

**Dumballs Road: Use of Compulsory Purchase Powers.
PRE-DECISION SCRUTINY**

Appendix 2 of the Cabinet Report is not for publication as it contains exempt information of the description contained in paragraphs 14 and 21 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet regarding the use of Compulsory Purchase Powers re Dumballs Road redevelopment, which is due to be considered by Cabinet at their meeting on 17 September 2020.
2. Members should note that **Appendix 2** of the Cabinet report is exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. At their meeting on 17 September 2020, the Cabinet will consider a report that briefs Cabinet on the use of Compulsory Purchase powers and seeks cabinet approval to use these powers to carry out the preparatory works prior to commencement of the compulsory purchase process for land within the boundary of the proposed Dumballs Road redevelopment masterplan area.
4. At this meeting, Members have the opportunity to discuss any risks to the Council and how these will be managed and mitigated.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendix 2**.
6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development), Neil Hanratty (Director of Economic Development), Chris Barnett (Operational Manager – Major Projects) and Eirian Jones (Principal Valuer), who will be available to answer Members' questions.
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

8. The previous item at this Committee meeting also deals with Dumballs Road and contains a broad overview of the proposed development; rather than duplicate in this report, Members are asked to refer to the cover report for that item.
9. The draft report to Cabinet entitled '*Dumballs Road: Use of Compulsory Purchase Powers*' is attached at **Appendix A** and has **two** appendices:
 - **Appendix 1** - Plan – Outstanding Interests to Acquire
 - **Appendix 2** - Confidential – Acquisition of Third Party Interests.

Issues identified in the Cabinet Report

10. The report to Cabinet outlines the work that Vastint and the Council have undertaken to acquire all third party land interests at the Dumballs Road site. It highlights that there remain some parcels of land that have yet to be acquired. The report reminds Cabinet that it has previously agreed to consider the use of Compulsory Purchase Powers for land that is has not been possible for the Council or Vastint to acquire by negotiation and private treaty.

11. The report to Cabinet highlights that guidance on the use of CPOs recommends acquiring authorities conduct negotiations, with compulsory purchase being a last resort, but that *'Given the amount of time which needs to be allowed to complete the compulsory purchase process it is often sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations'*.

12. Local Authorities are able to use Compulsory Purchase Powers where they believe that such acquisition will facilitate development, redevelopment or improvement likely to contribute to promotion or improvement of economic, social and/ or environmental wellbeing. The report to Cabinet states that compulsory purchase of land in the Dumballs Road masterplan area is likely to contribute to promoting and improving all these aspects of wellbeing.

13. In terms of Financial Implications, the report to Cabinet states:

'The developer has agreed in principal to indemnify the Council against any costs arising from the CPO process as required, so on the basis the indemnity agreement with Vastint is put in place as per the recommendations of this report, there will be no direct financial implications arising from this report.'

14. The Financial Implications section also states that:

'A future Cabinet report will set out further details of any land where a CPO is required, along with relevant costs and other information required to be considered before a final decision is taken. No final decision is being sought regarding the use of Compulsory Purchase Order powers in this report.'

Proposed Recommendations to Cabinet

15. The report to Cabinet contains the following recommendations:

'Cabinet is recommended to:

- 1. Authorise the principle of making a Compulsory Purchase Order under section 226(1) (a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004), and the Acquisition of Land Act 1981 to seek the acquisition of land and interests within the site shown edged red on the attached plan by way of a Compulsory Purchase Order.*
- 2. Authorise the commencement of land referencing investigations to identify and provide Cabinet with a detailed estimate of acquisition costs for all*

third party interests and land values in the land edged red on the attached plan

3. *Authorise the making of an Indemnity Agreement with Vastint to cover the costs of the CPO process and appropriation of the land to include the legal and administrative costs of making the CPO and for those items of compensation in addition to market value of the land i.e. payments for disturbance, home loss or severance/injurious affection.*
4. *Authorise the preparation of a Statement of Reasons.'*

Consultation Undertaken

16. The report to Cabinet states that *'local Ward members are in full support of the Masterplan and will be part of the consultation process when the planning application is submitted later this year.'*

Way Forward

17. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development) will attend to answer Members' questions on the proposals, along with Chris Barnett (Operational Manager) and Eirian Jones (Principal Valuer).
18. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendix 2**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

19. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with

the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

20. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting;
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 17 September 2020; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

8 September 2020