

REPORT TO: CABINET

DATE: 22 JUNE 2017

TITLE: ACQUISITION OF LAND IN LONDON ROAD

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

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This is a Key Decision

It is on the Forward Plan as Decision number I007413

This decision is not subject to Call-in procedures for the following reasons:

The decision stands as a recommendation to Full Council.

This decision will affect Old Harlow Ward.

RECOMMENDED that Cabinet recommends to Full Council that:

Authority is delegated to the Head of Governance, in consultation with the Portfolio Holders for Regeneration & Enterprise and Finance, to commence Compulsory Purchase Order proceedings at the appropriate time to acquire the land at London Road North currently owned by Powerrapid Ltd.

REASON FOR DECISION

As work commences on the London Road North Science Park development this year, it is necessary to provide certainty to the development by acquiring the final parcel of land at this site. Twenty five acres of the 37 acre site were acquired by Harlow Council in 2015 with an option to acquire a further two acres from Newhall Projects. The remaining 10 acres is owned by Powerrapid Ltd. and this land will be required to maximise the opportunities from the development. Cabinet has already given authority to acquire all necessary land to progress the development of the Enterprise Zone. However, specific authority will be required to acquire land via Compulsory Purchase Order should that be necessary.

BACKGROUND

1. Harlow was granted Enterprise Zone (EZ) status in the autumn of 2011 as one of 24 sites across England identified as having significant potential for job creation. The EZ status enables the Council to offer a simplified planning regime, business rates discounts and access to superfast broadband as incentives for companies to locate here. In the longer term, it is expected that the EZ in Harlow could create up to 5,000 new jobs and be a significant catalyst in the regeneration of the Town.
2. The EZ is split across three sites. At Templefields, a long term re-development of ageing industrial premises will take place. At London Road, the site is split into the former Nortel Campus at London Road South being developed by Goldacre Ventures and the land at London Road North being developed into a Science Park by the Council. The Council's vision for the site is to create a new high quality Science Park for the town, focused on Life Sciences, Advanced Manufacturing and ICT businesses.
3. At the point at which the EZ status was granted by Government and the Local Development Order implemented by the Council, the London Road North site was in three separate ownerships. Newhall Projects owned 20 acres, Graspac Ltd owned seven acres and Powerrapid Ltd owned 10 acres (see Appendix A).
4. In early 2015 the Council acquired 25 acres of land at this site, from Newhall and Graspac, with an option to acquire a further two acres at the north-west corner of the site from Newhall Projects. The land was purchased using a non-ring-fenced grant from the Department for Communities and Local Government (DCLG). The current land ownership pattern is shown at Appendix B. Land A is a water pumping station that sits outside of the development site; Land B is the remaining two acres owned by Newhall; Land C is that owned by Powerrapid Ltd.
5. Vinci UK Developments has been appointed by the Council to deliver the Science Park on its 25 acre landholding. However, the OJEU procurement exercise was conducted on the basis of being able to extend the development across the whole site as and when the Council was able to acquire the remaining parcels of land. Accordingly, Vinci has produced a Masterplan for the entire site (see Appendix C), although procurement was on the basis of being able to deliver a viable scheme on the land currently owned by the Council.
6. The next stage of the development is to deliver infrastructure to the site – new access roads plus electricity, gas, water and broadband supplies. The tender process to appoint a developer specified that the Council would take responsibility for delivering the estate roads and off site infrastructure. The

connection of individual plots would be the responsibility of the appointed developer.

7. The first estate road, a link road connecting the A414 with London Road has now been completed with delivery through Essex County Council. This has been funded by Newhall Projects through a Section 106 Agreement and is forward funded by Essex County Council and the South East Local Enterprise Partnership (SELEP).
8. The remaining infrastructure is to be funded by the Council and this work is currently out to tender with a closing date of 16 June 2017. The decision on the appointment of the contractor will be a decision for Cabinet in July 2017. This tender has been issued on the basis of the contractor quoting for delivery on the 25 acres of existing Council ownership, an additional price for delivery on the Powerrapid land at some point in the future but also an indication of the savings that could be made if the Council was able to acquire the land and both phases could be delivered as part of a single contract.
9. The Council therefore needs to move forward with the acquisition of the remaining parcels of land on the London Road North site. The additional land could deliver an extra 200,000 square feet of Science Park development and approximately an additional 1,300 jobs.

ADDITIONAL LAND ACQUISITIONS

Newhall

10. The Council has an option to acquire the remaining two acres from Newhall Projects at the end of 2020 if Newhall Projects has not brought forward a development in keeping with objectives of the London Road North LDO. However, the Council has commenced discussions with the landowner with a view to bringing this acquisition forward. Newhall Projects has now instructed agents to produce a valuation of the site following receipt of which they will commence negotiations with the Council.

