

CABINET

6th NOVEMBER 2014

**REPORT OF THE
LEADER OF THE COUNCIL**

**PREPARATION OF COMPULSORY PURCHASE ORDERS FOR LAND AND PROPERTY
ON THE TINKERS GREEN AND KERRIA REGENERATION SITES**

EXEMPT INFORMATION

NON CONFIDENTIAL

PURPOSE

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| <ul style="list-style-type: none">● To set out for Cabinet the current position in relation to the acquisition of land and property assets on both the Tinkers Green and Kerria regeneration sites.● To set out the land and property asset acquisitions required for the two regeneration sites.● To set out the requirements for the implementation of Compulsory Purchase Orders on both sites.● To seek in principle approval for the making of a Compulsory Purchase Order in respect of remaining interests in the land shown at Appendix 1 and 2 with a further full approval to be sought from Cabinet at a later date if voluntary negotiations for these interests are not successful● To confirm the levels of delegated authority in proceeding with acquisition in advance of commencing the Compulsory Purchase Order Process. |
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RECOMMENDATIONS

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| <ul style="list-style-type: none">● It is recommended that Cabinet note the current position of land and property asset acquisitions on the two regeneration sites.● It is recommended that Cabinet approve the making in principle of a compulsory purchase order under section 17 of the Housing Act 1985 in respect of acquisition of all remaining outstanding interests in the Kerria site (shown edged red on the plan at Appendix 1)● It is recommended that Cabinet approve the making in principle of a compulsory purchase order (CPO) in respect of acquisition of all the remaining interests on the Tinkers Green site (shown edged red on the plan at Appendix 2) under section 17 of the Housing Act 1985 or in the alternative section 226(1)(a) of the Town and Country Planning Act 1990 (precise power to be finalised prior to making)● It is recommended that delegated authority be given to the Director of Assets and Environment in consultation with the Solicitor for the Council, to take all such steps as are necessary to bring the above recommendations into effect including (but not limited to) land referencing and service of notices under section 16 of the Local Government (Miscellaneous) Provisions Act 1976● It is recommended that delegated authority be given to the Director of Assets |
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and Environment to grant written authority to officers to enter onto the Land or other land for the purposes of carrying out surveys pursuant to section 15 of the Local Government (Miscellaneous Provisions) Act 1976.

- It is recommended that delegated authority be given to the Director of Assets and Environment to continue with the process to voluntarily negotiate all interests in land required in advance of making the above mentioned CPOs
- To note that a further report will be produced to seek full authority to the making of the above CPOs if voluntary negotiations to acquire all the interests in the sites are not successful

EXECUTIVE SUMMARY

Financial and design provisions have been made within the Tinkers Green and Kerria estate regeneration project for the acquisition of residential leasehold property interests, commercial property interests and if needed for the acquisition of the old public house site and doctors surgery site.

To assist in the acquisition process the Council has engaged external consultancy support; Ardent Property Management specialise in Compulsory Purchase Orders and providing advice and support on asset valuations and on the CPO process, the Legal Services Team from Birmingham City Council are providing legal support having completed a number of successful CPO acquisitions relating to regeneration projects in Birmingham.

The first phase of the asset acquisition process commenced late 2013 when valuations were prepared for the various residential leasehold properties and for the commercial premises. Without Prejudice offers were made to all affected, this resulted in 4 of the 10 residential leasehold properties being acquired with negotiations on 1 of the 4 commercial properties still in progress but expected to reach a successful conclusion.

In order to use CPO the Council will have to demonstrate that efforts have been made to acquire outstanding interests by negotiation; it will also need to be able to demonstrate that it has explored all alternatives and options and document its reasons for rejecting such alternatives, as well as meet the other CPO power and tests requirements set out below.

