

Notice of:	EXECUTIVE
Decision Number:	EX4/2021
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:	25 January 2021

THE BLACKPOOL BOROUGH COUNCIL (BLACKPOOL CENTRAL No1) COMPULSORY PURCHASE ORDER 2021

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 5a to the Executive report, titled Compulsory Purchase Order plan (“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 (Blackpool Central No1) Compulsory Purchase Order 2021 (“the Order”) under Section 226(1)(a) of the Town and Country Planning Act (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 major entertainment centre together with associated multi-storey car park and public realm.

The conclusion section of the background information at 6.35 and 6.36 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:

None - if the Council does not proceed with the Order it would put into jeopardy the delivery of the development with its attendant benefits.

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 13 July 2020 (EX33/2020 refers) 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 regeneration of the Blackpool Central Site, whilst continuing to negotiate with third party interests.
- 6.2 The Members will recall that at the meeting of the Executive on 10 December 2018 (EX57/2018 refers) the Council approved the 'Blackpool Central Masterplan', ("the Masterplan") which had been presented by Nikal Ltd and Media Invest Entertainment ("the Developer") and as such officers were authorised to negotiate terms for a sale of the Blackpool Central site.
- 6.3 The Developer had had an Exclusivity Agreement whilst they produced the Masterplan, and at the Executive Meeting of 25 February 2019 (Ex22/2019 refers) the terms of the sale by way of a premium for a long lease were approved.
- 6.4 The Masterplan includes the area between the Promenade and Central Drive, bounded to the north by New Bonny Street and the south by Chapel Street, being formally known as the "Central Leisure Quarter Site" measuring approximately 7.27 Hectares.
- 6.5 It provides for the potential to develop the area in four distinct phases as well as the carrying out of improvements to traffic management.
- 6.6 On 13 January 2020 the Council and the Developer signed an Agreement for the disposal of the land ("Land Sale Agreement") within the Masterplan Site, being west of Bonny Street measuring approximately 5.29 hectares. The Land Sale Agreement provides for the sale and draw down of the land in phases and is described in more detail in the Draft Statement of Reasons (Appendix 5b) with the phases shown for illustration purposed on Plan 2 of the Draft Statement of Reasons.
- 6.7 The Enabling Phase (shown hatched green of the Land Sale Phase Plan) would see the creation of a multi-storey car park to replace the surfaced car park, whilst maintaining a vehicular route through the site. In addition to carrying out The Enabling Phase, the Developer would also carry out some Off Site Works to Seaside's Way to accommodate the a revised vehicular and pedestrian route. The Off Site Works, amounting to 0.4277 hectares, is included in the Order Land, but does not form part of the land included in the Land Sale Agreement.

- 6.8 Phase One and Two (shown hatched orange and yellow respectively on the Land Sale Phase Plan) would see the main development take place. Phase Three, (shown hatched blue) amounts to 1.188 hectares of thereabouts, is excluded from the Order land as the land is subject to a Crown lease.
- 6.9 The Order Land therefore covers 4.404 hectare bounded to the north by New Bonny Street, to the west by Bonny Street, the south by Chapel Street, including part of Seaside's Way and the east by Central Drive, and in respect of Seaside's Way, Kay Street. The Order land excludes the land at the corner of Bonny Street and Chapel Street, being the site of the County Courts, Magistrate Courts and former Police Headquarters through which detainees visiting the courts are securely transferred.
- 6.10 The Order Land represents 60.61% of the Masterplan area. The Phase Three land which is included as an option in the Development Agreement, represents a further 18.12% of the Masterplan Site bringing the total within the Land Sale Agreement to 78.72% of the Masterplan Site. The majority of the site is surfaced car parking. The predominant buildings within the Order Land are a public house, a former cinema and some retail units with holiday flats above.
- 6.11 The Council is the freeholder of the Order Land, except for one parcel of land to East of Bonny Street where the Council interest is long leasehold. There are, however, a number of units within the Council freehold which are subject to long leases.
- 6.12 In summary the Order Land includes:
- all the interests in highway land and property, including shops and flats, at 13 - 39 Central Drive,
 - Bonny Street Market,
 - Part of the surface car park known as Central Car Park, together with public toilets and passenger office

6.13 **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. In the case of the Blackpool Central 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.

