members will be updated and authority sought to proceed.

4 PROPOSAL AND ISSUES

- 4.1 Hartopp and Lannoy Points are nearly identical 14 storey Tower Blocks located in Munster Ward. They were built using a construction method called a large panel system (LPS). This was the same construction method used at Ronan Point, Newham when in 1968 a gas explosion caused the collapse of the building and resulted in four deaths.
- 4.2 The construction method was subject to extensive review by the Building Research Establishment. Before Hartopp and Lannoy Points were first occupied strengthening work was undertaken and the gas supply was not and has never been connected to the blocks.

Structural surveys

- 4.3 The Council undertook a structural survey in August 2017, H&F Building Control identified the buildings were safe at that time, however further intrusive surveys were required. The Council's Building Control undertook intrusive surveys to three void properties and this survey was published on the Council's website in March 2018. It identified that it was thought to be safe for residents to remain at Hartopp and Lannoy Points (providing safety measures were put in place set out in paragraph 4.15) but extensive strengthening work was required. The buildings failed when tested for resistance to disproportionate collapse in the event of an accidental explosion.
- 4.4 To validate these findings in March 2018 the Council appointed Arup to undertake further intrusive surveys at Hartopp and Lannoy Points. Arup undertook intrusive surveys to nine flats across the two buildings. Their survey dated 13 February 2019 validated the Council's findings and confirmed the test results regarding disproportionate collapse. Arup's report is available on the Council's website. It recommends Hartopp and Lannoy Points are 'demolished or strengthened as soon as reasonably practical'. Arup have indicated that 'reasonably practicable' be interpreted as by the end of December 2020 at the latest.
- 4.5 A meeting was held on 25 February 2019 with residents to explain the implications for Hartopp and Lannoy and the Council's intention to undertake consultation on the Council's preferred option to demolish. The Council subsequently set out in the consultation papers to residents how they would

be supported to leave Hartopp and Lannoy and that this would be required under demolition or refurbishment.

Refurbishment cost consideration

- 4.6 The structural assessment of Hartopp and Lannoy Points were used for the basis for calculating the costs of refurbishing the blocks, this would address:
- The structural defects of the buildings
 - Breaches of fire compartmentation
 - On-going problems of water ingress and damp
 - And bring the flats to a decent homes' standard.
- 4.7 Any refurbishment option would be extensive and highly intrusive. It would be impossible to undertake this work with residents remaining in the block. Residents would have to be rehoused for the duration of the works. As well as the disruption there would be a significant cost of refurbishing the blocks.
- 4.8 The costs of undertaking a refurbishment would be prohibitively high and impact on the rest of the HRA and the Council's ability to fund other required capital schemes and investment. The Council commissioned Ridge Partners to provide cost estimates for addressing the structural defects identified. The cost of addressing the structural elements is estimated at £7.3m. Further costs would be incurred to address pre-existing issues of damp and water ingress, this was previously estimated at £8m. The total refurbishment costs for the 112 flats would be over £16.5 million or over £150k per flat. These figures exclude rehousing costs, asbestos removal and professional fees which would add further costs.
- 4.9 Based on the cost estimates of: refurbishment, maintenance, rehousing costs and the ongoing health and safety risks the Council resolved to demolish the buildings on 29th April 2019.

Fire Safety measures

- 4.10 To keep residents safe the Council has undertaken, an extensive programme of works over the last 12 months. These works have improved fire safety and addressed issues identified in the communal areas and residents' homes.
- 4.11 The Fire Safety measures in place at Hartopp and Lannoy, include:
- Simultaneous evacuation in the event of a fire instead of 'stay put'. All residents are aware of this and have been tested by way of a fire drill.
 - Since November 2017, Fire Wardens are on site 24/7 working to the National Fire Chief Councils national standard for 'Waking Watch'.
 - The London Fire Brigade visit weekly.
 - Installation of a communal fire alarm system with Inter-linked hard-wired detectors installed into flats in every room

- A detailed Emergency Plan.
- A secure Premises Information Box
- Evacuation chairs.

All of these measures will remain in place until the buildings are vacated.

