

Special Cabinet



St Edmundsbury
BOROUGH COUNCIL

Title:	Agenda																		
Date:	Tuesday 24 February 2015																		
Time:	4.45 pm																		
Venue:	GFR14 West Suffolk House Western Way Bury St Edmunds																		
Membership:	<p style="text-align: center;">Leader John Griffiths</p> <p style="text-align: center;">Deputy Leader Sara Mildmay-White</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><u>Councillor</u></th> <th style="text-align: left;"><u>Portfolio</u></th> </tr> </thead> <tbody> <tr> <td>Terry Clements</td> <td>Planning and Regulation</td> </tr> <tr> <td>Anne Gower</td> <td>Housing</td> </tr> <tr> <td>John Griffiths</td> <td>Leader</td> </tr> <tr> <td>Sara Mildmay-White</td> <td>Health and Communities</td> </tr> <tr> <td>Alaric Pugh</td> <td>Economic Growth</td> </tr> <tr> <td>Dave Ray</td> <td>Resources and Performance</td> </tr> <tr> <td>Sarah Stamp</td> <td>Leisure, Culture and Heritage</td> </tr> <tr> <td>Peter Stevens</td> <td>Waste and Property</td> </tr> </tbody> </table>	<u>Councillor</u>	<u>Portfolio</u>	Terry Clements	Planning and Regulation	Anne Gower	Housing	John Griffiths	Leader	Sara Mildmay-White	Health and Communities	Alaric Pugh	Economic Growth	Dave Ray	Resources and Performance	Sarah Stamp	Leisure, Culture and Heritage	Peter Stevens	Waste and Property
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Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																		
Quorum:	Three Members																		
Committee administrator:	Claire Skoyles SEBC Cabinet Officer/Committee Administrator Tel: 01284 757176 Email: claire.skoyles@westsuffolk.gov.uk																		

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Cabinet Member: John Griffiths Lead Officers: Steven Wood and
Andrea Mayley

3. Eastern Relief Road, Bury St Edmunds: Update

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Report No: **CAB/SE/15/017**

Cabinet Member: John Griffiths Lead Officers: Steven Wood and
Andrea Mayley

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NONE

Cabinet



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Suffolk Business Park Land Assembly	
Report No:	CAB/SE/15/016	
Report to and dates:	Cabinet (Special)	24 February 2015
	Council (Special)	25 March 2015
Portfolio holder:	Cllr John Griffiths Leader of the Council Tel: 01284 757001 Email: john.griffiths@stedsbc.gov.uk	
Lead officer:	Steven Wood Head of Planning and Growth Tel: 01284 757306 Email: steven.wood@westsuffolk.gov.uk	
Purpose of report:	<p>To meet the objective of the Council to achieve development of Suffolk Business Park. To facilitate site assembly by the acquisition of property through a compulsory purchase order.</p> <p>This action meets the Council's priority to increase opportunities for economic growth; and homes for our communities by the development of Suffolk Business Park and the construction of the Eastern Relief Road.</p>	
Recommendations	<p>Cabinet is asked to <u>RECOMMEND</u> to Council that:</p> <p>(1) it makes the St Edmundsbury Borough Council (Suffolk Business Park Infrastructure) Compulsory Purchase Order 2015 ("the Order") under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and all other enabling powers, for the acquisition of all legal estates and interests in the land and the acquisition of rights within the areas shown hatched on the draft Order map</p>	

