

RECORD OF EXECUTIVE DECISION

Tuesday, 17 October 2017

Decision No: (CAB 17/18 19460)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	LEADER OF THE COUNCIL
SUBJECT:	AUTHORISATION TO MAKE A COMPULSORY PURCHASE ORDER IN RELATION TO THE REDEVELOPMENT OF BARGATE SHOPPING CENTRE AND ADJOINING LAND
AUTHOR:	WENDY BENNETT

THE DECISION

- (i) To resolve, subject to consideration of the matters set out in this report and the prior completion of the proposed CPO Indemnity Agreement (“CPOIA”), to make a compulsory purchase order pursuant to powers under sections 226(1)(a) of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land and new rights for the purposes of securing the comprehensive redevelopment and improvement of the Bargate Shopping Centre and surrounding land to provide a mixed use development with associated parking and servicing, landscaping and public realm.
- (ii) To authorise the Service Director: Growth in consultation with the Service Director: Legal and Governance to carry out the functions set out in (a), (d), (e) and (h) below and to authorise the Service Director: Legal and Governance to carry out the functions set out in (b), (c), (f) and (g) below:
 - a) To negotiate and enter into the CPOIA;
 - b) Subject to the completion of the CPOIA and subject to the requirements of the CPOIA, to take all steps to secure the making, confirmation and implementation of the Compulsory Purchase Order (“Order”) including the publication and service of all notices and the promotion of the council’s case at any public inquiry;
 - c) To make any amendments, deletions or additions to the land identified in this report to be subject to the Order (“Order Land”) as to include and describe all interests in land and rights required to facilitate the carrying out of the redevelopment and regeneration of the Bargate Shopping Centre and surrounding area;
 - d) To identify and acquire interests and new rights required to facilitate delivery of the redevelopment and regeneration of the Bargate Shopping Centre and surrounding area either by agreement or compulsorily pursuant to the Order (including pursuant to any blight notices as appropriate) including conduct of negotiations, making provision for the payment of compensation;
 - e) To negotiate, agree terms and enter into agreements with interested parties

- including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the Order and/or undertakings not to enforce the Order on specified terms, including where appropriate removing land or rights from the Order, making provision for the payment of compensation and/or relocation;
- f) In the event the Order is confirmed by the Secretary of State, to advertise and give notice of confirmation and thereafter to take all steps to implement the Order including, as applicable in accordance with the CPOIA to execute General Vesting Declarations and/or to serve Notices to Treat and Notices of Entry in respect of the acquisition of interests in and rights over the Order Land;
 - g) To take all steps in relation to any legal proceedings relating to the Order including defending or settling claims referred to the Lands Tribunal and/or applications to the courts and any appeals; and
 - h) To retain and/or appoint external professional advisers and consultants to assist in facilitating the promotion, confirmation and implementation of the Order, the settlement of compensation and any other claims or disputes.

REASONS FOR THE DECISION

The Bargate Shopping Centre and adjoining land is in need of redevelopment. It has been identified as a "Very Important Project" and is allocated for redevelopment in the City Centre Action Plan 2015. Planning Permission was granted for redevelopment of the site in August 2017 and a Compulsory Purchase Order is required to achieve site assembly and enable the development to proceed. The development promotes the social, environmental and economic objectives of Southampton which are considered to outweigh the harm caused by interference with the human and other rights of those likely to be affected by compulsory purchase. In officers' view, there is a compelling case in the public interest sufficient to justify the making of the Order and that the requirements of making a CPO as detailed in the Government's CPO Guidance are met.

DETAILS OF ANY ALTERNATIVE OPTIONS

Although site assembly could be sought by private treaty alone it is unlikely that this could be achieved within a reasonable timescale without CPO powers. It is therefore considered crucial that the site is supported by a CPO in order to achieve certainty of delivery. Officers understand that BPL will continue to seek the purchase of interests by agreement.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

Cabinet approved the report with the following amended paragraph 12:

FINANCIAL RISK

To date, all internal officer costs have been paid by BPL. The Council's ongoing internal and external costs until such time as the CPOIA is completed are protected by an undertaking by BPL's solicitors.

All costs associated with the CPO process and acquisition costs will be borne by BPL under the CPO Indemnity Agreement. BPL is a Jersey based company. Prior to entering into the agreement the Council will obtain a legal opinion as is normal where a company is registered outside of UK jurisdiction confirming BPL's corporate status and capacity to enter into the agreement. Given the limited number and nature of the interests subject of the CPO, the likely level of compensation is relatively modest in the context of wider scheme costs. The Council is continuing to negotiate a mechanism with the developer to protect the Council from costs incurred as the CPO process progresses. Whilst it may be more difficult to pause works in the event of a CPO inquiry process, it is anticipated that these can be adequately managed. When acquiring interests following a confirmed CPO, the Council is not obliged to compulsorily acquire any interest until the Developer has first deposited the properly assessed compensation monies with the Council together with an additional contingency. The Council's risk to exposed financial liability is therefore kept to a minimum.

CONFLICTS OF INTEREST

None.

CONFIRMED AS A TRUE RECORD

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date: 17 October 2017

Decision Maker:
The Cabinet

Proper Officer:
Pat Wood

SCRUTINY

Note: This decision will come in to force at the expiry of 5 working days from the date of publication subject to any review under the Council's Scrutiny "Call-In" provisions.

Call-In Period expires on

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed <i>(if applicable)</i>
Call-in heard by <i>(if applicable)</i>
Results of Call-in <i>(if applicable)</i>