In July 2014 Cabinet agreed to authorise all necessary land acquisitions to deliver the Enterprise Zone with the final decision delegated to the Chief Executive in consultation with the Portfolio Holder for Regeneration & Enterprise. If an acceptable purchase price can be agreed with Newhall Projects, then this process will be followed.

Powerrapid

11. The Powerrapid site is complicated in that a restrictive covenant exists, which makes valuation complex and short 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 5 percent per annum until 2035. Accordingly, the landowner has not brought any development plans forward since it has not been financially advantageous to do so.

12. With the adoption of the LDO and the appointment of a development partner by the Council, 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.
13. 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.
14. The Council is interested in acquiring the site 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 is likely to lead to a significantly higher purchase price in the future. It will therefore likely to be substantially cheaper for the Council to acquire the site in the short term.
15. 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 it is likely to 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 5 percent per year, by the time that the covenant payment is triggered it will be significantly less than now.

16. 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 a Compulsory Purchase Order (CPO). It is hoped that having the authority to proceed to CPO will illustrate the Council's intent to proceed with acquisition.
17. The Council has taken legal advice from external lawyers, Sharpe Pritchard, on this matter and has been assured that there are strong grounds for proceeding via a CPO. Valuation advice on the likely costs of acquisition, fees and compensation has been received from Savills. Additionally, the Council has secured barristers advice from Landmark Chambers in relation to the HCA covenant and the obligations contained therein. It is now felt that for the reasons outlined in paragraph 14, and with the receipt of the necessary legal and valuation advice, the Council is now in a position to utilise its CPO powers to acquire the Powerrapid land.

Funding

18. The purchase of the land will be funded by borrowing to be repaid entirely from the business rates generated from the Enterprise Zone. When the Enterprise Zone was announced for Harlow, the Government also determined that that the uplift in business rates created by the Enterprise Zone would be allocated to the South East Local Enterprise Partnership (SELEP). This has been estimated to amount to £140 million over a 25 year period. However, in June 2016, the Council secured a commitment from SELEP that the Council could retain the first £72 million of business rates from the sites for the purpose of investing in the development of the Enterprise Zone and Harlow. At SELEP's Accountability Board meeting on 26 May 2017 SELEP agreed to authorise use of the business rate uplift by the Council for the delivery of infrastructure on the site, the development of a speculative office building and the purchase of the two remaining pieces of land on the site.

Conclusion

19. 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.

IMPLICATIONS

Place

As contained within the report and appendices.

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

Finance (Includes ICT)

The acquisition of the land will be funded through the retained business rates growth achieved from the development of the Enterprise Zone and as agreed with SELEP.

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

Housing

None specific.

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

Community Wellbeing (includes Equalities and Social Inclusion)

The promotion of economic, social and environmental wellbeing is a core priority for the Council. As previously highlighted Harlow Enterprise Zone plays a key role in helping the Council to fulfil this role by attracting new business to the area and encouraging business start-ups, with the potential to create 5000 new jobs. The acquisition of additional land at London road will further support the objectives of the Enterprise Zone and will increase investment and employment opportunities in the town and will contribute towards social inclusion.

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

Governance (includes HR)

The power conferred on the Council by section 226(1)(a) of the Town and Country Planning Act 1990 enables the Council to exercise its power of compulsory acquisition if it thinks that the acquisition of the land will facilitate the carrying out of the development of the Enterprise Zone development and the Council also thinks that this development is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of its area.

External legal advisors are of the opinion that there is a strong likelihood that a Compulsory Purchase Order would be confirmed.

Specialist advice from Counsel has confirmed that the obligations described in paragraph 11 would probably be discharged should the Council CPO the land.

Compensation (where payable) will be subject to specialist valuation taking into account all existing rights over the land, and statutory heads of loss applicable at that time.

The securing of legal support and advice to seek and secure CPO will require a separate procurement process. Fees for this specialist advice is likely to exceed £50,000.

Author: **Brian Keane, Head of Governance**

Appendices

Appendix A – Former Land Ownership
Appendix B – Current Land Ownership
Appendix C – Master Plan

Background Papers

None.

Glossary of terms/abbreviations used

CPO – Compulsory Purchase Order

EZ – Enterprise Zone

DCLG – Department for Communities and Local Government

HCA – Homes and Communities Agency

LDO – Local Development Order

OJEU – Official Journal of the European Union

SELEP – South East Local Enterprise Partnership