

## EXECUTIVE REPORT CONSIDERED PREVIOUSLY

ITEM NO: 118.00

<b>TITLE</b>	<b>Compulsory Purchase Order (CPO) – In-Principle Resolution</b>
<b>FOR CONSIDERATION BY</b>	The Executive on 19 February 2015
<b>WARD</b>	Wescott
<b>LEAD OFFICER</b>	Andy Couldrick, Chief Executive
<b>LEAD MEMBER</b>	Philip Mirfin, Executive Member for Regeneration and Communities

### OUTCOME / BENEFITS TO THE COMMUNITY

- Enable the acquisition of all necessary land interests to deliver the regeneration of Peach Place ("the Site"). 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.
- Secure the earlier 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 the in-principle use of a compulsory purchase order ("CPO") to acquire the necessary land interests the extent of which is shown indicatively edged red on the annexed plan required to deliver the proposed regeneration of Peach Place Wokingham town centre 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 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.

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 regeneration of the Site by acquiring various land holdings by private treaty arrangements. It has not however been possible to acquire all necessary land interests by negotiation.

Working with Wilson Bowden Developments Limited, the Council's appointed development manager, a fully detailed planning application for the regeneration of the Site is now before the Council, as local planning authority, for consideration. If approved, it is anticipated that planning permission will be secured in Spring/Summer 2015.

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 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 objectives for the Site as being to:

- improve the retail performance of the site and the town centre, by providing modern retail units;
- improve the environmental quality of the town centre by introducing well designed buildings which relate well to their urban context;
- contribute a new urban space to complement the existing arcade;
- help to diversify the town centre by introducing additional residential units above ground level; and
- continue to provide convenient short stay car parking for town centre visitors.

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 Sites as suitable for mixed use redevelopment:

*"Land at Peach Place, Wokingham, for the delivery of A1 (retail) floorspace with flexibility for A3 (restaurants & cafes), A4 (drinking establishments) and C3 (residential) development"*

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 quality of the retail offer in Wokingham and to improve Wokingham town centre's retail competitiveness. 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.

In October 2010, the Council took the first steps in securing implementation of the regeneration of the Site by appointing Wilson Bowden Developments Limited as its

development manager.

The successful development partner will work with the Council to achieve the Council's key principles and objectives as set out in the Project Briefing Document, which can be summarised as follows:

- Improving the Economic Vitality and Viability of the Town;
- Improving the Social Vitality and Viability of the Town;
- Improving and Enhancing Public Open Spaces and Public Realm;
- Enhancing the Architectural Quality of the Town Centre; and
- Improving Pedestrian Accessibility in the Town Centre and Access to the Town.

In 2013, the Council and its development manager progressed two separate planning applications for Peach Place and Elms Field linked by way of one contributions agreement (Infra-structure Delivery Plan). Following a robust master-planning exercise, discussions and negotiations with potential tenants and with a series of consultation events, the two applications were submitted to the Council as local planning authority in November 2013. However, in December 2013, the Council took the decision to withdraw the applications due to the need to review some elements of the elevations of Peach Place. In April 2014, a key proposed tenant for Elms Field withdrew from the scheme and the decision was made to proceed with an independent application for Peach Place.

## **The Scheme**

In November 2014, a fully detailed planning application (reference number F/2014/2637) for the regeneration of the Site was submitted to the Council. The proposals for which planning permission is sought ("the Scheme") comprise:

*"Demolition of 34/35 Market Place and 2-16B (even) Peach Street; 18 and 18A (even), Peach Street; 1-6 The Arcade, 20 and 22 Peach Street. Retention of Marks and Spencer, Haka and Redan PH premises (24-38 Peach Street); with alterations to boundary treatment. Erection of a mixed use development to include Class A1-A5 units on ground and part first floor, together with 22 new residential units (four town houses and 18 apartments) (Class C3 Dwellings). The refurbishment of two apartments on first floor of 36 Market Place, including external alterations; refurbishment of Flat 1 and 2 Rose Street and alterations to building elevation and shop fronts of 1,3 and 5 Rose Street. The creation of a new public square and enhanced public realm and landscaping works, new public toilets and associated works including a reconfigured section of the Marks and Spencer car parking area."*

It is anticipated that the planning application will be considered by the Council as planning authority in March 2015 and that, if approved, planning permission will be granted in Spring/Summer 2015.

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 contribute by delivering the following public benefits:

### Economic Benefits

The Scheme will deliver new, larger format modern retail units which will be attractive to retail and restaurant operators. This will attract new operators into the town centre and add to the vitality and retail performance of the centre in line with approved planning policy. In turn, this will assist in clawing back trade and 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 100 (net) new jobs, with a further 44 jobs per annum during the construction phase. In gross value added (GVA) terms, once the Scheme is operational, approximately £4.65M per annum will be secured for the local economy.

Economic benefit to the town will also accrue from the occupants of the proposed new residential properties within the Scheme. Indeed, a further gross direct expenditure, in excess of £600,000 per annum, will be generated into the local economy in this way.

### Environmental Benefits

The proposed development will make much more efficient use of prime town centre land and will deliver significantly improved public realm at the heart of the town centre. The Scheme will also enhance the appearance of a back land area, currently utilised for parking, and contribute positively to local character and distinctiveness. Indeed, the buildings have been designed in accordance with robust design principles and in consultation with the local community and other stakeholders.

