

Update on the Use of Compulsory Purchase Powers and Harlow Council Land to advance the development of the Harlow & Gilston Garden Town



Report to:	Cabinet
Date:	13 February 2025
Portfolio Holders:	Councillor Alastair Gunn Portfolio Holder for Garden Town & Planning Councillor James Leppard Portfolio Holder for Finance
Lead Officers:	James Gardner Managing Director (01279) 446449 Tanusha Waters Assistant Director for Planning and Garden Town (01279) 446595
Contributing Officers:	Will Hales, Senior Assets and Facilities Manager (01279) 446852 Amy Wright, Garden Town District Lead Liaison Officer (01279) 446565 and
Key Decision:	Yes
Forward Plan:	Forward Plan number 1017924
Call In:	This item is subject to call in procedures
Corporate Missions:	Rebuild our Town Secure Investment in Harlow's Future
Wards Affected:	Little Parndon and Town Centre Mark Hall Netteswell

Executive Summary

- A** This report seeks the approval to transfer Harlow Council's freehold interest in the land required for the Central and Eastern River Stort Crossing Schemes to Places for People Developments Limited (company number 04086030) (PfP). This transfer of

land will support the delivery of highways infrastructure associated with the Harlow & Gilston Garden Town Proposals.

Recommended that:

- A** Cabinet recommends to Full Council that Full Council approves (subject to satisfactory negotiations with PfP) the disposal of Harlow Council's freehold interest in the subject land required to deliver the Stort River Crossing Schemes, those schemes being: -
- i) The Central Stort Crossing proposal which comprises, in broad terms, alterations to the existing Fifth Avenue road/rail bridge, and creation of new bridges to support the widened highway to the west of the existing structure to create the Central Stort Crossings, including embankment works, pedestrian and cycle facilities, a pedestrian and cycle bridge over Eastwick Road, lighting and landscaping works and other associated works (East Herts Council planning reference: 3/19/1046/FUL & Harlow Council planning reference: HW/CRB/19/00220); and
 - ii) The Eastern Stort Crossing which comprises, in broad terms, erection of a new road, pedestrian and cycle bridge; replacement of an existing rail bridge at River Way; alterations to the existing local highway network; lighting and landscaping works; listed building works to Fiddlers Brook Bridge; and other associated works (East Herts Council planning reference: 3/19/1051/FUL and Harlow Council planning reference: HW/CRB/19/00221).

Such land disposal to be via private treaty to PfP and to include all necessary land currently within the ownership of Harlow Council; and any land acquired by Harlow Council as part of the land assembly for the Stort River Crossing Schemes.

For the avoidance of doubt, the Recommendation above involves the resolutions made by Full Council on 29 October 2020 detailed in Council Minute 36. remaining extant, except for the Resolution recorded in Minute 36. a) ii) that *"Full Council, in principle, where Harlow District Council is landowner, or through the process of acquisition (including under CPO) would become landowner, the Council agreed to retain ownership but grant licence for infrastructure works on that land..."*. However, that resolution recorded in Minute 36. a) ii) shall remain extant if Officers are unable to negotiate satisfactory terms with PfP for the freehold transfer of the subject land.

- B** Cabinet delegate to the Managing Director in consultation with the Portfolio Holder for Finance the authority to negotiate and finalise the terms of the freehold land disposals and (subject to being satisfied that it would be for the best consideration reasonably obtainable and on terms that comply with the Council's statutory and common law duties) thereafter procure the legal completion of the sale documentation.

Reason for decision

- A** To enable Harlow Council to take the necessary actions in respect of its land in order to facilitate and support the wider Harlow and Gilston Garden Town (HGGT) Proposals, whilst mitigating its risk.
- B** Harlow Council has committed to the HGGT Proposals including approval of the HGGT Vision on 6 December 2018 and the process of working together with the other HGGT Partner Councils' *"to ensure plans for the Garden Town support sustainable living and a healthy economy; provide a good quality of life for existing and future residents; and respond to local landscape and character"*. The HGGT Vision contains reference to: *"transformative investment in transport and community infrastructure"*; *"new villages to the north"* of Harlow; and identifies within the Vision diagram the new / improved River Crossings, and commits to improvements to the strategic road network including *"a new road link across the River Stort"* and *"improvements to the Central Stort Crossing"*. The HGGT Vision aspirations have been further reinforced by the HGGT Transport Strategy 2022.
- C** Harlow Local Development Plan Policy SIR1, Infrastructure Requirements, states *"The Council will work with infrastructure and service providers, other statutory bodies and neighbouring local authorities to deliver the timely provision of infrastructure necessary to support development in the Harlow and Gilston Garden Town"* and the Policy and Harlow Local Development Plan Proposals Map reference the two River Crossings.
- D** As demonstrated above, Harlow Council has publicly considered and stated support in principle for the growth in the Gilston Area as positive in supporting the district's wider growth strategy and to sustain the district as a sub-regional centre. Furthermore, Harlow Council has indicated clear support for the delivery of infrastructure, in particular in respect to transport, both generally and with specific reference to the Stort River Crossings, for providing links to and from Harlow and the new Garden Communities, to mitigate the impacts of development and support sustainable travel.