Based on advice provided by external consultants the next step is to continue discussions with interested parties alongside preparatory work for a CPO. This includes serving requisitions for information (RFIs) under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 which will make reference to a potential CPO and so constitute a formal stage in the CPO process;

It may also be necessary to carry out further survey work on the sites for the proposed redevelopments and this may be achieved pursuant to section 15 of the Local Government (Miscellaneous Provisions) Act 1976.

In tandem with this request for information our Consultants will be preparing revised property and lease interest valuations that reflect the shift in the market since the previous valuations were produced; these revised valuations will form the basis of ongoing negotiations with those involved..

In order to proceed with Compulsory Purchase Orders the requirements within section 17 of the Housing Act 1985 and/or section 226 of the Town and Country

Planning Act 1990, as well as the tests set out in Circular 06/2004 and its Annexes must be addressed. A summary of these, as well as the Council's proposals is set out below. Prior to making the CPOs, the Council will require separate formal Cabinet approval and a report will be presented to Cabinet at a later date.

Tests in Circular 06/2004

- a) A compelling case in the public interest - the development proposals for the Estates would deliver significantly improved housing in line with local needs. It will also deliver more, higher quality housing of a type that is shown to be needed to meet current and future housing needs on the estates as well as the wider Tamworth area.
- b) The above public benefit would outweigh the private loss suffered by individual owners (who will receive compensation for their loss).
- c) There are clear proposals for the use of the land – officers are working with retained planning consultants on planning proposals for the schemes, have consulted locally and expect planning applications will be submitted early in 2015.
- d) Availability of resources – as set out below resources are in place for the schemes approved by Cabinet. Consultants have been procured to deliver the sites through a master planning process and to the procurement of a developer. Site investigations are complete and the masterplan is currently being consulted upon. Once this is submitted a process will begin to establish delivery arrangements and consider a number of options for partnership working and developer procurement in 2015. No impediment to implementation – it is expected that planning applications will be submitted early next year and there is no reason why they will not be granted

Further updates on how the schemes for the CPOs meets the tests will be given prior to full approval being sought from Cabinet.

OPTIONS CONSIDERED

Negotiations with land and property owners along with any other parties who have interests the Council needs to acquire will continue throughout the process. A number of leasehold interests have already been acquired through negotiation. Compulsory Purchase is the only option available to the Council if it is to acquire all of the required interests where this cannot be done through agreement.

RESOURCE IMPLICATIONS

There is provision with the projects financial appraisal for the acquisition of the residential leasehold, commercial interest and the two sites not currently in our ownership.

The estimated cost of completing these acquisitions is being ascertained and will be based on the advice of external consultants who are experts in this area.

Negotiations will continue based on revised valuations from the consultants. External resources have been appointed to provide specialist advice in relation to the acquisition process and ultimately the CPO process, external legal advice has also been appointed. Offers over and above the sums recommended by the external Consultants may be considered by the Director of Assets and Environment where it is deemed economically advantageous to do so. Where enhanced offers are considered a financial appraisal will be conducted to ensure that best value is

obtained. Details of any enhanced offers along with their justification will be recorded.

LEGAL/RISK IMPLICATIONS BACKGROUND

- Section 17 of the Housing Act 1985 allows the Council to acquire land or houses for the erection of houses as well as for other ancillary housing purposes. Section 226(1)(a) allows the Council to acquire land for the purposes of development, re-development or improvement, so long as they think this will contribute to promotion or improvement of economic, social or environmental well-being of the area
- Failure to undertake and record proper consultation and negotiation at an early stage in the project could jeopardise the success of a formal Compulsory Purchase Order process in future.
- Acquisition costs and values need to be properly determined and actions properly recorded to ensure we obtain value for money whilst making effort to ensure fairness to those subject to the acquisition process.
- Failure to acquire the property and land assets in a timely manner would be detrimental to the delivery of the project.
- Prior to making the CPOs the Council will need to evidence how it meets the requirements set out in section 17 and/or section 226(1)(a) of the Town and Country Act 1990 as well as the tests set out in Circular 06/2004 and the relevant Annexes (summarised in this report), in order to make its case that the CPOs should be confirmed
- In considering whether to make the CPOs the Human Rights Act 1998 applies. The relevant rights that have been considered are set out in Appendix 3.

