

**Report for:** Cabinet – 19 July 2022

**Title:** High Road West - Appropriation of Land in the Early Plots A and Consultation on the Use of Ground 10a of the Housing Act 1985

**Report authorised by:** David Joyce, Director of Placemaking and Housing

**Lead Officer:** Peter O'Brien, Assistant Director for Regeneration and Economic Development

**Ward(s) affected:** Bruce Castle

**Report for Key/ Non Key Decision:** Key Decision

## **1. Describe the issue under consideration**

- 1.1. In 2017 the Council entered into a Development Agreement with Lendlease to deliver the High Road West Scheme ("the Scheme") in north Tottenham. In the summer of 2021 a resident ballot took place on the Love Lane Estate where the majority of participating residents voted in favour of the redevelopment of the estate as part of the Scheme. This report is part of the approvals necessary to help facilitate the delivery of the Scheme. In this report approval is sought to appropriate land in the first development plot (Plot A), for planning purposes, which will enable the delivery of the first 60 Council homes for the benefit of existing residents on the Love Lane Estate. Its delivery represents an important first step in supporting the Council to honour its commitments to these residents as set out in the Love Lane Landlord Offer (the "Landlord Offer").<sup>1</sup>
- 1.2. In this report approval is also sought for the commencement of statutory consultation with secure tenants on the Love Lane Estate, regarding a proposal to seek the Secretary of State's approval of the Scheme for the purpose of Ground 10A of Part II of Schedule 2 of the Housing Act 1985 ("Ground 10A"). The responses to the consultation will be considered and reported back to Cabinet following completion of the consultation.
- 1.3. The decision to consult on this proposal is so that that the Council has the ability to achieve vacant possession of properties on the Love Lane Estate which are subject to secure tenancies. Whilst each resident on the Love Lane Estate will have a dedicated Rehousing Officer working closely with them to rehouse them in the new Council homes in High Road West or elsewhere, the Council needs to ensure it has certainty of delivery of the whole of the first phase of the Scheme.
- 1.4. Use of Ground 10A powers will give the Council this certainty and help ensure that the 500 Council homes to be delivered within the first phase (which includes Plot A) and a range of other improvements for local people including

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<sup>1</sup> The Love Lane Landlord Offer can be accessed online at the following link:  
[love lane landlord offer final.pdf \(haringey.gov.uk\)](https://www.haringey.gov.uk/love-lane-landlord-offer-final.pdf)

the Library and Learning Centre and new public square can be delivered. The statutory powers would be used as required for the project programme, and only once the rehousing process has progressed to an appropriate stage for each secure tenant. This includes an offer of suitable accommodation being made in line with the commitments in the Landlord Offer.

## **2. Cabinet Member Introduction**

- 2.1. The resident ballot outcome on the Love Lane Estate in summer 2021 was a confirmation that residents want to see positive change in their neighbourhood. We have been clear that the redevelopment will only take place if that is what the local community want and, through participation, they are shaping the changes taking place.
- 2.2. The recommendations in front of Cabinet are necessary steps to ensure that the Council can deliver on the guarantees to residents in the Love Lane Landlord Offer, which residents voted in favour of in the ballot. That includes 500 new Council homes, for existing secure and temporary accommodation tenants on the estate as well as the most in-need households on the Council's waiting list, and affordable homes for existing resident leaseholders.
- 2.3. The appropriation of land for planning purposes will enable development to take place on the first plot of the High Road West Scheme, referred to as Plot A or Whitehall Mews. This will deliver the first 60 new Council homes for existing residents. The homes, which include a significant proportion of family housing, have been designed to respond to the preferences expressed by residents over several years, and specifically in the Love Lane Resident Charter and Design Guide. The development will also include new landscaping and play opportunities for residents in a safe and welcoming environment.
- 2.4. The new homes will be allocated in line with the Council's High Road West Local Lettings Policy and start the important process of providing the opportunity for residents to move to their new homes for which they have been waiting for many years. The Council's dedicated Rehousing team are working with households on a one-to-one basis to ensure that their new home offer meets their needs, including the right number of bedrooms and any adaptations where required, and that they are supported so that when the time for the move comes, this proceeds as smoothly as possible.
- 2.5. At every stage of the project, the Council has sought the views of Love Lane Estate residents, including in shaping their housing offer. The proposed consultation with secure tenants on the potential use of Ground 10A powers where required is no different. This proposal is being considered to provide the Council with the certainty that it can build the new homes for existing residents, in line with the Landlord Offer. We will ensure that all secure tenants are able to put their views forward on this proposal by providing documents in the relevant community languages, offering interpreter support and presenting a range of opportunities to speak to a Council officer in the setting that is most convenient for residents. The feedback will be important in informing the follow-up recommendation that will be brought back to Cabinet.

