

Notice of:	EXECUTIVE
Decision Number:	EX41/2020
Relevant Officer:	Alan Cavill, Director of Communications and Regeneration
Relevant Cabinet Member:	Councillor Mark Smith, Cabinet Member for Business, Enterprise and Job Creation
Date of Meeting:	5 October 2020

THE BLACKPOOL BOROUGH COUNCIL (KING STREET No1) COMPULSORY PURCHASE ORDER 2020

1.0 Purpose of the report:

- 1.1 The seeking of authority to make a Compulsory Purchase Order under Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004) in respect of the acquisition of land and premises within the area (“the Order Land”) edged red and shaded pink on the plan at Appendix 3a to the Executive report (“the Plan”) in order to acquire compulsorily all interests in the Order Land required to enable the proposed development referred to in this report to proceed.

2.0 Recommendation(s):

- 2.1 To authorise the making of a Compulsory Purchase Order to be known as The Blackpool Borough Council (King Street No1) Compulsory Purchase Order 2020 (“the Order”) under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004) for the acquisition of the Order Land being land which it thinks, if acquired, will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and that such development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area, as described in this report.
- 2.2 On the basis that there is a compelling case in the public interest to making the Order, to authorise the Director of Communications and Regeneration to:
- i. take all necessary steps to secure the making, confirmation and implementation of the Order including (but not limited to) updating the draft Statement of Reasons as deemed appropriate, the publication and service of all notices and the presentation of the Council’s case at any Public Inquiry;

- ii. acquire interests in land within the area subject to the Order either by agreement or compulsorily;
- iii. approve agreements with landowners and others having an interest in the area to be subject to the Order setting out the terms for the withdrawal of objections to the Order including where appropriate seeking agreements effecting the delivery of any part of the development and making arrangements for rehousing or relocation of occupiers.

3.0 Reasons for recommendation(s):

3.1 To enable the development of a new large office building capable of accommodating a grade 'A' town centre office with a Gross Internal Area of circa 20,000 sq. m., together with additional office accommodation and/ or additional commercial premises.

The conclusion section of the background information at 6.18 outlines the steps already taken and why the Council believes there is a compelling case in the public interest to formally make a Compulsory Purchase Order whilst continuing to negotiate for the acquisition of the outstanding properties.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

Other areas in the Talbot Gateway were considered but are not able to accommodate a single development of the size required.

5.0 Council Priority:

The relevant Council Priority is: "The economy: maximising growth and opportunity across Blackpool".

6.0 Background Information

6.1 At the meeting of the Executive on 15 June 2020 (EX25/2020) authority was given to the relevant officers to commence the preparatory work for the making of a Compulsory Purchase Order to support the site assembly of the land required for the third phase of the Talbot Gateway regeneration, whilst continuing to negotiate with third party interests.

6.2 Members will recall that at the meeting of the Executive on 25 February 2019 (EX23/2019 refers) officers were authorised to carry out concept and initial designs for

the most appropriate option to meet future potential demands for Grade 'A' office accommodation. In consultation with the selected developer, Muse Developments Ltd, ("the Developer") with whom the Executive authorised officers on the 19 March 2008 (EX23/2008 refers) to conclude negotiations for Heads of Terms regarding the regeneration of the Talbot Gateway area.

- 6.3 Under the terms of the Development Agreement signed between the Council and the Developer on the 12 March 2009, the Developer has provided a Masterplan for the comprehensive redevelopment of the area and submitted a revised masterplan as redevelopment has occurred. In accordance with the Executive decision dated 15 December 2016, (EX59/2016 refers) it was agreed that the Council would grant the Developer a Second Supplemental Agreement. Primarily this was to enable phase two development to be planned, but it also confirmed that the needs within the Development Agreement for a multi storey car park had been met by refurbishing the Talbot Road Car Park and therefore the site reserved for a multi storey car park on King Street could be released for other development.
- 6.4 In this respect the Council in conjunction with the Developer has looked at this site as an ideal location for an office development to meet the requirement as described in EX23/2019. The site, however, by itself, is not large enough to meet the potential demand and in this respect additional land outside the original Development Agreement boundary will be required.
- 6.5 A Third Supplement Agreement has been provisionally agreed with the Developer so that additional land required can be developed in accordance with and under the terms of the Development Agreement. The terms of which will be reported separately, before the end of 2020.
- 6.6 The land is part of a wider 9.253 hectare Talbot Gateway Development Site, together with a further 0.443 hectare site (the Site) situated in the North East area of Blackpool Town Centre
- 6.7 The land required for phase three of Talbot Gateway, the Order Land, covers a 0.973 hectare bounded to the north by Deansgate, the west by East Topping Street. The East is bounded in part by Cookson Street (from Deansgate to Charles Street), with the rest of the Eastern site bounded by King Street. The south is bounded in part by Charles Street (from Cookson Street to King Street). At the southern extremity the site ends between 31 and 33 King Street separating East Topping Street Car Park, at that point, through to East Topping Street.