Other large Panel System Blocks

4.12 There were many Large Panel System blocks built across the country. Since their construction a significant number of blocks have been demolished. Of the remaining blocks councils are reviewing the viability of their continued use. Several authorities are in the process of arranging for the rehousing of residents and or demolition, including:

- **Haringey, Broadwater Farm:** has undertaken section 105 consultation on the proposed demolition of two blocks.
- **Lewisham, Heathside and Lethbridge Estate:** has demolished six blocks.
- **Leicester, Goscote House:** is in the process of demolishing a 23 storey Large Panel System block.
- **Portsmouth, Horatia House and Leamington House:** is rehousing residents from two 18 storey blocks, to demolish the blocks.
- **Rugby, Biart Place:** is rehousing families from the 152 flats while determining the future of the blocks.

Future use of the site

4.13 In order to utilise section 17 of the 1985 Housing Act to make a compulsory purchase order it is necessary for the Council to commit to delivering a qualitative gain in housing stock on site within 10 years of the confirmation of the order. Members will be updated, and authority sought to proceed with redevelopment.

The CPO process

4.14 A CPO allows a public authority to acquire third party interests in land compulsorily. It should be progressed concurrently with a strategy to acquire the land voluntarily.

4.15 CPOs are used to assemble land for large regeneration projects, to enable programmes such as this and to enable disused land to be brought into productive use. This approach is encouraged within the Ministry for Housing Communities and Local Government Guidance (July 2019).

4.16 There are likely to be other land interests and rights which will need to be extinguished or overridden but they will not be known until the full referencing process is complete.

- 4.17 Failure to initiate the CPO in a timely fashion will risk delay to the programme and it may also lead to cost escalations and will prejudice the safety of the blocks' occupiers and neighbours.
- 4.18 A CPO is viewed as a serious interference with private property rights, is a complex process and should only be used following careful consideration of other options. Preparation of a CPO requires attention to detail and strict adherence to statutory requirements all of which is covered under other provisions in this report
- 4.19 Making the Order does not give the Council the power to acquire the land – this power arises only when the Order is exercised after it is confirmed either by the Council, the Planning Inspectorate or by the Secretary of State.
- 4.20 Following making of the CPO, the Council must notify the affected persons that the CPO has been made and is to be submitted to the Secretary of State for confirmation and then submit the CPO for consideration.
- 4.21 Affected persons then have an opportunity to object to the Secretary of State. If no one objects, the Secretary of State is likely to invite the Council to confirm CPO following which, the Council has the power to exercise the CPO and acquire third party interests in land.
- 4.22 Often there are objections, and when there are objections, the Secretary of State will appoint an inspector to hold a public inquiry into the CPO
- 4.23 For a programme such as this, the inquiry could probably run for several days/weeks and will depend of the nature and number of objections.
- 4.24 The Inspector's report will summarise the evidence and come to a view as to whether there is compelling public interest for the confirmation of the CPO. Considering the nature of the case the Inspector is likely to constitute the decision maker, however in some cases the Secretary of State makes the decision in light of an Inspectors recommendations.
- 4.25 If the CPO is not confirmed, the Council may have the option of bringing a judicial review to challenge the legality of the decision-making process should suitable grounds of claim exist.
- 4.26 If and when the CPO is confirmed there is a 6-week window during which affected parties may bring a High Court challenge to the legality of the decision-making.
- 4.27 Cabinet are advised that the current programme of dialogue and negotiations to agree relocation and acquisition of interests of all affected interest will continue and fits with the planned delivery programme and accords with MHCLG Guidance.

- 4.28 Adoption of the recommendations in this report does not necessarily mean that CPO will be used to enable acquisition of all third-party interests to enable the demolition. As per Government Guidance on the use of compulsory purchase powers, the Council has been and will continue to seek to reach negotiated settlement with all those land interest that are required and implementation of a confirmed CPO will only arise where agreement cannot be reached on reasonable terms and in a reasonable timeframe. The authority given in this report assists the Council by making it clear to all outstanding land interests that the Council intends to deliver the demolition and is willing to secure and exercise a confirmed CPO, if required.
- 4.29 This report, including the appended site plan, contains the relevant information required to justify the making of a CPO, in due course as proposed. The information on which these decisions are being requested is in draft format, detailed information will be confirmed closer to the point at which the Council formally commences the CPO process, if required.
- 4.30 As part of the CPO process the Council will need to demonstrate that funding is in the place to deliver the proposed demolition and acquisition of land and property interests.