## **3. Recommendations**

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3.1. Cabinet is recommended:

- i. To approve the appropriation for planning purposes of the land edged blue on the plan attached at Appendix 1 of this report to enable the delivery of Plot A of the High Road West Scheme (“the Scheme”) pursuant to section 122 of the Local Government Act 1972, which will enable the Council or the developer to rely on section 203 of the Housing and Planning Act 2016 to override any third party easements or rights infringed by the development of Plot A, subject to payment of statutory compensation to those entitled under section 204 of the 2016 Act;
- ii. To approve the commencement of statutory consultation with all secure tenants on the Love Lane Estate, pursuant to Part 5 of Schedule 2 to the Housing Act 1985, regarding the proposal to seek the Secretary of State’s approval for the redevelopment Scheme for the purpose of Ground 10A to support delivery of later plots within the Scheme; and
- iii. To note that following this statutory consultation, there would be a report to Cabinet with a recommendation on whether to proceed with an application to the Secretary of State to seek approval of the redevelopment Scheme for the purpose of Ground 10A.

**4. Reasons for decision**

- 4.1. The land to be appropriated for planning purposes to enable the development of the first plot (Plot A) within Phase A of the Scheme, subject to planning permission being achieved. This land is currently held by the Council for a number of different statutory purposes, including housing. The land held for housing purposes is currently used as a footpath and an enclosed fenced area associated with the Whitehall & Tenterden Centre, see Appendix 2. Appropriating the land would enable the Council and its development partner Lendlease to deliver the new homes, through the ability to rely on sections 203 and 204 of the Housing and Planning Act 2016 (“2016 Act”) to override any easements or other private rights (such as rights to light) which might otherwise impede redevelopment of this land in accordance with planning permission.
- 4.2. The consideration of the potential use of Ground 10A of the Housing Act 1985 is with a view to ensure certainty of delivery of Phase A, which includes the provision of much needed Council homes, in parts of the site where secure tenants are currently in occupation. The Council’s Landlord Offer guarantees secure tenants a new Council home in the Scheme that meets the need of their household. Secure tenants also have the option to make an early move to a Council home elsewhere in the borough if preferred. The Council has a dedicated Rehousing team in place to support residents through each stage of the move process.
- 4.3. The Council’s aim is to rehouse all tenants by mutual agreement, in line with the Landlord Offer. If this cannot be achieved, Ground 10A is one of the statutory grounds under which possession of a secure tenancy may be ordered by a court if it is seeking to end the tenancy, on the grounds that suitable

accommodation is available. This would only be exercised in the event that a tenant was not willing to leave a property even once suitable alternative accommodation had been offered as part of the rehousing process. Further details are provided in paragraphs 6.29 to 6.37.

- 4.4. The Council has a statutory obligation under Part V of Schedule 2 to the Housing Act 1985 to undertake consultation with secure tenants prior to seeking the Secretary of State's approval of a redevelopment Scheme for the purposes of Ground 10A. If approved, statutory consultation would be undertaken with secure tenants on the Love Lane Estate in autumn 2022. Officers will report back to Cabinet on the outcome of the consultation. Depending on the outcome, Cabinet may be asked for approval to authorise the Council to seek the Secretary of State's approval of the redevelopment Scheme for the purpose of Ground 10A.

## **5. Alternative options considered**

### Not to appropriate the land in Plot A or to do so later

- 5.1. The Council could progress development of Plot A without appropriating the land for planning purposes, but this would risk the proposed development being delayed or stopped by potential third party claims. This could prevent the Scheme from being delivered and the Council from delivering on its commitments set out in the ballot and Landlord Offer.
- 5.2. The Council could also choose to appropriate the land in Plot A for planning purposes at a later date, alongside other parts of Phase A. Plot A is targeted to start on site in autumn 2022, subject to planning consent. If a decision to appropriate the land was not taken at this time, then this would increase the risk of the Council and Lendlease failing to meet this start on site milestone, which is critical to unlocking GLA funding as per the funding agreements and therefore risk the delivery of the wider Scheme.

