

Cabinet



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Suffolk Business Park Land Assembly	
Report No:	CAB/SE/15/006	
Report to and date/s:	Cabinet	10 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:	<p>To establish whether the Council is willing to agree to the use of its Compulsory Purchase Powers under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to help facilitate the development of Suffolk Business Park.</p> <p>This action meets the Council's following priorities:</p> <p>Increased opportunities for economic growth; and Homes for our communities.</p>	
Recommendations	<p>It is <u>RECOMMENDED</u> that Cabinet:</p> <p>(1) approves the principle of using the Council's compulsory purchase powers (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire such estates and interest in the land as may be necessary to facilitate the development of the Eastern Relief Road and Suffolk Business Park in accordance with the local development plan, as detailed in Section 2 of Report No: CAB/SE/15/006; and</p>	

Recommendations: (continued)	(2) authorises the Head of Planning and Growth to continue to explore options with the landowners which would resolve the matter without the need for the Council to invoke its compulsory purchase powers. In the event of negotiations proving unsuccessful, a further report will be brought to a future Cabinet meeting to seek a recommendation to Council for use of CPO powers in accordance with recommendation 1 above.
Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/> (as it is a decision in principle)
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.
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:	
<i>Are there any financial implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • As detailed in the report
<i>Are there any staffing implications? If yes, please give details</i>	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
<i>Are there any ICT implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<i>Are there any legal and/or policy implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> • As detailed in the report
<i>Are there any equality implications? If yes, please give details</i>	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
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 A: Location Plan	

Key issues and reasons for recommendations

1. Introduction

- 1.1 The Eastern Relief Road is required to facilitate 68 hectares of General Employment land (Extension to Suffolk Business Park) and further housing growth on the Moreton Hall Estate (500 homes). The housing is one of the five directions of growth for Bury St Edmunds and the Suffolk Business Park Extension provides a significant proportion of the strategic employment allocation for the Borough up to and beyond 2031. The principle of both of these were agreed when the Core Strategy was adopted in December 2010. The general alignment of the road was also set out in the "Suffolk Business Park Extension Masterplan" adopted June 2010. The Masterplan set the broad principles for the development of Suffolk Business Park.
- 1.2 Planning permission for the Eastern Relief Road (ERR) was granted on 17 February 2014. The ERR is set to provide a new link from the A14 Trunk Road at junction 45 to Moreton Hall/Suffolk Business Park. The new road will head east from the existing roundabout on the junction of Skyliner Way and Lady Miriam Way and link into the A14 at Junction 45. The road design includes five new roundabouts serving a new secondary school site; 68 hectares of employment land to the south; the Rougham Tower Museum and the Rougham Airfield to the north; and access to the existing Rougham Industrial Estate. Junction 45 is proposed to be significantly altered with a new roundabout, extended slip roads, altered radii and the addition of traffic lights, as required.
- 1.3 The Eastern Relief Road is an important piece of infrastructure designed to help relieve existing congestion at junctions 43 and 44 of the A14 that currently serve Moreton Hall/Suffolk Business Park. The road is required to be in place before new development can be occupied.
- 1.4 The 68 hectare extension to Suffolk Business Park is in three ownerships. Taylor Wimpey UK Ltd owns approximately 35 hectares (88 acres) of the western section of the site (closest to Moreton Hall); Rougham Estates owns approximately 21 hectares (54 acres) on the eastern side of the site (adjoining Rougham Industrial Estate on two sides); and St Edmundsbury Borough Council owns a strip of land along the western edge of the site. Rougham Estates are represented by an agent, Churchmanor Estates Company PLC ('Churchmanor').
- 1.5 Negotiations with Churchmanor and the Council have currently stalled. The land in the control of Churchmanor is now the only parcel of land needed to complete the Eastern Relief Road and extension to Suffolk Business Park. This is the first time that the council has considered using CPO powers to unlock this strategic development. Up until recently, it had not been considered necessary to use CPO powers as it was considered that all the landowners were on course to negotiate a settlement.
- 1.6 Officers are now concerned that unless the Council considers the use of its powers and approves the making of a Compulsory Purchase Order, the current impasse will continue indefinitely further delaying this important scheme and thereby failing to provide much needed housing, education, community and employment land.

2. Background

- 2.1 Guidance on the use of compulsory purchase orders was issued by The Office of the Deputy Prime Minister in Circular 06/2004. The circular opens by saying:
- "Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay."*
- 2.2 The Council is responsible through its Local Development Framework for ensuring the delivery and efficient planning of future housing and employment growth in the Borough. The extension to Suffolk Business Park is not only a strategic employment site for West Suffolk to 2031; it is of regional significance as a site capable of accommodating significant employment growth along the A14 corridor.
- 2.3 In order to enable the 68 hectare Suffolk Business Park site to be brought forward the Eastern Relief Road needs to be completed to provide the essential infrastructure linking the land directly to the A14 Trunk Road. As such the Council can utilise its compulsory purchase powers under the Town and Country Planning Act 1990.
- 2.4 All parties have recognised that the Eastern Relief Road is a high priority to be achieved preferably through agreement with the landowners of Suffolk Business Park. This has not happened to date. In the absence of such an agreement, in order to assist bringing the development forward, it is considered that it is now necessary for the Council to resolve in principle to make a Compulsory Purchase Order.
- 2.5 If Cabinet agrees in principle to recommend using the Council's CPO powers it is intended that a letter be written to inform Churchmanor Estates Company PLC and Taylor Wimpey UK Ltd of the resolution and invite them to attend a meeting to try to resolve the matter without the need for the Council to invoke its CPO powers. This is in line with the recommendations in the guidance that acquiring authorities should try to acquire land by agreement wherever practicable. Bearing in mind the time the CPO process can take, authorities are encouraged to start formal CPO procedures in parallel with their efforts to acquire by agreement. This has the extra advantage of, in the words of the Guidance "making the seriousness of the authorities intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations".
- 2.6 Members will be advised of the outcome of discussions with Churchmanor and Taylor Wimpey. To preserve the Council's position a further report will be produced seeking full approval to the making of the Order and the taking of all

