

<b>TITLE</b>	<b>Compulsory Purchase Order (CPO) – In-Principle Resolution</b>
<b>FOR CONSIDERATION BY</b>	The Executive on 30 March 2017
<b>WARD</b>	Wescott
<b>LEAD OFFICER</b>	Andy Couldrick, Chief Executive
<b>LEAD MEMBER</b>	Mark Ashwell, Executive Member for Planning and Regeneration

**OUTCOME / BENEFITS TO THE COMMUNITY**

- Enables the necessary steps to be taken to secure the acquisition of all necessary land interests to deliver the regeneration of the Carnival site as shown on the map at appendix A ("the Site"). In particular it:
  - Gives officers specific authority to begin the process of making the CPO
  - Indicates to third party landowners that the Council intends to take all necessary steps to acquire the necessary land interests to enable regeneration of the Site to proceed
  - Secures the appropriate authority for land requisition notices to be served on third party landowners
  
- Focuses the Council's resources on achieving the desired outcome, often enabling the programme to be driven forward. This is a plan-led regeneration project which is supported by the planning and corporate policies of the Council and is a key part of the regeneration of Wokingham Town Centre.

Secures the delivery of the regeneration of the Site and the consequential benefits to the local community which will be delivered in consequence of it.

**RECOMMENDATION**

That the Executive:

- 1) agrees to authorise in-principle the making of a compulsory purchase order ("CPO") to acquire the necessary interests in the land shown indicatively by the hatched area on the annexed plan required to deliver the proposed regeneration of the Site pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and, in the case of any new rights, pursuant to section 13 of the Local Government (Miscellaneous Provisions) Act 1976, because it considers that:
  - (a) the acquisition will facilitate the carrying out of the development, redevelopment or improvement of land; and
  - (b) the development, redevelopment or improvement of the land is likely to contribute to the achievement of any one or more of the promotion or improvement of the economic, social and environmental well-being of Wokingham.
  
- 2) agrees to authorise the Chief Executive, in conjunction with the Leader and Executive Member for Planning and Regeneration, to take all necessary steps to commence the process for the making, confirmation and implementation of the

CPO, including securing the appointment of suitable external advisors and preparing all necessary CPO documentation;

- 3) notes that a further report will be put before the Executive to approve the final extent of the land to be acquired following the finalisation of the necessary preparatory work.

### **SUMMARY OF REPORT**

The purpose of this report is to consider the making of a CPO to achieve the regeneration of the Site (see map at Appendix A).

The regeneration of the Site has been a corporate and planning objective of the Council for many years. The Council has previously referred to the use of compulsory purchase powers to assemble the Site in the Wokingham Core Strategy 2010, and it has subsequently demonstrated its intent to deliver town centre wide regeneration on other sites within the town by acquiring various land holdings by private treaty arrangements and, where necessary, through the use of Compulsory Purchase Orders.

A hybrid planning application for the development of land known as Carnival Pool, which includes the Site, was approved by the Council as Local Planning Authority in August 2015 (reference O/2015/1056). The hybrid planning application was split into two phases. The detailed consent was for Phase 1 of the development (a new multi-storey car park and bowling alley) and is currently being constructed. Outline consent was granted for Phase II of the development (comprising the Site) (leisure-led mixed use development), with all matters except land use and quantum of land use reserved (O/2015/1056). A detailed planning application for Phase II is expected to be submitted to the Local Planning Authority in early summer 2017.

The Council has endeavoured to acquire all necessary land interests within the Site by negotiation. This has not however been possible, at this stage. The Council considers that the failure to assemble all necessary land interests could delay delivery of the regeneration of the Site. It is therefore appropriate for the Council to now consider use of its compulsory purchase powers. The Council considers that the use of such powers is in accordance with national and local policy.

## Background

The Site currently includes a swimming pool with ancillary uses, a dated bowling alley facility, an office building (constructed 2001) with ancillary parking and a public Right of Way on the western edge of the Site. The buildings on the Site have a poor relationship with the surrounding area; being inward facing from the highway and pedestrian routes; and having a negative impact on the public realm and environmental quality of the area. The buildings are poor quality and disparate in their design, having been constructed at different times and they do not relate to each other or the surrounding environment. The regeneration of the Site has been a longstanding corporate and planning policy objective of the Council.