### Not to consult on the proposal to seek approval for use of Ground 10A of the Housing Act 1985

- 5.3. The Council could choose not to undertake statutory consultation with secure tenants on the proposal to seek approval of the Secretary of State for use of Ground 10A of the Housing Act 1985, and accordingly would not (subject to consultation) be able to consider future use of these powers. This would however risk the Council's ability to deliver vacant possession and the delivery of the Scheme, including the delivery of 500 new Council homes for existing residents and those on the housing register.
- 5.4. Based on the consideration of these options, Cabinet is recommended to reject them and approve the recommendations outlined in Section 3 of this report.

## **6. Background information**

### Funding and Contractual Arrangements

- 6.1. In 2017, and following a competitive procurement process, the Council entered into a Development Agreement and Compulsory Purchase Order Indemnity Agreement (CPOIA) with Lendlease to deliver the Scheme. The CPOIA sets out both the Council and Lendlease's obligations to acquire and secure vacant possession of the land within the Scheme. Lendlease is obligated to reimburse the Council for all of the costs that the Council has spent in acquiring the land, as well as compensation and expenses payable to third parties, should the development proceed.
- 6.2. In 2018, the Council was granted consent by the Secretary of State in line with Section 32 of the Housing Act 1985 to dispose of Council owned housing land to facilitate the delivery of the Scheme. The land authorised for disposal includes the land within Plot A.
- 6.3. In 2021, the Council entered into a funding package with the GLA to kickstart the first phase of the Scheme, referred to as Phase A. Phase A encompasses the part of the regeneration area to the south of White Hart Lane which includes the Love Lane Estate. This package consists of two grant funding pots, namely the Affordable Housing Grant and Mayor's Land Fund, with a combined total sum of £91m. These funding agreements enable the Council to meet the objectives of the Scheme, including delivery of 500 Council homes for existing and new residents. To successfully draw down the funding, the Council needs to meet various start on site and delivery milestones.
- 6.4. Under the Development Agreement, the Council is required to acquire all the land within the Scheme and then, on satisfaction of conditions, required for each phase of the development, to grant 250-year phase leases for that phase to Lendlease, for Lendlease to progress the development. The first phase for the Scheme is Phase A of which Plot A will be the first to be developed, followed by Plot D.
- 6.5. Lendlease are required to pay the Council a land premium which will be based on an agreed calculation set out in the Development Agreement. As part of the procurement process for a development partner, the Council secured a fixed minimum land premium for Plots A & D. The minimum land premium agreed for Plots A & D in the Development Agreement is contained in the exempt part of the report.

6.6. **(This information is included in the exempt report)**

Planning Application

- 6.7. A hybrid planning application for the Scheme was submitted on 29 October 2021 (HGY/2021/3175). This seeks detailed planning permission for Plot A, and outline planning permission for the remainder of the Scheme. The planning application is due to be considered at the Council's Planning Sub Committee on 21 July 2022. Subject to planning approval, work will commence on Plot A later this year. Achieving this start on site is crucial for the Council to meet its funding obligations with the GLA.

Further details on Plot A



- 6.8. Plot A is edged blue in Appendix 1 and is located to the west of the railway line, which divides the site from the Love Lane Estate. The site is currently occupied by Whitehall & Tenterden Centre, which is leased to the Grace Organisation, a third sector organisation. The Grace Organisation is relocating to an equivalent sized space and facilities at the Irish Centre once refurbishment works are completed, estimated for September 2022. These works are funded by Lendlease.
- 6.9. The site is also occupied by 100 Whitehall Street, used primarily by the Council as short-term emergency accommodation. The Council is currently seeking a new facility in Haringey as a longer-term solution to provide a centralised location for this type of accommodation. In the interim period, this provision will be met at various sites across the borough.

#### Appropriation

- 6.10. The Council holds land for various statutory purposes in order to perform its functions. Appropriation is a statutory process that allows the Council to change the purpose for which land is held from one statutory purpose to another. This report seeks approval to appropriate the land in Plot A for planning purposes pursuant to Section 122 of the Local Government Act 1972 as it is no longer required for the purposes it is currently held. The appropriation of the land and the subsequent development will enable the delivery of the new Council homes at Plot A.
- 6.11. The appropriation of the land for planning purposes would enable the Council and its developer, Lendlease to rely on the provisions of Section 203 and 204 of the Housing and Planning Act 2016, specifically at such time that Plot A of the Scheme is developed in accordance with planning permission, and providing certain conditions are satisfied. This would enable any easements and rights attached to properties which are infringed by the development of Plot A to be overridden.
- 6.12. The third-party rights are not extinguished but infringement (by the development) will result in a right to compensation in place of the right to seek an injunction. The Council recognises the potential rights of third parties and will pay compensation where a legal basis for such payments is established. The person who carries out the development is liable to pay compensation under s 204, but if they fail to do so, the Council must make the payments and then recover them from the developer under s 204(3). The CPOIA entered into between the Council and Lendlease provides for how Lendlease will cover any compensation that may be payable pursuant to s 204.
- 6.13. An assessment has been carried out to determine whether or not any third-party rights would be affected by the development of Plot A. A plan showing land benefitting from rights of light which may be impacted or interfered with through the development of Plot A has been produced and is provided in Appendix 3 (**note that this information is exempt**). This assessment has taken a precautionary approach, to identify the maximum number of parties whose rights of light may potentially be interfered with. It is likely that the actual number of parties whose rights are interfered with by the development will be

