

Meeting date: 3 December 2020
Report to: Cabinet
Subject/report title: Kingshurst Village Centre Regeneration
Report from: Director for Economy and Infrastructure
Report author/lead contact officer: Lisa Whitton – UKC Project Manager



Wards affected:

- All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege

Public/private report: Public

Exempt by virtue of paragraph: N/A

1. Purpose of Report

- 1.1 To provide an update on progress on the regeneration of Kingshurst Village Centre, particularly in relation to the community pilot and the Inclusive Growth Outcomes Framework; and
- 1.2 To seek approval of the use of Compulsory Purchase Powers to acquire all remaining land interests within the Kingshurst Village Centre Masterplan boundary, to enable the delivery of the Village Centre regeneration.

2. Decision(s) recommended

- 2.1 Note the latest progress on the development of the Masterplan and approve:
- (a) The principles of the delivery strategy for Kingshurst Village Centre as set out in section 4.5; and
- (b) The principles for the funding strategy as set out in section 6.3.
- 2.2 In relation to the acquisition of land, Cabinet is asked to:
- (a) Authorise the Council to make and advertise a Compulsory Purchase Order (“the CPO”) for the land shown coloured pink (“the Site”) on the plan contained at

Appendix 1 (“the CPO Plan”), under Section 226(1)(a) of the Town and Country Planning Act 1990, because it thinks that:

- (i) The acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land; and
- (ii) Such development, redevelopment or improvement of the land is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.

- (b) Authorise the Solicitor to the Council to take all necessary steps to secure the making (including making such further amendments to the draft Statement of Reasons, the draft Schedule and the draft Plan as are necessary), confirmation and implementation of the CPO, including the publication and service of all relevant notices, the presentation of the Council’s case at any Public Inquiry and resolution of any compulsory purchase compensation claims including, if necessary, by way of making (or responding to) a reference to the Upper Tribunal (Lands Chamber).
- (c) Approve the advertising of the proposed appropriation of 1,370 sq. m or thereabouts of land consisting or forming part of an open space at Church Close, Kingshurst shown edged red on the plan attached at Appendix 2 (“the Open Space Land”) for planning purposes (as defined in section 246(1) of the Town and Country Planning Act 1990 (“the 1990 Act”)), in accordance with section 122(2A) of the Local Government Act 1972 (“the 1972 Act”);
- (d) Delegate authority to the Director of Resources, acting in consultation with the Leader of the Council, to consider any objections to the proposed appropriation of the Open Space Land received in connection with the advertisements;
- (e) Subject to the outcome of the decisions recommended in paragraphs 2.2(c) and (d) above, approve the appropriation of the Open Space Land, together with all other land within the Site which is in the Council’s ownership (other than any land which consists of a house or part of a house) for planning purposes, in accordance with section 122(1) of the 1972 Act on the date immediately following (a) the confirmation of the CPO; or (b) completion of the acquisition of all remaining land interests in the Site without the CPO having been confirmed, whichever is the earlier.

2.3 Delegate authority to the Director of Economy and Infrastructure to formally commence engagement with existing council tenants in Kingshurst Village Centre and support the rehousing of those tenants in accordance with the Housing Allocation Policy.

2.4 In relation to the Community space, Cabinet is asked to:

- (a) Approve the extension of The Space Community Pilot until 31 March 2021; and
- (b) Approve the commission of an organisation to manage The Space from 1 April 2021 until the building is required to be vacated prior to construction works.

