

Title: **Transforming Trowbridge**

Portfolio holder: **Councillor Michael Mounde**

Reporting officer: **Ian Gallin, Corporate Director**

Key decision: **Yes**

Purpose

This report explores options to ensure that the St. Stephens Place and Castle Place sites will be brought forward for redevelopment at the earliest possible opportunity. The report asks Cabinet to identify its preferred option so that Officers can move forward to start to implement the work and provide Cabinet with more detailed advice.

The report also advises Cabinet on the work that is in hand to ensure that there is adequate temporary car parking available during the works to the multi-storey car park and other developments coming forward within Trowbridge.

Background

St. Stephen's Place Castle Place Development

The Council has been working for a considerable time with the developer and owner of Castle Place Shopping Centre and St. Stephen's Place on a comprehensive redevelopment of both sites. Despite the best efforts of the Council to facilitate this development the developer has failed to achieve a start on site for the works or to progress and complete the required legal documentation.

The site is one of a number of key sites and a key element in the overall regeneration of the town. The Council should now give consideration as to how best to move forward to encourage and ensure the redevelopment of this site.

One of the options for the Council to consider is to pursue a Compulsory Purchase Order (CPO) for the site. Advice has been taken on this and is attached at Appendix A. If Cabinet wish to pursue this option it is recommended that in line with the advice that we seek the input of an experienced Planning Solicitor as the next stage and following this advice give further consideration to moving forward with a CPO. Cabinet should note the advice in relation to timescales and cost.

In addition to considering a CPO the Development Control Manager has indicated that there may be the possibility of considering action through planning. Specifically as the s106 and associated legal documentation is yet to be signed a view could be

taken that in the light of the time which has lapsed it would not be unreasonable for Officers to take a report to Planning Committee stating that there is no realistic prospect of this Agreement ever being finalised and signed. This report could be accompanied by a recommendation that Phase 2 be refused planning permission.

In order for the Development Control Manager to consider this course of action and review the file Cabinet would need to confirm that there is little prospect of the various agreements required ever being finalised in light of the considerable delays previously reported. This would be in line with officer's previous reports and advice.

Car Parking Plan and Phasing

Works to the multi-storey car park (MSCP) are planned to commence in April, work could also start on the Waterside Scheme in respect of Court Street car park, subject to conditions being met, as early as May. Both developments will result in a temporary loss of car parking. The long-term picture is very positive with an overall increase in the total number of spaces available within the town.

It is important that we have in place alternative adequate temporary parking facilities prior to these works commencing. Officers are actively managing this process and where possible we will continue to work with developers to minimise impact through the timing and phasing of works.

Officers are working with other major site owners to explore the possibility of securing temporary car parking on their sites during the key phases of development when parking will be reduced in the town. Meetings are arranged for early in the New Year to take these discussions forward. Cabinet will be advised on progress and the outcome of these discussions in early March.

There will be no loss of spaces prior to April so this timescale allows for full consideration of the available options and for temporary car parking to be in place before any spaces are lost.

In moving this work forward the Council needs to work closely with all key partners including the Town Council, Transforming Trowbridge Steering Group and Chamber of Commerce. Officers will therefore be reconvening meetings of the Car Parking Forum to discuss and consult on these issues. It will also be important to ensure that all future arrangements are well communicated in advance and appropriate signage placed at key locations in the town.

Key issues

The key issues dealt with in this report relate to the need to consider

- how best to ensure the redevelopment of St. Stephen's Place and Castle Place Development
- effective planning for adequate temporary car parking provision to be in place before and during the development phases of a number of key schemes in the town including works to the MSCP

Effect on strategies and codes

This report is in line with the Council's objectives in the Transforming Trowbridge project the Corporate Plan and the Trowbridge UDF.

Risk management Implications

This report addresses the risk of not having adequate temporary car parking in place prior to the loss of spaces as result of development schemes coming forward.

