

Resources Committee

23rd June 2010

Report of the Corporate Director – Development

Compulsory Purchase Order – Stanton Cross Midland Road Access (Route 4)

1 Purpose of Report

- 1.1 To establish whether the Council is willing to reuse 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 the Stanton Cross Midland Road Access (Route 4)
- 1.2 This action meets the following Council's objective;
- Supporting High Quality Growth by securing the commencement of the development of Stanton Cross (Wellingborough East).

2 Executive Summary

- 2.1 Bovis Homes Ltd, the main developers for WEAST, submitted an outline planning application to the Council on 9th August 2004, which confirms the main accesses for the Stanton Cross development. In order for the development to proceed beyond its first phase two of the main access routes (routes 2 and 4) will need to be completed before further development can commence. Bovis Homes Ltd has now secured the land required for the Southern Access (Route 2) from Whitworths. However, negotiations between Bovis and Wellmere Ltd, an associate company of Bee Bee Development Ltd over an agreement for use of land for the Route 4 access have not been concluded. It is understood that a collaboration agreement has been negotiated by the two parties, however this has not been signed resulting in the delay in bringing forward this development. Bovis has requested the Council uses its CPO powers to help deliver Stanton Cross.

3 Appendices

Appendix 1 – Plan of the Land which is the subject of this report.

4 Proposed Action

- 4.1 The Committee is invited to **RESOLVE** to approve in principle the use of the Council's compulsory purchase powers under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire all estates and interests in the land shown hatched on the drawing at Appendix 1 subject to appropriate attempts to explore options with the developers which would resolve the matter without the need for the Council to invoke its CPO powers.

4.2 The Committee is invited to RESOLVE that if the exploration fails that the Council enter into a deed to indemnify the Council with Bovis Homes Limited in respect of all administrative and legal costs of preparing and confirming the Order and all costs and liabilities of whatsoever nature arising in the purchase and acquisition of the said land and that approval of the terms of such deed be delegated to the Corporate Director in consultation with the Chairman of the Committee.

5 Background

5.1 The principle of using Compulsory Purchase Order (CPO) powers for Stanton Cross and for route 2 was previously approved by Members at the Policy and Resources Committee on 2nd November 2004 and Resources Committee on 5th June 2007.

5.1 Policy Framework

5.2.1 The policy to justify use of compulsory purchase powers is set out in the Council's Local Plan (1990). It states at A3.18 (pg A9) that "The Borough Council may consider the need for compulsory acquisition of allocated sites, or associated land, where necessary to secure compliance with the planned development programme".

5.2.2 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'*

5.2.3 The policy justification for Stanton Cross has been established through the Borough of Wellingborough Local Plan and its subsequent Alteration adopted in 2004 policy U14 – U19. The allocation is also confirmed through the North Northamptonshire Core Spatial Strategy adopted in 2008.

5.2.5 More detailed guidance was produced by the Borough Council in relation to Stanton Cross in the form of a Development Framework which was adopted as Supplementary Planning Guidance in November 2003. Access for the development is shown in Figure 3.8 of the document and the general alignment for route 4 is indicated this is replicated through the Movement Strategy in Fig. 4.1 showing the Midland Road access. The consent for Stanton Cross WP/2004/0600/O was given by the Council in January 2008.

5.2.6 Through technical planning events and consultation for the Stanton Cross Development Framework the principle of where all the Stanton Cross access

routes will connect with the development site have been well established. An Alternative Routes report was submitted with the masterplan and outline application in August 2005. This document provided analysis as to why these specific routes had been chosen as the optimum access routes and why other alternatives discounted.