5. OPTIONS

- 5.1 The Health and Safety of all residents is the Council's prime concern. Arup's report makes clear the structural issues identified in surveys must be addressed by way of either refurbishment or demolition. In accordance with Arup's advice, the Council needs to address these issues as soon as reasonably practicable. The main options for the council are set out below:
- 5.2 **Option 1 (recommended option):** Make a Housing Act section 17 CPO and utilise statutory site assembly powers to acquire third party interests required to enable demolition. This is the recommended option as it provides project programme and budget certainty for the demolition programme.
- 5.3 The Council's approach and associated statutory protections will ensure all third party interests are treated fairly and consistently. Negotiations will continue in parallel with the CPO process with a preference to acquire interest by agreement. Where agreement is reached in advance of the exercise of CPO powers the Council has offered compensation in excess of leaseholders' statutory entitlement to encourage agreement in accordance with government guidance. All affected parties have been encouraged to appoint their own specialist adviser with the reasonable cost met by the Council in accordance with the statutory provisions protecting claimants.
- 5.4 Option 2: Do not make a CPO and continue to negotiate with leaseholders in the hope of securing vacant possession entirely by agreement. This option is not recommended as it does not give the project any certainty for the on

timeframe or budget. A number of leaseholders are not engaging in negotiations and there are owners currently seeking and may continue to seek an unreasonable level of compensation. If this option was adopted, it would likely be necessary to offer the last remaining parties an unreasonably large pay-out, greater than those who have reached agreement at an early stage which would have a negative impact on the HRA. It would also mean that cooperative parties will have received lower payments than the uncooperative parties. Even if this approach is adopted there would be no certainty over the programme.

- 5.5 Option 3: Do not make a CPO and stop negotiating. This is not realistic option as the blocks need to be demolished or be refurbished as soon as reasonably practicable. The Council has obligations to ensure the safety of the buildings, residents and neighbours. The Council has already resolved to pursue demolition.
- 5.6 Option 4: Make a CPO using alternative statutory powers. In addition to section 17 of the 1985 Housing Act there are a number of alternative enabling powers for securing compulsory purchase powers such as section 226 Town and Country Planning Act 1990. Section 17 is considered the appropriate enabling power in light of the circumstances of the case, preferred approach of the Council to resident relocation, project programme and requirements of the enabling powers.
- 5.7 In conclusion option 1 is recommended. The Council has already resolved to demolish the blocks and a Compulsory Purchase Order is required to provide programme certainty to ensure demolition and the safety of the blocks, residents and neighbours. There are no realistic alternative options open to the Council other than securing compulsory purchase powers.

6. CONSULTATION

- 6.1 Five meetings have taken place with the Tenant and Residents' Association (TRA). These have updated and provided information about the work being undertaken and the outcome of the surveys. The Council has written to residents on 14 occasions over the last 12 months to inform them of the work required to make the blocks safe and that structural assessments were happening. The Council has also door knocked residents throughout this period to provide residents with information about what is happening at Hartopp and Lannoy Points.
- 6.2 The Council has undertaken consultation with all residents about the future of the blocks. There is a statutory obligation in Section 105 of the Housing Act 1985 on the Council to consult with all secure tenants on a proposal to demolish the blocks.
- 6.3 The statutory consultation was extended to ensure that all residents in the blocks were consulted on the future of the blocks. Residents of the adjoining

blocks were also invited to resident meetings. The consultation explained to residents that they would have to be rehoused whether the blocks were refurbished or demolished and that the Council's preferred option to demolish the blocks was due to:

- the significant health and safety concerns which must be addressed,
- the costs of refurbishing the blocks to address the health and safety concerns would have a major impact on the Housing Revenue Account, and limit investment in other homes.
- the Council wants to be able to rehouse residents appropriately.

