



EXECUTIVE BOARD DECISION

REPORT OF: Executive Member Growth and Development

LEAD OFFICERS: Strategic Director Place

DATE:

PORTFOLIO/S AFFECTED: Growth and Development

WARD/S AFFECTED: Little Harwood and Whitebirk

KEY DECISION: YES NO

SUBJECT: Compulsory Purchase of unregistered land at Clarendon Road East, Blackburn BB1 5QA

1. EXECUTIVE SUMMARY

The Council identified a site located between Clarendon Road East to the north and Laburnum Road to the south as suitable for the provision of new family homes. This site is identified as the 'Clarendon Road East site' and a full options appraisal and land title assessment identified part of the site as being in unknown ownership (unregistered land). Council officers have undertaken a number of enquiries to identify any likely owner but no further information as to the ownership has been ascertained.

Consequently the Council is now seeking approval to acquire the land by compulsory purchase action under s226 of the Town and Country Planning Act 1990 of the abandoned land parcel at Clarendon Road East (Appendix 1), as part of the Council's priority 2 objective – namely improving housing quality and building more houses to provide much needed family housing in the Borough.

2. RECOMMENDATIONS

That the Executive Board upon being satisfied that:

- a) It would contribute to the economic, social and environmental well-being of the borough;
- b) There is a compelling case in the public interest as the interference with Human Rights involved is proportionate in the interests of land assembly for housing development;
- c) Sufficient funds exist for carrying the resolution into effect;
- d) No impediments exist to the implementation of the scheme to assemble the land for housing development (subject to the making of the order) and there is a reasonable prospect of its implementation, should the order be made;
- e) The whole of the legal estates to the affected land could not be acquired by agreement

- 2.1 Authorise the Growth Programme Director, in conjunction with the Deputy Director, Legal & Governance (Monitoring Officer) to prepare and make a Compulsory Purchase Order (CPO) under section 226 of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981, for the purpose of land assembly to carry out housing development on the land.
- 2.2 Authorise the Growth Programme Director to negotiate terms for the acquisition by agreement of any outstanding interests in the land within the CPO prior to its confirmation.
- 2.3 Authorise the Deputy Director, Legal & Governance (Monitoring Officer) (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order) to confirm the CPO if he is satisfied that it is appropriate to do so.
- 2.4 Authorise the Growth Programme Director to approve agreements with any identified landowner setting out the terms of withdrawal of objections to the Order (including the power to defer implementation post confirmation). In consultation with the Deputy Director, Legal & Governance (Monitoring Officer) to make deletions from and/or minor amendments and modifications to the proposed Order and Order plans.

3. BACKGROUND

- 3.1 The Clarendon Road East site (Appendix 1) is identified as a development opportunity which involves land assembly of two parcels of land (parcel 1 in Council ownership and parcel 2 unregistered/unknown ownership). Bringing these two land parcels together will provide a site that is suitable to develop a quality new housing scheme to provide 2, 3 and 4 bed family housing to meet local demand and aspiration.
- 3.2 In order to create a holistic and viable development, it is essential that development takes place on both land parcels. There is a third smaller site adjacent to the two parcels and the owner of that site has expressed a desire for their site to be part of any future development. The site of the two combined parcels (1 & 2) will provide an opportunity to create around 60 new family homes within the Little Harwood ward.

The total development size area is around 1.8 hectares and individual land parcels are:

- Parcel 1 - 0.8 hectare land in Council ownership
- Parcel 2 - 1.0 hectare land unregistered/unknown ownership

- 3.3 An Executive Member Decision report titled: Clarendon Road East site – Land assembly to provide a new housing development opportunity was approved by members in January 2017

Following Executive approval the Council carried out extensive advertising to identify the owner of the abandoned land via Public notices, Newspaper adverts, Land Registry and historic land title maps

Further trace actions were undertaken through last known contacts, legal representatives of historic land sales, residential addresses etc but without success.

- 3.4 During 2018 the site was listed on the Council's public 'Brownfield Land Register' to bring the site forward for development and potentially identify the missing owner, however this was also unsuccessful in identifying any owner. The Council commissioned a number of intrusive site

investigations and technical surveys for the site were also undertaken to assess the site's suitability for housing development.

3.5 Following on from this assessment the Council, in May 2019, submitted an Outline planning application for the two parcels for residential development and associated works with all matters reserved. This application was approved in September 2019 and secured principles of development, building density and highways access for the site (application no. 10/19/0467). The project was mothballed due to the coronavirus pandemic which emerged early 2020.

3.6 The attached plan (Appendix 1) shows the proposed CPO site parcel 2 in red, with the Council owned parcel 1 in blue and parcel 3 in private ownership in green.

Considerable efforts have been made by the Growth & Development team to identify and contact any likely owner/s. However, all attempts to find the owner/s have been unsuccessful and Compulsory Purchase action is now considered to be the only course of action to secure the land for housing development purposes. Given that the land is vacant and there is no evidence of 'control' over the land, there is a possibility that the land has been abandoned by the owner(s)

3.7 The Council is committed to delivering a significant number of new homes including affordable homes in the Borough. The Council owned land provides a good opportunity for development, when considered alongside the unregistered land. In achieving housing development aims, the Council will work with an approved Registered Provider to ensure that new properties that are built support the needs of mixed communities and there is good management of those homes post development.

