

Cabinet

18 July 2018



Title	Use of compulsory powers to enable development – 15 London Road and an unregistered site next to it, Staines upon Thames		
Purpose of the report	To make a decision		
Report Author	Heather Morgan, Group Head Regeneration and Growth Michael Graham, Head of Corporate Governance		
Cabinet Member	Councillor Colin Barnard	Confidential	No
Corporate Priority	Housing		
Recommendations	<ol style="list-style-type: none">1. The Cabinet approves the principle of the Council’s willingness to use compulsory powers to acquire or appropriate third party land and buildings for planning purposes, shown edged red on the plan in Appendix 1 of this report and such other incidental and adjoining interests in land which would facilitate and enable viable and deliverable development in connection with the creation of a housing development at 17-51 London Road in order to improve the Borough’s economic, environmental and social wellbeing.2. The Head of Regeneration Growth in consultation with the Cabinet Members for Finance and Planning and Economic Development be authorised to undertake preparatory work up to an initial budget of £150,000 for the making of a compulsory purchase order.3. Members should note the use of compulsory powers are subject to:<ul style="list-style-type: none">• The Council using reasonable endeavours to assemble the development site by agreement or private treaty.• Approval by the Planning Committee of a suitable scheme for the comprehensive development of this site and 17-51 London Road• The Council being satisfied that there is a viable business plan and funding strategy, together with a preliminary property cost estimate detailing the costs of making and confirming any CPO and/or appropriation; and		

	<ul style="list-style-type: none"> • In the event the Council and its development partners are unable to assemble the development land by agreement or private treaty, that a further report is presented to the Cabinet seeking authority to make a full and unconditional Compulsory Purchase Order for the site and to acquire or appropriate the site for Planning purposes
<p>Reason for Recommendation</p>	<p>This report seeks confirmation of the Council’s willingness, in principle, to use compulsory purchase and / or appropriation powers in order to enable development of the 15/17-51 London Road, Staines-upon-Thames.</p> <p>Government guidance in Circular 10/2015 ‘Compulsory purchase and the Crichton Down Rules’ make it clear that compulsory powers should only be exercised where there is a compelling case in the public interest.</p> <p>Knowing the Council is prepared to use compulsory purchase powers may be sufficient to bring parties to the negotiating table. However, the report also seeks specific authority to commence preparatory compulsory purchase procedures in respect of the site so that the Council will be in a position to proceed quickly to make a Compulsory Purchase Order so that it can acquire all necessary interests in the land to enable development.</p> <p>Officers would be required to obtain further Cabinet Authority prior to the making of a Compulsory Purchase Order or appropriating land or rights over land.</p>

1. Key issues

- 1.1 The site has been the subject of a number of redevelopment proposals, the first of which was granted planning permission in 2007. A range of different schemes have been approved, all of them have been mixed use. Initially the proposals were office based with elements of retail use and one included a hotel. The most recent proposals have been residential led.
- 1.2 The extent of the site that has been identified by the Council for development of a new residential use is shown coloured green on the attached plans.
- 1.3 The site 17-51 London Road is currently cleared and the planning permission has been granted for redevelopment of the site to provide 5 buildings of varying height comprising 12,787 square metres of office floor space (Use Class B1a) and 253 residential units (Class C3), provision of a new landscaped area, vehicular access, car parking, cycle storage and energy centre.

The site remained undeveloped for a long time; the building was demolished 10 years ago. We have had four major planning applications since 2006 as well as numerous reserved matters proposals and other planning applications.

To date, none of these permissions have been followed through to construction. The site is located in a strategic position on the main entrance to Staines from the M25 and A30 road network and its vacant, boarded up appearance with the prominent former Fireworks' shop (no. 15) has a detrimental impact on the character and appearance of the area and gives a very poor impression of the town from one of the key entrances.

- 1.4 There are a number of office buildings on the opposite side of London Road which are having difficulty letting space due to the poor condition of the site opposite. This holds back inward investment and new businesses relocating into the borough which we need to boost economic regeneration. The fact that the site has not come forward is hindering new residents coming into the town centre to make it a more vibrant and sustainable retail centre; extra housing will help meet the Borough's growing needs. The development would significantly improve this area of town centre and uplift the centre more generally, being located with frontage onto London Road, Staines.

2. Options analysis and proposal

- 2.1 There are two options:

- (a) Do nothing and allow market forces alone to determine whether the land is finally developed in accordance with the Council's aspirations. This option is not recommended due to already prolonged delays and further possibility that terms will not be agreed between the parties. If terms are not agreed then it is unlikely that this key site will be developed in the foreseeable future.

- (b) To confirm, in principle, the Council's willingness to use compulsory powers to facilitate development of this site and to further economic development, environmental and social well-being objectives in the Borough principally through the provision of increased housing and a comprehensive development on a key road into Staines Town Centre. This is the **recommended option** as it gives a clear message to all parties of the importance to the Council of redeveloping this site to further the economic, environmental and social well-being of the Borough.

3. Statutory powers

- 3.1 The Council has wide ranging powers for the acquisition of sites including Part IX of the Town and Country Planning Act 1990. The 'Guidance on Compulsory purchase process and The Crichel Down Rules' states that the purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought
- 3.2 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) gives a local authority the power to compulsorily acquire land in its area if it thinks that the acquisition will facilitate a development, re-development or improvement on or in relation to the land. However, the power must only be exercised if the authority thinks that the development, redevelopment or improvement is likely to contribute towards the economic, social or environmental well-being of the Council's area.

