

REPORT TO: CABINET

DATE: 25 JANUARY 2018

TITLE: HARLOW ENTERPRISE ZONE –
COMPULSORY PURCHASE ORDER FOR
LAND IN LONDON ROAD

PORTFOLIO HOLDER: COUNCILLOR TONY DURCAN, PORTFOLIO
HOLDER FOR REGENERATION AND
ENTERPRISE

LEAD OFFICER: ANDREW BRAMIDGE, PROJECT DIRECTOR
– HARLOW ENTERPRISE ZONE (01279) 6410

This is a Key Decision
It is on the Forward Plan as Decision number I008387
Call-in Procedures may apply
This decision will affect Old Harlow Ward.

RECOMMENDED that:

- A** Cabinet delegates authority to the Acting Managing Director, in consultation with the Portfolio Holders for Regeneration and Enterprise, and Finance, to commence Compulsory Purchase Order (CPO) proceedings at the appropriate time to acquire the land at London Road North currently owned by Powerrapid Ltd.

REASON FOR DECISION

- A** Cabinet has already given authority to acquire all necessary land to progress the development of the Enterprise Zone (EZ), although specific authority will be required to acquire land via CPO should that be necessary. In June 2017 Cabinet gave in principle approval to acquire the Powerrapid land by CPO and since then external lawyers, Trowers & Hamlins, have been appointed to undertake the background work prior to commencing the formal process. They have now prepared the attached Statement of Reasons (see Appendix A) which sets out the formal case for a CPO. Prior to launching the consultation process and requesting approval from the Secretary of State via the Statement of Reasons, Trowers & Hamlins have recommended that Cabinet consider and approve this document.

BACKGROUND

1. The Powerrapid site (see land identified as 'Land C' on the site plan at Appendix B) is a complicated one in that a restrictive covenant exists, which makes valuation complex and short or medium term development problematic. The site was formerly the playing fields of Nortel Telecommunications, and in 1995 the Commission for New Towns placed a covenant on the site to restrict the site to that usage for a forty year period unless a payment is made to the Commission (or now its successor body, the Homes and Communities Agency (HCA)) upon the commencement of development for an alternative use. This payment equated to 100 percent of the uplift in value for the first 20 years, until 2015, with this figure then reducing by five percent per annum until 2035 when it is expired. Accordingly, the landowner has not brought any development plans forward since it has not been financially advantageous to do so.
2. With the adoption of the Local Development Order (LDO), the appointment of a development partner by the Council and the Council's commencement of the infrastructure work, the landowner has seen an opportunity to realise some value from the land. Accordingly, Powerrapid has spent the last two years seeking to reach an agreement with the HCA on a financial settlement to release the covenant and to enable the site to be sold for development. However, after much legal and valuation advice, and negotiation, the two sides have not been able to reach a settlement.
3. Alongside this, the Council has, separately, engaged in negotiation with the landowner over the last year seeking to reach agreement on a price to acquire the site. Regrettably, this has not proved to be possible.
4. The Council is interested in acquiring the site now for a number of reasons:
 - a) It will provide certainty for the long term development of the Science Park and enable Vinci to market the site with confidence that the full scheme can be delivered.
 - b) It can potentially deliver savings on the delivery of the site infrastructure if works can be commissioned across both sites as part of the same contract.
 - c) Inevitably the value of the site will rise over the next year and beyond as the Council brings services to the site and additional road access. This combined with the development of the first buildings on the Science Park site will lead to a significantly greater purchase price in the future. It will therefore be substantially cheaper for the Council to acquire the site in the short term

ISSUES/PROPOSALS

5. There remains the issue of the covenant and the liability for payments to the HCA on the commencement of development. If the Council acquires the land will be several years before development starts on the site in question. The site is being developed from the north to the south. With the value of the payment reducing by five percent per year, by the time that the covenant payment is triggered it will be significantly less than now.
6. The Council will continue to negotiate with the landowner to seek to reach agreement. However, if this negotiation fails it may be necessary to acquire the land through Compulsory Purchase. It is hoped that having the authority to proceed to CPO will illustrate the Council's intent to proceed with acquisition.
7. The Council has taken legal advice from external lawyers, Trowers & Hamlin, on this matter and they have drafted the formal Statement of Reasons document (attached at Appendix A). This is the document which is issued to the landowners and for public consultation prior to submission to the Secretary of State to request approval for the CPO. Trowers & Hamlin have advised the Council that full Cabinet authority should be obtained for this document to ensure that all due process has been followed.

CONCLUSION

8. The acquisition of the Powerrapid land is important to realise the potential of the EZ. In order to ensure that the development of this land is possible, authority to initiate compulsory purchase by a CPO is necessary. It is hoped that the granting of this authority will act as a catalyst to reaching a voluntary agreement with the land owner. If this is not possible, however, it is vital that acquisition can be achieved in a timely way to ensure that the progress with the EZ is not held up and that confidence in its delivery is not negatively affected.
9. Cabinet is therefore asked to approve the Statement of Reasons document as attached to this report and to thereby commence the Compulsory Purchase proceedings.

IMPLICATIONS

Place (includes Sustainability)

As contained within the report.

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

The costs of the CPO are likely to be significant and the Council will utilise the funding made available through the agreement with SELEP to meet these costs in addition to the final acquisition costs of the land at the completion of the CPO process.

Author: **Simon Freeman, Head of Finance**

Housing

As outlined in the body of the report.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

None specific.

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

As contained within the report and Appendix A.

Author: **Amanda Julian, Legal Services Manager, on behalf of Brian Keane, Acting Managing Director**

Appendices

Appendix A – Statement of Reasons

Appendix B – Site Plan

Background Papers

None.

Glossary of terms/abbreviations used

CPO – Compulsory Purchase Order

EZ – Enterprise Zone

HCA – Homes and Communities Agency

LDO – Local Development Order