- 6.8 Approximately 91% of the land is in Council ownership including East Topping Street Car Park and the Hop Inn Public House as well as the majority of properties in King Street which are held vacant having been acquired in advance by agreement.

In summary the Order Land includes:

- all the interests in highway land and property, including shops and flats, at 5-31 (odd) King Street, 2-8 (even) King Street, 2 Charles Street and 3-5 Cookson Street
- Part of the surface car park known as East Topping Street Car Park

6.9 **Planning Position**

Where an order is made under Section 226(1) (a) of the 1990 Act the Council must have regard to the provisions of the development plan, any extant planning permissions and any other considerations which would be material to the determination of an application for planning permission for development of the Order Land. The Council should be satisfied, as far as possible, that there would be no obvious reason why planning permission should be withheld, subject to the proposals being in accordance with the Development Plan. In the case of the Talbot Gateway proposals they contribute to the achievement of the objectives in accordance with the Local Plan – Part 1: Core Strategy (2012-2027) which was adopted in January 2016, and the Blackpool Town Centre Strategy, which was approved in March 2013.

The Developer submitted an outline planning application (09/1582) on 11 December 2009 for the comprehensive redevelopment of the area following a public exhibition of the emerging proposals and dialogue with local stakeholders and other interested parties.

The Developer submitted a second outline planning application (11/0723) on 03 August 2011 for the comprehensive redevelopment of the area, as granted under 09/1582, with variations to conditions 2, 17 and 27.

The extent of the land proposed to be included in the Order has been carefully delineated to include all interests necessary to ensure the implementation of the next phase of Talbot Gateway proposals, and no more.

Whilst that part of the Order Land which is part of the Talbot Gateway, shown as A1 on plan 1 of the draft Statement of Reason (Appendix 3b to the Executive report), benefits from having outline planning permission, which remains valid until 2024, the other part (the 0.443 hectare site referred to above), shown as A2 on the plan 1, benefits only from being within the Talbot Gateway Brief Supplementary Planning Document 2006.

6.10 **Statement of the Planning Position**

The Council has a long held aspiration to secure major investment in the area and both the adopted and local plan policies seek to encourage major redevelopment in the Talbot Gateway area. The proposals accord with national, regional and local planning policies and with the regional economic strategy.

An application for outline consent will be submitted before the end of the year for the whole of the Order Land which accords with the Talbot Gateway Brief Supplementary Planning Document 2006.

6.11 **The Development**

The Development proposed under the outline permission 09/1582 comprised a new pattern of streets, a central town square, civic and office uses (including Council offices, police station and courts), a transport interchange around Blackpool North Station, car parking, a large format food store, non-food shops, cafés, restaurants and business premises, hotels, a doctors' surgery, and housing.

To ensure the full integration of the new streets and buildings with the existing townscape and the town centre it also comprises the remodelling of existing buildings and the re-introduction of retail frontages on Talbot Road, Dickson Road, Deans gate and High Street.

As a result of submitting full planning applications for the new Council Offices (11/0843), and the recladding / refurbishment of Talbot Road multi-story Car Park (11/0842), a variation to road layout and a need to amend the Masterplan on a phased basis was sought by amending conditions 2,17 and 27 when the revised planning application 11/0732 was submitted.