- 6.14 The Developer submitted a Masterplan on 10 December 2018 for the comprehensive redevelopment of the area which was approved at the Council Executive as it was deemed to be in line with the adopted planning framework in the Blackpool Local Plan Core Strategy and Leisure Quarter Supplementary Planning Document adopted in March 2011.
- 6.15 Executive Decision EX33/2020 gave authority for making of a Compulsory Purchase Order on all the area within the Masterplan Area. Having due regard to the phasing of the Land Sale Agreement, the boundary has been amended to accommodate further proposals of the Developer, including some highway alterations, following further dialogue since EX33/2020 was approved in July 2020. Therefore 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 Enabling Phase and Phase One and Two of the Agreement dated 13 January 2020 between the Council and the Developer, and no more. Phase three being excluded from the Order as it is subject to Crown lease.
- 6.16 **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 Central Leisure Quarter. The proposals accord with national, regional and local planning policies and with the regional economic strategy.
- 6.17 **The Development**
The Development proposed under the Masterplan comprises a minimum a number of attractions which include Flying Theatre, Adventure Land, Thrill and Gaming Zone, Virtual Reality Zone, Multi Media Exhibition and Themed Diner together with associated public realm and car park.
- 6.18 In preparing the planning application, which is yet to be formally submitted, changes, have been made to the layout of the site. The revisions continue to deliver a major Leisure-led development, ensuring the Developer meets the obligations as set out in the Land Sale Agreement and the revisions are in accordance with the local planning policies.
- 6.19 **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.

- 6.20 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 Blackpool Central Masterplan. The Masterplan sets out how it will deliver an area which results in public benefits including the raising of the quality of the environment of this part of town, establishing a major leisure attraction 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 (at Appendix 3b explains how the acquisition of the Order Land will help deliver a substantial part of the Masterplan.
- 6.21 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.
- 6.22 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 is highly unlikely that the land can be assembled without the use of compulsory purchase powers.
- 6.23 **Highways**
From a review of the Masterplan it is understood that a Highways Closure Order will be required. Under the terms of the Land Sale Agreement obligations are placed on the Developer to progress any such Highways Closure Orders. The Developer will be required to make a separate application for a Highways Closure Order to the Secretary of State in respect of any Highways affected by the development proposals.
- 6.24 There are no designated footpaths affected by the development.

6.25 **Statement of Reasons**

A detailed Statement of Reasons in support of the making of the Order will be finalised 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. and a copy will be served on each person with an interest in the Land.

6.26 A copy of the proposed Statement of Reasons is attached to this report at Appendix 5b. This may be updated prior to the date on which the Order is made.

6.27 **Viability of Scheme and Timing**

The Land Sale Agreement signed 13 January 2020 provides for the Council to deliver vacant possession of the Enabling Phase as soon as practical with the other two phases following upon completion of the Enabling Phase. The Agreement is subject to an Overarching Condition Date of 13 January 2023 by which time all Enabling Phase conditions are to have been met.

6.28 At the Executive meeting on 25 February 2019 (EX22/2019 refers) Members approved the terms agreed for the proposed disposal of the site together with confirmation that the Council would support the scheme and protect the Council's interest with up to £1.9M funding being allocated for that purpose.

6.29 **Negotiations**

Under the terms of the Land Sale Agreement, all land and property acquisitions in the development area are to be held in the name of the Council, and the Council 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.

6.30 **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.

6.31 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).

- 6.32 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 Lands, 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.
- 6.33 Those whose land is taken will be paid compensation in accordance with the Compulsory Purchase Order Compensation Code.
- 6.34 As has been stated above, the development proposals deliver key objectives of Planning 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 Blackpool Central 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.
- 6.35 **Conclusions**
Including highways, the Council now has a freehold interest in approximately 97.98% of the Order Land, however, negotiations to date have failed to achieve the voluntary acquisition of all the interest in the Order Land. Whilst 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.
- 6.36 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 Blackpool Central 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.
- 6.37 Does the information submitted include any exempt information? No

7.0 List of Appendices:

Appendix 5a: Plan of "Order Land" edged red and shaded pink
Appendix 5b: Statement of reasons marked as draft including Plan 1 and Plan 2.

8.0 Financial considerations:

- 8.1 The Council will incur, for which budgetary provision exists as outlined under EX22/2019, namely;
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.

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 no real prospect of 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 Land Sale Agreement becomes unconditional upon a number of Overarching Conditions being met, including Planning Permission being granted, the confirmation that funding has been procured, and the Council has obtained vacant possession of the Site. The Developer is under an

obligation to provide a Funding Strategy under the Terms of the Land Sale Agreement therefore the scheme should not fail due to lack of funds. The Land Sale 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 Blackpool Central site.

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 None.

14.1 Background papers:

14.0 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 None.

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 (Blackpool Central No1) Compulsory Purchase Order 2021 ("the Order") under Section 226(1)(a) of the Town and Country Planning Act (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.

20.0 Date of Decision:

20.1 25 January 2021

21.0 Reason(s) for decision:

21.1 To enable the development of a major entertainment centre together with associated multi-storey car park and public realm.

The conclusion section of the background information at 6.35 and 6.36 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.

22.0 Date Decision published:

22.1 26 January 2021

23.0 Executive Members in attendance:

23.1 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:

25.1