6.4 The consultation started on 4 March 2019 and closed on 8 April 2019. The length of consultation is considered appropriate having obtained Arup's advice that the health and safety issues must be dealt with as quickly as possible and also the low number of flats occupied meant that the Council could more easily consult those directly affected.

6.5 The consultation questionnaire was distributed to all remaining Hartopp and Lannoy residents. Each consultation included a free-post return envelope, as well as information on replying via email. Each address was door knocked and all absentee landlords contacted in writing.

6.6 As well as consulting on the preferred option of demolition views were sought on the suggested offers for rehousing tenants and leaseholder purchases.

6.7 Nineteen consultation responses were provided during the consultation period. Of the consultation responses 18 were supportive of the proposal to demolish Hartopp and Lannoy Points.

Undertaking negotiations with leaseholders

6.8 Avison Young has been appointed to undertake negotiations to acquire leasehold interests for 21 properties. Since appointment Avison Young have written to all leaseholders and pursued negotiations where leaseholders or their advisers have engaged

6.9 Leaseholders have been encouraged to instruct specialist professional advisers to act on their behalf, the reasonable costs of these will be reimbursed by the Council.

6.10 Negotiations are on-going to acquire properties by agreement and rehouse owner occupiers. During negotiations affected parties have been informed of the likelihood of the Council making of a compulsory purchase order, although the Council's preferred strategy is to acquire by agreement on reasonable terms.

- 6.11 As of 1 August 2019, agreement has been reached to acquire nine leasehold interests.

7. OFFER TO HARTOPP AND LANNOY RESIDENTS

- 7.1 Since the fire evacuation advice for the blocks changed from 'stay put' to full and immediate evacuation in November 2017, the Council has offered voluntary moves to Hartopp and Lannoy residents and to purchase leasehold properties.
- 7.2 There are 112 flats in the blocks and as at 16 April 2019 there are 56 void properties. There were three void properties in November 2017, two leasehold properties have been bought back and 51 tenants have since moved.

Tenants

- 7.3 Council secure tenants will not be included within the compulsory purchase order, except for three Council properties where the tenancy has been terminated following an investigation by Corporate Anti-Fraud.
- 7.4 The decant strategy for secure tenants is outlined in the Cabinet report dated 29th April 2019. The Council has a duty to provide secure tenants with suitable alternative accommodation and Officers are working with tenants to identify and offer suitable homes. However, to provide programme certainty and ensure residents safety Notices of Seeking Possession were served on the 19th July 2019 on remaining secure tenants. If secure tenants do not agree to move it will be necessary to issue possession proceedings in the county court

Leaseholders

- 7.5 There were 21 leasehold properties at Hartopp and Lannoy Points. Prior to the decision to demolish the Council offered a voluntary purchase option to all leaseholders. Offers were based on the market value of the properties calculated by the Council's external valuers on the basis of ignoring the inherent structural failings and excluding the additional heads of claim which arise on compulsory purchase. This resulted in the purchase of two leasehold properties, leaving 19 leasehold properties.
- 7.6 Following the decision to demolish, utilise compulsory purchase powers and appointment of Avison Young, leaseholders have been encouraged to instruct specialist professional advisers to act on their behalf, the reasonable costs of which will be reimbursed by the Council. Offers to acquire now include the additional elements of claim which arise on compulsory purchase. The level of the offer reflects the valuations previously undertaken on the basis of ignoring the inherent structural failings. Therefore, the offers to acquire interests by agreement significantly exceed leaseholders' statutory entitlement to claim. Offers will continue to be made on this basis to encourage leaseholders to reach agreement prior to the exercise of CPO powers in accordance with Government guidance and best practice. As of 1 August 2019, nine agreements to acquire have been reached. Once compulsory

purchase powers are available the level of the offers will be reviewed in light of the Compensation Code and the Council's statutory obligations.

- 7.7 The Council's preference is to continue with a voluntary purchase approach, however given the short timescale it is necessary to utilise a compulsory purchase order to provide programme certainty. The use of compulsory purchase will be undertaken in line with statutory requirements governing the use of CPOs and government best practice requirements.

