



**EXECUTIVE**

**14 JULY 2021**

**SUPPLEMENTARY AGENDA**

**PART I**

**10. PROPOSED IN PRINCIPLE USE OF COMPULSORY PURCHASE POWERS FOR DELIVERY OF SG1 DEVELOPMENT**

To consider and approve the proposed in principle use of Compulsory Purchase Powers for the delivery of the SG1 development.

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Part I – Release to Press



**Meeting** EXECUTIVE  
**Portfolio Area** RESOURCES  
**Date** 14 JULY 2021



## PROPOSED IN PRINCIPLE USE OF COMPULSORY PURCHASE POWERS FOR DELIVERY OF SG1 DEVELOPMENT

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### KEY DECISION

#### 1. PURPOSE

- 1.1. To recommend that the Executive agrees, in principle, to the use of the Councils Compulsory Purchase Order (CPO) powers to facilitate the delivery of phases two and three within the wider development of SG1.
- 1.2. If and when the CPO is required a further report will be brought to the Executive to trigger the CPO process. The use of CPO powers relates entirely to commercial business premises and will not be used to acquire any residential properties.

## **2. RECOMMENDATIONS**

- 2.1. That Executive approves the in principle use of compulsory purchase powers, pursuant to section 226 of the Town and Country Planning Act 1990 and section 13 Local Government Act 1976 to acquire the land, property and rights shown within the Red Line Area as shown Figure 1, paragraph 4.1.2. of this Report.
  
- 2.2. That Officers are requested to begin the necessary preparatory work for the use of CPO powers including:
  - 2.2.1. the appointment of Land Referencing Agents;
  - 2.2.2. service of requisitions on landowners (where appropriate);
  - 2.2.3. the preparation of Statement of Reasons; and
  - 2.2.4. all other necessary documentation.
  
- 2.3. That Executive notes that Compulsory Purchase powers should only be used as a matter of last resort and that Officers will use all reasonable endeavours to assemble the land required to support the SG1 development by agreement. Executive further notes that, if it is not possible to assemble the land by agreement, then a resolution for the use of Compulsory Purchase Power supported by the relevant justification and Statement of Reasons will be presented to a future meeting of the Executive.

## **3. BACKGROUND**

- 3.1. The Council, together with its Development Partner Mace, is promoting the regeneration of Stevenage Town Centre as part of the SG1 Masterplan. The regeneration area runs north to south from Swingate House, down Danestrete, and includes land along Southgate and between Southgate and Six Hills Way.
  
- 3.2. The site is approximately 14.5 acres and the proposed development will be of 'mixed use', with an emphasis on residential and retail uses comprising:
  - 3.2.1. 1,800+ new homes for sale and to rent;
  - 3.2.2. 40,000 sq. ft + of new ground floor retail and restaurant space;
  - 3.2.3. Over 12,000 sq. m of new public open space including a garden square, pedestrianised boulevard and landscaped park;
  - 3.2.4. A new community assets building including: health services, library, voluntary sector, café and council offices; and
  - 3.2.5. A new primary school.
  
- 3.3. Not all the land and buildings, in the Red Line Area, are within the Councils ownership and it may be necessary to promote the use of CPO powers to complete the assembly for the SG1 scheme in order to progress the regeneration ambitions for the town.

## 4. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

### 4.1. Promotion of CPO Powers in Principle

4.1.1 Promoting the potential use of CPO powers at an early stage will provide certainty for the SG1 regeneration scheme and would allow the necessary preliminary processes, required for the making of an Order, to be carried out at the same time as negotiations with the landowners are ongoing, saving time and supporting the negotiation process.

4.1.2 In order for the Council to adopt a Compulsory Purchase Order (for approval by the Secretary of State) it will be necessary to identify a CPO Scheme which includes all the relevant CPO Land (together with such ancillary rights as required for redevelopment). The Land outlined in Red (the Red Line Area) is the identified CPO Land and will include all property interests (and subsidiary rights (if any)) not already within the ownership of the Council.



