



REPORT OF:	THE HEAD OF PROPERTY
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TO:	EXECUTIVE
DATE:	18 May 2017
EXECUTIVE MEMBER:	COUNCILLOR NATALIE BRAMHALL

KEY DECISION REQUIRED:	YES
WARD (S) AFFECTED:	Redhill Wards

SUBJECT:	USE OF COMPULSORY PURCHASE POWERS TO ENABLE DEVELOPMENT OF LAND AT MARKETFIELD WAY, REDHILL
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RECOMMENDATIONS:

- (i) That the Council makes a Compulsory Purchase Order under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 and other relevant powers to secure the compulsory acquisition of the land shown edged red on the plan at **Annex 1** of this report to acquire all outstanding interests in the land [and to acquire and create new rights] which would facilitate and enable viable and deliverable development in connection with the creation of a mixed use development in order to improve the Borough's environmental, economic and social wellbeing;
- (ii) Authorise the Head of Property in consultation with the Executive Member for Property to make, if necessary, minor or technical amendments to the Compulsory Purchase Order including the alteration and removal of plots if deemed appropriate;
- (iii) Authorise the Head of Property in consultation with the Executive Member for Property, to modify and settle the draft Statement of Reasons, the Order Map and Order schedule as necessary to finalise before submission to the Secretary of State;
- (iv) Authorise the Head of Legal Services in consultation with the Head of Property and the Executive Member for Property to seal the Orders and to take all the ancillary or necessary steps, including the publication and service of all statutory notices and presentation of the Council's case at any Public Inquiry, to secure the confirmation of the Compulsory Purchase Order by the Secretary of State and the vesting of the land in the Council;
- (v) Authorise the Head of Property in consultation with the Executive Member for Property to request confirmation of the CPO with or without modifications;

- (vi) Authorise the Head of Legal Services in consultation with the Head of Property and the Executive Member for Property to approve agreements with landowners setting out the terms for withdrawal of objections to the CPOs, including where appropriate seeking exclusion of land from the CPO;
- (vii) Authorise the Head of Property in consultation with the Executive Member for Property (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order) to confirm the order, if he is satisfied that it is appropriate to do so;
- (viii) The Executive agrees that upon acquisition, the land acquired under the Order be held for planning purposes and vested in the Property Department;
- (ix) That compensation for those with a compensatable interest will be paid in accordance with the law on compulsory purchase (or payments as are deemed reasonable in the circumstances) and the provision of property or services in lieu of compensation, in contemplation of the Order being made;
- (x) Authorise the Head of Property in consultation with the Executive Member for Property to take any further necessary actions to secure the making, confirmation and implementation of the CPO including:
- Authorisation to approve any agreements with owners of interests in the CPO land in order to secure the withdrawal of their objection
 - Authorisation to confirm the CPO should no objections be received and the Secretary of State confirms that the Council may do so
 - Agreeing to promote any modifications should this be expedient
 - Agreeing confirmation of the CPO with modifications if it appears expedient to do so
 - If the question of compensation is referred to the Upper Tribunal, to take all necessary steps in relation thereto
- (xi) Authorise the Head of Property in consultation with the Executive Member for Property to take all necessary steps to implement these recommendations.

REASONS FOR RECOMMENDATIONS:

Where a development site is in multiple occupation and ownership, a developer may be unable to reach agreement with all of the landowners even where a scheme for redevelopment is viable. In this case an otherwise viable scheme of significant public benefit may be frustrated unless an acquiring authority, in this case the Borough Council, is able to compulsorily acquire all necessary interests in the site. This would have adverse implications for the Council's corporate plan objectives and therefore the compulsory purchase powers would be used to enable improvement to the Borough's environmental, economic and social wellbeing.

Both the Council's Corporate Plan and adopted Core Strategy recognise the importance of promoting the Borough as a place to do business and providing commercially attractive

premises and business infrastructure to deliver economic benefits for the Borough and its residents, through increased investment and the provision of jobs. In particular, the Core Strategy highlights that Redhill town centre is a priority location for growth and regeneration.

The site at Marketfield Way has been identified as the most suitable site in Redhill town centre for the provision of a mixed use development comprising cinema, A3, A2, A1 planning use and residential. Planning permission has been secured for a scheme. However land in this location is currently in multiple ownership.

CPO will generally only be used where negotiated settlements cannot be reached with those whose interests are to be acquired. However, in some cases, it may be impossible or impracticable for an acquiring authority to acquire all interests by agreement in a project timeframe or at a reasonable cost. The reliance on CPO means land ownership does not act as a barrier for development of schemes which are in the economic, environmental or social interests of the Borough.

EXECUTIVE SUMMARY:

This report seeks authority from the Council to make a compulsory purchase order to enable redevelopment of the site known as Marketfield Way, Redhill.