The legal and financial risks associated with a potential CPO are largely set out in the advice contained in Appendix A and will be more fully advised to Cabinet in future reports.

Finance and performance implications

If Cabinet subsequently decide to pursue a CPO the costs are likely to exceed £100,000 as noted in the advice.

Cost of developing and delivering options for temporary car parking will form a key element in the future report to Cabinet, it is not possible to state likely costs at this time.

Legal and human rights implications

There are none arising as a result of this report.

Next Steps

Subject to the agreement of the recommendations in this report the next steps are as follows

- Seek the advice of an experienced planning solicitor in respect of a potential CPO of St. Stephens Place and Castle Place and following this advice report to Cabinet in March.
- Confirm to the Development Control Manger that the required legal agreements are unlikely to be completed and in light of this ask him to consider relevant planning options and take appropriate reports to the Planning Committee as early as possible.
- Ensure that adequate temporary car parking is in place prior to the loss of any spaces as a result of developments coming forward and works to the MSCP. A further report will be prepared for Cabinet in March on options and proposals.

Recommendations

Cabinet are asked to

- Consider the advice in respect of a CPO and agree to seeking the advice of an appropriately experience planning solicitor with a further report to Cabinet in March.
- Confirm to the Development Control Manger that the required legal agreements are unlikely to be completed and in light of this ask him to consider relevant planning options and take appropriate reports to the Planning Committee as early as possible.
- Note and agree the work to ensure that adequate provision of temporary car parking is in place prior to and during the development phases of key projects and works to the MSCP and request a further report in March on options.

Key decision box

Statement of reason for key decision	Impact on the Community
Options considered and rejected	These are addressed in the report
Date of implementation	If agreed the recommendations in this report establish that further work be carried out and advice taken. There will be no implementation of any options until Cabinet have considered further reports in March.

Trowbridge - CPO Process

1. Reasons for using Compulsory Purchaser Powers

Compulsory purchase powers are provided to enable acquiring authorities to compulsory purchase land to carry out a function which Parliament has decided is in the public interest. The ability to use powers of compulsory purchase is a key element in any private or public sector development project which requires the use of third party land where failure to assemble the required land interests within budget and timetable can result in the potential failure of the project itself.

2. The use of Compulsory Purchaser Powers

Many bodies with statutory powers have compulsory purchase powers. Such powers are conferred and prescribed by Acts of Parliament, and require approval of the Government Minister specified in the particular Act (or the National Assembly in Wales). In practice the greatest users of compulsory purchase powers are Local Authorities and the Highways Agencies. Other statutory bodies that may make CPOs include Government Department, Regional Development Agencies, English Partnerships, Urban Development Corporations and major utilities such as water or electricity companies. Those seeking to provide infrastructure (such as railways) will normally apply for an Order under the Transfer and Works Act 1992 which will give compulsory purchase powers.

3. The Compulsory Purchase Process

The compulsory purchase process is made up of a number of stages. It is important to note that the acquiring authority does not have the powers to compulsory acquire the land until the appropriate Government Minister confirms the CPO. However, they can acquire by agreement at any time and they should attempt to do so before acquiring by compulsion.

The CPO will normally only be pursued by a Local Planning Authority (LPA) following grant of planning permission. Some other bodies may be given power to acquire land (e.g. Development Corporations) but CPO is normally carried out by the LPA to enable development to take place where they support the aims. Agreement to pursue a CPO may however be agreed in principle by a LPA prior to a planning application being submitted in order to give the developer confidence that the LPA are prepared to support the proposal and will acquire land (either in its own right or on behalf of the developer) to allow the development to go ahead once planning permission has been granted.

The first stage for the acquiring authority is to decide the extent of land required for the particular purpose of the scheme for which they are prepared to use compulsory purchase powers. If the compulsory purchase is being lead by a developer all actions will need to be agreed with the LPA who will normally take the lead and seek to recover costs. All land will need to be referenced. In

cases of multiple ownership or large CPOs this is normally carried out by experienced practitioners such as Terraquest who catalogue all land to be acquired, confirm site boundaries, easements, etc. This can be a time consuming process dependant on size.