5.3 Local Development Framework

- 5.3.1 The need to bring forward the Stanton Cross development through the Local Development Framework has been established in previous reports to this Committee citing the need to use CPO powers to obtain Route 2.
- 5.3.2 In order for the development to proceed beyond its first phase two of the main access routes (Routes 2 and 4) need to be completed before further development can commence. Bovis Homes Ltd has written to the Council requesting support in acquiring a parcel of land across Route 4 which is owned by Wellmere Ltd, an associated company of Bee Bee Developments Ltd (see Appendix 1). Discussions have continued between Bovis and Wellmere Ltd/Bee Bee Developments Ltd over many months, however, this has not resulted in a signed collaboration agreement between the two developers to allow development to commence. A request has now been received that the Council assist in bringing forward Stanton Cross by use of its CPO powers.

6 Discussion

- 6.1 The Council is responsible through its Local Development Framework for ensuring the delivery and efficient planning of future housing and employment growth within the Borough. Wellingborough East is the town's initial major urban extension through the plan period to 2021.
- 6.2 As the access route is to serve the development and provide essential infrastructure for the development to proceed the Council can utilise its Compulsory Purchase Order powers under the Town and Country Planning Act 1990.
- 6.3 Both developers have indicated that the access through Route 4 is a high priority to be achieved preferably through a signed collaboration agreement with the landowners of Stanton Cross. 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 may be necessary for the Council to resolve to make a Compulsory Purchase Order.
- 6.4 If the committee resolve that in principle the Council is prepared to use its CPO powers, it is intended that a letter be written to inform Wellmere/Bee Bee Developments and Bovis 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. However, 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 authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations."

7 Legal Powers

- 7.1 Section 226(1)(a) Town and 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 well-being of their area which is clearly the purpose behind Stanton Cross and Weast.
- 7.2 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.
- 7.3 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"*
- 7.4 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.
- 7.5 The Guidance advises that evidence to establish the financial viability of the scheme CPO powers being used to support 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.
- 7.6 Given the developer's financial standing, the financial viability and funding is not considered likely to be an issue.

8.0 Human Rights Considerations

- 8.1 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 right 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.
- 8.2 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 interests 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.
- 8.3 This 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 use of its CPO powers. Further representations 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.

9 Financial and value for money implications

There are numerous cost implications arising out of the use of CPO powers including administrative costs, legal costs, compensation costs and inquiry costs. All costs incurred by the Council relating to a CPO including compensation payments and the administrative costs of processing the order will be funded by the developer(s) by way of Deed of Costs Indemnity with the Council. Any CPO will not be made until an appropriate Deed of Costs indemnity agreement has been entered into in respect of each proposed acquisition. Bovis have given a written assurance to provide this indemnity.

10 Risk analysis and Implications

There is a significant risk that the Stanton Cross development could not proceed as proposed if the landowners cannot agree a mechanism to release parcels of land required for access. The development could be stymied for a considerable time if these access issues are not resolved.

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Land is not acquired.	The Stanton Cross development could not proceed as proposed.	High	Move forward with the CPO process to purchase this land.

Developers no longer wishes to invest in the area	Wellingborough doesn't achieve the level of investment which would provide for significant piece of infrastructure i.e.: New Station completion of the ring road, schools etc.	High	Move forward with the CPO process to purchase this land.
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a. Implications for Resources

Since the CPO is to be funded by the developer under an indemnity, the resource implication to the Council should be limited to officer time supporting the CPO.

b. Implications for Stronger and Safer Communities

This action will help facilitate Stanton Cross which is being planned as a national exemplar of sustainable development.

11 Implications for Equalities

None resulting directly from this report.