<p>Recommendations (continued)</p>	<p>produced as Appendix 1 to Report No: CAB/SE/15/016 with such amendment to the final land take and plot boundaries and to substitute the taking of new rights as an alternative to the acquisition of title as may be considered necessary and approved by the Head of Planning and Growth, the Section 151 Officer and the Monitoring Officer, in consultation with the Leader of the Council, for the purposes of securing mixed use development including the provision of the Eastern Relief Road linking Moreton Hall/Suffolk Business Park at Lady Miriam Way to Junction 45 of the A14 Trunk Road;</p> <p>(2) it notes that the draft Order map shows areas hatched where the intention is for the acquisition of all interests in the land other than those of the acquiring authority;</p> <p>(3) following confirmation of the Order by the Secretary of State, it authorises the use of the General Vesting Declaration procedure and notice to treat, notice of entry and conveyance where necessary in accordance with the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 to implement the St Edmundsbury Borough Council (Suffolk Business Park Infrastructure) Compulsory Purchase Order 2015;</p> <p>(4) it approves the acquisition and appropriation of the land required for the scheme for planning purposes under the provisions of section 122 of the Local Government Act 1972 and section 237 of the Town and Country Planning Act 1990 in conjunction with (3) above to enable the Council to over-ride private rights, easements and interests (including restrictive covenants etc) affecting the land required for the scheme;</p> <p>(5) it gives delegated authority to the Head of Planning and Growth and Section 151 Officer, in consultation with the Leader of the Council to:</p>
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<p>Recommendations (continued)</p>	<p>(i) take all necessary steps as soon as is reasonably practical to secure the making, submission, confirmation and implementation of the Order (and, where appropriate, amendments to the Order by way of exclusion of interests in land or the addition of interests in land including the investigation of ownership interests) including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry; and subsequent services of Notices to Treat and Notices of Entry or, at their discretion, the execution of General Vesting Declarations as the case may be if the Order is confirmed;</p> <p>(ii) negotiate to acquire all interests in the land and new rights within the Order and rights and interests affected by the Order either by agreement or compulsorily, including prior to the making of the Order; and, where appropriate, to agree terms for relocation;</p> <p>(iii) approve agreements and undertakings with the owners of any interest in the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order including, where appropriate, seeking inclusion in and/or exclusion from the Order of land or new rights; and</p> <p>(iv) in the event that the question of compensation be referred to the Upper Tribunal (Lands Chamber), to take all necessary steps in relation thereto including advising on the appropriate compensation payable and to appoint appropriate consultants if necessary to assist and advise in this regard.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p> <p>(as they are decisions of full Council)</p>

Consultation:		<ul style="list-style-type: none"> • Consultation on the Masterplan for Suffolk Business Park ran for four weeks before the Masterplan was formally adopted in June 2010. • Additional consultation will be necessary for any development brief in line with the Council's Joint Statement of Community Involvement and protocols on development briefs. • Consultation with the landowners and the landowners agents has been continuing for a number of months. Currently the Council is meeting weekly with Taylor Wimpey. A meeting has been arranged with Churchmanor Estates Co Ltd as agents for Rougham Estate on 25 February 2015. Attempts to consult with Rougham Estates direct have not been successful. Rougham Estates have requested that all dealings are through Churchmanor. 	
Alternative option(s):		<ul style="list-style-type: none"> • Not to use CPO powers would result in the Eastern Relief Road not progressing and funding falling away. Suffolk Business Park cannot be delivered without the Eastern Relief Road. 	
Implications:			
Are there any financial implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • As detailed in the report 	
Are there any staffing implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • Time and resources of existing staff and need to appoint/manage consultants 	
Are there any ICT implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • As detailed in the report 	
Are there any equality implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • As detailed in the report 	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
The CPO fails to be confirmed by the Secretary of State	Medium	Instruct expert consultants and follow due process	Low
Recovery of costs	Medium	Legal agreement	Low

Time taken to confirm the CPO affects the delivery of the road	High	Consultants advice and MP support	Medium
If the land is not acquired and the ERR cannot be secured, the area will be vulnerable to requests for ad hoc developments which will reduce the chances of a road being funded and additional development requests for other parts of the district.	High	Agree the CPO process to purchase the said land	Medium
Ward(s) affected:	All Wards		
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	Suffolk Business Park Masterplan dated June 2010.		
Documents attached:	Appendix 1: Location Plan/Draft Order Map		