Figure 1 Red Line area showing extent of CPO

- 4.1.3 Although the Council owns the majority of the land and buildings within the Red Line Area, there are a number of interests that will need to be acquired to facilitate the of development Phases Two and Three of the SG1 scheme.
- 4.1.4 The interests to be acquired include those of leaseholders (who hold longer term leases), freeholders, and any express or implied rights that may have been granted over the Red Line Area. These interests will be formally identified following completion of the land referencing process. Further ancillary parcels of land adjoining or neighbouring the Red Line Area may also need to be included within any final CPO if required for the purposes of the Scheme.
- 4.1.5 Officers consider that it may be necessary for the Council to acquire land by a CPO in order to assemble all of the land interests and rights required to develop the Scheme in a timely manner. Therefore Executive authority is sought for an 'in principle' decision to begin the necessary preparatory and planning work for the use of compulsory purchase powers for all the land interests not yet in the ownership or control of the Council required for the Scheme.
- 4.1.6 If Executive is willing to proceed on an in principle basis, it should be noted that further resolution will be required to make and serve the detailed CPO will be once the following conditions have been reached:
- 4.1.6.1 Extensive discussions have been carried out with all affected landowners with a view to acquiring the land or rights required by agreement.
  - 4.1.6.2 Statement of Reasons setting out the justification for the CPO has been prepared and the Council is satisfied it meets all the statutory tests and complies with the Guidance (defined below).
- 4.1.7 Officers understand that it will take in the region of two years to complete a CPO.

## **4.2. Timing and Construction Risk**

- 4.2.1. The use of CPO will ensure that the land can be appropriately assembled in the event that negotiations to acquire land and relevant rights have failed and there is an unwilling seller. A refusal to sell could mean:
- 4.2.1.1. Some elements of phase two and phase three will not be built;
  - 4.2.1.2. delays to future phasing of SG1 while the scheme was redesigned.

4.2.2 Commencing the CPO process doesn't necessarily mean the powers will be used and it is envisaged that beginning the process will help facilitate progress with private treaty negotiations.

### 4.3. Consequences of not approving the use of compulsory powers

4.3.1 In the event that Executive are not minded to approve the use of the CPO powers (either in principle or following detailed consideration of the developed CPO Scheme) then the following consequences are likely:

4.3.1.1 private landowners refuse to sell; and / or

4.3.1.2 the Council is held to ransom (i.e. the Council will be required to pay over and above reasonable market value to acquire the land).

4.3.2 As a consequence it may be necessary to redesign the scheme to take account of land that remains in private ownership and there would be consequential impacts on the overall phasing of the Scheme.

Course of Action	Potential Consequences	Result
Do not use CPO powers	Private land owners refuse to sell	Phase two and Phase three do not proceed or require amendments. Costs increase and the scheme delayed.
	The Council is held to ransom	The Council pays substantially higher purchase price as private Land owners refuse to sell
Change SG1 to fit around private ownership	Key elements of phases two and three are removed from the scheme.	Increased costs
	The Plaza and the northern side of the bus station are not demolished	The Council not achieving the full ambitions of SG1

## IMPLICATIONS

### 5.1 Financial Implications

5.1.1 The cost associated with CPO is assumed within the land values that will be due to the Council when the appropriate triggers are reached.

5.1.2 If CPO powers are required then the funding will be included in the Council's budgets

### 5.2 Legal Implications

5.2.1 The use of compulsory purchase powers will ensure the relevant land assembly can be reasonably achieved within an appropriate timescale. If it is necessary to use a Compulsory Purchase Order then the price paid for any acquired land will be in accordance with the statutory compensation scheme. Access to the land for the purpose of development will not be delayed due to any dispute as to the amount to paid for the land or right in question.

5.2.2 In addition to acquiring land ownership the Council can also acquire any necessary 3<sup>rd</sup> party rights required for the development, preventing the possibility of any 3<sup>rd</sup> party seeking injunctive relief to prevent the development.

- 5.2.3 The process for achieving land assembly by way of compulsory purchase is, in outline:
- 5.2.3.1 identify the correct legal power;
  - 5.2.3.2 justify the need for a compulsory order;
  - 5.2.3.3 prepare and make the compulsory purchase order (including publication and service);
  - 5.2.3.4 consideration of the compulsory purchase order by the Secretary of State;
  - 5.2.3.5 implementation of the compulsory purchase order;
  - 5.2.3.6 compensation for affected landowners;
- 5.2.4 Detailed guidance “*Guidance on Compulsory purchase process and The Criche! Down Rules*” on the process is published by the Ministry of Housing, Communities and Local Government which the Council will be required to follow.
- 5.2.5 The Council has the statutory powers for the purposes of the scheme; as the scheme is for the purposes of regeneration section 226(1)(a) Town & Country Planning Act 1990 is identified (at this stage) as being the most appropriate statutory power. In addition the Council may need to acquire other rights that are in 3<sup>rd</sup> party ownership and has the necessary powers to do this pursuant to section 13(1) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.2.6 In order to proceed with a compulsory purchase order (CPO) the Council will need to define the CPO Scheme and the land required for the operation of the CPO Scheme (the CPO Land) including any land which is necessary for the construction operation (for example “over sail rights” for cranes, access rights etc).
- 5.2.7 If Executive agrees to the “in principle” to the use of compulsory purchase powers it will be adopting a “two-stage” approach; if agreed Officers will start the formal process of preparing the necessary CPO documentation. An early “in principle decision” should allow issues with the scheme to be identified at an early stage and therefore minimise the risk of legal challenge by way of judicial review.
- 5.2.8 To progress to full CPO and Resolution will be needed to formally identify:
- 5.2.8.1 the CPO Land
  - 5.2.8.2 the CPO Scheme and the purpose for which the land is acquired
  - 5.2.8.3 the justification for the use of compulsory purchase powers.