In 2010, the Core Strategy for Wokingham identified one of the aspirations and spatial issues that needed to be addressed by the Council as the "*renaissance of Wokingham and other town centres*" (paragraph 2.68). More particularly at paragraph 2.84 it stated:

*"[Wokingham] town centre is the largest retail centre in the borough and its range of facilities and services is recognised in both LPS2 and appendix 3 [of the Core Strategy]. The sustainability of the town may be undermined unless schemes are developed which support its vitality and viability, particularly so it can retain trade that might otherwise leak to the centres of Reading or an improved Bracknell. During the plan period there are likely to be opportunities for a number of significant developments within the town centre. The Council recognises that development around Wokingham could help reduce traffic flows through the town and would support the vitality and viability of the centre through increasing its population".*

Core Policy 14 expressly deals with the growth and renaissance of Wokingham Town Centre:

*"Wokingham, as a major town centre in Berkshire is considered suitable for growth. Proposals should retain and enhance the historic market town character of Wokingham and maintain its position in the Berkshire retail hierarchy by:*

1. *Strengthening shopping in the retail core to reduce leakage of expenditure;*
2. *Conserving and enhancing historic quality and interest;*
3. *Improving existing public space;*
4. *Ensuring development cumulatively provides and maintains:*
  - a) *A wide range of services, learning opportunities, community facilities and tourist facilities that complement existing provision;*
  - b) *Housing;*
  - c) *Office accommodation;*
  - d) *Public open space providing for a range of activities;*
  - e) *Leisure and entertainment;*
  - f) *Improved pedestrian links between the station and the shopping streets;*
  - g) *Improved pedestrian and cycle links between the centre and other parts of the town;*
  - h) *Appropriate car parking to facilitate a viable and sustainable town centre;*
  - i) *Enhanced environmental and design quality.*

*The use of compulsory purchase powers to facilitate site assembly and the*

*delivery of renewal and regeneration schemes”.*

Paragraph 4.69 of the Core Strategy explains that:

*“Improving the centre means that it can better meet the needs of residents and prevent decline associated with loss of expenditure following expansion in nearby larger centres. The Retail Study indicates proposals within the town centre should contribute towards lengthening the time visitors stay (including into the evenings), as this will contribute towards the vitality and viability of the centre. The Retail Study (see table 4.1 earlier) indicates that there is scope for additional comparison floorspace in the centre to help reduce the current leakage....”*

In the same year, the Wokingham Town Centre Masterplan was adopted by the Council. It describes the Council's key objective for the Site as:

- The town centre leisure offer and evening economy will be enhanced through the redevelopment of the Carnival Pool area to provide a mixed leisure quarter, with sports and cinema uses integrated to improve and extend the existing swimming pool at Carnival Pool.

In addition the Masterplan identified the area adjacent to the Site for “Enhanced provision of at least 300 car parking spaces, supplementing provision around the leisure quarter, contributing to capturing principal routes into the town centre.” This enhanced car parking provision is currently under construction.

And more recently, in February 2014, the Managing Development Delivery Local Plan was adopted by the Council which sets out how the vision in the Core Strategy will be delivered. Policy SAL08 allocates the Site and the area adjacent to the Site as suitable for mixed use redevelopment:

*“Land at Carnival Pool, Wokingham, for the delivery of D1 (community uses), D2 (leisure uses) flexibility for A3 (restaurants & cafes), A4 (drinking establishments) and C3 (residential) development”*

Further to the adoption of the Town Centre Masterplan and Managing Development Delivery Plan planning consent was granted for a three-screen “boutique” cinema and 95-bed hotel within the Elms Field scheme to the north of the Site (planning reference 153125) in April 2016. Therefore these uses are no longer being pursued on the Site.

The Council has and continues to remain committed to securing regeneration of the Site in accordance with the above policy. The vision for the town centre sees Wokingham as:

- The number one place for people to live in the UK.
- A town centre that is home to a thriving retail and business economy with a diverse leisure and recreation offer, and which provides high quality living at the heart of the Borough.
- A town centre that not only builds on the existing strengths and unique character of the Town, but also forms the heart of the surrounding community with a high quality and active public realm that attracts and promotes the well-being of its

residents, working population and visitors alike.