Background

1. On 15 October 2020 Harlow Council's Cabinet considered a report on the potential use of CPO powers to assemble land to support the HGGT Proposals and the associated use of land within Harlow Council's ownership. Pursuant to that report, Cabinet recommended to Full Council that: -
 - A** *"...in principle, the Council agrees to use powers available to it under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily purchase land within the District to support development where in conformity with the Harlow Local Development Plan (subject to its adoption) in order to achieve the planning benefits set out within the Plan..."*.
 - B** *"...in principle, where Harlow District Council is landowner, or through the process of acquisition (including under CPO) would become landowner, the Council agrees to retain ownership but grant licence for infrastructure works on that land provided that:*

- i) The infrastructure is intended for a public purpose, benefit or public adoption;*
- ii) there are no legal restrictions preventing this from happening;*
- iii) it does not materially undermine another purpose for which the Council requires the land or there are compelling reasons to dispose of a freehold interest; and*
- iv) Where appropriate, the Council receives appropriate costs/compensation, indemnities and other arrangements considered necessary.”*

C “Subject to East Herts District Council resolving to follow the same course of action, Cabinet recommended to Council that, in principle, it also agrees to use the powers set out in recommendation A should that be necessary to compulsorily purchase land in the Burnt Mill and River Way areas of the District, to enable the construction of transport infrastructure to support development in the Harlow and Gilston Garden Town including the delivery of The Gilston Area allocation and The River Stort Crossings in the East Herts District Plan and the achievement of the wider strategic planning benefits referred to in the report including supporting the future Harlow Local Development Plan.”

D “Cabinet and Council note that officers will prepare for any possible Compulsory Purchase Order(s) (CPO) including any associated Indemnities on behalf of the Council in accordance with the agreements under Recommendations A and C; and, where considered necessary to make a CPO, the Head of Governance, in consultation with other Heads of Service of the Council as may be necessary, will bring each matter back to Cabinet seeking authority to do so.”

E “Cabinet delegate authority to the Head of Finance and Property and Deputy to the Chief Executive, in consultation with other Heads of Service as may be necessary, to negotiate and agree and legally complete lease or licence or other arrangements for the delivery of infrastructure works on its land on a case by case basis on behalf of the Council in accordance with the agreement under Recommendation B.”

2. Those recommendations were approved by Full Council on 29 October 2020. Since then, the Harlow Local Development Plan was adopted on 10th December 2020, and the HGGT Proposals have continued to progress. Homes England entered into a grant funding agreement called the ‘Housing Investment Grant’ with Hertfordshire County Council (HCC) to procure delivery of, amongst other things, the Stort River Crossing Schemes. HCC has, in turn, entered into agreements with PFP and Essex County Council (ECC) to passport the grant funding to those parties to enable them to procure and deliver those works.
3. Further, planning permission for the Stort River Crossing Schemes was granted by the Council’s Development Management Committee on Wednesday 23 February 2022 under applications HW/CRB/19/00220 relating to the Central Stort River Crossing and HW/CRB/19/00221 relating to the Eastern Stort River Crossing. Replica applications for both Stort Crossings were approved at the same time by East Herts District Council.