5.2.9 The CPO itself will need to be justified to the Secretary of State and the Council will need to be able to demonstrate that:

- 5.2.9.1 there is appropriate statutory authority and the CPO is necessary for its purpose;
- 5.2.9.2 there is a compelling case in the public interest for the CPO;
- 5.2.9.3 that there are adequate resources available to implement both the CPO and the CPO scheme within a reasonable timeframe;
- 5.2.9.4 there are reasonable prospects that the scheme will go ahead;
- 5.2.9.5 that the scheme can only be achieved using compulsory powers;
- 5.2.9.6 that as compulsory powers are only to be used as a last resort, negotiations for acquisition by agreement have been actively pursued but have failed.

5.2.10 The Council will need to fully consider its Public Sector Equality Duty (section 149 Equality Act 2010) and the rights of individual property holders under Article 1 of the 1<sup>st</sup> Protocol to the European Convention on Human Rights (ECHR). If the Scheme comprised any dwelling houses (which is not the case here) due consideration of individual rights under Article 8 ECHR (right to private and family life) would also need consideration.

5.2.11 The Final CPO (if considered necessary and appropriate) will:

- 5.2.11.1 set out the terms of the Order;
- 5.2.11.2 include the CPO Schedule and Map;
- 5.2.11.3 be supported by a statement of reasons; and
- 5.2.11.4 if relevant, the information required by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (SI 2004/2595).

### 5.3 Risk Implications

5.3.1 The known risks and mitigations are set out below.

Risk Area	Risk Mitigation	Likelihood	Impact
It is not possible to acquire all sites by agreement	CPO Powers may need to be exercised to enable all phases of SG1. The Council will use and exhaust all possible options to acquire site by agreement prior to making an order	High	High

Risk Area	Risk Mitigation	Likelihood	Impact
Financial implications – failed CPO	Abortive costs if CPO application rejected by secretary of state. An order will only be made if the Council is confident it has a strong case.	Medium	Medium
Market uncertainty - Acquisition values fluctuate and impact on budget or the scheme viability	'Red lining' the CPO area at resolution in principle stage reduces the risk of betterment. Market rates to be monitored closely and advice from consultants sought when appropriate	Medium	Medium
Objections to the CPO - Increased costs and programme impact if CPO leads to inquiry	Monitor and assume high probability of inquiry may be required.	Medium	High

## 5.4 Climate Change Implications

5.4.1 Completing the Land Assembly and enabling phases two and three to proceed will result in better and more energy efficient buildings. This extends to partners who will be coming into the community assets building, such as the Stevenage Central Library, helping to move the town closer to the goal of net-zero by 2030.

## 5.5 Equalities and Diversity Implications

5.5.1 Section 149 of the Equalities Act 2010 created the public sector equality duty.

Section 149 states:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.5.2 Officers consider the need to comply with this duty as part of the assessment for making this in principle recommendation and Members must be mindful of this duty when considering the recommendations in this report. As the majority of the rights that would be affected by the potential use of compulsory powers are commercial in nature, the potential impact on those with protected

characteristics as a result of this report are considered to be low to minimal. If the “in principle decision” is approved then, as part of the CPO preparation work, an Equalities Impact Assessment will be undertaken on the potential impact of the proposal and any necessary mitigation strategy. The result of any assessment would be presented to the Executive when seeking authorisation to make a CPO.

- 5.5.3 Whilst not strictly an equalities or diversity implication Officers are also mindful of the impact of the First Protocol of the European Convention on Human Rights and it is considered that this in principle decision would not result in a violation of any person’s rights under the Convention.

## **6. BACKGROUND DOCUMENTS**

- 6.1 [Guidance on Compulsory purchase process and The Crichel Down Rules](#)

## **APPENDICES**

None

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