Key issues and reasons for recommendations

1. Background

- 1.1 Negotiations between Churchmanor and Taylor Wimpey had stalled. On 10 February 2015, Cabinet approved in principle, the use of the Council's compulsory purchase powers in relation to the land shown on the drawing (Appendix 1) presented with the report, subject to appropriate attempts to explore options with the landowner which would remove the matter without the need for the Council to invoke its compulsory purchase powers.
- 1.2 The Head of Planning and Growth informed both Churchmanor Estates Company Ltd (as agent for the landowner) and Sir George Agnew, Rougham Estates (the present owners of part of the land in question) and Taylor Wimpey (the present owners of part of the land in question) in writing that the Council had passed a resolution to, in principle, use its compulsory purchase powers to facilitate the sustainable urban extension known as Suffolk Business Park/Eastern Relief Road. The letter invited both parties to resolve the issue of land assembly without the need for the Council to invoke its compulsory purchase powers.
- 1.3 Government guidance asks councils to make best endeavours to resolve these matters by negotiation so as to avoid the use of statutory powers. To this end, Officers have arranged to meet with Mr Stephen Clark of Churchmanor Estates Company PLC and with Mr Bryn Maidman of Taylor Wimpey UK Ltd. The Council is concerned to make the parties aware of the seriousness of the authority's concerns from the outset and therefore tried to encourage Churchmanor to enter more readily into meaningful negotiations.
- 1.4 Prior to the involvement of the Council, Taylor Wimpey and Churchmanor had been meeting regularly to agree a Joint Venture which would be based upon all the landowners contributing the necessary land for development. This agreement has not been signed.
- 1.5 The Council has been holding meetings with Taylor Wimpey and Churchmanor for some time both individually and together. These meetings and in particular the meeting held on 24 October 2014, have set out the issues that need to be resolved to enable the development to proceed. Subsequent discussions and the submission of a heads of terms document from Churchmanor have regrettably not resulted in a satisfactory resolution to provide the Council with any confidence that the site assembly will happen without the Council using its compulsory purchase powers.
- 1.6 The costs associated with making the Order fall into two general categories, costs incurred during the process of making the Order and then costs relating to the acquisition of the land should the order be invoked. The Council is in the process of agreeing a mechanism for the costs associated with making the order to be covered. There are options for covering the costs of the acquisition which include agreeing a back to back arrangement with a commercial developer or agreeing an Indemnity Agreement. The Compulsory Purchase Order (CPO) process will not commence unless it is clear how the compensation payments will be met.

- 1.7 The Council has appointed Pinsent Masons LLP who will work with the Council's legal team to take forward the CPO. Terraquest has been appointed to carry out land searches and provide a hatched plan which will form the basis of the Order.
- 1.8 Suffolk Business Park is an allocated site in the St Edmundsbury Core Strategy (adopted 2010) and the Bury St Edmunds Vision 2031 (adopted 2014) The site also benefits from a Masterplan (adopted 2010) which sets out the broad parameters of how the site should come forward. Planning permission for the precise alignment of the Eastern Relief Road was granted on 17 February 2014.
- 1.9 The location of the Eastern Relief Road has been long established through technical planning events and consultation for the Suffolk Business Park Master Plan and through the Inquiry into the Bury St Edmunds Vision 2031 document. The options for the alignment of the Eastern Relief Road are limited by the fixed nature of junction 45 of the A14 Trunk Road and existing development at Moreton Hall/Suffolk Business Park. Alternative routes for the Eastern Relief Road would also have to cross land in the same ownerships as the current alignment. It is therefore considered that there is a compelling case in the public interest for the making of the Order so that delivery of the Eastern Relief Road may be secured.

