

Report to:	EXECUTIVE CABINET
Date:	23 June 2021
Executive Member:	Councillor Ged Cooney, Executive Member for Housing, Planning and Employment
Reporting Officer:	Jayne Traverse, Director of Growth Gregg Stott, Assistant Director of Investment, Development and Housing
Subject:	GODLEY GREEN - RESOLUTION IN PRINCIPLE TO USE COMPULSORY PURCHASE ORDER POWERS
Report Summary:	<p>The report to Executive Cabinet of 2 November 2020 stated that a further report on the making of a Compulsory Purchase Order (CPO) at Godley Green is required. This is a report on the work necessary for the preparation of a CPO. A further report will cover the making of the CPO at the appropriate time.</p> <p>The Council have initiated negotiations with landowners and have made offers to them all to seek to acquire land via Option Agreements. It is hoped that these discussions will result in an agreement with all landowners by private treaty. However, in the event that it is not possible to acquire these interests by private treaty, a CPO will be required. A CPO of land and interests across the entirety of the site area will also enable any third party rights, wayleaves, easements, rights of way etc. to be acquired where it is not possible to do so by private treaty. A site wide CPO will enable the Council to obtain freehold title across the site without any encumbrances to enable the delivery of the project.</p> <p>In order to make a CPO, which will enable the implementation of the masterplan in accordance with the project milestones, preparatory work will need to be carried out. To carry out this preparatory work the Council are seeking resolutions and approvals to enable them to carry out all the work necessary up to the making of a CPO, which is summarised below. It is important to note that the making of a CPO will be the subject of a further resolution of the Council and associated reports.</p>
Recommendations:	<ol style="list-style-type: none"> 1. To obtain express resolution to authorise the progress of any preparatory work required prior to the making of a CPO as necessary to progress the Godley Green project. 2. Agree that all necessary preparatory be undertaken work so as to make a CPO to deliver the project, subject to the final decision to make a CPO being agreed at a later date by Executive Cabinet. 3. Enter into such legal agreements as deemed appropriate, in preparing for a CPO, and prior to the actual making of a CPO.

4. To note that a resolution is required for the actual making of CPO at the relevant stage if it is considered necessary.

Corporate Plan:

The Council's ambitions for Godley Green are reflected in the Corporate plan by aspiring to build successful lives, strong and resilient new communities, invest in a local and vibrant economy.

Policy Implications:

Godley Green is the key strategic site for Tameside as identified in the Greater Manchester Spatial Framework. If the site does not come forward for development, the Council will be required to find alternative sites to meet its future housing requirements.

**Financial Implications:
(Authorised by the statutory
Section 151 Officer & Chief
Finance Officer)**

The financial implications of the resolutions and approvals set out in this report are within the £2.75m of funding approved by the Executive Cabinet on 2 November 2020. Members are reminded that this will be resourced from the Council's medium-term financial strategy reserve, on the basis that the project, if successful will bring significant benefits to the borough and its residents.

The detailed financial implications of making a CPO will be the subject of a further report and resolution to Members at a later date. It should be noted that the resolution does not commit the Council to make a CPO.

**Legal Implications:
(Authorised by the Borough
Solicitor)**

The CPO is an important element of the overall scheme and will run alongside the options agreements to ensure that the land can be secured in a timely fashion. In addition, a CPO is an expedient way of dealing with third party rights and other issues, which may affect the land. In order to make a CPO preparatory work will need to be carried out. To carry out this preparatory work the Council are seeking resolutions and approvals to enable them to carry out all the work necessary up to the making of a CPO. It is important to note that the making of a CPO will be the subject of a further resolution of the Council and associated reports.

Comprehensive title investigations in relation to all the parcels of land required for this project are being undertaken. This work is a key component for both the options agreement and CPO strategy.

Statutory Powers and Considerations

The making of a CPO under the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 (along with other powers) is a function, which can be undertaken on behalf of the Council. The power must be exercised in line with the statutory requirements.

Section 226 of the Town and Country Planning Act 1990 enables a local authority to exercise its compulsory purchase powers:

- (i) if it considers that acquiring the land in question will facilitate the carrying out of development,

redevelopment, or improvement on, or in relation to the land being acquired; and

- (ii) provided that it considers that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area (S226 (1A)).

Any CPO made by the Council will require confirmation by the Secretary of State in accordance with the statutory requirements.

The Council is entitled to acquire relevant sites through negotiation with third parties before or after the making of the CPO as well as its confirmation by the Secretary of State. Compensation may be payable by way of negotiation; under statutory requirements or through the Court.

The Human Rights Act 1998

The Human Rights Act 1998 protects particular European convention rights to include:

- (a) the right of everyone to the peaceful enjoyment of their possessions, which can only be impinged upon in the public interest and subject to relevant national and international laws;
- (b) the right to a fair and public hearing for those affected by the making of the CPO – Article 6;
- (c) the right to a private and family life, home and correspondence, which again can only be impinged upon in accordance with law and in the public interest.

A CPO, which will be subject to a further resolution, is consistent with Article 6 of the Human Rights Act 1998. All those who may be affected will be informed and advised of a right to make representations to the Secretary of State, to be heard at a public inquiry and have a fair entitlement to compensation within the statutory provisions.

The Equality Act 2010

Members are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups.

At this point in the project and for the purposes of this report Members should note that an analysis of the impacts of the making of a CPO pursuant to the Equality Act, along with suggestions for mitigating any impacts identified, will need to be brought forward at the relevant time so they can be considered.