Government guidance "Compulsory purchase and The Crichel Downs Rules for the disposal of surplus land, acquired by, or under threat of compulsion" makes it clear that CPO powers should only be exercised where there is a compelling case in the public interest.

The preference is always to acquire land and rights over land by way of voluntary agreement wherever practicable. If it is not possible to secure all the land interests at reasonable costs or within the timescale needed, making a Compulsory Purchase Order will provide an alternative means of acquisition.

The Executive has authority to approve the above recommendations

STATUTORY POWERS

1. The Council has wide ranging powers for the acquisition of sites including Part IX of the Town and Country Planning Act 1990.
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 wellbeing of the area.
3. A Compulsory Purchase Order is not effective until it has been confirmed by the relevant Secretary of State.

POLICY FRAMEWORK

4. Redhill town centre is the borough's main town centre and one of the principal regeneration areas identified in the Council's Core Strategy.
5. To support regeneration and enhance Redhill's position as a shopping and leisure destination, the Core Strategy seeks to focus large scale retail and leisure development to the town centre. In particular, the Council's evidence (prepared in support of the Core Strategy) identifies additional leisure provision, enhanced food and drink offer, and larger shop units as central to maintaining and growing the town's market share and evening economy.
6. The Marketfield Way site occupies a prominent location within the primary shopping area of the town centre and represents the most significant opportunity to deliver these needs within the boundary of the town centre. Provision of a new cinema and range of A1, A2 and A3 retail floor space will contribute directly to delivery of the scale of growth identified in the Core Strategy and the regeneration objectives for the town.
7. The Council's adopted Core Strategy does not include specific development site allocations. Work to prepare an Area Action Plan for Redhill town centre was undertaken (and public consultation and sustainability appraisal carried out) on emerging proposals for the town centre. The Redhill Town Centre Area Action Plan Consultation Draft 2012 agreed by the Council proposed the Marketfield Way site for a retail led mixed use scheme including food and drink and leisure uses. The site was recognised in this document as occupying a prominent location, development of which would act as a catalyst to create a step change in the town centre's retail offer and transform the town's evening economy. Specifically, it would:
 - (a) Provide larger and higher specification retail units to meet retailer demand and expand the town's shopping offer
 - (b) Allow for new cinema provision in an area currently poorly served, and associated quality food and drink outlets to diversify the evening economy and to support the needs of residents of new development
 - (c) Allow for new homes to be provided in a highly accessible and sustainable location
 - (d) Bring significant improvements to the quality of the urban fabric and public realm
8. The Redhill Town Centre Area Action Plan is no longer being progressed as a 'stand-alone' Local Plan document but will be incorporated in the Council's Development Management Plan (DMP). The DMP Regulation 18 Consultation Document included Marketfield Way as a potential development site for mixed use development including retail, leisure and residential.
9. Consultants commissioned by the Council to update its Retail Needs Assessment in support of the DMP have confirmed that the Marketfield Way development has the potential to significantly improve the vitality and viability of the centre, and significantly improve the comparison shopping offer by providing large format retail units to meet modern retailer requirements and much needed commercial leisure facilities to support the growth of the evening economy.

10. Provision of a significant housing element as part of the scheme reflects the Core Strategy 'urban area first' approach and the objective of maximising the use of previously developed land. It will also make a positive contribution to meeting the housing target and support the Council's five year supply.
11. Full planning permission was granted for the scheme on 20th January 2017.

Marketfield Way

12. The extent of the site that has been identified by the Council for development of a new mixed use site is shown edged red on the attached plan (**Annex 1**). This plan shows the red line boundary for the Order.
13. The site currently comprises shops, offices and car park and is in multiple ownerships. The Borough Council already owns some parcels of land within the site.
14. The detailed schedule of land interests forming the basis for the Compulsory Purchase Order is discussed within the exempt report at item 10 on this agenda.
15. Regeneration would significantly improve this area of the town centre and enhance the centre more generally.

OPTIONS

16. There are two options:
 - (a) Do nothing and allow market forces alone to determine whether the land is developed in accordance with the regeneration objectives. This option is not recommended due to the 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 authorise the Council's use of compulsory purchase powers to facilitate the redevelopment of this site and to further economic and housing development objectives in the Borough. This is the recommended option as it allows the Council to proceed with the redevelopment of this site to further the economic and social well being of the Borough.

LEGAL IMPLICATIONS

17. The use of the powers in Section 226(1) (a) of the Town and Country Planning Act 1990 is the most appropriate power for this project because the acquisition of all the various interests in the land shown on the plan would facilitate the redevelopment of the land in accordance with the Council's corporate plan objectives. The development of this site and the employment opportunity it would create would be likely to contribute to the environmental, economic and social well being of the Borough.
18. The use of compulsory purchase 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. The report seeks confirmation of the Council's authority to make a compulsory purchase order in order to progress the development.

