
CENTRAL PARK COMPULSORY PURCHASE ORDER

Responsible Cabinet Members - Councillor John Williams, Economy

Responsible Director - Richard Alty, Director of Place

SUMMARY REPORT

Purpose of the Report

1. This report seeks Members approval for the Council to:
 - (a) take the lead on Compulsory Purchase Order (CPO) proceedings to acquire remaining interests and complete land assembly within the Central Park redevelopment area;
 - (b) use funding remaining with One North East for some property acquisitions to be drawn down before the end of the financial year.

Summary

2. On 10 July 2007, Cabinet considered the selection of Commercial Estate Group (CEG), Keepmoat and Yuills (the CKY developer consortium) as the preferred developers for Central Park. Subsequent to this the Development Agreement was signed on 9 April 2009.
3. Negotiations are ongoing in relation to the acquisition of land and every attempt is being made to acquire by agreement, however, in order to ensure that the scheme progresses within the requisite timescale, the Council must now consider whether to use its Compulsory Purchase powers.
4. Previously, any Compulsory Purchases were to be progressed via the Regional Development Agency One NorthEast. However, due to the abolition of ONE in April 2012, it is now necessary to use the Council's Compulsory Purchase Powers. The Government is now preventing ONE from exercising these powers. Agreement is therefore sought for the Council to become the lead public body responsible for land assembly to facilitate the redevelopment of Central Park.
5. Members should note that a further report to Cabinet will be necessary seeking authority to commence Compulsory Purchase procedures and that report will be predicated upon consideration of a revised Masterplan and consequential amendments to the agreed Development Brief.

Recommendation

6. It is recommended that:
- (a) Cabinet agrees to the Council being the lead public body for land assembly and to use, if necessary, Compulsory Purchase powers to facilitate the implementation of the planning permission for Central Park, subject to the developer consortium providing guaranteed funding to underwrite the CPO process and land assembly.
 - (b) Cabinet agrees to the release of any funding One North East transfers to the Council for land acquisitions for that purpose and authorises the Director of Place to agree the terms of any such transfer with One North East.

Reasons

7. The recommendations are supported by the following reasons:-
- (a) The redevelopment and regeneration is essential to create a sustainable mixed use community at Central Park. The acquisition of land and property will facilitate the redevelopment of the land, which will improve the economic, social and environmental well being of the area.
 - (b) The public benefits of the scheme lie in the redevelopment and regeneration of the area resulting from the redevelopment via the provision of modern attractive homes for rent and sale, high quality mixed use development and open green space with safe routes for pedestrians. Secondary economic benefits are through the many training and employment opportunities that will be created for local people which will in turn boost the local economy.
 - (c) To enable the implementation of the Central Park Masterplan.
 - (d) To enable the good planning of the area as expressed through the emerging Local Development Framework Core Strategy.
 - (e) The redevelopment is in accordance with a range of other national, regional and local plans and strategies including National Planning Guidance (PPG3), the Regional Spatial Strategy (North East of England Plan).
 - (f) To enable execution of existing Outline Planning Approval.
 - (g) To ensure the continuity of public funding for land assembly purposes.

Richard Alty
Director of Place

Background Papers

No Background papers were used in the preparation of this report.

John Anderson Extension: 2501

S17 Crime and Disorder	There is no direct impact on crime and disorder considerations. Within the Central Park scheme there will be S17 Crime and Disorder considerations related to place making and detailed designs
Health and Well Being	No impact
Carbon Impact	There is no direct impact on carbon reduction arising from the issues in this report. Within the Central Park scheme there are proposals to reduce energy consumption and increase sustainability

Diversity	There are no issues relating to Diversity which this report needs to address
Wards Affected	Bank Top & Lingfield
Groups Affected	The impact of the report on any Group is considered to be minimal
Budget and Policy Framework	There is no change proposed to the budget and policy framework
Key Decision	Yes
Urgent Decision	No
One Darlington: Perfectly Placed	This report supports the Perfectly Placed priority, through the Aspiring and Prosperous Themes, in facilitating the redevelopment of Central Park in Darlington
Efficiency	No impact