3. Matters for Consideration

Background

- 3.1 The aim of the Kingshurst project is to transform the village centre and deliver change to support a thriving community and successful health-led regeneration scheme.
- 3.2 Cabinet has previously received regular progress updates on the regeneration of Kingshurst Village Centre, most recently in December 2019. These reports have covered, amongst other things:
 - (a) The creation of a Masterplan for the proposed Village Centre scheme (“the Scheme”), and the carrying out of public consultation on the Scheme;
 - (b) The preparation and submission of an outline planning application for the development; and
 - (c) The preparation and submission of an Outline Business Case (OBC) to the West Midlands Combined Authority (WMCA).
- 3.3 In addition, in principle approval has been given by Cabinet to use compulsory purchase powers to facilitate the delivery of the Scheme.
- 3.4 Pre-application public consultation on the Masterplan for the Scheme was carried out in February 2020, with an outline planning application subsequently being submitted in June 2020. A copy of the illustrative Masterplan is attached to this report at Appendix 3. Following further public consultation, outline planning consent was granted on 22 September 2020.
- 3.5 The OBC for the Scheme was submitted to WMCA in March 2020, following Cabinet approval on 5 December 2019, and funding of £870,000 was approved to develop the Scheme to Full Business Case. The key elements of the OBC included:
 - (a) An illustrative masterplan comprising 86 homes (including a minimum of 34 affordable) built to Lifetime Homes and ‘net zero carbon’ standards, 1,050 sq. m of new commercial accommodation, 1,550 sq. m health centre, provision of community facilities and high quality public realm enhancing linkages to Kingshurst Park, the School and St Barnabas Church.
 - (b) The financial and programme assumptions set out in the OBC were predicated on a hybrid delivery model with certain components (site assembly, demolition and enabling, infrastructure and provision of community facilities) delivered by SMBC and the housing element led by a developer. The assumed procurement route was for a Design and Build main contract and with a Full Business Case to be submitted in October 2021.
- 3.6 The illustrative Masterplan and assumptions incorporated into the OBC are now being refined through to Full Business Case (FBC). These refined assumptions are set out in section 4 and will continue to be worked through to inform the FBC.
- 3.7 With regard to community provision in Kingshurst Village Centre, the need to identify demand and to test out a long term offer for the voluntary and community sector (in

particular the community's willingness to support another community facility) was identified in August 2019 and subsequently a 12 month pilot using the former Youth and Community Centre at Kingshurst was approved by Members in November 2019.

- 3.8 The Council recommissioned the ground floor of Kingshurst Community Centre on a temporary basis for 12 months. Now known as The Space @ Kingshurst it provides easily accessible space ideal for a range of community uses. It can be accessed independently which gives it the potential to be run by community groups and volunteers, with oversight by the Council and support from Solihull CAVA through a 'Steering Group'.

Site Assembly

- 3.9 Over the last 12 months, significant progress has been made in negotiating the acquisitions of commercial and residential interests required to deliver the Scheme. The position with respect to these negotiations is set out in Appendix 5b in the private agenda, however in summary:
- (a) There are a total of 16 private (non-Housing Revenue Account - HRA) residential properties. Of these, the Council has already acquired 8, and terms have been agreed for the acquisition of a further 5 properties. Detailed negotiations are ongoing in respect of the three remaining interests.
 - (b) There are a total of 22 HRA residential properties plus 21 HRA garages. Full consultation with individual council tenants regarding rehousing has not yet commenced as this has not been required to deliver the overall scheme programme. Solihull Community Housing (SCH) will commence consultation with secure housing tenants on alternative housing options in the spring 2021, at least 12 months prior to demolition, with a view to securing vacant possession by May 2022. The properties will then be secured in advance of demolition.
 - (c) There are a total of 32 commercial interests. Of these, the Council already owns or has already acquired 18 interests, and terms have been agreed for the acquisition of a further 1 interest. Of the 13 outstanding interests where terms have not yet been agreed:

- (i) Negotiations are underway to offer a relocation to alternative premises in respect of 3 interests;
- (ii) The existing leases are capable of being terminated in accordance with the provisions of the Landlord and Tenant Act 1954 in respect of 3 interests;
- (iii) The existing leases are capable of being terminated through the operation of a valid break clause or service of Notice to Quit in respect of 5 interests; and
- (iv) In respect of the remaining two interests, vacant possession of the properties is not required until a later phase of development, and the tenants will be offered the opportunity to relocate into alternative premises within the new development at the appropriate time.

3.10 Binding deferred completion terms have been agreed with all of the privately owned residential properties that have been acquired so far to support the delivery of the masterplan. This approach maintains occupation for as long as possible before vacant possession is secured in advance of demolition. Any properties that become vacant earlier will be appropriately secured.