19. 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 for interfering 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 when a local authority makes a CPO.
20. It is considered that the approval of the recommendations in this report is not likely to give rise to the risk of service of blight notices.

FINANCIAL IMPLICATIONS

21. The Council has previously resolved the financial parameters to be adhered to (exempt report of the Executive on the 23rd March 2017) and the Capital Programme has been amended to anticipate the immediate costs to be incurred by the Council. The S151 Officer has been authorised to fund the capital spend on the development scheme (subject to a number of conditions).
22. There is no anticipated funding barrier to the scheme being brought forward.

RISK MANAGEMENT

23. Outline risks are set out below:
 - A risk that the scheme does not remain viable. This is being carefully managed with pre lets of commercial space and potential pre sale of residential.
 - A risk that construction costs are exceeded, stage 1 construction tenders have been received.
 - A risk that the CPO will not be confirmed by the Secretary of State. The scheme is and remains viable with considerable progress being made.
 - A risk of legal challenge for example Judicial Review. The following of due process as is the case on this project reduces the likelihood of a successful Judicial Review.

EQUALITIES IMPLICATIONS

24. A full Equalities Impact Assessment has been 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.

HUMAN RIGHTS IMPLICATIONS

25. With respect to the proposed development, the Borough Council in making this CPO has to consider the issue of the applicability of the Human Rights Act 1998 (HRA), and in particular, Article 8 of the European Convention on Human Rights which provides that every person is entitled to respect for their home and family life and Article 1 of the First Protocol, which provides that "Every person is entitled to the peaceful enjoyment of his possessions" and "No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by

law". The benefits of the scheme are considered to outweigh any detriment to occupiers and the redevelopment is in the public interest.

NEGOTIATIONS

26. The Council is currently in the process of seeking to acquire all interest in the land by private treaty agreement. Discussions and meetings with land owners have taken place over the past thirteen months. During that time the council has purchased the long leasehold interest in 18-34 High Street and has made offers to purchase subordinate interests. In addition the council's agents have forwarded details of empty shop units in Redhill to the remaining retail occupiers. Negotiations have commenced with other leaseholders and discussions and negotiations will continue with the affected parties.
27. The Council is seeking the use of compulsory purchase powers as it is anticipated that there will be a number of interests that will not be capable of being acquired by private treaty agreement or that the presence of such powers will assist in negotiations with the affected parties. There are also some small areas of land which are currently in unknown ownership and which will require the use of compulsory purchase powers to enable the development to be carried out.

PROGRAMMING

28. The Council is being recommended to make the compulsory purchase order in order for the planning permission to be implemented and the redevelopment of the land to be brought forward. Once this is confirmed the Council will make the necessary Construction and professional appointments to progress detail design and stage 2 tendering of sub contractor packages. This is likely to take six months.
29. At the same time the Council will look to get sufficient pre lets and pre sales to enable it to enter into a building construction contract with pre lets and possible pre sales in place.
30. Current programme targets are building contract award between December 2017 and June 2018.

OTHER IMPLICATIONS

31. The Council will also be seeking a road closure order to enable the development to be carried out. The highways that will need to be stopped up currently cross the site.

CONSULTATION

32. The Executive Members for Regeneration, Property and Planning Policy and Finance, the Redhill Ward Members, and officers in Property, Planning, Policy and Regeneration have received verbal or written briefings about this matter from the Head of Property.

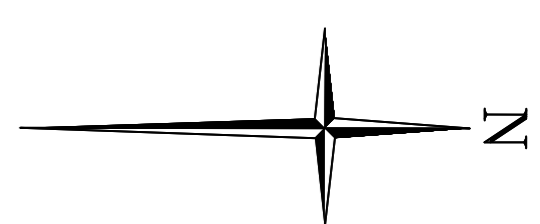
Background Papers:

Development Management Plan – www.reigate-banstead.gov.uk/DMP

Retail needs assessment June 2016 – Available at www.Reigate-banstead.gov.uk/dmpevidence

Retail and Leisure Needs Assessment 2011 – available at www.reigate-banstead.gov.uk/info/20088/planning_policy/22/evidence_and_research_for_planning_policies/4

Area action plan – available at www.reigate-banstead.gov.uk/info/20088/planning_policy/37/redhill_town_centre_area_action_plan



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NOTES:

REV	DESCRIPTION	BY	D	M	Y
R0	ORIGINAL RLB SUPPLIED BY ROBERT HIGH	JB	09	06	16

RED LINE BOUNDARY

COMMISSION:		MARKETFIELD WAY, REDHILL 2620	
DRAWING:		RED LINE BOUNDARY PLAN	
SCALE:		1:500 @ A1	
DATE:		09/06/2016	
DRAWING NO:		PA-2620-RLB	
REVISION:	R0	DRAWN BY:	JB
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