Shared equity scheme

- 7.8 The Council will make available equity share loan options for eligible owner occupiers, the final arrangements of which were delegated to the Strategic Director for the Economy on the 29th April 2019. The scheme allows resident leaseholders to remain in home ownership within the area.
- 7.9 Since the 29th April 2019 the scheme detail has been refined and the scheme is open for leaseholders to access. Shared equity schemes do not fall within the leaseholders' statutory entitlement to claim, therefore they tend to vary in detail between different schemes. Avison Young has advised the Council that the scheme offered to residents of Hartopp Point and Lannoy Point is somewhat more favourable to leaseholders than many similar schemes in London. The scheme therefore provides owner occupiers with a significant incentive to relocate by agreement.

8. SITE FEASIBILITY

- 8.1 The main concern of the Council is to ensure the safety of residents of the affected blocks and its neighbours. In addition to preparing to demolish Hartopp and Lannoy Points the Council will now consider options for the future through site feasibility leading to initial design and consultation activities.
- 8.2 The consideration for the future of the site will be based on the Council's established policy objectives of:
- Delivering a qualitative gain in housing stock
 - Maximising the amount of genuinely affordable housing
 - Defending the availability of council housing in Hammersmith and Fulham
 - Housing Compliance asset management strategy (December 2018).

9. EQUALITY IMPLICATIONS

- 9.1 It is anticipated that the decant of the remaining households (whether Council tenants, leaseholders or private tenants) may have a proportionally greater negative impact on older people, disabled people and families with school age children, as acknowledged in the Equality Impact Assessment (EIA).

9.2 The Council has adopted a number of measures to mitigate the impact of the Scheme including:

- The ongoing needs assessment, with Housing Management undertaking appointments with council tenants. This assesses the housing preferences and support needs of each remaining council tenant and seeks to implement mitigating actions to alleviate any negative impacts identified.
- Provision of a shared equity scheme for qualifying resident owner occupiers which is in excess of the statutory compensation entitlement.
- The use of the Council's mortgage lending powers to assist those who cannot readily access the mortgage market.
- Assistance and support in locating and securing alternative suitable alternative accommodation for leaseholders.
- Provision of compensation for special adaptations required for elderly or disabled leaseholders.
- Level access will be maintained at all times to all retained dwellings.
- When undertaking negotiations to acquire leasehold interests, an early part of the process involves identifying any protected characteristics. The appointed surveyor then ensures that negotiations are undertaken with regard to the Council's PSED obligations.
- The rehousing policy for affected residents has been prepared having regard to the Council's PSED obligations.
- Private tenants requiring and requesting assistance will be assessed in accordance with the Council's Housing policy. Housing assistance will be offered to some private tenants with particular difficulties relocating who are not technically eligible for assistance as defined by the Compensation Code or Housing Allocations Policy.
- The Council's Equality, Diversity, and Inclusion Policy provides a clear statement on the Council's commitment and approach to equality, diversity, and inclusion, in the areas of employment, service delivery and procurement. This policy underlies the Council's approach to delivering the scheme.
- When granting planning permission for the future redevelopment of the Order Land the Council will take account of its PSED duty.

9.3 The EqIA sets out the mitigating actions being proposed for the 13 older tenants, the 12 tenants with mobility issues and the tenants with school age children. These actions will be tailored to best meet the needs of those residents as the needs assessment is progressed.

9.4 Overall the Council has taken account of its duties under section 149 of the Equality Act 2010 and is satisfied that due regard has been had to any potential disproportionate impact on any parties with protected characteristics. The Council has instigated a number of measures to mitigate any potential negative impacts.

Implications verified by Fawad Bhatti, Policy & Strategy, tel. 07500 103617.

10. LEGAL IMPLICATIONS

- 10.1 See paragraph 4.14 to 4.30 above
- 10.2 CPO powers should be used where it is expedient to do so, but a compulsory purchase order should only be made and confirmed where there is a compelling case in the public interest. The Council's statement of reasons, accompanying the CPO will reflect what action the Council has taken to acquire the land by private treaty, will demonstrate the compelling case for the confirmation of the order and need for the order to achieve delivery of the demolition programme.
- 10.3 Section 17 of the Housing Act 1985 empowers the Council, on being authorised by the Secretary of State, to acquire land compulsorily to achieve a quantitative or qualitative housing gain or improvement to adjoining housing.
- 10.4 The Acquisition of Land Act 1981 contains the procedures which apply to such an acquisition, Compensation is payable under the Land Compensation Act 1961 and the Land Compensation Act 1973 (as amended).
- 10.5 The Council will need to commit to delivering housing on the order land within 10 years of the confirmation of the Order.