found to be lower, as the detailed design is finalised, and given the precautionary approach taken in the assessment.

- 6.14. In addition, the Council's land referencers have reviewed other rights and covenants affecting the relevant land and which may be impacted or interfered with by the development of Plot A beyond rights of light. In summary these include rights of access/way; and covenants to maintain building structures, support for land/buildings, services and common parts. There is also the potential for unknown rights or restrictions to exist. The rights mainly relate to other properties within the Estate and are general rights, rather than those applying specifically and only to Plot A. More details on the rights are provided in Appendix 4 (**which is exempt**).
- 6.15. A letter was sent on 16 June 2022 to those parties outside of the Phase A boundary whose land and property may suffer a potential interference with rights of light as a result of the development of Phase A (including Plot A). This outlined what Phase A was, the potential for those rights (particularly rights of light) to be affected and set out the Council's intention to consider whether to appropriate the land for planning purposes and/or promote a compulsory purchase order. It confirmed that the Council and Lendlease would be willing to discuss impacts at the appropriate time when the development comes forward and provided details on drop-in sessions / contact details for those who had any questions in the meantime. The letter is provided in Appendix 5.
- 6.16. Separately land interest questionnaires have also been sent to all parties with an interest in Phase A, seeking confirmation of their interests and identity, and providing contact details for the Council for those that wish to discuss the Scheme. These questionnaires have been issued as part of the due diligence required in relation to a potential compulsory purchase order (CPO) relating to and to deliver Phase A, and the questionnaires also covered land relevant to the proposed appropriation of Plot A. Notifying residents of the development's potential impact on their rights is essential both as part of the process of assembling land, and to ensure engagement with the community is undertaken to a high standard, and legal advice has been sought to ensure the correct process has been progressed.
- 6.17. Those parties situated within Phase A on the Love Lane Estate (and who may have rights interfered with as a result of the development of Plot A) have been written to separately regarding the timelines and next steps to deliver Phase A. These letters set out the Council's aim to acquire all interests on the Love Lane Estate by mutual agreement, and also reaffirmed the commitments within the Council's Landlord Offer, including the option to move to a newly built home within the Scheme.

#### Consideration of human rights

- 6.18. The Human Rights Act 1998 effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions, Members therefore need to have regard to the Convention, particularly in relation to the proposed decision in this report on the appropriation of land in Plot A for planning purposes. The rights that are of particular significance to Cabinet's decision are those contained in

Articles 8 (right to home life) and Article 1 of the 1st Protocol (peaceful enjoyment of possessions).

- 6.19. Article 8 provides that there should be no interference with the existence of the right to home life except in accordance with the law and, as necessary in a democratic society in the interest of the economic well-being of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 6.20. In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation to affected persons is relevant in assessing whether a fair balance has been struck.
- 6.21. Therefore, in deciding whether to proceed with the recommendations relating to appropriation of land for planning purposes, Cabinet Members need to consider the extent to which the decision may impact upon the Human Rights of the landowners and residents and to balance these against the overall benefits to the community, which the redevelopment will bring. Members will wish to be satisfied that interference with the rights under Article 8 and Article 1 of the 1st Protocol is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

*Public benefits of the development*

- 6.22. The High Road West site, including both the land proposed for appropriation in Plot A and the Love Lane Estate, forms part of the land identified in the Council's adopted Local Plan as a key regeneration area capable of accommodating significant growth. The investment in new housing and employment opportunities in north Tottenham has long been a priority for the Council, and High Road West is specifically the subject of policy allocation NT5 in the Tottenham Area Action Plan (2017).
- 6.23. The Council is satisfied that the development of Plot A will contribute significantly to the social, economic and environmental wellbeing of the immediate and surrounding area. The plot will see the delivery of the first 60 new Council homes for existing residents as part of the Scheme, in a new residential block of five and six storeys. This will make a significant contribution to the borough's housing targets and help deliver on the commitments of the Council to Love Lane residents in the Landlord Offer. The new homes will be allocated to existing residents in line with the High Road West Local Lettings Policy, which was approved by Cabinet in July 2021. The development will also help improve the place-making of the area through improved legibility and connections and new landscaping.