MAIN REPORT

Information and Analysis

Background

8. On 10 July 2007, Cabinet considered the selection of Commercial Estate Group (CEG), Keepmoat and Yuills (the CKY developer consortium) as the preferred developers for Central Park. The selection of this consortium was noted and endorsed (Min C49 (a) July/07 refers).
9. The July 2007 Cabinet Meeting also resolved that the Director of Development and Environment be authorised to progress negotiations for the Central Park Development Agreement, such terms to be reported to a future meeting for consideration. The Development Agreement is the key legal document between the developer consortium and the land owners (One NorthEast and the Council) which governs how the Central Park Development will proceed.
10. On 12 July 2008, Cabinet resolved that Heads of Terms of the proposed Development Agreement be approved, and the Director of Corporate Services along with the Assistant Chief Executive (Regeneration), in consultation with the Cabinet Members for the Economy and Resources Portfolios be authorised to conclude negotiations. It was also resolved that subject to satisfactory negotiation concluding, then the Borough Solicitor be authorised to complete the Development Agreement. Subsequent to this the Development Agreement was signed 9 April 2009.
11. Outline Planning Permission was granted on 18 August 2006 for mixed use development comprising residential, office, hotel and conference facilities, a range of leisure and community facilities and open space (in outline) (Ref: 05/00643/OUT). This was refreshed on 27 November 2009 for variation of condition 4 of planning permission to revise the development phasing schedule (Ref: 09/00543/FUL).

Progress

12. CKY remains committed to the Central Park project. Despite the market decline since their original submissions, CKY remain positive and are pro-active in addressing the challenges that the project has subsequently encountered.
13. CKY have been working to refresh the Central Park Masterplan and have also commenced detailed design of the first phase. As part of the planning process some public consultation has already occurred with a public exhibition at the Darlington College with a view to submitting a planning application and start on site during 2011.

Compulsory Purchase Order

14. The development site is shown, edged in black, on the plan attached at **Appendix 1** and this is the land consistent with the outline planning permission site and includes land titles to be cleansed through the CPO process. The CPO would include some, but not all of the land within the black-edged boundary (for example, it would exclude land owned by Darlington College). Land within the site is broadly in four ownership categories. These are:
 - (a) Land in Council ownership
 - (b) Land in One NorthEast ownership
 - (c) Five commercial properties
 - (d) Network Rail land
15. Negotiations are ongoing in relation to the acquisition of these interests and every attempt is being made to acquire by agreement, however, in order to ensure that the scheme progresses within the requisite timescale, the Council must be prepared, if required, to use its Compulsory Purchase powers. Negotiations are in progress with Network Rail for the acquisition of its land but again it is premature at this stage to be certain whether this land would be subject to the CPO.
16. Previously, any Compulsory Purchases were to be progressed via the Regional Development Agency One NorthEast. However, due to the abolition of ONE in April 2012, it is now necessary to use the Council's Compulsory Purchase Powers. The Government is now preventing ONE from exercising these powers. Agreement is therefore sought for the Council to become the lead public body responsible for land assembly and consequently that could involve Compulsory Purchase Powers.
17. The CPO process involves the Council identifying the land it needs to acquire, and the making of the CPO. Notices are required to be published by the Council and served on all affected landowners. If objections are received, the First Secretary of State will make arrangements for a Public Inquiry to be held to consider the objections, before the First Secretary of State decides whether or not to confirm the Order. The timescales for making an order, having it confirmed and bringing it into effect are variable but will probably take at least twelve months and could be up to 18 months. Moreover, it should be noted that even if the CPO is confirmed there are further statutory procedures required before the Council can take possession of the land.
18. The Council should be satisfied before making the CPO that there are no planning barriers to the scheme. Members should note that the developers are refreshing the Masterplan and

from that there are likely to be consequential changes to the Development Agreement. These are matters that will require further consideration by Cabinet in subsequent reports.