Human Rights

- 10.6 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way that is incompatible with the European Convention on Human Rights. The Convention rights likely to be relevant to the Order are:

First Protocol Article 1: Peaceful enjoyment of possessions. This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.

Article 6: Entitlement to a fair and public hearing in the determination of a person's civil and political rights. This includes property rights and can include opportunities to be heard in the consultation process.

Article 8: protects the right of the individual to respect for private and family life

- 10.7 The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Any interference with a Convention right must be necessary and proportionate.

- 10.8 The Council must consider whether its actions would infringe the human rights of anyone affected by the making of the CPO. So, it must carefully consider the balance to be struck between individual rights and the wider public interest.
- 10.9 In this case it is considered that there is a compelling case in the public interest for the CPO. The public interest is served by demolition of unsafe buildings and the future qualitative housing gain outweighs the necessary interference with the private rights and interests. The benefits derived by owner occupiers from being relocated from unsafe to safe homes mitigates and justifies the interference with their private rights.
- 10.10 In addition, the individuals affected by the order have the right to object and have their objection heard at a public inquiry and, additionally, appropriate compensation will be available to those entitled to claim it under the relevant provisions of the CPO Compensation Code.
- 10.11 Therefore, it is considered that in making the CPO the Council has struck a fair and proportionate balance between the interests of those whose Convention rights will be affected and the wider public interest.
- 10.12 Section 149 of the Equalities Act 2010 requires the decision maker meaning the Council acting through its Cabinet, to have due regard to the goals in the Act as set out in section 149. An EqIA has been undertaken on the potential impact of the decision on resident with protected characteristics. This will be reviewed and updated as more information becomes available. The Council and its advisers will take account of the PSED and any impact on any parties with protected characteristics whilst undertaking negotiations to acquire interests.

Implications completed by Janette Mullins Acting Chief Solicitor (Litigation and Social Care), tel. 020 8753 2744 and Rachel Silverstone Senior Solicitor (Property and Planning), tel. 020 8753 2210

11 FINANCIAL IMPLICATIONS

Capital budget

- 11.1 The recommendations in this report require an additional capital budget allocation of £1,359,000 which brings the total project budget to £15,427,000 and the remaining project budget from 2019/20 to £14,540,000. This is set out below:

Type of Capital Cost	Budget Required £,000	Previously approved Budget £,000	Additional Budget Required £,000	Less spend in 2018/19 £,000	Remaining Budget £,000
Leaseholder Acquisitions	10,927	10,068	859	(887)	10,040
Demolition	3,500	3,500	0	0	3,500
Tenant Decant	400	400	0	0	400
CPO Advice	350	100	250	0	350
Design, surveys, cost consultancy and project management	250	0	250	0	250
Total	15,427	14,068	1,359	(887)	14,540

- 11.2 The 29 April 2019 report included additional budget provision of £8.717m to provide a total programme budget of £14.068m. This was approved under a £50m budget envelope included in the Capital Programme to provide operational flexibility, for taking forward the major projects set out in Capital Strategy, the proposed demolition works being required urgently on the grounds of Health and Safety. This further budget provision of £1.359m can be approved by Cabinet under the Council's Constitution and Financial Regulations.
- 11.3 The additional capital budget requirement will be funded from an increase in borrowing/the HRA Capital Funding Requirement (CFR)¹. If external borrowing is used the annual revenue impact on current rates would be up to £28,000 if additional borrowing is taken out (the 50-year Public Works Loan Board rate was 2.04% on 7th August 2019) but less if cash balances were used. This would be an additional charge to the HRA until the associated CFR increased is funded via a capital receipt or revenue contribution.
- 11.4 The total estimated cost of £15,427,000 is still less than the estimated cost of refurbishing the two blocks. However, should all properties be acquired by negotiation it is expected that the full CPO budget will not be utilised.
- 11.5 Use of the budget will be subject to the following approvals:
- Leaseholder property acquisitions: Each purchase will require signed delegated approval from the Strategic Directors of the Economy Department and Finance and Governance.
 - Demolition contract award: An Officer decision would be required from the Strategic Director for the Economy in consultation with the Strategic Director for Finance and Governance.