The Council further considers that the Site represents a significant opportunity to improve the leisure facilities in Wokingham. Regeneration of the Site will further deliver significant environmental improvements by replacing tired poorly designed buildings with high quality well designed buildings which are complementary and in keeping with the surrounding townscape.

## **The Scheme**

In April 2015, a hybrid planning application (reference number O/2015/1056) for the regeneration of the Site and adjacent land was submitted to the Local Planning Authority. The proposal for which planning permission was sought comprised:

*"Part redevelopment and part retention and refurbishment of existing buildings to provide a mixed use leisure led development at the Carnival Pool and adjoining land, including Class D2 Assembly and Leisure, B1 Business, C3 Residential and complimentary Retail (Class A1, A2, A3, A4, A5), and construction of a new multi-storey car park and new public spaces, as part of the regeneration of Wokingham Town Centre."*

The hybrid planning application was approved by the Council as Local Planning Authority and planning permission was granted in August 2015 ("the Planning Permission"). The hybrid planning application was split into two phases. The detailed consent was for Phase 1 of the development (a new multi-storey car park and bowling alley) and is currently being constructed on Site. Outline consent was granted for Phase II of the development (comprising the Site) (leisure-led mixed use development), with all matters except land use and quantum of land use reserved.

A detailed planning application for Phase II is expected to be submitted to the Local Planning Authority in early summer 2017. This will include the enhancement of leisure facilities on the Site as envisaged by the Planning Permission, as well as complimentary D1 and A-uses and C3 residential uses ("the Scheme").

The proposed Scheme is in line with the Development Plan for the Site and is supported by national planning policy and guidance. It will deliver regenerative benefits to the town centre of Wokingham and will make a significant contribution to the improvement of the economic, social and environmental well-being of the town. In summary, it is considered that the Scheme will deliver the following public benefits:

### Economic Benefits

The Scheme will deliver new and enhanced leisure facilities on the Site, which will form part of the new leisure operating contract for Council facilities across the Borough and attract other new operators into the town centre. New facilities and operators will add to the vitality and economic performance of the centre in line with approved planning policy. In turn, this will assist in increasing footfall and dwell-time to the benefit of the town.

The Scheme will create new jobs and valuable investment into the local area. It is predicted to create in the region of 60 (net) new jobs, with a further circa 110 jobs per annum during the construction phase. In gross value added (GVA) terms, once the

Scheme is operational, approximately £2.64M per annum will be secured for the local economy.

### Environmental Benefits

The Scheme will make much more efficient use of prime town centre land and will deliver significantly improved public realm within the town centre. It will provide a high-quality environment both within the Site but also along a key pedestrian desire line from the new multi-storey car park in the southern part of the Site north across Wellington Road into the new Elms Field development and on into the heart of the town centre and vice versa. The Elms Field development has been designed in parallel with the Scheme to ensure good pedestrian connectivity and the provision of a high quality public realm.

The Scheme will also improve the visibility of the Site which currently has a poor frontage relationship along Wellington Road and the Carnival Pool roundabout (Wellington Road, Denmark Street, Finchampstead Road junction) with the existing buildings either presenting their rear frontage to Wellington Road or hidden behind poor quality green landscaping.

The Scheme will meet appropriate sustainability objectives in line with recently approved planning policies and will thereby ensure that climate change considerations are secured.

### Social Benefits

The proposed Scheme will enhance the leisure offer in order to better cater for the needs of the existing and future residents. The proposed leisure facilities will form part of the wider Council strategy for leisure facility provision across the Borough. Town centres are increasingly becoming places to meet and socialise, as well as to shop and access services, and improved leisure facilities in this location will provide additional opportunities for residents and visitors to visit the town centre and increase their dwell time within it.

The proposed residential provision and mix of units will also add to the stock of housing in a highly sustainable location and help meet wider planning objectives in terms of housing land supply.

The opportunity to target newly created jobs to local people via an employment and skills plan will also be implemented by the Council.

### **Proposal**

The Council has sought for some time to assemble land ownership of the Site and adjacent land (required for the Phase 1 development). A significant part of the Site is already in the ownership of the Council but it is not been possible to secure every interest in third party ownership. The Council considers that the failure to acquire all necessary land interests by agreement has the potential to delay regeneration of the Site.