4. What options have been considered and what is the evidence telling us about them?

Consideration of Design and Delivery Options

- 4.1 A wide range of options have been tested through stakeholder engagement and soft market testing through the design development process including the appropriate red line boundary. The proposed option will deliver a highly connected village centre, integrating existing assets to create a new heart to the community.
- 4.2 To support the maximisation of the social, environmental and economic value of the investment into Kingshurst Village Centre an inclusive growth outcomes framework has been developed to define the overarching outcomes for the project, as well as provide a benchmark that elements of the development proposal can be assessed against.
- 4.3 Three potential delivery options were identified within the OBC, namely (i) direct delivery by SMBC; (ii) delivery by a third-party developer and (iii) hybrid delivery with certain components (site assembly, demolition and enabling, infrastructure and provision of community facilities delivered by SMBC and housing element led by a developer).

Housing provision and delivery model

- 4.4 Both the OBC and Outline Planning consent are predicated on a policy compliant mix of housing; a minimum of 40% affordable (all social rented) homes, however there continues to be an opportunity to positively respond to the need to provide more affordable housing within the Kingshurst area.
- 4.5 The Inclusive Growth Outcomes Framework has been used to inform housing mix options, including up to 100% affordable. In addition, revised financial modelling has been undertaken to assess at a high level, what the overall financial impact of this

significant departure from the OBC assumptions would be. Whilst there is a significant amount of additional work to be undertaken to confirm the impact of these refinements, the working assumptions are now as follows:

- (a) That the Scheme is developed on a 100% affordable housing basis with at least 60% social rented. Variations within this general approach will be explored further but the funding strategy set out in section 6 is based on 80% social rented and 20% shared ownership;
- (b) Given the predominance of social housing within the Scheme and the Council's ambition to develop to exemplar standards in terms of flexibility and environmental performance, the Scheme will be public-sector led and the overall responsibility of the project will remain with the Council;
- (c) The housing will continue to be tenure blind and have flexibility in both design and phasing of the scheme in order that elements of shared ownership and a small element of private sale can be introduced if market conditions are favourable.
- (d) Solihull Community Housing (SCH) will deliver the scheme, including all aspects of build, as Development Manager, with Economy and Infrastructure as ultimate Client lead. In-house services such as Building Design Studio will be commissioned based on project requirements. The SCH Board are due to endorse this arrangement at their board meeting on November 30th 2020.

Healthcare and community offer

- 4.6 A significant factor in the development of the scheme is to enable key services to be retained for the community throughout the construction phase. Services to be retained and/or relocated include: GP, pharmacy, opticians, convenience store, library service and community space. The project is supporting the capital cost of relocating these services to enable them to continue during the construction phase, this includes the re-provision of a post office service.
- 4.7 Kingshurst Village Centre has the potential to act as a catalyst for wider public service reform focussed on an integrated service offer designed to tackle health inequalities.
- 4.8 Discussions are continuing with the CCG (Clinical Commissioning Group) regarding the opportunity to develop an integrated health and social care community hub as part of the development. A Strategic Outline Case is being drafted by the Sustainable Transformation Partnership (STP), drawing upon the Kingshurst Health Needs Assessment and a health focussed workshop that was undertaken with key stakeholders in September 2020; this SOC is the first stage in determining whether an Integrated Health & Social Care Hub should be provided as part of the Kingshurst Development.
- 4.9 There is an opportunity to have a range of blended spaces within the development, particularly between the health and community space, and to use the space to engage the community in services and activities that they might not otherwise consider.
- 4.10 The need to continue to identify demand and to test out a long term offer for the

voluntary and community sector is evident particularly in light of diverted resource due to the impact of Covid-19. The alternative option is to close the Space at the end of the initial 12 months pilot (November 2020) as initially agreed.

- 4.11 Whilst it is recognised that a number of local community groups are involved in ongoing discussions regarding the development and use of community space in Kingshurst, plans are evolving to enable wider community involvement, particularly looking at how we capture the views, needs and aspirations of those that do not usually get involved with community groups.
- 4.12 There is a recognition that wider engagement needs to be carefully considered to build trust locally and that it should be meaningful and scheduled in line with the ability to influence decisions about both the development and the way that services, including health services, will be delivered there.