Financial context

- 11.6 This decision is expected to increase the level of debt in the HRA as measured by the HRA Capital Financing Requirement (CFR), as the Capital Programme Monitor & Budget Variations, 2018/19 (Outturn) report that went to Cabinet on 1 July 2019 sets out that the CFR is forecast to be within

¹ The Capital Financing Requirement is the non-funded element of capital spend which is in respect of borrowing or credit arrangements used to **finance capital** expenditure on assets. This is not restricted to external borrowing as the council may elect to internally borrow against cash balances.

prudential borrowing limits. The proposal in this report will increase the CFR by up to £1,359,000 and incur a cost of borrowing but this can be accommodated by the HRA Business Plan approved on 4 February 2019.

Financial Risks

- 11.7 The Council will need to develop its plans for the future of this site which will be the subject of a future decision, the financial implications of which will be reported in full. If a new development on this site does not proceed then any expenditure incurred against the £250,000 budget for design, surveys, cost consultancy and project management will be written off as an unbudgeted charge to revenue.

Implications completed by: Firas Al-Sheikh, Head of Housing Financial Investment and Strategy, Tel: 020 8753 4790.

Implications verified by: Emily Hill, Assistant Director, Corporate Finance, tel. 020 8753 3145.

12. IMPLICATIONS FOR BUSINESS

- 12.1 There are no implications for business.

Implications completed by: David Burns, AD Growth.

13. COMMERCIAL IMPLICATIONS

- 13.1 The report recommends the extension of the Council's contract with Avison Youngs. Cabinet approved the waiver and the direct award of the contract for a value of £100,000. The value of the initial award is under the EU threshold, £181,000. The estimated value of the extension is £60,000 out of the proposed budget of £250,000 for the CPO related costs. As a result, the total value of the contract, including extensions, is £160,000 which is still under the statutory threshold mentioned above.

- 13.2 As a result, PCR 2015 do not fully apply. If the value of the extension exceeds £81,000, a fully compliant procurement process must be conducted in line with the Regulations.

Procurement implications provided by Andra Ulianov, Head of Contracts and Procurement, tel. 07776672876

14. IT IMPLICATIONS

- 14.1 No IT implications are considered to arise from this report.

- 14.2 Any contracts arising from this report will need to include H&F's data protection and processing schedule. This is compliant with the General Data Protection Regulation (GDPR) enacted from 25 May 2018. Any suppliers will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.

Implications verified/completed by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, IT Services, tel. 0208 753 5748.

15. RISK MANAGEMENT

- 15.1 The Council has consulted with and been informed by experts whose opinion has led to the conclusion that demolition is necessary. The Council must address the structural issues identified either via demolition or refurbishment. The costs of refurbishing the blocks are significant hence the recommendation is to propose solutions for residents first following the consultation exercise and then to proceed to procure a contractor to undertake a controlled and safe demolition once the buildings are vacated of residents. The proposals are consistent with our Council Priorities, specifically decisions being made with our residents foremost in our consideration.
- 15.2 Proposed actions set out in the report to enable the demolition of the two blocks are being recommended in accordance with our Being Ruthlessly Financially Efficient Objective to seek the best financial solution for our local taxpayers.
- 15.3 A compulsory purchase order will provide project and programme certainty to enable demolition of the buildings and ensure the safety of the residents and neighbours.
- 15.4 Officers will ensure that all proposed actions are taken in consultation with the Assistant Director of Legal and Democratic Services and in line with the legal comments provided to mitigate the risk of challenge by means of a public inquiry.

Implications verified by: David Hughes, Director Audit, Fraud, Risk and Insurance tel: 020 7361 2389.

16. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

Cabinet decision and report 29th April 2019.

LIST OF APPENDICES:

- Appendix 1 - Plan 1
- Appendix 2 - EqIA