SUSTAINABILITY IMPLICATIONS

None specifically identified.

BACKGROUND INFORMATION

Cabinet has previously approved the acquisition of residential leasehold and commercial property interests in relation to the regeneration project.

REPORT AUTHOR

Paul Weston, Head of Asset Management

LIST OF BACKGROUND PAPERS

Appendix 1 and 2 – Red line Plans for the Kerria and Tinkers Green Estates
Appendix 3 – Human Rights

APPENDICES

None



MINUTES OF A MEETING OF THE CABINET HELD ON 6th NOVEMBER 2014

PRESENT: Councillor D Cook (Chair), Councillors R Pritchard, S Claymore, S Doyle and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), Rob Barnes (Director - Housing and Health) and Andrew Barratt (Director - Assets and Environment)

56 APOLOGIES FOR ABSENCE

None

57 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 23rd October 2014 were approved and signed as a correct record.

(Moved by Councillor R Pritchard and seconded by Councillor M Thurgood)

58 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

59 QUESTION TIME:

There were no questions from the public.

60 MATTERS REFERRED TO THE CABINET IN ACCORDANCE WITH THE OVERVIEW AND SCRUTINY PROCEDURE RULES

None

61 COUNCIL HOUSING TENANTS' ANNUAL REPORT 2013/14

The Report of the Portfolio Holder for Community Development and Voluntary Sector seeking to provide details of the Council's Landlord Performance for

2013/2014 as required under the Homes & Community Agency Landlord Regulatory Framework 2012 was considered.

RESOLVED: That:

1. the Council's Landlord Annual Tenants' Report (2013/14) be endorsed, and;
2. Cabinet endorsed the distribution of the Annual Tenants' Report and Open House as e publications, available on line as well as targeted hard copy.

(Moved by Councillor S Doyle and seconded by Councillor D Cook)

62 PREPARATION OF COMPULSORY PURCHASE ORDERS FOR LAND AND PROPERTY ON THE TINKERS GREEN AND KERRIA REGENERATION SITES

The Report of the Leader of the Council seeking to set out the current position in the preparation of compulsory purchase orders for land and property on the Tinkers Green & Kerria regeneration sites was considered.

RESOLVED: That:

1. the current position of land and asset acquisitions on the two regeneration sites be endorsed;
2. the making in principle of a compulsory purchase order under section 17 of the Housing Act 1985 in respect of the acquisition of all remaining outstanding interests in the Kerria as shown edged red on the plan at appendix A, including authority to realign the red line should land currently identified not be required to deliver a viable regeneration scheme be endorsed;
3. the making in principle of a compulsory purchase order (CPO) in respect of acquisition of all the remaining interests on the Tinkers Green site (shown edged in red on the plan at Appendix 2) under section 17 of the Housing Act 1985 or in the alternative section 226 (1)(a) of the Town Planning Act 1990 (precise power to be finalised prior to making) be endorsed;
4. delegated authority be given to the Director of Assets and Environment in consultation with the Solicitor to the Council, to take all such steps as are necessary to bring the above recommendations into effect including (but not limited to) land referencing and service of notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
5. delegated authority be given to the Director of Assets and

Environment to grant written authority to officers to enter onto the land or other land for the purposes of carrying out surveys pursuant to section 15 of the Local Government (miscellaneous Provisions) Act 1976;

6. delegated authority be given to the Director of Assets and Environment to continue with the process to voluntarily negotiate all interests in land required in advance of making the above mentioned CPOs, and;
7. a further report be produced to seek full authority to the making of the above CPOs if voluntary negotiations to acquire all the interests in the sites are not successful.

(Moved by Councillor D Cook and Seconded by Councillor R Pritchard)

Leader