Options for Site Assembly

- 4.13 As set out in section 3.9 significant progress has been made in acquiring interests through negotiation. Private residential and commercial interests have been, and will continue to be, acquired 'under the shadow of CPO' until such time as the Compulsory Purchase Order is confirmed. Rights are protected by the CPO legislation and compensation is paid in line with the compensation code.
- 4.14 To reflect current circumstances due to Covid-19, the Council are offering long stop completion dates, where required. For tenants in private rented accommodation, in addition to protection in their rental agreements, the Council are providing costs relating to relocation and, in partnership with SCH, providing support and signposting to appropriate services. Council tenants will also be supported by reimbursement of relocation costs.
- 4.15 With respect to commercial leaseholders detailed consideration has been made to ensure that key services remain for the community throughout the construction period and onwards within the new development resulting in a detailed phasing, decant and demolition strategy.
- 4.16 All commercial leaseholders who are adversely affected by the development will be offered support to identify alternative premises through the business investment team and sign-posted support for staff affected through the employment and skills team.
- 4.17 St Barnabas Church remains an integral part of the development; however the Vicarage will need to be re-sited. The project team are working closely with the Diocese of Birmingham to ensure that Church community needs are met within the Scheme and throughout the construction period.
- 4.18 There are three areas of designated open space within the Order Land (appendix 2). Officers intend to commence appropriation so that they are no longer held for open space purposes and so that they are able to be used as part of the scheme.

Compulsory Purchase Order

- 4.19 As set out in section 3.9 significant progress has been made on acquisitions through negotiation. However, it is now considered that the use of CPO powers is required to

conclude the site assembly, provide certainty for the delivery of the Scheme, and to ensure the development can be brought forward in the public interest. The reasons for this are set out in further detail in section 5 of this report.

- 4.20 Land Referencing has been undertaken to ensure all rights and interests are recorded and those with potential interests consulted. The Draft Order Plan and Draft Order Schedule are provided at appendices 1 and 4 respectively.
- 4.21 The Council has not yet established whether the Order Land includes any consecrated land but Officers will investigate this and ensure that any necessary steps required to be taken in relation to such land (if identified) are taken in accordance with the delegations set out in 2.2(b).

5. Reasons for recommending preferred option

- 5.1 The justification for the Scheme in terms of regeneration priority and the intended objectives remain relevant, as does the key objective to transform the village centre and deliver change to support a thriving community and successful regeneration.
- 5.2 The Scheme is a once in a generation opportunity to create a high quality community focussed new centre at the heart of a large suburban neighbourhood. Kingshurst Village Centre has considerable scope to be radically redesigned to a high standard as a well-integrated health and community-led scheme with a vibrant local centre and sustainable low energy homes that are adaptable to changing needs.
- 5.3 The Council Economic Recovery Plan (2020) identifies the successful redevelopment of Kingshurst Village Centre as one of the key investment projects needed to ensure the borough experiences a sustainable, inclusive and resilient economic recovery from the impact of Covid-19.
- 5.4 The impact of Covid-19 has significantly hindered the progress of the Community pilot as the Space has been unavailable for general community activity. The extension of the pilot to the end of March 2021 will enable the Council to continue to test out the pilot objectives and provide evidence for the community need in the new development.
- 5.5 Management by the council of the Community Space has been time consuming and may have restricted the use of the Space by the local community. Having an independent manager for the remaining life of the current building will enable the community to continue to benefit from the space without the council's direct involvement in the planned activities.
- 5.6 The development of a community engagement strategy to run alongside the development process with clear milestones relating to how and where the community can influence decisions made about the development, design and future service offer will ensure that they can play a more active role in shaping it to meet their needs. SCH will play a key role in shaping this strategy.
- 5.7 Financially, based on the costs in the OBC, updated to include a revised housing estimate from SCH colleagues, the scheme has a revised estimated total capital cost of £28.7m. Although there is still significant work to complete the Full Business Case and to put all third party funding agreements in place, the funding proposal as it currently

stands, on a phase by phase basis is set out at appendix 6 in the Private Agenda.