By removing buildings which actually detract from the setting of key heritage assets, and by providing new buildings which are more sensitive to their location, the heritage value of the locality will be enhanced. Moreover, by the provision of a new public space at the heart of the Conservation Area, opportunities will be created for the historic fabric to be enjoyed and understood.

Improved pedestrian connectivity through the site to Peach Street/Market Street and Rose Street will also result from the new public realm.

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 retail offer in order to better cater for the retail needs of the town, as well as providing opportunities for additional restaurant and café provision. Indeed, by linking this new floorspace to the enhanced public realm, (designed to meet all accessibility standards), the Scheme will provide new opportunities for socialising and outdoor community events for the whole community to enjoy.

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 protocol is also to be investigated by the Council.

## **Proposal**

The Council has sought for some time to assemble land ownership of the Site. A large number of interests have already been acquired but it has not been possible to secure every interest. The Council considers that the failure to acquire all necessary land interests by agreement is likely to delay regeneration of the Site.

Having regard to the advice in Circular 06/2004 – Compulsory Purchase and the Crichel Down Rules ("the Circular"), 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 Circular 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.

Subject to members' agreement to proceed in this way, it is proposed that an item be included within the February 2015 Executive agenda.

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. This will include advancing negotiations to purchase the freehold interest of a small part of the existing Marks & Spencer side car park (Marks & Spencer are supportive of commencement of the compulsory purchase process to help them raise the issue

within their corporate agenda).

- Commence preparation of the compulsory purchase process by securing the appointment of relevant external advisors and beginning preparation of the relevant CPO documentation. This will include investigating title to the land to identify all third party land interests required to enable the regeneration of the Site.
- 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 Circular provides updated and revised guidance to acquiring authorities in England on the use of CPO powers. Paragraph 1 states:

*Ministers believe that Compulsory Purchase Powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social 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. Bodies possessing Compulsory Purchase powers –*

*whether at local, regional or national level – are therefore encouraged to consider using them proactively wherever appropriate to ensure real gains are brought to residents and the business community without delay*

Particular guidance on orders made by local authorities under section 226 is contained in Appendix A of the Circular. Paragraph 2 states:

*"The powers in Section 226 as amended by Section 99 of the Planning and Compulsory Purchase Act 2004 are intended to provide a positive tool to help acquiring authorities with their planning powers to assemble land where this is necessary to implement the proposals in their community strategies and Local Development Documents. These powers are expressed in wide terms and can, therefore, be used by such authorities 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 Circular requires that a CPO should only be made where there is a compelling case in the public interest.

Paragraph 15 of the Circular 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 Circular 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;*
- *The potential financial viability of the scheme for which the land is being acquired;*
- *Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by other means, e.g. alternative proposals put forward by the owners of the land".*

The Circular 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 and on what basis such*

*contributions or underwriting is to be made;*

- *evidence relating to financial viability;*
- *whether the scheme is likely to be blocked by other impediments to implementation".*

The Circular looks to acquiring authorities to seek to acquire land by agreement wherever practicable. However, the Circular recognises that it may be sensible for acquiring authorities to start formal CPO procedures in parallel with their efforts to acquire by agreement. The Circular 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 Circular 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 edged red on the plan annexed. It can be generally described as land bounded in the north by Rose Street (though excluding the Methodist Church and Bradbury Centre), in the west by the rear elevations of Clarks, John Wood Sports, Boots and the car park façade of Bush Walk, to the south by Peach St and to the east by Marks and Spencer.

The need for inclusion of the individual land interests is however being considered in detail and it is likely that the extent of the land shown edged red on the plan will be subject to amendment before any CPO is made. 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.

In addition, a large number of interests within the land edged red have already been acquired by the Council through negotiation. The Council will continue to seek to engage with landowners with a view to acquiring as many other land interests 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.

The Council has sought over the last five years (since June 2010) to assemble land ownership of the Site and has been successful in securing control of a large part of the

freehold interest in the Site. For instance, a large portion of the Site comprising 1-5 Rose St, 35-41 Market Place and 1 – 16 Peach Street was purchased, subject to a number of occupational leases, in June 2010 by private treaty. Late, in January 2012, a further freehold block again subject to occupational leases was purchased at public auction comprising 20/22/Peach Street. And, most recently, in March 2014, the freehold of 18/18a Peach Street was purchased subject to occupational leases by private treaty linked to an agreement to relocate the owner occupier of the upper parts of the premises. This agreement has now resulted in the grant of a new lease of newly prepared premises to provide for the relocation of this business to a better location in the heart of the town centre, safeguarding the future of the business.

The Council has further throughout this five year period engaged with tenants who are in occupation and trade from the Site with a view to varying their leases to enable regeneration of the Site to proceed. This has involved renewing leases on regeneration compliant terms when leases expire as well as the proactive re-gearing of leases midterm. In all cases, these re-gears have either provided alternative accommodation or alternative leases with suitable compensation provisions to reflect any rights surrendered. Where premises have fallen vacant during this period, care has been taken to grant new leases on regeneration compliant terms.

Notwithstanding the Council's efforts since 2010, it has not been possible to acquire or secure control of all interests in the Site and a number of interests remain to be resolved. The Council proposes to continue to try to acquire or secure control of such interests following any resolution to make a 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. 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.

The opportunity has been given to landowners and other affected parties to make representations regarding the Council's planning policies which underpin the proposed CPO. 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.

<b>List of Background Papers</b>
None

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