- 6.24. The development of Plot A also represents the start of Phase A of the Scheme and will help unlock subsequent plots for redevelopment by supporting rehousing. It is therefore an integral part of Phase A, which will deliver 500 Council homes in total (including Plot A) and other benefits for the community including new jobs, homes and public spaces.

*Assessing the interference with private interests*

- 6.25. It is acknowledged that third party rights may be affected by the development of Plot A. When assessing the interference with private interests it is important to recognise that the impact of the development of Plot A in daylight and sunlight terms will be fully assessed as part of the planning process and will be considered by the Council's Planning Sub-Committee when it considers the planning application on 21<sup>st</sup> July 2022.
- 6.26. The approach to identifying and contacting those parties who own or have an interest in property / land and may have their right of light affected is summarised in paragraphs 6.13 to 6.17 of the report. There are also other types of rights potentially impacted by the development of Plot A and which would be overridden, as described in the main report. The overriding of relevant rights and a right to compensation are secured by Sections 203 and 204 Housing and Planning Act 2016. The level of compensation is to be agreed or can be referred to the independent Upper Tribunal (Lands Chamber) if it cannot be agreed.

*Conclusion*

- 6.27. On balance, it is considered that the substantial public benefit of being able to carry out and use Plot A outweighs the infringement of the third parties' rights referred to above. As such it is considered that the exercise of the Council's rights to appropriate and convert these third-party rights to compensation is legitimate and proportionate in this instance.
- 6.28. Officers also take the view that compensation secured by legislation will mitigate any infringement of those private rights.

Consultation with secure tenants on the use of Ground 10A powers

- 6.29. Alongside continued engagement, the Council has undertaken several statutory consultations with secure tenants on the Love Lane Estate on a range of proposals relating to the Scheme since 2012. These have included:
- Section 105 consultation on the redevelopment proposals and Secure Tenant Guide ([link](#) to Cabinet report, November 2014)
  - Section 105 consultation on the ownership and management of the replacement homes ([link](#) to Cabinet report, September 2017)
  - Consultation on the High Road West Local Lettings Policy ([link](#) to Cabinet report, July 2021).

- 6.30. The Secure Tenant Guide, agreed by Cabinet in 2014 and later updated as part of the Landlord Offer in 2021, set out the Council's commitments to secure tenants on the estate. This included the commitment that residents have the right to remain on the Love Lane Estate and move to a new home in the Scheme. Feedback from residents found that many want to see choice in their rehousing options, and on that basis, a commitment was also made that tenants could choose to move to another Council or Housing Association property elsewhere in the borough.
- 6.31. There are currently 38 secure tenant households on the Love Lane Estate. The Council's Rehousing team has built up relationships with these residents and are aware of their housing needs which enables the Council to provide the choice of new home that best suits their needs. Many of these residents have expressed a preference to move to the new Council homes built as part of the Scheme. The Council will continue to work with these residents to:
- Review and update their housing need assessments, including the requirement for any special adaptations in the new homes e.g. grab rails or a wheelchair accessible kitchen
  - Discuss the preferences of the household in relation to making their home their own, e.g. choosing interior colours and materials
  - Keep them updated on when the new homes are likely to be available, and when they will be required to move
  - Arrange visits to the new homes prior to completion, including taking measurements
  - Support in the moving process, e.g. help moving boxes and packing/unpacking
  - Post-move survey to check that the resident is settled in
- 6.32. Consideration of the use of Ground 10A of the Housing Act 1985 is in recognition that the Council needs to ensure delivery of the Scheme in a timely manner, so that the Council can stand by its commitment for residents across the Love Lane Estate (including non-secure tenants and resident leaseholders) to move to their new homes. While every effort will be made to reach agreement with all tenants, it is recognised that this cannot be guaranteed, and the Council needs to have the ability to gain possession of secure tenancies if a resident is not willing to move from a block required for demolition.
- 6.33. Ground 10A gives the Council the power to terminate a secure tenancy and for a court to order possession where the home is required as part of a redevelopment Scheme approved by the Secretary of State. If the secure tenant does not agree to vacate, the Council must serve a notice of seeking possession and if the secure tenant remains in occupation at the expiry of the notice period, the Council may issue possession proceedings and there will then be a court hearing. If the court is satisfied that the Ground 10A criteria have been met and suitable accommodation is available for the secure tenant, it may make an order for possession.
- 6.34. Secure tenants have additional security of tenure compared to non-secure tenants living in temporary accommodation. The use of Ground 10A powers is only required where the Council is seeking to gain possession of secure