In line with 11/0723 the outline planning permission for the comprehensive mixed use development, 11/0842 granted full planning permission for the redevelopment of the multi-story car park, 11/0843 granted full planning permission for the council offices (10,165 sq. m), 11/0961 granted full planning permission for A1 supermarket, and 11/1078 granted full planning permission for a petrol filling station, all of which have now been developed.

The original Masterplan has changed and it is proposed to amend the Masterplan again as part of a Third Supplemental Agreement with the Developer, the terms of which will be reported separately, before the end of the year.

The Masterplan provided for a supermarket with residential and hotel in the same block; refurbishment of the Wilko building with large retail unit and two hotels; new law courts and a police station on the Apollo site. The police have relocated elsewhere,

and an alternative site has been identified for the Law Courts. A substantial part of the Apollo site was used to accommodate a petrol filling station in order to secure the Supermarket development and the remaining part of site is unable to accommodate the requirements of the end-user; the Wilko building is now being demolished and replaced by a new hotel (planning permission 17/0276 refers) and transport interchange; the supermarket has been completed without the provision of the hotel or the residential units.

6.12 **Statutory Powers of the Local Authority**

By virtue of section 226(1) (a) of the Town and Country Planning Act 1990, (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004) the Council, as the Acquiring Authority, on being authorised to do so, is able to acquire land by compulsory means if it thinks that it will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the land.

The Council cannot exercise its power under section 226 (1) (a) unless and in accordance with section 226 (1) (A) it thinks that the development/re-development or improvements proposed will achieve any one or more of the following objects:

- The promotion or improvement of the economic wellbeing of the area.
- The promotion or improvement of the social wellbeing of the area or
- The promotion or improvement of the environmental wellbeing of the area

The acquisition of the Order Land will facilitate the carrying out of development, redevelopment and improvement in accordance with the Talbot Gateway Masterplan. The Masterplan sets out how it will deliver an area which resulting in public benefits including significantly, the lifting the quality of the environment of this part of town, establishing a civic heart and new business district for the town; providing a safe and convenient gateway into the retail centre; providing a vastly improved highway and pedestrian network and open space/public realm; providing safe and convenient parking; widening choice in services and shopping; improving the entrance and access into town, and providing employment opportunities. The draft Statement of Reasons will address how the acquisition of the Order Land will help deliver a substantial part of the office element stated in the Masterplan.

In terms of the economic social or environmental benefits associated with the acquisition, the proposal is also entirely consistent with the Council's Community Strategy.

As regards the fundamental tests as to whether compulsory acquisition is justified, namely - is there a compelling case in the public interest - and any of the objectives in section 226 (1) (a) are met. For the reasons set out in this report and in the draft Statement of Reasons officers are of the view that there is such a compelling case in the public interest and nothing short of the compulsory acquisition of the land will facilitate

the much-needed redevelopment of the Order Land. It is also clear that it will not be possible that the land can be assembled without the use of compulsory purchase powers.

6.13 **Highways**

A separate application for Highways Closure Order will be made to the Secretary of State by the Developer in respect of the Highways affected by the development proposals. There are no designated footpaths affected by the development.

6.14 **Statement of Reasons**

A detailed Statement of Reasons in support of the making of the Order will be finalised and a copy will be served on each person with an interest in the Land in accordance with the guidance contained in the Ministry of Housing, Communities and Local Government Guidance on Compulsory purchase process and the Crichel Down Rules.

A copy of the proposed Statement of Reasons is attached to this report at Appendix 3b. This may be updated prior to the date on which the Order is made and hence is marked as draft.

6.15 **Viability of Scheme and Timing**

At the Executive meeting of 17 September 2008 (EX66/2008 refers) authority was given for officers to enter into a Partnership Development Agreement (“the Development Agreement”) and any accompanying documentation with Muse Developments Limited. The Development Agreement and accompanying Compulsory Purchase Order Indemnity Agreement were signed by the Council and the Developer on the 12 March 2009.

The Development Agreement sets out the procedures and programme to be adopted in bringing forward any development within the Land.

At the Executive meeting on 16 September 2009 (EX44/2009 refers) Members were recommended to approve the revised proposals in the Talbot Gateway Masterplan and to agree to the Council making a contribution to the viability of the scheme by seeking a nil consideration on any disposal of its land and property interest in the scheme. The Executive resolved to accept the recommendation to progress the development.