2. Legal Powers

- 2.1 The main legal powers to be used by the Council are contained within Section 226(1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981 for the making of the compulsory purchase order.
- 2.2 Section 226(1)(a) Town and Country Planning Act 1990 (as amended) enables the compulsory acquisition of land where an acquiring authority thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the Order land and where the acquiring authority thinks that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic and/or, social and/or environmental wellbeing of the authority's area and in accordance with the guidance in ODPM Circular 06/2004. The Secretary of State will not confirm a compulsory purchase order unless there is a compelling case in the public interest that outweighs the private interests in the CPO area. This question of balance is also required to satisfy the Human Rights Act incorporating the European Convention of Human Rights.
- 2.3 Article 1 of the First Protocol (of The Human Rights Act 1998) states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- 2.4 Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interest of national

security, public safety or the economic well-being of the country.

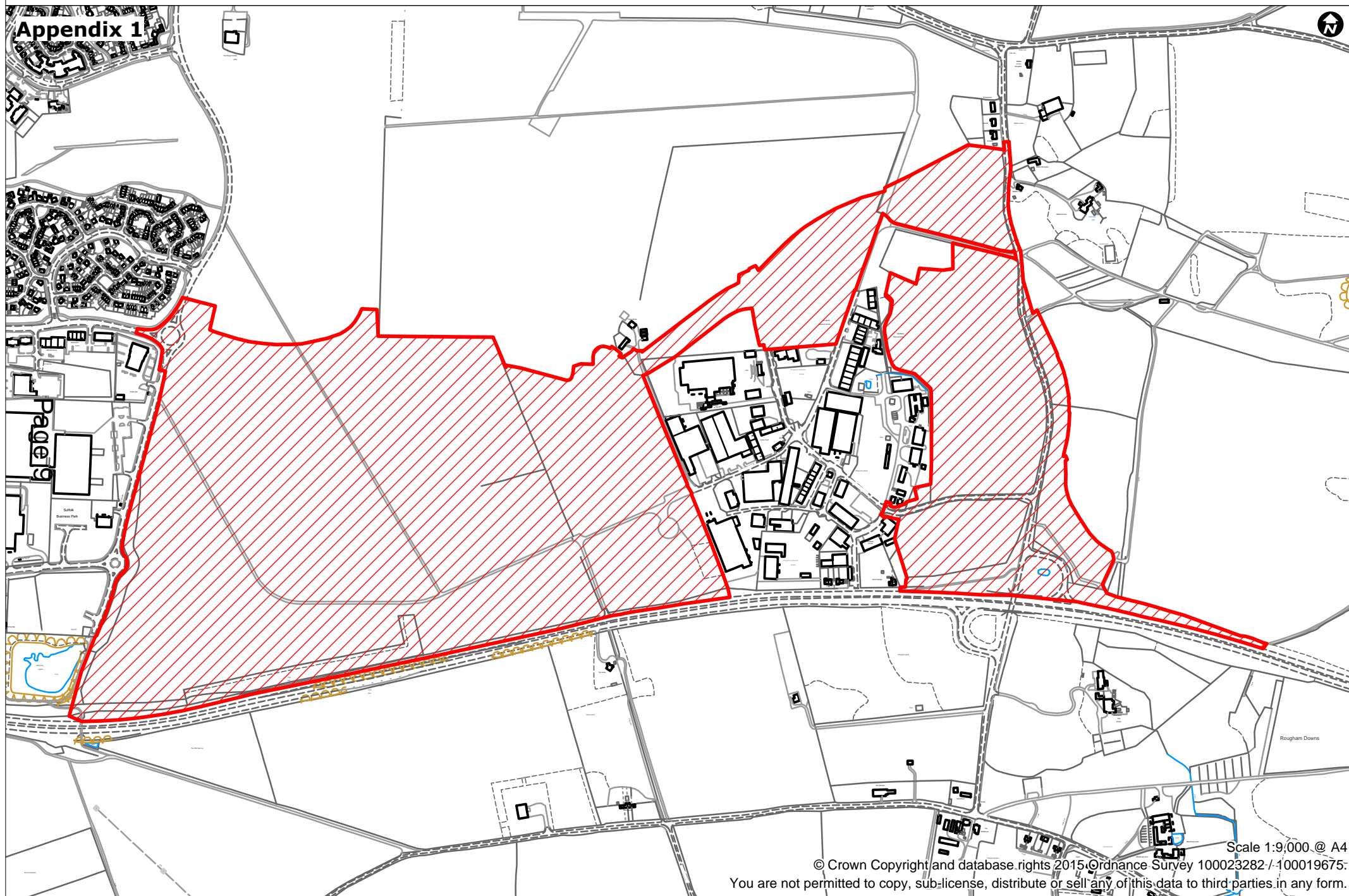
- 2.5 The Council is utilising its powers under section 226(1)(a) because it has not been possible to secure by agreement all interest that are required for the development and it is not certain it will be able to acquire the remaining land by agreement.
- 2.6 Any objections to the Order will be considered by an independent inspector at the Public Inquiry. It is necessary, having regard to the Human Rights Act, and in particular to the specific rights mentioned at paragraphs 2.3.and 2.4 above, to take into account the interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest. In this context, the Council must carefully consider the balance to be struck between individual rights and the wider public interest.
- 2.7 The Council can reasonably take the view, for the reasons set out in this report, that it considers that any interference with the Convention rights is justified in order to secure the economic, environmental and social benefits the scheme will bring. Compensation payments will be made for the acquisition of interests in land and for the acquisition of new rights in land within the compulsory purchase compensation code pursuant to the Land Compensation Acts 1961-1973 and other relevant legislation. Consequently if the Order is confirmed it would strike an appropriate balance between public and private interests such that there is no breach of Human Rights.