tenancies. However, for non-secure tenants the Council would still need to demonstrate that suitable alternative accommodation is available, as it would be seeking to do through the Council's Landlord Offer, which commits to a new Council home in the Scheme on a secure tenancy for eligible non-secure tenants in the Scheme area. The High Road West Local Lettings Policy confirms this prioritisation of existing residents for the new homes.

- 6.35. To be able to rely on Ground 10A, the Council must first apply to the Secretary of State for formal approval of the proposed redevelopment of the Love Lane Estate as part of the Scheme for the purposes of Ground 10A. Before an application can be made, the Council must consult with all secure tenants living in homes affected by the proposal including a) the main features of the proposed redevelopment; and b) the effect that receiving such approval would have on tenants in relation to court proceedings to recover possession brought under the Housing Act 1985.
- 6.36. Subject to approval of the recommendations in this Cabinet report, it is expected the following steps would take place at the following times.

Date	Action
19 July 2022	Cabinet approval to commence consultation
September 2022	Consultation
October/November 2022	Depending on feedback, Cabinet to be asked to authorise the Council to seek Secretary of State consent for the use of Ground 10a of the HA 1985

- 6.37. In undertaking consultation, the Council will be taking steps to ensure that all secure tenants are able to respond and take part. This includes providing translated versions of the consultation materials in the relevant languages identified. Alongside providing the written consultation material to all secure tenant households by post, engagement activities will include drop-in sessions in the local area, door knocking, and offers of one-to-one meetings with an interpreter present if required.

## **7. Contribution to strategic outcomes**

- 7.1. The recommendations and responses made will contribute to the successful delivery of the Scheme and will support the Council in delivering its corporate priorities, as well as supporting the progression of objectives in the development plan (including part of site allocation NT5 in particular) and in the London Plan to support regional growth in North London.
- 7.2. The regeneration at High Road West will help to enhance the area in relation to the following four priorities set out in the Council's Borough Plan (2019-2023):
- Priority 1 – Housing ("A safe, stable and affordable home for everyone, whatever their circumstances"): the Scheme makes an important contribution to the borough's housing targets. Overall, the Council has a

five year housing target of 12,799, approximately 2,500 per year, with the Scheme able to deliver on average around 10% of this number over the life of the Scheme.

- Priority 2 – People (“Strong families, strong networks and strong communities nurture all residents to live well and achieve their potential”): the Scheme will support the Council’s objectives in better linking local neighbourhood services, providing new community facilities designed to meet the needs of local people, and support the Council’s focus on early intervention and prevention.
- Priority 3 – Place (“A place with strong, resilient and connected communities where people can lead active and healthy lives in an environment that is safe, clean and green”): the Scheme will deliver a series of public and green spaces, including a community park, and include investment into projects which and enable healthy and safe lives for local people.
- Priority 4 - Economy (“A growing economy which provides opportunities for all our residents and supports our businesses to thrive”): the Scheme will include significant investment into employment, education and training opportunities for local people, to connect residents to sustainable and long-term jobs.

## **8. Statutory Officer Comments**

### **Finance**

**8.1-8.2. This information is contained in the exempt part of the report.**

### **Procurement**

8.3. There are no procurement comments required for this report.

### **Legal**

8.4. The Head of Legal & Governance (Monitoring Officer) has been consulted on the content of this report and legal advice have been incorporated into the report.

8.5. The Council’s power to appropriate the land within Plot A are contained in section 122 of the Local Government Act 1972. As stated the land is held for various purposes by the Council and although this includes land held for housing purposes, secretary of state’s consent is not required as there are no housing accommodation on the land.