Risk Management:

A project of this size has a number of risks across each of its phases. The initial risks are:

1. Failure to agree and enter into an agreement with the Godley Green Landowners.
2. Planning permission not being granted.
3. The project is governed by the funding agreement with Homes England, which includes a number of milestones, and funding to support the initial infrastructure work, site assembly strategy and the planning application. Homes England could withdraw the funding to use elsewhere in the country.
4. Greater Manchester Spatial Framework Timing.
5. The housing market being depressed due to the impact of Covid and Brexit.
6. Land values not being realised.
7. Judicial review and challenge.

Access to Information:

Information relating to this report can be inspected by contacting the report writer, Gregg Stott, Assistant Director of Growth, Development and Housing

Background Information:

The background papers relating to this report can be inspected by

contacting John Hughes



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1. INTRODUCTION

- 1.1 Godley Green is recognised by Homes England and the Greater Manchester Combined Authority as one of the largest and most ambitious programmes of development and regeneration with the North West and City region. The scale of development that could take place is the equivalent of a new district or urban extension.
- 1.2 Godley Green has the potential to provide transformational change to the Tameside housing market through delivery of up to 2,350 new quality homes helping to satisfy the housing requirements of local people across all tenure and housing types, from affordable to executive homes.
- 1.3 The vision for Godley Green Garden Village is to create a nationally recognised vibrant, sustainable & beautiful new community based on Garden Village principles. These principles are being proposed by Government as a policy initiative designed to promote well-planned areas of significant residential growth.

2. COMPULSORY PURCHASE ORDER & PROJECT MILESTONES

- 2.1 The making of a CPO under the Town and Country Planning Act 1990 ("TCPA 1990"), section 226(1) and the Acquisition of Land Act 1981 (and other enabling powers) is a function which can be undertaken on behalf of the Council. The power must be exercised in line with the statutory requirements as well as the relevant policy and guidance.
- 2.2 Whilst it is hoped that the Council will be able to acquire land by option agreements, the Council must consider using compulsory powers to provide certainty of delivery and to overcome any rights, encumbrances or ownerships that cannot be dealt with via private treaty negotiations.
- 2.3 The use of CPO on large multi-owned sites is accepted to help deal with any; rights, wayleaves, easements, rights of way that the Council, as land promoter, and the individual land owners may not necessarily be aware of. Clean title across the site will be essential in confirming deliverability of the proposed scheme.
- 2.4 In addition, the project milestones require that the Council develop a site wide CPO strategy to provide confirmation that all development land can be secured. Should the authority be unable to secure an interest in land by way of private treaty through options agreements, it will need to ensure that the ability to acquire all of the land within the development redline can be achieved through CPO.
- 2.5 A CPO should only be made where there is a compelling case in the public interest. In considering use of compulsory purchase powers under TCPA 1990, the underlying planning policy (as well as wider policies) will need to be considered. It will also be necessary to demonstrate that the development is able to progress and that there are no other impediments to delivery. The Council (and any development partner) will need to demonstrate it has experience, resources and funding in place ready to deliver the scheme. In addition the Council, will need to demonstrate that reasonable efforts to acquire the various interests have been undertaken. These can continue in parallel with preparations for a CPO.

3. CPO EXPRESS RESOLUTION – CURRENT POSITION

- 3.1 CPO powers may be used for the project. If the Council does not carry out any preparatory work on the CPO until after planning consent has been granted (earliest potential date of Autumn/Winter 2021) this may cause delays to the project milestones and requirements.

- 3.2 The Project Team has sought advice from our appointed CPO experts (Matthews & Goodman – CPO Surveyors and DAC Beachcroft LLP Solicitors) on the options available. Their recommendation is that the Council progress work on the CPO at this point to run in parallel with the planning application, giving the Council the best chance to secure the Order and meet the project milestones.
- 3.3 Examples of the preparatory work that needs to be carried out includes:
- defining the extent of land to be subject of CPO and carry out land referencing and title enquiries;
 - a title review and report including compiling a schedule of owners, lessees, tenants and occupiers, plus mortgagees and potential claimants under CPO;
 - confirmation of the 'special types of land' following completion of land referencing process.
 - further developing the Land Acquisition Strategy/Property Costs Estimate;
 - negotiating and consulting with third parties;
 - collating policies, strategies and plans which promote project;
 - preparing a draft Order and related schedules and plans;
 - preparing a draft Statement of Reasons for making the Order;
 - preparing all necessary reports and evidence, such as risk assessments, project plans and an Equality Impact Assessment; and
 - negotiating and entering into agreements relating to acquisition of land and interests as well as the funding and implementation of CPO.
 - To enable this, the advice is to seek the above resolutions and approvals by Executive Members to carry out preparatory work up to the making of a CPO on the Godley Green site. It should be noted that the resolution does not commit the Council to make a CPO. However, in the event that a CPO is made, it is anticipated that there will be no financial implications for the Council as this will be covered by external and/or partner funding.

4. GODLEY GREEN – CPO REDLINE BOUNDARY

- 4.1 The CPO boundary will be set as wide as possible and then pulled in to take only the land required. A detailed review of the CPO is required (following completion of land referencing) to consider ownership boundaries, planning requirements, any third party rights, temporary acquisition areas, open space, land required for potential bridges etc.

5. CONCLUSION

- 5.1 In order to facilitate the implementation of the masterplan, achieve the project milestones and aid site assembly the Council are seeking a resolution to enable them to carry out all the work necessary to make a CPO.
- 5.2 The CPO process now needs to progress to run in parallel with the planning application. This will provide the best chance to secure the successful making and confirmation of the Order.
- 5.3 To enable this, the advice is now to seek express resolutions and approvals by Executive Members to carry out the preparatory work necessary up to the making of a CPO on the Godley Green site at the earliest opportunity.

6. RECOMMENDATIONS

- 6.1 As set out at the front of the report.