6.16 **Negotiations**

Under the terms of the Development Agreement, all land and property acquisitions in the development area are to be held in the name of the Council, although the Developer has the responsibility for ensuring that every effort has been made to acquire all necessary land and property interests by agreement. These negotiations are continuing as far as possible but it appears that there is no reasonable prospect that the site can be assembled, in a timely fashion, without resorting to powers of compulsory acquisition. Negotiations will continue throughout the compulsory purchase process.

6.17 **Human Rights and the Case for Compulsory Acquisition**

The Human Rights Act 1998 places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest, and that the use of such powers is proportionate to the ends being pursued.

The Council must be sure that the purpose for which it is making the Order sufficiently justifies interfering with the human rights of those with an interest in the land affected. It is acknowledged that the compulsory acquisition of the Order Land will amount to an interference with the human rights of those with an interest in the Order Land. These include rights under Article 1 of the First Protocol of the European Convention on Human Rights (“ECHR”) (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence).

There must be a balancing exercise between the public interest and the individual’s rights and any interference with these rights must be necessary and proportionate. “Proportionate” in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim. In this instance, officers are of the view that there is a compelling case in the public interest for compulsory acquisition of the Order Land, which outweigh such rights. Further, as it appears it will not be possible to acquire the lands and interests needed to deliver the development by agreement, in a timely fashion, the use of compulsory purchase powers in this matter is proportionate. This is explained in the draft Statement of Reasons.

Those whose land is taken will be paid compensation in accordance with the CPO Compensation Code.

As has been stated above, the development proposals deliver key objectives of Government Policy and the statutory development plan. The clear benefits to the area that will result from the realisation of the development proposals are referred to in this report and the draft of the statement of Reasons attached to the report. Without the

use of the Council's powers of compulsory purchase, the much needed regeneration and redevelopment of the Talbot Gateway area will not be achievable, as it appears there is no possibility that all the land necessary to deliver the redevelopment will be acquired by agreement.

6.18 **Conclusions**

Including highways, the Council now has a freehold interest in approximately 91% of the site, however, negotiations to date have failed to achieve the voluntary acquisition of all the interests in the Order Land. While negotiations will continue, and it is hoped that it will be possible to acquire more interests voluntarily, it would currently appear that Compulsory Purchase powers are needed to achieve the necessary site assembly.

There is a compelling case in the public interest for the compulsory acquisition of interests in the Land in order to facilitate the redevelopment of the King Street Area and it is considered that the rights enjoyed by individuals who have an interest in the Order Land by virtue of the ECHR are outweighed by the public interest served by making the order and achieving the redevelopment, thus delivering the many public benefits that flow from it in a timely fashion.

6.19 Does the information submitted include any exempt information? No

7.0 **List of Appendices:**

Appendix 3a: Plan of "Order Land" edged red and shaded pink

Appendix 3b: Statement of reasons marked as draft.

8.0 **Financial considerations:**

- 8.1 The Council will incur, for which budgetary provision exists;
1. The cost of making the Order and the cost of any public inquiry held to consider any objections to the making of the order.
 2. The cost of dealing with any Blight Notices, which may be served on the Council
 3. In the event of the Order being confirmed;
 - a. The cost of acquisition of the interests within the Land together with Professional fees and Stamp Duty and any interest payable where land is entered upon in advance of completion of the acquisition, and
 - b. The cost of any application to the Lands Tribunal to determine the amount of compensation payable in the absence of agreement. In accordance with the provisions of the Compulsory Purchase Order Indemnity Agreement, signed on the 12 March 2009, provides for the Council to be indemnified against the costs set out above, with the parent company of the Developer, Morgan Sindall PLC, acting as guarantor.