8.6. Appropriation of Plots A will enable the Council and its developer, Lendlease to rely on the provisions of section 203 and 204 of the 2016 Act. If land is appropriated by a local authority for planning purposes, then the development can be carried out on that land, notwithstanding that those works and use may interfere with third party rights, provided that three further conditions are satisfied:

- (a) there is planning permission for the works and / or use;
  - (b) the Council could (at least in theory) have acquired the land compulsorily for the purpose of the works/use (if it did not already own the land); and
  - (c) the works and/or use are related to the purposes for which the land was appropriated.
- 8.7. In respect of condition (a) above, although planning permission is not currently in place it is envisaged as noted above that the planning application will be considered at committee in July. Whether or not that planning application is granted it is envisaged that planning permission for the development of Plot A will be in place prior to works commencing such that limb a) will be satisfied.
- 8.8. In respect of condition (b) above, the Council has power, under s226 of the Town and Country Planning Act 1990 on being authorised by the Secretary of State, to acquire land compulsorily for planning purposes, including in order to facilitate redevelopment if it thinks that the redevelopment would contribute to the achievement of the economic, social and/or environmental well-being of its area. The report sets out details of the benefits that will be achieved by the development of Plot A (including the delivery of 60 new homes for Council tenants, and economic and environmental benefits). The redevelopment of Plot A is within the power available to the Council under s226.
- 8.9. In respect of condition (c) above, the development of Plot A for housing, as part of the wider Phase A / Scheme and to provide replacement homes for existing tenants, is clearly related to the purpose for which the land is being appropriated.
- 8.10. Third party rights that can be overridden under s203 include easements (such as a right of access or right to light) and restrictive covenants which otherwise would limit the use of the land.
- 8.11. Those third parties whose rights have been affected may be entitled to compensation. Compensation under s204 of the 2016 Act is calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965. It is for the developer to pay the compensation however the Council retains residual liability should the developer fails to do so.
- 8.12. The appropriation of land for planning purposes by the Council does not of itself override third party rights or infringe them. Only when development progresses, and third-party interests are interfered with or breached does the consequence of having appropriated the land for planning purposes actually take effect. If there is no development, then the act of appropriating Plot A for planning purposes does not infringe any third party's rights.
- 8.13. In carrying out the consultation on the use of Ground 10A, the Council must comply with the following principles:



- That consultation must be at a time when proposals are still at a formative stage;
- That the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
- That adequate time must be given for consideration and response; and
- That the product of consultation must be conscientiously taken into account in finalising any statutory proposals.

## Equality

- 8.14. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
  - Advance equality of opportunity between people who share those protected characteristics and people who do not
  - Foster good relations between people who share those characteristics and people who do not.
- 8.15. The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 8.16. Two Equalities Impact Assessments (EqIAs) have been produced in relation to this Cabinet decision. An EqIA on the proposal to appropriate the land in Plot A for planning purposes, relevant to recommendation i. (see section 3), is provided at Appendix 6. An EqIA on the proposal to undertake statutory consultation with secure tenants, relevant to recommendations ii-iii., is provided in Appendix 7. These follow previous EqIAs completed for the Scheme and the resident housing offer, including:
- 13 July 2021 – High Road West Local Lettings Policy EqIA ([link](#))
  - 13 July 2021 – Love Lane Leaseholder Offer EqIA ([link](#))
  - 16 March 2021 - High Road West Approval of GLA Funding EqIA ([link](#))
- 8.17. Both proposals will help the Council to meet its obligations under the Public Sector Equality Duty, by supporting delivery of Phase A of the High Road West Scheme, and in particular Plot A. Phase A will deliver 500 Council homes, new community and leisure facilities including a Library and Learning Centre, and open spaces including a public square. Plot A will deliver the first 60 of these Council homes for residents of the Love Lane Estate. The delivery of a new safer neighbourhood, with Council homes and community infrastructure at its heart for existing and new residents, will help advance equality of opportunity for residents and to foster good relations between groups who share a relevant protected characteristic and those who do not. Benefits of these changes are likely to be felt by, but not limited to, protected groups overrepresented in lower socio-economic groups including black residents, women (including single mothers) and disabled residents.