Having regard to the advice in 'Compulsory purchase process and the Crichel Down Rules: guidance' (October 2015) ("the Guidance"), the Council considers it appropriate to seek an early in-principle resolution to commence preparation for the making of a

CPO to acquire any outstanding land interests. In particular, the Guidance recognises that compulsory purchase is an important tool to use as a means of assembling the land needed to help deliver social and economic change and encourages local authorities to consider using their compulsory purchase powers in a proactive way to ensure that benefits are secured for residents and the business community without delay.

The Council considers that the benefits of such a resolution are:

- It gives officers specific authority to begin the process of making the CPO, including authorising officers to incur CPO costs and enter into any necessary agreements, for instance in respect of the appointment of external advisors or the acquisition of third party interests by agreement.
- It indicates to third party landowners that the Council intends to take all necessary steps to acquire the necessary land interests to enable regeneration of the Site to proceed. Third parties who have been reluctant to engage with the Council are often more willing to negotiate a deal once they become aware that the Council is willing to use its compulsory purchase powers.
- It focuses the Council's resources on achieving the desired outcome, often enabling the programme to be driven forward.
- It secures the appropriate authority for land requisition notices to be served on third party landowners.

If the Executive endorses the recommendation set out in this report then the Council proposes to:

- Continue to seek to acquire all necessary land interests by agreement.
- Commence preparation of the compulsory purchase process by securing the appointment of relevant external advisors and beginning preparation of the relevant CPO documentation.
- Consider the need for any other orders or consents to facilitate the Scheme, including for instance any stopping-up of any highway.
- Enable the Council to deal with any outstanding lease interests required for the regeneration of the Site.

### **Recommendation**

The Council has previously advised publicly that it would be willing to use its compulsory purchase powers, if necessary, to enable the regeneration of the Site. An 'in-principle' resolution at this stage is considered appropriate and in accordance with national and local policy.

## Analysis of Issues

### Use of Compulsory Purchase Powers

The Council has the power in section 226 of the Town and Country Planning Act 1990 (as amended) to make a CPO for any land within the Borough if the Council thinks that the purchase of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

Pursuant to section 226, the Council may not exercise this power unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to acquire any new rights.

The Guidance provides updated and revised guidance to acquiring authorities in England on the use of CPO powers. It states:

*"Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life"*

Particular guidance on orders made by local authorities under section 226 is contained in the Guidance. It states:

*"This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed means that no other single specific compulsory purchase power would be appropriate"*

Importantly the Guidance requires that a CPO should only be made where there is a compelling case in the public interest.

The Guidance also recognises that it is not always feasible or sensible to wait until the full details of a scheme have been worked up and planning permission has been obtained before proceeding to prepare a CPO. An acquiring authority will however have to demonstrate that there are no reasons why any required planning permission for the scheme should not be secured.

A compulsory purchase order to which there are objections will require confirmation by



the Secretary of State to become effective. The Guidance provides that any decision by the Secretary of State about whether to confirm a CPO made under section 226 will be made on its own merit but the factors which the Secretary of State can be expected to consider include:

- *"whether the purpose to which the land is being acquired fits in with the adopted planning framework for the area....."*
- *the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area...*
- *whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired"*

The Guidance also requires the Council to have regard to the following when considering making a CPO:

- *"that the purposes for which the order is made sufficiently justify interfering with the human rights of those with an interest in the land affected"*
- *"the degree to which other bodies (including the private sector) have agreed to make financial contributions or to underwrite the scheme"*
- whether it is likely that the Scheme will be blocked by any physical or legal impediments to implementation.

The Guidance looks to acquiring authorities to seek to acquire land by agreement wherever practicable. However, the Guidance recognises that it may be sensible for acquiring authorities to start formal CPO procedures in parallel with their efforts to acquire by agreement. The Guidance notes that this has the advantage of making the seriousness of the acquiring authority's intentions clear from the outset which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.

In the making of the CPO, the Guidance encourages acquiring authorities to offer those concerned about a CPO access to alternative dispute resolution techniques where appropriate.

Notice of the making of the order is given to categories of "qualifying persons", namely owners, lessees and occupiers (other than monthly or shorter tenants) and publicised in the local newspaper. Objections from such persons will lead to a public inquiry.

#### Land Proposed for Compulsory Acquisition

The land required for regeneration of the Site and proposed for compulsory acquisition is identified as the hatched area on the plan annexed. It can be generally described as the entire Site granted outline planning consent within application O/2015/1056.

