

CABINET MEETING: 17 SEPTEMBER 2020

DUMBALLS ROAD – USE OF COMPULSORY PURCHASE POWERS

INVESTMENT AND DEVELOPMENT (COUNCILLOR RUSSELL GOODWAY)

AGENDA ITEM: 13

PORTFOLIO: INVESTMENT & DEVELOPMENT

Appendix 2 of this report is not for publication as they contain exempt information of the description contained in paragraphs 14 of part 4 and paragraph 21 of part 5 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To brief Cabinet Members on the use of Compulsory Purchase powers and to seek a resolution to use these powers to carry out the preparatory works prior to commencement of the compulsory purchase process to acquire all interests in land within the boundary of the proposed masterplan area.

Background

2. In contemplation of Cabinet's approval to dispose of the remaining land ownership at Dumballs Road it is anticipated that Vastint will proceed to acquire all third party land interests at the site to enable a comprehensive redevelopment of the site. However, if it is not possible for the Council and/or Vastint to acquire all of the necessary third party land interests by private treaty, the Council agreed it would consider the use of a Compulsory Purchase Powers. The Council will then appropriate the land for planning purposes.
3. It is recommended in this Report that the Council uses its powers under Section 226 (1) (a) of the Town and Country Planning Act 1990, to carry out preparatory works prior to making an Order to acquire all of interests in the land shown edged in red on the attached plan at **Appendix 1**.
4. The acquisition of the Order Lands is required to facilitate the Dumballs Road Masterplan for which we understand a planning application is to be submitted in towards the end of 2020.

5. Discussions and negotiations have and are continuing to take place between commercial agents, and known landowners and business owners/occupiers affected by the masterplan with a view to the Vastint acquiring their interests within the Order Lands. It is anticipated that subject to securing land assembly, and receiving other necessary approvals, redevelopment will begin on site in 2022.
6. The majority of the site was acquired by Vastint and the Council working in conjunction with each other since December 2016. Since that time, Vastint has acquired a number of other land parcels within and around the edges of the site, including a number of parcels around the north-east of the site and other individual plots such as Snow White Laundries and the Kwik Fit site. Vastint also acquired a relocation site for Biffa Waste on Lamby Way, and has been in negotiation with other remaining landowners over that time. **Confidential Appendix 2** provides a summary from Vastint of their negotiations to August 2020.
7. Despite, this, there are small pockets of unregistered land and in order to secure these, all parties will continue to negotiate where possible but the Cabinet are asked to agree to commence preparatory works prior to a Compulsory Purchase Order to acquire the remaining parcels.

Issues

8. In terms of assembling the land necessary for the scheme the first requirement is to acquire land by private treaty. However, if this is not successful within the timescale needed for the delivery of the scheme then the Council has the power to make a Compulsory Purchase Order. This power is derived from Section 226 (1) (a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase act 2004). This provides that the Council may exercise its statutory powers to compulsory acquire land where it believes that such acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. In order to exercise this power, the Council must also be satisfied that it thinks :

“that the development, redevelopment or improvement is likely to contribute to the achievement of one or more of the following objectives: (a) the promotion or improvement of the economic wellbeing of their area; (b) the promotion or improvement of the social wellbeing of their area; (c) the promotion or improvement of the environmental wellbeing of their area (Section 226 (1A).”
9. The acquisition of the sites identified in Appendix 1 will facilitate the redevelopment or improvement of the land and is likely to contribute to all of the objectives quoted above.
10. Guidance on Compulsory Purchase Process and the Crichel Down Rules (Ministry of Housing, Communities and Local Government, February 2018 (“the CPO Guidance)) states the need to seek to acquire by private treaty and sees a CPO as being used as ‘a last resort’. The CPO Guidance states :

“Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.”

11. It also states that :

“The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail, Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be needed and, as a contingent measure should plan a compulsory purchase timetable at the same time as conducting negotiations. 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”.

Local Member consultation

12. 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.

Scrutiny Consideration

13. The Economy & Culture Scrutiny Committee is due to consider this item on 14 September. Any comments received will be circulated at the Cabinet meeting.

Reason for Recommendations

14. The Order will enable delivery of the Council’s policies including the Capital Ambition for regeneration of the Dumballs road area. In the event that acquisition cannot be achieved within realistic timescales, if at all, then the only recourse is to prepare for the use of statutory powers to compulsorily acquire the required land.

Financial Implications

15. This report seeks approval in principle for the future use of Compulsory Purchase Order powers to acquire any remaining small land parcels at Dumballs Road if required, as well as approval to commence with the CPO process and appropriation of land. 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.

16. 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.

Legal Implications

17. The Council has statutory powers under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily acquire land if they think it will facilitate the carrying out of development, redevelopment or improvement of the land and it is not certain that they will be able to acquire it by agreement. The power to authorise the making of a CPO is an executive function delegated to full Cabinet. In deciding whether or not to make a CPO, the Cabinet must be satisfied that the acquisition of this land will promote or improve the economic, social and environmental well-being of the Council's area.
18. If any of the owners object to a compulsory purchase order they will have an opportunity to make representations at a public inquiry. As well as affecting timescales if the CPO is confirmed they will be entitled to compensation for the value of their property and associated disturbance. It would be in the interests of the Council to seek an agreement with Vastint for them to cover these costs of the CPO process prior to commencing the compulsory purchase process. It is noted that the recommendations are to carry out preparation work before the CPO can be made in order to obtain accurate up to date information as to land ownerships, and a detailed estimate of acquisition costs for all third party interests and land values together with a the preparation of a statement of reasons which demonstrates there is a compelling case in the public interest.

Well Being of Future Generations (Wales) Act 2015

19. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
20. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan. When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
21. The well being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council

to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
 - The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below:
<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

HR Implications

22. There are no HR implications arising from this report

Property Implications

23. The recommendations outlined in this report have been prepared in conjunction with the property and estates team and external professional advice has been sought where necessary in order to support the Council to prepare and implement these recommendations. The team will continue to work with the legal and finance departments as required

RECOMMENDATIONS

Cabinet is recommend 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.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director of Economic Development
	11 September 2020

The following appendices are attached:

Appendix 1 – Plan - Outstanding Interests to acquire
Confidential Appendix 2 – Acquisition of Third Party Interests.