4. It should also be noted that the HGGT Partner Councils' have adopted an updated Infrastructure Delivery Plan (IDP) in 2023. This supports developments allocated in local plans in the HGGT area by setting out an updated list of infrastructure requirements for each allocated site. This includes the need for the Stort Crossings to be delivered.
5. In addition, the outline planning application submitted by PfP for 8,500 new homes at Gilston, and the outline planning application submitted by Taylor Wimpey for 1,500 dwellings were approved by East Herts District Council on 9 January 2025, following their Development Management Committee resolving on 28 February and 23 March 2023 that permission be granted subject to the finalisation of conditions and completion of a Section 106 agreement to secure the necessary infrastructure.
6. Pursuant to Recommendation D in Harlow Council's 29 October 2020 Cabinet report and the progress with the HGGT Proposals described above, a further report was considered by Harlow Council's Cabinet on 24 March 2022.
7. The 24 March 2022 Cabinet report approved proposals for the making and sealing of a Compulsory Purchase Order to facilitate land assembly for the Stort River Crossing Schemes; the delegation of authority for Officers to enter into all documentation on behalf of the Council in connection with the making, confirmation, submission or implementation of the Compulsory Purchase Order; and Officers taking steps to negotiate agreements with any landowners or occupiers of land included within the Compulsory Purchase Order.
8. Appended to this report is both the 29 October 2020 and 24 March 2022 Cabinet reports which contain the factual background to the proposed Compulsory Purchase Order, the HGGT Proposals, and the intended Stort River Crossing Schemes, and those reports should be read in conjunction with this report.
9. The current strategy of the HGGT Partner Councils' is, in the first instance, to allow PfP as the main landowner and developer of the Gilston area to negotiate with third party landowners, as necessary, to acquire by agreement any third party owned land required for the delivery of the Stort River Crossing Schemes.
10. If the outcome of those negotiations is unsuccessful, the strategy is then, as a matter of last resort, to use of powers available under the Town and Country Planning Act 1990 to compulsorily purchase the necessary land.
11. As noted within Harlow Council's 15 October 2020 Cabinet report, the original intention was for Harlow Council to facilitate the delivery of the Stort River Crossing Schemes by making its land available to PfP via a construction licence or lease, however that 'in principle' agreement was subject to compliance with Harlow Council's statutory and common law fiduciary duties. Through engagement with the HGGT Partner Councils' and PfP, in contrast to that initial intention, it has been agreed in principle for Harlow Council to transfer the subject land directly to PfP, which will maintain compliance with Harlow Council's legal obligations and absolve Harlow

Council of landowner risks during the construction and pre-adoption phase of the works.

12. The approach described above is considered to represent the best available solution for Harlow Council to facilitate the delivery of the Stort River Crossing Schemes, whilst ensuring lawfulness and mitigating the Council's commercial risks.

Issues/Proposals

13. Sale of the subject land by private treaty in the absence of a full marketing campaign is consistent with the Council's Contract Standing Orders due to the special purchaser status of the proposed buyer, PfP.
14. In the absence of a full open marketing campaign, should Cabinet and Full Council approve the recommendation set out within this report, Officers will be required to commission an updated independent valuation to evidence that best value has been obtained for the purpose of compliance with s123 of the Local Government Act.
15. Environmental impacts of the proposed development and enabling works have been assessed in the original planning applications related to the Stort River crossings and found to be acceptable.
16. Cabinet are asked to note that a small section of the land intended to be transferred to PfP is currently occupied by the ECC run Outdoor Pursuits Centre who use it as an outdoor archery range. The loss of that land for future highways use may jeopardise the ongoing viability of the outdoor archery range in its present state. Harlow Council is working with Partner Councils to facilitate a solution.
17. Part of the land required for the Eastern River Stort Crossing Scheme is subject to Homes England clawback, which will be triggered on a change of use or disposal. Harlow Council has made contact with Homes England to progress agreement concerning the discharge of that clawback liability.
18. So far as the Central Stort Crossing is concerned Harlow Council has successfully undertaken the necessary public consultation under the Local Government Act s123(2a) to allow for the lawful disposal of those parcels of land that are considered public open space. No objections arose during the consultation.

Implications

Equalities and Diversity

An Equalities Impact Assessment was completed 09 March 2022 to assess *"the possible impact, in accordance with the Public Sector Equality Duty ("PSED"), of the CPO and the strategic infrastructure works to be undertaken as a result of the CPO (the "Works")"*. A copy of the assessment is included at Appendix 5 to this report.

Climate Change

The River Stort crossing schemes are intended to promote sustainable transport options, which it is believed will have a positive impact on climate change. The planning permissions for the Stort crossings require the submission of an 'Energy and Sustainability Strategy' for each phase of that proposed development, and this ensures that the Stort Crossings deliver an appropriate carbon balance and allows flexibility to adopt new and improved techniques and technology.