3. Finance/Budget/Resource Implications

- 3.1 The costs associated with making the Order fall into two general categories, costs incurred during the process of making the Order and then costs relating to the acquisition of the land should the order be invoked. The Council is in the process of agreeing a mechanism for the costs associated with making the order to be covered. There are options for covering the costs of the acquisition which include agreeing a back to back arrangement with a commercial developer. Alternatively, it is possible for the Council to enter into an indemnity agreement to ensure that the Council isn't liable for the acquisition costs. Costs associated with specialist advice are the subject of a separate report also on the agenda for today's Cabinet and full Council meetings.
- 3.2 To assist with understanding the magnitude of the acquisition costs, officers have commissioned Lambert Smith Hampton to provide a valuation in line with the Compensation Code. The s151 Officer and Monitoring Officer will need to be satisfied that the Council has a mechanism in place to recover costs associated with acquisition prior to the process being started. The CPO process will not commence unless it is clear how the compensation payments will be met. An update will be given at the meeting.

St Edmundsbury Borough Council (Suffolk Business Park Infrastructure) Compulsory Purchase Order 2015

Appendix 1



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Cabinet



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Eastern Relief Road, Bury St Edmunds: Update	
Report No:	CAB/SE/15/017	
Report to and date/s:	Cabinet (Special)	24 February 2015
	Council	24 February 2015
Portfolio holder:	Cllr John Griffiths Leader of the Council Tel: 01284 757001 Email: john.griffiths@stedsbc.gov.uk	
Lead officer:	Steven Wood Head of Planning and Growth Tel: 01284 757306 Email: steven.wood@westsuffolk.gov.uk	
Purpose of report:	To provide an update with regard to the Eastern Relief Road project since the last reports (Papers F97 and F120 refer) dated 2 and 23 September 2014 were presented to Cabinet and Council; to ask for authority to forward fund electricity costs up to £4.5m; to request delegated authority to enter into legal agreement(s); and to ask for authority to fund specialist advice of £150,000 in relation to the total project.	