- 8.18. The EqIA has found that the delivery of Plot A has potential to have a short-term negative impact for clients of the Grace Organisation, which is required to relocate to enable the development. Clients of this service are predominantly elderly and/or have a disability. The Council has been working closely with the Grace Organisation to find a suitable alternative premises for their important community service in the local area, which has been identified at the Irish Centre. This relocation work has sought to ensure that any short-term impact on these groups is minimised as far as possible and that there is no longer-term impact as a direct result of the proposal.
- 8.19. Relocation of the part of 100 Whitehall Street which provides emergency temporary accommodation is not deemed to have any impact on groups who typically share a number of protected characteristics. The provision of emergency accommodation is being met at sites elsewhere in the borough, and there are not any individuals who would not be able to access such accommodation as a result. As households are only placed in emergency temporary accommodation for a short period of time, there are also not any individuals who would need to be rehoused from these premises as a direct result of this proposal.
- 8.20. The profile of the area suggests that parties who may have their property / land rights interfered due to the proposal to appropriate land in Plot A for planning purposes includes a significant proportion of those with protected characteristics. However, it is not anticipated that the proposal will impact on those with protected characteristics disproportionately to others. Those third parties whose rights are affected may be entitled to statutory compensation. This would be calculated in the same way regardless of whether they share a protected characteristic or not, and all owners would be treated equally. Any impacts will be monitored through ongoing communication with those who may be affected.
- 8.21. In regard to the proposal to consult on the use of Ground 10A powers, the EqIA has considered the impact of secure tenant households being required to relocate from their existing home. This analysis has found that there may be certain groups of residents who are disproportionately impacted by the need to be rehoused, including elderly residents, disabled residents and black residents. The Council has a range of mitigation measures which have been developed over many years and are presented in the Landlord Offer, which includes the provision of a dedicated rehousing team to support residents through the move process and respond to their specific needs, which will ensure that any impact through the rehousing process is minimised. Through the Landlord Offer, residents are guaranteed to have an offer of a new Council home in their current neighbourhood, ensuring that the community is kept together and that existing support networks are maintained, which can be particularly important for those who share a protected characteristic.
- 8.22. Through consultation on the proposal, the Council will seek to better understand if the proposal has potential to disproportionately impact any group with a protected characteristic, and the types of impacts these may include. If such impacts are identified, then further mitigation measures will be developed and built into the rehousing process to minimise these as far as possible. Any such

findings will be incorporated into the updated EqIA that accompanies the future report where the results of the consultation are reported back to Cabinet.

## **9. Use of Appendices**

Appendix 1 - Plot A - Appropriation Boundary Plan

Appendix 2 - Plot A – HRA / General Fund Plan

Exempt cover report to accompany Appendix 3 and 4 with financial information

### **Appendix 3 - Plot A – Rights of Light Plan (EXEMPT)**

### **Appendix 4 - Details on the types of rights affected by the development of Plot A (EXEMPT)**

Appendix 5 - Council letter to relevant parties regarding rights of light

Appendix 6 - Equalities Impact Assessment – Appropriation of land in Plot A for planning purposes

Appendix 7 - Equalities Impact Assessment – Consultation on the use of Ground 10A of the Housing Act 1985

## **10. Local Government (Access to Information) Act 1985**

### **High Road West Cabinet and Full Council Papers:**

- 13<sup>th</sup> July 2021 Cabinet Report – High Road West - Approval of Resident Offers, Landlord Offer and Resident Ballot ([link](#))
- 16<sup>th</sup> March 2021 Cabinet Report – High Road West – Conditional Approval of Funding and Next Steps ([link](#))
- 10<sup>th</sup> March 2020 Cabinet Report - High Road West – Next Steps for Consultation on Resident Offers ([link](#))
- 8<sup>th</sup> March 2018 Cabinet Report- High Road West Regeneration Scheme – approval of the next steps for the Love Lane Leaseholder Offer and for delegated authority to agree all valuation and compensation packages for the land interests due to be acquired ([link](#))
- December 2017 Full Council Report - High Road West Regeneration Scheme – Approval to seek Secretary of State Consent to dispose of housing land ([link](#))
- 12<sup>th</sup> September 2017 Cabinet Report- High Road West Regeneration Scheme – appointment of a preferred bidder and next steps ([link](#))
- 13<sup>th</sup> September 2016 Cabinet Report- Tottenham Housing Zone Phase 2- North Tottenham ([link](#))
- 15<sup>th</sup> December 2015 Cabinet Report- High Road West Regeneration Scheme Update and Next Steps ([link](#))
- 20<sup>th</sup> January 2015 Cabinet Report - Site Acquisitions Fund – approval for decisions under Delegated Authority ([link](#))
- 16<sup>th</sup> December 2014 Cabinet Report- High Road West Regeneration Scheme- Masterplan and Next Steps ([link](#))

- 15<sup>th</sup> July 2014 Cabinet Report- High Road West Regeneration Scheme Consultation. ([link](#))
- 28<sup>th</sup> November 2013- High Road West Regeneration Project - Master Plan Option Consultation Feedback and Next Steps. ([link](#))

**Housing and Estate Renewal, Rehousing and Payments Policy Cabinet Papers:**

- 17 October 2017, Revised Estate Renewal Rehousing and Payments Policy following consultation ([link](#))
- 12 July 2016 - Estate Renewal, Rehousing and Payments Policy – Final policy for adoption ([link](#))