The extent of the land shown as the hatched area on the plan may be subject to

amendment before any CPO is made and the Executive will be asked to approve the final extent of the land to be acquired following conclusion of that exercise and finalisation of the CPO plan

The Council will continue to engage actively with landowners, with a view to acquiring as much of the land interest by agreement as possible. This may further reduce the extent of the land to be compulsorily acquired.

### Case for Compulsory Acquisition

As set out above, regeneration of the Site has been a longstanding corporate and planning policy objective of the Council. The regeneration of the Site by delivery of the Scheme for which planning permission is sought will bring economic, social and environmental benefits to Wokingham.

When masterplanning for the Scheme began the majority of the Site was already in the freehold ownership of Wokingham Borough Council albeit subject to several key leasehold interests and occupations. The Council has sought over the last three years (since early 2014) to assemble the remaining land ownership and align the leasehold interests to enable the Scheme to progress.

Through negotiation the Council has negotiated the relocation of one of the existing tenants from the Site by mutual consent.

Wokingham Superbowl owned by American Amusements Ltd (“AAL”) has signed an Agreement to Lease in respect of the new leisure unit in the ground floor of the multi-storey car park building which is currently under construction, as part of Phase 1. Once AAL relocate to this new facility from their existing building on the Site, the lease on the existing property will end and the old premises will revert to the Council.

The last of the identified third party interests that the Council needs to acquire is the freehold interest in Southgate House owned and occupied by BJP Insurance.

The Council opened a very constructive dialogue with directors of BJP Insurance in January 2014 prior to public consultation on the Scheme. Initially there was agreement in principle that the Council might acquire subject to providing a suitable alternative property package – based on similar successful relocations at Peach Place.

The Council and BJP have maintained a close dialogue over the last three years and progressed several lines of enquiry. The Council has entered into detailed negotiations to acquire potential relocation properties that meet BJP’s evolving search criteria. However, so far we have been unable to agree terms on any of their preferred buildings. It is fair to say that BJP’s requirements are unusual and specific and the chances of finding a property swap that will fully meet all their preferences are not high.

The Council is currently progressing a renewed phase of discussions with BJP around a further specific relocation possibility. These negotiations are complex and require significant further time and effort which is being fully invested via senior officers supported by external consultants. The Council will continue to explore other means of settlement by negotiation even after the CPO process has been formally commenced.

The Council proposes to continue to try to acquire or secure control of such interests following any resolution to make a CPO.

In taking the initial steps towards a CPO, the Council will undertake further land ownership investigation. It may be that other third party land interests are identified as part of that process which then need to be included in the CPO.

In determining whether to proceed with compulsory acquisition the Executive is reminded that for those directly affected there will be interference with convention rights incorporated into law by the Human Rights Act 1998. The Council would take all necessary steps to minimise the effect of such interference so that it is proportionate and necessary for the implementation of any authorised compulsory acquisition.

The Council considers that the inability of the Council to secure the outstanding land interests in the Site will have the effect of delaying the regeneration of the Site and delivery of the consequential benefits to the community.

The Council accordingly considers that there is a compelling case in the public interest for the Council to exercise compulsory purchase powers as proposed in this report.

### Financial Implications

The Council has already identified in the Wokingham Town Centre Masterplan 2010 that the use of CPO powers may be necessary to assemble land to deliver regeneration of the Site and appropriate costs have been included within its budgets. The Council's Corporate Plan confirms that it intends to use its resources to deliver the regeneration of the Site.

### Human Rights Implications

The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provisions in the form of articles, the aim of which is to protect the rights of the individual.

In resolving to make the CPO the Council should consider the rights of property owners under the Convention, notably under the following Articles:

- Article 1 - This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- Article 8 - This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.
- Article 14 - This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

In the case of each of these Articles under the Convention, the Council should be conscious of the need to strike a balance between the rights of the individual and the interests of the public. In the light of the significant public benefit which would arise from the regeneration of the Site, it is considered appropriate to make the CPO. It is not considered that the CPO would constitute any unlawful interference with individual

property rights.

Further representations can be made in the context of any public inquiry which the Secretary of State decides to hold in connection with the CPO. Those directly affected will be entitled to compensation (in accordance with the statutory code) proportionate to the loss which they incur as a result of the acquisition of their interests.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Nil	Nil	
Next Financial Year (Year 2)	Nil	Nil	
Following Financial Year (Year 3)	Nil	Nil	

### **Other financial information relevant to the Recommendation/Decision**

Funding for this process is included within the WTCR budget currently approved.