<p>Recommendations:</p>	<p>It is <u>RECOMMENDED</u> that:</p> <p>(1) subject to the approval of full Council and the satisfaction of the Section 151 and Monitoring Officers, a commitment be made to the full £4,528,871 million programme of works for the provision of electricity to serve Suffolk Business Park, including an immediate financial allocation of £356,186 currently due on 27 February 2015, as detailed in Section 3 of Report No: CAB/SE/15/017;</p> <p>(2) Cabinet approves the amendment and clarification of resolutions (1) and (2) at its meeting on 2 September 2014 (minute 42 refers) in accordance with paragraphs 3.2 and 3.3 of Report No: CAB/SE/15/017;</p> <p>(3) subject to the approval of full Council and the satisfaction of the Section 151 and Monitoring Officers, delegated authority be given to the Head of Planning and Growth in consultation with the Leader of the Council to enter into an agreement or agreements to be entered into by St Edmundsbury Borough Council (SEBC) and the developer/landowner to enable the development of Suffolk Business Park and Eastern Relief Road to enable SEBC to realise a return on its investment in line with the principles approved in the Medium Term Financial Strategy; and</p> <p>(4) Council be asked to approve the financial allocation of £150,000 towards the costs of specialist advice for this project from reserves.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input type="checkbox"/></p> <p>Key Decision in part, however, the majority of decisions require full Council approval.</p>

Consultation:		<p>The development of the Eastern Relief Road and Suffolk Business Park is a long established policy of SEBC. Most recently the Vision 2031 documents confirm the allocation of the residential, commercial and leisure/community uses along with the ERR and junction 45 of the A14 Trunk Road upgrade.</p> <p>In June 2010 the Masterplan for the extension to Suffolk Business Park was adopted following the due consultation phase.</p> <p>A series of meetings have also been held with Rougham Parish Council; Moreton Hall Residents' Association; and local business representative organisations.</p>	
Alternative option(s):		<p>Not to commission the electricity works would result in a delay to the programme such that electricity may not be available in time for the first occupiers of the school, residences or commercial land.</p> <p>To delay the works would adversely affect the programme as above and may result in an increase in costs.</p> <p>Not to secure specialist advice would put the Council at risk of legal challenge and may result in the Council not achieving best consideration for its finances.</p>	
Implications:			
Are there any financial implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • As detailed in the report	
Are there any staffing implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Time and resources of existing staff to enable the project to progress	
Are there any ICT implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any legal and/or policy implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • As detailed in the report	
Are there any equality implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • As detailed in the report	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Growing Places Fund application is refused	Low	Early consultation with GPF officers. We could seek an alternative loan fund or make use of Council balances	Low
Taylor Wimpey is unable to provide its £1.4m contribution	Medium	Include a mechanism in the legal agreement to enable the funding to be recovered anyway.	Low

The costs increase throughout the programme or costs exceed the estimates	Low	Fix the prices in the legal agreement with the electricity provider.	Low
The commercial lets do not come forward within the timescale to repay the loan	Medium	Engage a commercial developer to promote the land.	Low
Ward(s) affected:	All Wards		
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	Report F97 to Cabinet: 2 September 2015 Report F120 to Council: 23 September 2015 Suffolk Business Park Masterplan dated June 2010		
Documents attached:	None		

Key issues and reasons for recommendation(s)

1. Background

- 1.1 Report F97 "Eastern Relief Road, Bury St Edmunds" made recommendations to Cabinet which were approved by Cabinet on 2 September and then full Council on 23 September 2014. Council resolved that there be an allocation of £3m of investment into the Eastern Relief Road. Cabinet had resolved (Minute 42 resolutions (1) and (2) that a further report be brought back regarding delegated authority to enter into legal agreement(s) with the developer/landowner(s); and also resolved that delegated authority be given to enable officers to enter into a £3m loan agreement for electricity infrastructure works. This report seeks to provide Members with an update regarding the Cabinet resolutions detailed above.