9.0 Legal considerations:

- 9.1 Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004) empowers the Council, subject to confirmation by the Secretary of State, to acquire compulsorily land that it thinks will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.
- 9.2 However, under section 226(1A) of the Act, the power may only be used by the Council if it thinks that such development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area.
- 9.3 If an Order is made, and objections are made, the Secretary of State may arrange a public inquiry to consider them
- 9.4 If the Order is confirmed and the powers are exercised, those whose land is taken are entitled to compensation under the Compulsory Purchase Order Compensation Code

10.0 Risk management considerations:

- 10.1 Without confirmation of an Order there would be real prospect of not delivering the scheme. The development requires inclusion of land outside the control of the Council. At this stage it does not appear possible that all the necessary land interests can be acquired by agreement, in a timely fashion, therefore the absence of a confirmed Order is likely to prevent the development progressing. The Development Agreement, as varied by the Third Supplemental Agreement, will enable the Council to enter into Building licence and Forward Funding Agreement for the development which will become unconditional upon the Order being confirmed, Outline Planning Permission being granted and the confirmation of intervention funding, which is expected prior to receiving the confirmation of the Order, therefore the scheme should not fail due to lack of funds. The Development Agreement also requires that any land and property acquired by agreement is held in the Council's name. The Council already had a large proportion of land ownership in the King Street area.

11.0 Equalities considerations:

- 11.1 The Council has been unable to acquire the properties by negotiation and on the basis that it now feels there is compelling case in the public interest, it is now right to exercise its powers in relation to a Compulsory Purchase Order under Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004).

12.0 Sustainability, climate change and environmental considerations:

12.1 None directly from the report, although consideration will be given to minimise the carbon footprint of any development during the planning process.

13.0 Internal/ External Consultation undertaken:

13.1 As part of seeking the outline planning consent, (09/1582) for the comprehensive redevelopment of the area, a public exhibition of the emerging proposals and dialogue with local stakeholders and other interested parties, has been undertaken.

14.0 Background papers:

14.1 None.

15.0 Key decision information:

15.1 Is this a key decision? No

This decision is subsequent to other key decisions.

15.2 If so, Forward Plan reference number:

15.3 If a key decision, is the decision required in less than five days? N/A

15.4 If **yes**, please describe the reason for urgency:

16.0 Call-in information:

16.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

16.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC SERVICES

17.0 Scrutiny Committee Chairman (where appropriate):

Date informed: N/A Date approved: N/A

18.0 Declarations of interest (if applicable):

18.1 Councillor L Williams declared a personal interest in the decision as her place of work was within the outline land area identified although she confirmed that it was not subject to the proposed Compulsory Purchase Order as it had already been purchased by the Council.

19.0 Executive decision:

19.1 The Executive agreed the recommendations as outlined above namely:

1. To authorise the making of a Compulsory Purchase Order to be known as The Blackpool Borough Council (King Street No1) Compulsory Purchase Order 2020 ("the Order") under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 and Schedule 9 of the Planning and Compulsory Purchase Act 2004) for the acquisition of the Order Land being land which it thinks, if acquired, will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and that such development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area, as described in this report.
2. On the basis that there is a compelling case in the public interest to making the Order, to authorise the Director of Communications and Regeneration to:
 - i. take all necessary steps to secure the making, confirmation and implementation of the Order including (but not limited to) updating the draft Statement of Reasons as deemed appropriate, the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
 - ii. acquire interests in land within the area subject to the Order either by agreement or compulsorily;
 - iii. approve agreements with landowners and others having an interest in the area to be subject to the Order setting out the terms for the withdrawal of objections to the Order including where appropriate seeking agreements effecting the delivery of any part of the development and making arrangements for rehousing or relocation

of occupiers.

20.1 Date of Decision:

5 October 2020

21.0 Reason(s) for decision:

To enable the development of a new large office building capable of accommodating a grade 'A' town centre office with a Gross Internal Area of circa 20,000 sq. m., together with additional office accommodation and/ or additional commercial premises.

The conclusion section of the background information at 6.18 outlines the steps already taken and why the Council believes there is a compelling case in the public interest to formally make a Compulsory Purchase Order whilst continuing to negotiate for the acquisition of the outstanding properties.

22.1 Date Decision published:

6 October 2020

23.0 Executive Members in attendance:

22.1 Councillor L Williams, in the Chair

Councillors Benson, Brookes, Campbell, Farrell, Hobson, Kirkland, Smith and Taylor.

24.0 Call-in:

24.1

25.0 Notes:

24.1