### **Cross-Council Implications**

The project is in line with the Council Vision and forms one of the top Priorities  
There is no impact on other services.

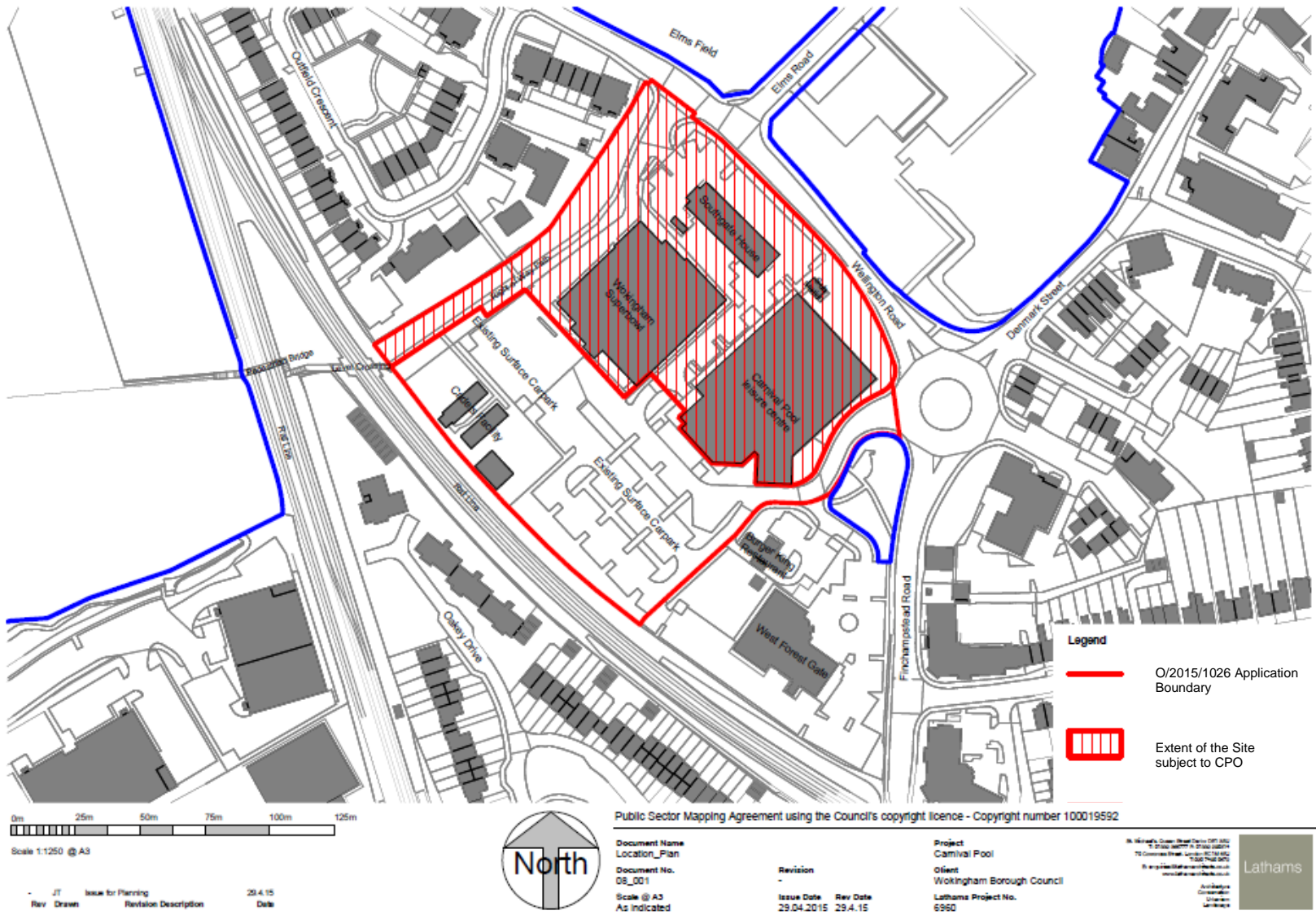
### **List of Background Papers**

None

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# Appendix A

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