2. Legal Agreements

- 2.1 It was envisaged that a report would be brought back to Cabinet on 21 October 2014, providing an update regarding the legal agreements necessary between SEBC and landowners. It has taken longer than anticipated to progress the legal agreements and therefore this report seeks to address this matter.
- 2.2 The Council is in the process of agreeing the "heads of terms" of an agreement to detail the return for its £3m investment (as approved by Council on 23 September 2014) in line with the principles approved in the Medium Term Financial Strategy. The heads of terms seek to provide an agreed way for parties to enter into joint working arrangements and often include commercially sensitive information including the mechanism for payments relating to land acquisition and upfront infrastructure costs. Following the approval of the heads of terms there may be subsequent legal agreements to deal with specific elements of the development. It is requested that subject to the satisfaction of the Section 151 and Monitoring Officers, delegated authority be given to the Head of Planning and Growth in consultation with the Leader of the Council to enter into an agreement or agreements relating to the development of Suffolk Business Park/Eastern Relief Road.

3. Electricity Infrastructure Funding

- 3.1 Minute 42 from the Cabinet meeting on 2 September 2014 records the following resolution:

Subject to the Section 151 and Monitoring Officers being satisfied with the outcome of the due diligence referred to in (1) above, delegated authority be given to the Head of Economic Development and Growth in consultation with the Leader of the Council, to make an application to and enter into a loan arrangement with the New Anglia Local Enterprise Partnership for £3 million from its Growing Places Fund to enable the electricity infrastructure works to be commissioned as detail in Section 4.9 of Report F97.

- 3.2 For the avoidance of doubt, Council is asked to amend this delegation to refer to the Head of Planning and Growth (in consultation with the Leader of the Council) as the post of the Head of Economic Development and Growth no longer exists.

- 3.3 Further, Cabinet is requested to increase the amount of the loan from the £3m agreed in September 2014 to £4,528,871m. This is to ensure that the total costs of the electricity infrastructure works can be covered by the loan. It is anticipated that Taylor Wimpey will contribute a further £1.4m in relation to the residential development.
- 3.4 An application for £4,528,871m of Growing Places Fund towards electricity infrastructure works has been sent to New Anglia Local Enterprise Partnership (NALEP). NALEP has indicated that it hopes to be able to determine this application at its next Board meeting on 20 March 2015.
- 3.5 NALEP's Growing Places Fund is an allocation of funding set aside by the LEP to provide loan funding to help stalled and delayed infrastructure projects. NALEP states that the government's aim for the Growing Places Fund is to address constraints on otherwise viable schemes that are not able to proceed without targeted investment in pieces of infrastructure which unlock development.
- 3.6 Early discussions with officers at NALEP have indicated that the electricity infrastructure funding for Suffolk Business Park is the type of project that would be likely to be funded under the GPF programme. The fact that NALEP would effectively be entering into a loan arrangement with SEBC is also an advantage as it removes most of the necessary due diligence work that the LEP is required to undertake when lending to a private body/company/individual.
- 3.7 Interest rates for the loan will be calculated by the LEP on the basis of who they are lending to, for how long and the risk level involved. If the loan application is approved the offer letter will set out the level of interest payable and the terms of the loan.
- 3.8 It is proposed that the loan (including interest charges) would be repaid either from the commercial lets as they come forward for Suffolk Business Park or by the commercial developer who will be appointed to bring the land forward. Traditionally, such a commercial developer would raise finance for the upfront costs associated with providing services to the site; this includes the internal access road, utilities etc.
- 3.9 In the meantime, the electricity provider has set out the programme of expenditure required to secure the electricity supply. There are two issues relating to this. Firstly, the first two payments on the programme of expenditure are required by 27 February 2015 i.e. before the NALEP loan has been confirmed or paid. Secondly, the electricity provider requires a commitment to the programme of works and therefore a commitment to fund these works to enable it to commence. Officers are working with the electricity provider to change the date of the first two payments until after 20 March 2015 so that there is certainty about the loan arrangement. However the worst case scenario is that the payments will be required by 27 February.
- 3.10 The total cost of the electricity infrastructure works is £4,628,871. Taylor Wimpey has already paid £100,000 in the form of a refundable deposit. Taylor Wimpey has allocated a further £1.4m towards electricity infrastructure which, on the current programme, would be payable from July 2015. This would leave a figure of £3,128,871 to be funded.