19. Notwithstanding these matters Members attention is drawn to the following reasons for agreeing to lead on the CPO procedures:
 - (a) The redevelopment and regeneration is essential to create a sustainable mixed use community at Central Park. The acquisition of land and property will facilitate the redevelopment of the land, which will improve the economic, social and environmental well being of the area.
 - (b) The public benefits of the scheme lie in the redevelopment and regeneration of the area resulting from the redevelopment via the provision of modern attractive homes for rent and sale, high quality mixed use development and open green space with safe routes for pedestrians. Secondary economic benefits are through the many training and employment opportunities that will be created for local people which will in turn boost the local economy.
 - (c) The Central Park Masterplan.
 - (d) The emerging Local Development Framework Core Strategy.
 - (e) The redevelopment is in accordance with a range of other national, regional and local plans and strategies including National Planning Guidance (PPG3), the Regional Spatial Strategy (North East of England Plan).
 - (f) Central Park Planning Statement
 - (g) The existing Outline Planning Approval.
20. In arriving at any decision to make a CPO, and thereby depriving a person of their interest in a property, the Council should consider the human rights implications of the CPO and be satisfied that there is sufficient evidence that the public benefit will outweigh the private loss. Given the context of reasons for proceeding with CPO, it is considered that there are no compelling human rights issues to outweigh the need to make a CPO.
21. CKY have completed a financial appraisal of the development scheme that demonstrates that the project is viable. Detailed design of the first phase of housing development is also viable and generates sufficient funds to fund the CPO and indemnify the Council of CPO process and purchase costs. Officers have analysed the financial appraisals to date and are content with their robustness. The continued robustness of the financial case is one of the preconditions contained in the Development Agreement and this will be revisited before the commencement of CPO procedures. The Council would not commence CPO procedures until the developer consortium has indemnified the Council's full costs of the process.

Variations to the Development Agreement

22. As detailed above, due to the abolition of ONE NorthEast it is no longer able to use its Compulsory Purchase Powers and therefore Members should note this would be a further consequential change to the Development Agreement. Officers are currently negotiating and taking legal advice about these matters in preparation for a further report to Cabinet in due course.

Legal Implications

23. There are no legal implications arising at this time other than those set out in the report. However officers are seeking specialist legal advice in connection with the preparation of

any CPO case and resolution to commence these procedures. Further advice will be given at the time those matters are reported to Cabinet.

Risk Analysis

24. Financial – This scheme is ambitious and has high risks associated with its major benefits, however the Development Agreement facilitates the sharing of risks between all the partners. The financial information available indicates that the scheme is financially viable. The cost of the CPO process is to be indemnified by CKY. This is likely to be through a revised Development Agreement.
25. CPO Public Inquiry – If objections are made then the likelihood of a Public Inquiry is high. The impact would be significant in terms of adding to the timescale of the CPO process. However a CPO Strategy is being developed to ensure that CPO proceedings are commenced in a timely manner to ensure that any subsequent delays are kept to a minimum. The satisfaction of preconditions and subsequent changes to the Development Agreement to cover the costs of the CPO procedure and land purchases will mitigate the Councils risks.
26. In order to progress the CPO the following milestone tasks will need to be completed:
 - (a) Refresh of Master Plan
 - (b) Consequential Amendments to Development Agreement
 - (c) Refresh of financial appraisal
 - (d) Considering by Cabinet of Master Plan, Development Agreement and financial appraisal. Consideration to commence CPO procedures
 - (e) Detailed planning permissions granted for first phase
 - (f) Pre-conditions to CPO met as reflected in revised development agreement
 - (g) CPO commenced

Financial Implications

27. One of the preconditions, inter alia, required to be met before CPO procedures are commenced is certainty that there are funds in place to cover the land acquisitions. At this time the financial appraisal is indicating that the overall scheme is viable however, this needs to be revisited on completion of the refresh of the Masterplan.
28. This report if agreed will allow for the drawdown of unused funds that One North East has set aside for land assembly on part of the Central Park site. The balance of funds is approximately £1.1m and is to be used for advanced land assembly, demolitions, CPO processes and CPO compensation. It is anticipated ONE will require a commitment from the Council to use the funds for land assembly at Central Park and may wish to negotiate long stop dates in relation to milestones set out above.

Outcome of Consultation

29. No consultation has been undertaken at this stage with the general public in relation to CPO. However, there has been extensive public engagement throughout the evolution of the development of Central Park through the Core Strategy, master planning and the outline planning application.