- 5.8 The detailed reasons for recommending authorising the use of Compulsory Purchase Powers are contained in the attached draft Statement of Reasons at appendix 5. This document must be served on those landowners affected by the CPO following the making of the CPO. The draft documents (including the Statement of Reasons, CPO Plan and Schedule), will be finalised prior to the service of statutory notices pursuant to the making of the CPO in accordance with the delegations set out in this report. In light of the timescales involved in the CPO process, and in accordance with Government guidance, it is prudent to commence the CPO now in parallel with continued negotiations in order that the redevelopment can progress.
- 5.9 The CPO is necessary to assemble the land and property interests that are required to enable development to take place. The benefits of the redevelopment can only be derived from a comprehensive scheme that allows for changes in the underlying infrastructure as a pre-cursor to coherent wholesale reconstruction of the commercial and residential buildings.
- 5.10 Without the CPO these holistic improvements could not take place as the integrated nature of the existing development means that any one land interest could frustrate the delivery of the whole Scheme. The Council has been seeking to acquire the necessary land by agreement over an extended period of time and has had considerable success. However there remain numerous interests where discussions are taking place but acquisition has not been achieved. Without public intervention such a comprehensive development would not be financially viable nor practical given the extent of infrastructure changes necessary to facilitate redevelopment.

Next Steps

- 5.11 Work being undertaken now and within the next 3 months:
- Negotiated acquisitions
 - Preparation for making the Compulsory Purchase Order
 - Business support and decant options
 - Site investigations
 - Consideration of early works
 - Progress reserved matters
 - Establishment of SCH led project team for residential engagement
 - Establishment of integrated health and social care hub requirements
 - Support and review of Community Space business case
 - Support for new post office application
- 5.12 Indicative milestones set out below are subject to further refinement during the detailed design and procurement phase and all efforts will be made to advance the programme and/or seek early deliverables:
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|-------------------|----------------------------------|
| • Dec – May 2021 | Detailed design/reserved matters |
| • Dec – Jan 2021 | Site Investigations |
| • May – Aug 2021 | Prepare tender documentation |
| • Sept – Oct 2021 | CPO Public Inquiry |

- Dec – Jan 2022 Tender return and evaluation
- Jan – Feb 2022 FBC submission
- Spring 2022 Appoint contractor
- Summer 2022 First phase demolition
- Winter 2022 New roads and associated infrastructure
- Spring 2023 Commence Commercial/Health construction
- Summer 2023 First phase housing construction commences
- Winter 2025/26 All construction complete

6. Implications and Considerations

6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
<p>Economy:</p> <ol style="list-style-type: none"> 1. Revitalising our towns and local centres. 2. UK Central (UKC) and maximising the opportunities of HS2. 3. Increase the supply of housing, especially affordable and social housing. 	<p>The Kingshurst redevelopment has a direct impact on helping to revitalise our local centres. The illustrative masterplan identifies capacity for 86 new homes of which the majority will be social rented (subject to this Cabinet approval). The development proposals include the provision of new retail units and healthcare units, which will improve the accessibility of the development site and will also be of benefit to the existing residential area.</p> <p>SMBC Economic Recovery Plan (2020) identifies the successful redevelopment of Kingshurst Village Centre as one of the key investment projects needed to ensure the borough experiences a sustainable, inclusive and resilient economic recovery from the impact of Covid-19 (SMBC Economic Recovery Plan, May 2020).</p>
<p>Environment:</p> <ol style="list-style-type: none"> 4. Enhance Solihull’s natural environment. 5. Improve Solihull’s air quality. 6. Reduce Solihull’s net carbon emissions. 	<p>The illustrative masterplan is a health and place based scheme which enhances the links between Kingshurst park and existing landscaped areas with a landscaped corridor.</p> <p>The aspiration is that all housing will be net zero carbon; the development will deliver housing that responds to the objectives of the WMCA and Council, to achieve a net-zero emissions target for the sub-region and locally by 2041.</p>
<p>People and Communities:</p>	<p>Kingshurst village centre has the potential to</p>

<p>7. Take action to improve life chances in our most disadvantaged communities.</p> <p>8. Enable communities to thrive.</p> <p>9. Sustainable, quality, affordable provision for adults & children with complex needs.</p>	<p>act as a catalyst for wider public service reform focussed on an integrated service offer designed to tackle health inequalities.</p> <p>The inclusive growth outcomes framework has been developed to define the overarching outcomes for the project, as well as provide a benchmark that elements of the development proposal can be assessed against.</p>
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6.2 Consultation and Scrutiny:

- 6.2.1 On 7th February 2019 Cabinet considered and approved Kingshurst Village Centre draft Planning Brief for public consultation.
- 6.2.2 On 10th October 2019 Cabinet considered and approved the Kingshurst Village Centre Planning Brief which included the outcome of the public consultation and Community Space Pilot.
- 6.2.3 The Economic Development and Managed Growth Scrutiny Board considered the regeneration of Kingshurst in September 2017, with a particular focus on engagement and again on 5th March 2019, focussing on how the Scheme is building in the future opportunities for all parts of the community to benefit.
- 6.2.4 On 5th December 2019 Cabinet considered and approved the Concept Masterplan and principles set out within the Outline Business Case.
- 6.2.5 Public consultation on the proposed masterplan and outline planning application was undertaken in February 2020. Concerns regarding the existing site continued to be in relation to crime and safety, lack of facilities for children of all ages, issues with public transport and lack of car parking, and some poorly perceived primary care facilities. There was strong community support for the proposed scheme and progress towards a new village centre.
- 6.2.6 Full details of all community consultations undertaken are within the Statement of Community Involvement which was submitted as part of the Outline Planning Application.

6.3 Financial implications:

- 6.3.1 There is still significant work to complete the Full Business Case and to put third party funding agreements in place, where required. However at this stage, for the purpose of the decisions put forward in this report, the requirement is to provide Cabinet with sufficient confidence that acting reasonably the Scheme can be funded and delivered.
- 6.3.2 Based on the costs in the Outline Business Case, updated to include a revised housing estimate, the Scheme has an estimated total capital cost of £28.7m. Ultimately the overall affordability of the scheme will rest on a number of critical factors:

- Capital cost (tendered contract price)
- Third party grant funding
- Third party commercial funding
- Council resources

6.3.3 The current Outline Business Case makes reasoned assumptions for all of the above and some are of a commercially sensitive nature. On that basis a phase by phase assessment of the affordability of the scheme is included as appendix 6 in the Private Agenda. However officers can confirm to Cabinet that:

- Funding has been obtained to fully fund the acquisition of the residential and commercial interests in the site.
- A further bid, towards infrastructure costs, is well progressed and is considered separately in the funding report elsewhere in this agenda.
- Financial modelling conducted with SCH colleagues demonstrates that the affordable housing can be funded from a combination of HRA borrowing and reserves on prior assumption that historically achievable grants from Homes England are secured. The overall proposition and the potential financial implications for the HRA will be reported to the SCH Board at its meeting on November 30 2020 and the Board are expected to confirm support for the part SCH will play in delivering the scheme.
- From a General Fund perspective, the Council has reserves available to it from the North Solihull Regeneration Programme that can contribute to the deliverability of the wider scheme.

6.3.4 In summary, for the purposes of this report the work conducted to date demonstrates that, based on the information available at this time, the scheme can be funded, drawing on a combination of HRA borrowing and reserves, General Fund reserves and on the assumption that the third party income sources set out in the appraisals are delivered.

6.4 Legal implications:

6.4.1 The principle that Compulsory Purchase Order (CPO) powers would be available, if necessary, to facilitate land assembly for these purposes was approved by Cabinet on 1st December 2016.

6.4.2 The Council has the power in Section 226 of the Town and Country Planning Act 1990 to make a compulsory purchase order for any land within the Borough if the Council think that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

6.4.3 Pursuant to Section 226 the Council may not exercise these powers unless they think that the development, re-development or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area. In the case of this development, the Scheme meets all three tests.

- 6.4.4 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to compulsorily acquire any new rights. In this case new rights will be required to enable the proposed works and the Scheme to be completed.
- 6.4.5 Guidance issued by MHCLG entitled “Guidance on Compulsory Purchase Process and the Crichel Down Rules” dated July 2019 (“the Guidance”) provides updated and revised guidance to acquiring authorities in England on the use of compulsory purchase powers. Importantly, the Guidance requires that a compulsory purchase order should only be made where the acquiring authority (the Council in this case) considers that there is a compelling case in the public interest for the exercise of the powers. The grounds for concluding that there is a compelling case for the exercise of CPO powers are set out in the attached draft Statement of Reasons.
- 6.4.6 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 an order 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:
- (a) Whether the purpose to which the land is being acquired fits in with the adopted planning framework for the area;
 - (b) 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;
 - (c) The potential financial viability of the scheme for which the land is being acquired;
 - (d) 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.
- 6.4.7 The Guidance also requires the Council to have regard to the following when considering making a compulsory purchase order:
- (a) 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;
 - (b) its obligations pursuant to the Equality Act 2010;
 - (c) 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;
 - (d) evidence relating to financial viability;
 - (e) whether the scheme is likely to be blocked by other impediments to implementation.
- 6.4.8 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 compulsory purchase order 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.