- 3.11 The electricity works are proposed to be phased and therefore the provider would also require payments to be provided in stages. The first payment of £100,000 has already been paid by Taylor Wimpey. The second payment amounts to £129,786 and is required to be paid by 27 February 2015 (as a worst case). The third payment of £226,400 is required in Quarter 2 of 2015. These two outstanding payments equate to £356,186 which Council is being asked to approve immediately. This sum can be paid from the existing £3m allocation of funding approved by Council on 23 September 2014 (referred to above in paragraph 1.1) if the loan from NALEP had yet to be remitted to the Council.
- 3.12 By the time the fourth payment is required (Quarter 3 2015) the loan from New Anglia may be in place or Taylor Wimpey may be able to contribute from its £1.5m total allocation. There is a risk that NALEP either does not approve the Growing Places Fund application or that it is not in place in time. There is also the risk that Taylor Wimpey would not be in a position to commit any of the £1.5m of its funding. In this instance, SEBC would be committed to the total £4.5m cost of the infrastructure works subject to the satisfaction of the Section 151 and Monitoring Officers. This total cost is recoverable from the occupants of the commercial space as it comes forward over time. The usual contractual provision is that infrastructure costs are the first elements to be repaid.
- 3.13 Officers are commissioning consultants to ensure that the costs and timings set out by the electricity providers are appropriate for the proposed development in the area. The consultants will also help to frame any agreement with the electricity provider to ensure that the funding provided can be recovered by future developments, outside of our control and the beyond the land owned by Taylor Wimpey. The commercial land owned by Taylor Wimpey is to be the subject of an agreement between SEBC and Taylor Wimpey and therefore the commercial lets on this part of the site will be within our control and we will be able to recover our costs from this part of the site.
- 3.14 To enable the electricity works to be secured, Members are requested to commit to the programme of electricity works at a cost of £4.5m and to authorise the temporary forward funding of payments totalling £356,186 to be repaid when the loan is in place.

4. Specialist advice

- 4.1 There are a number of areas of specialist advice that are required in connection with this project to make sure that SEBC is working within the law and maximising its best consideration. The following table sets out the requirement and cost of each element. Fee proposals are awaited in the case of electricity advice, land referencing and VAT advice however the total request for this advice is a maximum of £150,000.

No.	Responsibility	Cost
1.	Commercial structure; Stamp Duty Land Tax	£50k
2.	Specialist legal advice	£50k
3.	Land Acquisition advice (see report *)	£14k
4.	Land valuation	£4k
5.	Electricity advice	TBC
6.	Land Referencing	TBC
7.	VAT	TBC
Total		£150k

5. Finance/Budget/Resource Implications

- 5.1 In the worst case scenario, if Members are minded to agree the recommendations above, SEBC will need to commit a total of £4.5m towards this project within its capital programme. Officers are working with the electricity supplier to extend the deadline for the first payments so that there is certainty of the loan from NALEP before SEBC commits to the £4.5m programme of works.
- 5.2 SEBC will be taking responsibility for repaying the Growing Places Fund loan including the interest payments. The funding for the electricity works is required in phases and would be paid back as and when the development comes forward.
- 5.3 The specialist advice fees are a necessary element of the process of investing in a complex matter such as this project. The costs can be paid out of Council reserves in the first instance however there may be opportunities to capitalise these costs as the project progresses. The external support is required to provide specialist support to ensure the Council achieves a commercial consideration for our investment. These costs are typical costs associated with this type of development and with the exception of the land acquisition costs (which will be recoverable by the development), will be set against the investment return achieved from Suffolk Business Park.