12 Author and Contact Officer

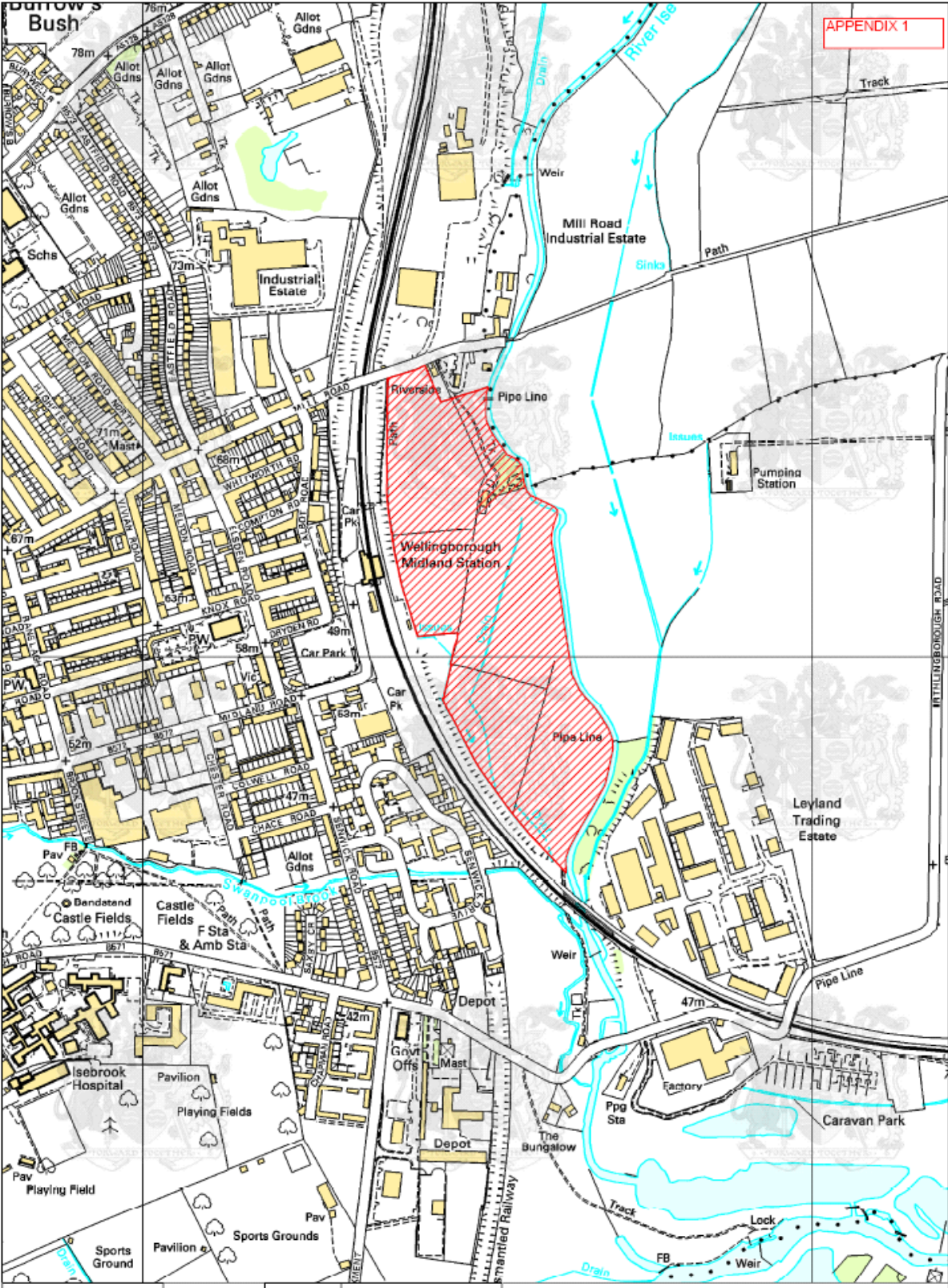
Steven Wood, Head of Built Environment

13 Consultees

Joe Hubbard – Deputy Chief Executive.
 James Wilson Corporate Director – Development
 Richard Micklewright - Director of Resources
 Robert Vaughan - Property Manager
 Victoria Phillipson - Growth and Development Manager
 Brian Stewart, - Connectlaw

14 Background Papers

None



Borough Council of Wellingborough

Scale: 1:5,000

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WEAST Landowner

 Bee Bee Developments