In case of single ownership, title deeds need to be verified before notices/the Order are served. The acquiring authority will be seeking to identify all parties with a legal interest or right to occupy the land they propose to acquire. This would include freeholders, leaseholders, tenants and occupiers. To assist in this process, the authority will usually service a 'requisition for information' form on all parties they believe own or occupy a property they wish to acquire. The form will seek to clarify all interests in the land.

On completion of the information gathering exercise, the acquiring authority will make the CPO. Attached to the CPO will be a schedule identifying the ownership of the land within the CPO. Each plot of land referred to in the schedule will be referenced, such reference will correspond with the relevant plot and on the CPO map which will also be attached to the CPO.

The acquiring authority will also usually prepare a document known as a Statement of Reasons for making the Order. This sets out the authority's reasons for seeking to acquire the land and will accompany the CPO. Before the acquiring authority submits the CPO for confirmation, a Notice must be published for two successive weeks in one or more local newspapers and must also be fixed on or near the land covered by the Order.

The acquiring authority must also serve Notice on all parties who have an interest in the site. It should be noted that this can also include parties whose value of land may be reduced as a result of works carried out on the land being compulsorily acquired despite the fact that their land is not being compulsorily required. One reason for erecting Notices on the land is because it is not always possible for the acquiring authority to identify all parties before the CPO is made.

There is a period for objection for those who have had Notices served upon them. Objections need to be carefully catalogued and responses given. This provides an opportunity for acquisition to be made through negotiation. Every effort needs to be made on an ongoing basis to reach negotiated agreement with each land owner.

If by the end of the objection period there are no outstanding objections, the CPO can be confirmed. Notices need to be published in local newspapers and national journals where a General Vesting Declaration is made and the land passes into the possession of the acquiring authority.

4. Objections and Public Inquiry

Objectors may feel that their property has been blighted by service of an Order and are entitled to serve a Blight Notice on the authority issuing the CPO. There is a formal process for dealing with this.

If all objections cannot be overcome through negotiation, there will normally be a Public Inquiry, determined by the Secretary of State to hear the case for compulsory acquisition and the objections to the Order. This then becomes an 'Objected Order'. Negotiations should nevertheless continue through the lead up to the Inquiry. An Inquiry date needs to be arranged through the Planning Inspectorate, a barrister appointed, initial conference held, witnesses identified, first draft proof prepared and statements served. This will be followed by a period of refinement, further conferences, review of objector's statements, second draft proofs and service of Witness Statements. The Public Inquiry follows. There will normally be a period of 2 to 4 months before the Inspector's decision is received, having first been verified by the Secretary of State. If the Order is confirmed, it will normally be followed by a General Vesting Declaration to obtain possession of the land. However there are alternative methods of acquiring the land following confirmation of the CPO.

5. Timescales

Timescales for CPO can vary considerably depending upon the size of the site and complexity of ownership. In all, it could take up to 18 months between the initial submission of planning application to CPO Inquiry. Simpler cases could potentially be brought to CPO Inquiry in a shorter period say 9 months from submission of planning application. The decision period may take a further 4 months.

6. Costs

Costs of CPO are usually significant. Legal costs will be high and a number of expert witnesses are likely to be called. This would normally include a local authority representative, planning agency, architect, other supporting members of the design team and the client. The cost is likely to exceed £100,000 even for a relatively straight forward Inquiry. However, the speed with which it can bring matters to a conclusion usually makes the level of expenditure worthwhile from the clients' point of view.

We trust the above provides a useful overview to the CPO process and likely timescales. We would however reiterate that we have provided on general advice and that more specific and detailed advice will be required in respect of any particular instances you have in mind. We would strongly recommend that early detailed advice is taken from an experienced planning solicitor.