Further details on environmental matters such as air quality can be found in the Environmental Statement accompanying the River Stort crossing planning applications. The Stort Crossings primary objective is to enable the delivery of a sustainable transport corridor (STC) to serve Harlow and the wider HGGT area. This facilitates the road space needed to enable the delivery of the STC network to serve existing and new communities.

Finance

The council is expected to receive a capital receipt from the land disposal, and will ensure that it follows best value requirements from section 123.

Author: Jacqui Van Mellaerts, Assistant Director – Finance and Deputy Section 151 Officer

Governance

As contained in the Report.

The price and terms of the land disposal shall comply with the Council's statutory duties, its common law fiduciary duty to the taxpayer and with the land disposal provisions in Contract Standing Orders

Author: Mark Alexander, Senior Legal Executive

Appendices

Appendix 1 – Harlow Council Cabinet report entitled '*Resolution in principle to use compulsory purchase powers and Harlow Council land to advance the development of the HGGT*' and dated 15 October 2020.

Appendix 2 – Harlow Council Cabinet report entitled '*Harlow District Council (The SIW Harlow) Compulsory Purchase Order 2022*' and dated 24 March 2022.

Appendix 3 – Map H1 showing broadly the land required for the Stort River crossing schemes.

Appendix 4 – Map H2 showing broadly the land required for the Stort River crossing schemes.

Appendix 5 – Equalities Impact Assessment Form.

Background Papers

Harlow Local Development Plan (2020): <https://www.harlow.gov.uk/planning-and-building-control/planning-policy/local-plan/local-plan-documents>

HGGT Infrastructure Delivery Plan (2023): <https://hgg.co.uk/portfolio/infrastructure-delivery-plan-2/>

HGGT: Re-Imagining How We can Travel Differently – Modal Transition Delivery Framework (2024): <https://hggd.co.uk/portfolio/reimagining-how-we-can-travel-differently/> (2024): https://hggd.co.uk/wp-content/uploads/2019/08/190128_Vision-document_HIGH-RES.pdf

HGGT Transport Strategy (2022): https://hggd.co.uk/wp-content/uploads/2022/10/221020_HGGT-Transport-Strategy8.pdf

HGGT Vision (2018): https://hggd.co.uk/wp-content/uploads/2019/08/190128_Vision-document_HIGH-RES.pdf

Reports relating to the planning permissions for the Stort River crossings schemes

<https://moderngov.harlow.gov.uk/ieListDocuments.aspx?CId=141&MId=1386&Ver=4>

Glossary of terms/abbreviations used

Full Council: the full council meeting of the Council.

The Harlow Local Development Plan: The Harlow Local Development Plan adopted 10 December 2020.

HGGT Partner Councils’: Harlow District Council; East Herts District Council; Epping Forest District Council; Hertfordshire County Council and Essex County Council.

HGGT Proposals: means the Harlow and Gilston Garden Town that is comprised of the following developments shown on the map in the HGGT Vision:

- (a) 16,500 homes in the strategic growth areas (collectively referred to as the new Garden Communities) known as:
 - v) Gilston Area, located in East Hertfordshire District – 10,000 units across seven distinct villages, with at least 3,000 to be delivered by 2033;
 - vi) East of Harlow, located in Harlow and Epping Forest Districts – 3,350 units;
 - vii) Water Lane Area, located in Epping Forest District – 2,100 units;
 - viii) Latton Priory, located in Epping Forest District – 1,050 units; and
- (b) Employment related development at the following allocated sites to deliver the equivalent of 25-29ha of new employment land (55,000sqm of offices and 205,000sqm of industrial and warehousing) by 2033 in addition to Harlow Town Centre
 - i) 4.6ha within Harlow Business Park, at the Pinnacles for B1 uses
 - ii) 14.2ha within the Enterprise Zone at London Road, for B1 uses
 - iii) 2.2ha within the Enterprise Zone at East Road, Templefields for replacement industrial floorspace
 - iv) 1ha at Dorrington Farm, Latton Priory for B1 uses
 - v) 1ha at the new Garden Community at Latton Priory
 - vi) 5ha at the new Garden Community in the Gilston Area for B1, B2 and B8 uses
- (c) Two primary Sustainable Transport Corridors (STCs) that will support active travel as well a mix of high-quality public transport options. These STCs will run north to south and east to west connecting the central area and neighbourhoods and employment areas of Harlow with the new Garden Communities in Gilston, East of Harlow, Latton Priory and Water Lane.