- 6.4.9 In the making of a CPO, the Guidance encourages acquiring authorities to offer affected parties access to alternative dispute resolution techniques where appropriate.
- 6.4.10 Notice of the making of a CPO is given to categories of "qualifying persons", namely owners, lessees and occupiers and those that may have a claim for compulsory purchase compensation on some other ground (e.g. a right is affected) and publicised in a local newspaper. Objections from such persons will normally lead to the holding of a public inquiry.
- 6.4.11 Section 203 of the Housing and Planning Act 2016 provides where land has been appropriated for planning purposes any relevant rights or restrictive covenants which may exist for the benefit of third parties are overridden on the carrying out of building or maintenance work or the use of land in accordance with planning permission, subject to certain conditions including the payment of any compensation due. The practical effect of appropriation for planning purposes is that any rights or restrictions which may affect the use or development of the land are overridden. This provides effective assurance to the Council that the existence of rights that affect the land will not obstruct or delay the development.
- 6.4.12 Section 122(1) of the Local Government Act 1972 provides that a principal Council may appropriate for any purpose for which the Council is authorised to acquire land by agreement, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation. Appropriation is subject to third party rights over the land. Where the land consists or forms part of an open space, before appropriating the land the Council must advertise its intention to do so for two consecutive weeks in a newspaper circulating in the local area, and consider any objections to the proposed appropriation which may be made to the Council.
- 6.4.13 Section 19(2) Housing Act 1985 provides land held for housing purposes by a local housing authority may be appropriated, without obtaining the Secretary of State's consent, if it does not consist of a house or part of a house.
- 6.4.14 It is proposed that the Council appropriates all of the land within the Site (other than any land which consist of a house or part of a house), of which 1,370 sq. m. or thereabouts consists of an open space. The open space land is shown in the land edged red on the plan attached at appendix 2. Before the Council can appropriate land it must be satisfied that the land is no longer required for the purpose for which it is held immediately before appropriation. This test will be satisfied by deferring the date of the appropriation to a time when (a) the CPO has been confirmed, or (b) all remaining land interests in the Site have been acquired without the CPO having been confirmed, whichever is the earlier. Once the appropriation is agreed, the land will then be held for planning purposes.
- 6.4.15 Legal advice will be sought to ensure full compliance with State Aid requirements through the procurement and delivery process.

6.4.16 All Procurement requirements will be completed in a manner that is compliant with the both the Council Rules for Contracts and the Public Contracts Regulations 2015.

6.5 Risk implications:

6.5.1 A Risk Register for the Scheme is maintained in accordance with the UK Central Project Management Framework.

6.6 Equality implications:

6.6.1 A full Fair Treatment Assessment has been undertaken to assess the impact on protected groups of the making of the CPO and the implementation of the CPO scheme, in line with the Equality Act 2010; see appendix 7.

6.6.2 The Fair Treatment Assessment will be monitored and reviewed throughout the CPO process to ensure that any future impact can be measured and mitigated against as necessary

7. List of appendices referred to

7.1 Appendix 1 - CPO Draft Plan

7.2 Appendix 2 – Appropriation of open space

7.3 Appendix 3 - Illustrative Masterplan

7.4 Appendix 4 – CPO Draft Schedule (in the PRIVATE agenda)

7.5 Appendix 5 – CPO Draft Statement of Reasons

(a) Appendix 5a – Parameter plan development parcels

(b) Appendix 5b - Acquisition negotiation summary (in the PRIVATE agenda)

(c) Appendix 5c – Construction phasing plans

(d) Appendix 5d – Proposed highway to be stopped up

7.6 Appendix 6 – Funding Strategy (in the PRIVATE agenda)

7.7 Appendix 7 – Fair Treatment Assessment

8. Background papers used to compile this report

8.1 None

9. List of other relevant documents

9.1 None