necessary steps to enable the land to be compulsorily acquired by the Council.

3. Legal Powers

- 3.1 **Section 226(1)(a) Town and Country Planning Act 1990 (as amended)** enables the compulsory acquisition of land. These powers provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement the proposals in their community strategies and Local Development Documents. Under these powers an acquiring authority can acquire land compulsorily for the purposes of development, redevelopment or improvement if it considers that the acquisition will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, that land; and the development, redevelopment or improvement will contribute to the economic, social or environmental wellbeing of their area which is clearly the purpose behind the Eastern Relief Road and Suffolk Business Park.
- 3.2 The use of the words "on, or in relation to" means that the scheme of development, redevelopment or improvement for which the land needs to be acquired does not necessarily have to be taking place on that land so long as its acquisition can be shown to be essential to the successful implementation of the scheme.
- 3.3 The Guidance advises that before making an Order, the acquiring authority should be satisfied, so far as is possible, that the proposed scheme would not be blocked by any impediments to implementation:
- "In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or licence."*
- 3.4 Whilst there is clear benefit when seeking to exercise powers of compulsory purchase in having the certainty of extant, implementable planning permission this is not always possible. This situation is explicitly acknowledged in the Guidance which recognises that it may not always be feasible or sensible to wait until the full details of the scheme have been worked up, and planning permission obtained, before proceeding with the order. In this instance it is clear that planning permission exists for the Eastern Relief Road and that the extension to Suffolk Business Plan is both included in the Local Plan and benefits from an adopted Master Plan.
- 3.5 The Guidance advises that evidence to establish to financial viability of the scheme will need to be provided in those cases where it is an issue. This does not mean, though, that the acquiring authority will be required as a matter of routine to submit a full financial approval of the proposed scheme in justification for its compulsory purchase proposal.
- 3.6 The financial viability of Suffolk Business Park is not considered to be an issue now that there is a commitment by the New Anglia Local Enterprise Partnership and the Local Authorities to fund the Eastern Relief Road.

- 3.7 CPOs made by a local authority under section 226 must be confirmed by Secretary of State. If the owner of the land which is the subject of the CPO objects to the order, the Secretary of State will appoint an independent inspector to conduct a public inquiry. The inspector's report and recommendation will be considered by the Secretary of State when a decision whether or not to confirm the CPO is taken.
- 3.8 **Section 233 Town and Planning Act 1990 (as amended)** provides that where a council disposes of land that has been acquired or appropriated for planning purposes, it must secure the best use of the land for the "proper planning of the area" and ensure that the consideration for any disposal is not "less than the best that can reasonably be obtained". All disposals at less than best consideration must receive a specific consent from the Secretary of State.
- 3.9 The Council is entitled to enter into contractual or other arrangements with another party for the procuring of a development and to dispose of a freehold or leasehold interest in land acquired pursuant to a CPO to that party.
- 3.10 There is no need for the Council to carry out a full marketing exercise before it can enter into such a back-to-back arrangement with Taylor Wimpey or another developer to acquire the land acquired by the Council through use of its CPO powers. A "back-to-back" arrangement (under which the acquiring local authority makes neither a commercial loss nor a commercial gain from its participation, using section 226 powers, in a scheme) is standard practice.
- 3.11 **The Human Rights Act 1998** incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provision in the form of Articles, the aim of which is to protect the rights of the individual. In resolving to make a CPO order the Council has to consider the rights of property owners under the Convention, notably under Article 1 which protects the rights of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- 3.12 In the case of each of these Articles (and indeed other provisions in the Convention) the Council has to be conscious of the need to strike a balance between the rights of the individual and the rights of the public. In the light of the significant public benefit which would arise from the implementation of the scheme, officers have concluded that it would be appropriate to make an order. Officers do not regard the use of CPO powers in this case as constituting any unlawful interference with individual property rights.
- 3.13 The opportunity has been given to landowners to make representations regarding the council's planning policies which underpin the scheme for which the council is considering the use of its CPO powers. Further representation can be made in the context of the compulsory purchase process which allows objections to be made which may be considered by the Secretary of State if not resolved. Also, those directly affected by the order will be entitled to compensation proportionate to the loss which they incur as a result of the acquisition.

4. Finance/Budget/Resource Implications

- 4.1 Any action taken to secure the delivery of Suffolk Business Park using CPO powers will have financial and resource implications. There will be costs associated with making the order (administrative, legal and potentially inquiry costs) and then if the order is enacted there will be costs associated with compensation payments.
- 4.2 The scale of costs associated with making the order will be dependent upon the nature of the process going forward. Further reports to Members will detail these costs before expenditure is incurred.