- 3.3 Section 226(1)(b) of the 1990 Act provides for the compulsory acquisition of land where it is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area.
- 3.4 Section 17 of the Housing Act 1985 authorises local housing authorities to compulsorily purchase land, houses or other properties to provide housing accommodation. The Section includes the power to dispose of the land, houses or other buildings to a person who intends to so provide.
- 3.5 Section 121 of the Local Government Act 1972 provides the general power of compulsory purchase (subject to certain constraints) in conjunction with other enabling powers to acquire land compulsorily for the stated purpose. This section can also be used where land is required for more than one function and the differences between uses are not clearly defined.

The statutory guidance states that the acquiring authority should choose the most appropriate power available and only use a general power when a specific power is not available.

4. Legal implications

- 4.1 The use of the powers in Section 226(1) (a) of the Town and Country Planning Act 1990 looks to be the most relevant power here because the acquisition of all the various interests in the land shown on the plans would facilitate the redevelopment of the site in accordance with the Council's policy framework. The development of this site and the regeneration opportunity it would create would contribute to the economic, environmental, and social well-being of the Borough.
- 4.2 The use of compulsory powers overrides all ownership rights in land, and therefore a local authority has to demonstrate that there is a compelling case in the public interest for compulsory acquisition of land in order to convince the Secretary of State to confirm a CPO. However, in cases where it is thought that it may be necessary to use the power in order to assemble a redevelopment site if negotiations break down, it is usual to commence the preparatory work for making an order in tandem with the conduct of negotiations for acquisition of the land by agreement. Indeed, negotiation will continue throughout the process. The report seeks confirmation in principle of the Council's willingness to use compulsory purchase powers, and authority to commence preparatory work, in order to be in a good position to progress further if so required.
- 4.3 The making and confirmation of a Compulsory Purchase Order means that the acquiring authority can force owners and occupiers of the land to transfer their property interest to the Council and vacate the land. It has the potential therefore to interfere with a person's human rights in respect of the enjoyment of their property, or their home. The extent of the harm must be assessed and weighed against the public interest in achieving the regeneration at the time when a local authority is considering making a CPO. The carrying out of preliminary work as is recommended here is not likely to interfere with the human rights of any person interested in the land.

5. Risk Management

- 4.1 Legal challenge is unlikely at this stage because there is no legal liability attached to an in principle decision that does not bind the Council to use its CPO powers. At this stage this report is a broad description of policy ambitions. This report does not fetter the discretion of the Council to make a different decision when it comes to consider all the factors associated with making a full CPO. The Planning Committee will have full discretion in its assessment of any comprehensive scheme which comes forward for these two sites.

6. Financial implications

- 6.1 Financial advice on the likely costs associated with the CPO are attached as Confidential Appendix 2 to this report.
- 6.2 External consultant appointments would be required if compulsory purchase proceedings were instigated in accordance with the recommendation (2) and the work would be (broadly) as follows:
- (a) Consultants to prepare a Land Referencing report;
 - (b) External valuers to advise on the value of the interests identified in the Land Referencing report and to negotiate an acquisition of these interests, together with appropriate costs for disturbance, ahead of any enquiry;
 - (c) External planning consultants and legal advisors
- 6.3 There would be a requirement for internal officer time from Asset Management and Legal Services departments in managing these external consultants and in preparing a Statement of Reasons.

7. Other considerations

- 7.1 A full Equalities Impact Assessment will be undertaken, as part of the preparatory work, to identify any equalities issues that may be associated with the use and occupation of the site. The Council is aware that the use of CPO can impinge on the rights of individuals under the Human Rights Act. Full regard will be paid to this in the development of any proposals and in negotiations with land owners.

8. Timetable for implementation

- 8.1 If negotiations are not successful and the Council were to proceed with compulsory purchase proceedings, the overall time from the Resolution to use CPO powers and obtaining possession of the relevant interest(s) could be between 6 and 18 months from the making of the CPO. The length of time depends upon whether or not an inquiry is required, the length of that enquiry, and the extent of valid objections to the CPO.
- 8.2 In the event that Council did initiate compulsory purchase proceedings, a specific process has to be followed. Prior to the making of a Compulsory Purchase Order (CPO), there are a number of steps to be followed:

(a) Formulation

This is an initial information-gathering exercise to decide that land is required for some particular purpose or scheme, in accordance with the Council's policy framework as set out above, and that the Council is prepared to use compulsory purchase powers to assist in achieving this. This report is effectively the completion of Stage 1, since the site has already been identified and the purpose that the proposed development would fulfil is known.

(b) Referencing

This is an exercise to collect and record information on land ownership and occupation so that all legal interests in, or rights to occupy, the land are identified. This is specialist work and external consultants will be appointed to undertake this work and prepare a report.

(c) Preparation of the CPO and Statement of Reasons

The CPO is the document that contains details of the Act authorising the acquisition, the purpose for which the CPO is being made, the land involved and the names of the owners and all other persons who have an interest in or enjoy rights over the land. External consultants will be appointed to undertake this work. The Statement of Reasons is a document that sets out the authority's reasons for seeking to acquire the land.

(d) Resolution

This is the formal Resolution of the Council to use compulsory purchase powers.

This Resolution can be obtained prior to steps (a) and (b) above. However, since it is not yet known if it will be necessary to use compulsory purchase powers, this report is seeking an in principle decision only until it is known, or expected, that there is no other option available. A further report will be brought to the Cabinet should a resolution be required to make a CPO.

Background papers: There are none.

Appendices:

1 – plan for 15 London Rd

2 - financial costs of CPO (confidential)