4. KEY ISSUES & RISKS

4.1 The unregistered land (parcel 2) is integral to development of the site in a comprehensive and holistic manner. Without inclusion of the unregistered land, it is doubtful that any new housing development could take place, as the remaining site would be deemed too small and unviable due to site constraints, land remediation cost, cost of highways infrastructure and potential build costs.

A satisfactory housing development solely on the Council land parcel or a combination of the Council and private land parcel 3 is unlikely due to the size, shape and levels of the land parcels.

4.2 The Town and Country Planning CPO process requires the site to have planning permission for housing and a willing developer. The Council has already secured outline planning permission for the site and consulted with a number of Registered Providers and Developers to scope out development appetite. The Council's intention is to dispose of the land to enable the required development to take place. A number of Registered Providers have expressed their interest in working in partnership with the Council to develop the site.

As such, the Council is proposing to offer the site (parcels 1 & 2) via a competitive informal tender. The owner of the privately owned parcel 3 will be invited to negotiate directly with the Council's preferred bidder.

4.3 The Council will support the costs of the CPO and land value through S106 funding and has adequate funds in the programme to support the CPO. This funding will be used to support the provision of affordable homes on the site; any surplus secured through the land sale will be repaid back to the S106 fund.

- 4.4 Use of the Council's land and CPO of the adjacent unregistered/abandoned parcel will help create a development opportunity to provide much needed good quality family homes to the local area while transforming a rundown site which is currently overgrown and an eyesore which attracts anti-social behaviour and fly tipping.
- 4.5 The Council aspires to expand and enhance the range, choice and quality of properties available in the Little Harwood area by providing a range of housing with a mix of modern 2, 3, 4 bed family homes as part of a comprehensively designed sustainable development.
- 4.6 Offering the site through an informal tender process will be in line with the Council's agreed Disposal Policy. All bids received will be assessed to ensure that they are consistent with the Council's vision and aspiration to create a holistic development for local residents

5. POLICY IMPLICATIONS

- 5.1 A Compulsory Purchase Order should only be made where there is a compelling case in the public interest. Members should be sure that the purposes for which it is making a CPO sufficiently consider the human rights of those with an interest in the land affected. In particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the European Convention on Human Rights (which provides every person is entitled to respect for his home and private life).
- 5.2 Notwithstanding the acknowledged impact that the CPO will have with regard to some aspects of the Human Rights Act 1998, the benefits identified in this report present a compelling case in the public interest for making the proposed CPO and compensation will be payable under the statutory compensation code.
- 5.3 The making of the proposed CPO is in the public interest because: -
- It will promote the social, environmental and economic well-being of the area and increase residents' confidence in the area.
 - It will create extra accommodation for sale or rent.
 - It will reduce the negative environmental impacts on the neighbourhood as the vacant land attracts fly tipping, crime, arson and nuisance.

6. FINANCIAL IMPLICATIONS

- 6.1 No new funding is needed to support the CPO as there is adequate funding available in the S106 affordable homes contributions budget. Any future land receipt will be repaid to the S106 budget.
- 6.2 Development of the site alongside the Council owned parcel will yield around 60 new 2, 3 and 4 bed family homes which will bring in future Council Tax income once the scheme is fully built

7. LEGAL IMPLICATIONS

- 7.1 Under the provisions of section 226 of the Town and Country Planning Act 1990, the local authority may acquire any land in their area if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.

- 7.2 The Council also needs to consider the Guidance on Compulsory Purchase Process and the Crichel Down Rules published by the Ministry of Housing Communities & Local Government.
- 7.3 Legal challenges to compulsory purchase are always a possibility and can lead to a Public Local Inquiry, which would incur additional costs for the Council. As there is no known owner of the site, a CPO of parcel 2 is likely to have no statutory objector. The relevant statutory notices in accordance with the Acquisition of land Act 1981 will be posted around the site and adverts will be placed in the local press. This will provide formal notice to any unknown owners.
- 7.4 The making of a CPO does not prevent negotiations with any person holding an interest in land affected by the CPO as these negotiations can proceed in parallel with the statutory process. Indeed, it is advised that where possible, negotiations can continue throughout the process even up to confirmation of the Order. This will apply if, at any time during the process the Council becomes aware of any persons or body with a legal interest in the land.

8. RESOURCE IMPLICATIONS

- 8.1 The Growth & Development team will lead on the project with some resources required from the Legal Department for the making of the CPO. Further external resources may be required if the CPO action results in a Public Inquiry.
- 8.2 Additional support may be required from the Capita Symonds property team to carry out land valuation.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Extensive stakeholder consultations have been undertaken during the development of the Borough's Local Plan. An outline planning application was submitted for the site which allowed residents to make comment on development proposals.

Further consultations will be undertaken in line with statutory requirements during the planning process for the development and the making of the compulsory purchase order.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	1
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CONTACT OFFICER:	Subhan Ali
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DATE:	5 th May 2022
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BACKGROUND PAPER:	<u>Clarendon Road East site – Land assembly to provide a new housing development opportunity (January 2017)</u>
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	<u>Outline Planning Application 10/19/0467 (September 2019)</u>
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