

**Report of Head of Planning and Local Development**

**Compulsory Purchase Orders Update**

**1 Purpose of Report**

- 1.1 (a) To update Members on the Compulsory Purchase Orders (CPO) that were authorised at previous committees in 2012/13.
- (b) This proposed action helps to achieve the Council's corporate objective of Promoting High Quality Growth and Enhancing the Environment.

**2 Executive Summary**

- 2.1 This report gives an overview of the present position on implementation against the Compulsory Purchase Orders approved for Stanton Cross, the Tudor Gate, Finedon, 66-74 Lea Way, Wellingborough and further investigations that are being undertaken on 16/17 Broad Green.
- 2.2 The report also updates members on the Compulsory Purchase Orders of empty dwellings undertaken by the Housing Team

**3 Appendices**

- 3.1 Appendix 1 – Plan of 16/17 Broad Green, Wellingborough
- 3.2 Appendix 2 – Update on CPO of empty properties

**4 Proposed Action:**

- 4.1 The committee is invite to NOTE the report and provide any comment to officers as appropriate.**

**5 Background**

**5.1 Stanton Cross CPO**

- 5.1.1 The Committee at its meeting on 6 November 2011 agreed in principle to recommend using the Council's CPO powers which was subsequently approved by Council on 13 December 2011.
- 5.1.2 Negotiations between Bovis Homes and Wellmere Ltd had stalled. On 23 November 2011, this Committee approved the use of the Council's compulsory purchase powers in relation to the land shown on the drawing (Appendix I) 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 CPO powers. The Committee also resolved that if the exploration of options fails the Council enters into a deed with Bovis Homes Ltd to indemnify the Council in respect of all administrative and legal costs in placing the Order and all associated costs and that the approval of the terms of such deed be delegated to the Head of Planning and Local Development in consultation with the Chairman of the Committee.

- 5.1.3 The Head of Planning and Local Development informed Wellmere Ltd (the present owners of the land in question) and Bovis Homes Ltd (the developers of Stanton Cross) in writing that the Council had passed a resolution to, in principle, use its CPO powers to facilitate the first phase of the Sustainable Urban Extension known as Stanton Cross. The letter invited both parties to resolve the issue of land assembly without the need for the Council to invoke its CPO powers.
- 5.1.4 As the matter could not be resolved the Council progressed with the CPO and the Compulsory Purchase Order was confirmed on the 30<sup>th</sup> November 2012 by the Secretary of State.

## 5.2 The Tudor Gate, High Street, Finedon

- 5.2.1 This Grade II Listed Building fell into disuse approximately four years ago having been a well-loved and used facility for several decades for both locals and patrons of the surrounding area. It received planning permission and Listed Building Consent in 2010 for a development and refurbishment scheme. Shortly after permission was granted, the property was put up for sale.
- 5.2.2 Councillor J Bailey (at Council on 31 January 2012) raised the formal query 'What action is the Council prepared to take to ensure that the Tudor Gate Hotel does not become so ruinous that it becomes a building beyond repair at reasonable expense? In particular, is the Council prepared to exercise its compulsory purchase powers to ensure its survival?'
- 5.2.3 The property was purchased by a developer who has been actively developing the site, therefore it was not necessary to use Compulsory Purchase Powers.

## 5.3 66–74 Lea Way, Wellingborough

- 5.3.1 The Committee at its meeting on the 22 March, authorised the use of Compulsory Purchase Powers on 66 – 74 Lea Way, Wellingborough.
- 5.3.2 This is the site of a former mini supermarket and business units. These units are empty, the former supermarket has been closed for four years due to fire damage. The site is an area of anti-social behaviour which has been the subject of numerous complaints during the last 7 years to both the Council's Environmental Protection Team and Planning Enforcement. Despite a number of requests the land owner has failed to propose a solution for the site.
- 5.3.3 In 2010, a planning application was submitted for a change of use on the site to

residential. This was approved subject to a number of conditions and the signing of a S106 agreement. To date, this S106 agreement has not been signed.

5.3.4 The Council gave notice of its intention to make a Compulsory Purchase Order on this site on the 9<sup>th</sup> April.

#### 5.4 Broad Green, Wellingborough

5.4.1 Officers had been asked to investigate the potential for a compulsory purchase order on a property at 16-17 Broad Green, Wellingborough. This is a development which has almost been completed, but has been stalled and boarded up for some time.

### **6 Discussion**

#### 6.1 Stanton Cross Compulsory Purchase Order (CPO)

6.1.1 The Compulsory Purchase Order was confirmed on the 30<sup>th</sup> November 2012 by the Secretary of State.

6.1.2 Officers are now progressing with a General Vesting Declaration in order to provide clean title on the specified area of land.

#### 6.2 The Tudor Gate, High Street, Finedon

6.2.1 The Borough Council's Building Control Inspectors are inspecting the development as part of its Building Regulations application.

6.2.2 The development is well underway with the refurbishment of the old hotel itself about 75% complete - one new house to the rear has its roof on and the foundations to a pair of bungalows have been concreted.

#### 6.3 66 – 74 Lea Way, Wellingborough

6.3.1 Notice of the Councils intention to make a Compulsory Purchase Order on this site was given on the 9<sup>th</sup> April. Notices were erected on the site and a public notice appeared in the Northants Telegraph on the 11<sup>th</sup> and 18<sup>th</sup> April.

6.3.2 The Councils Legal advisors have attempted to serve notice on the landowner but have been told that he/she no longer lives at the address registered on the Land Registry title.

6.3.3 The deadline for objections to the making of the order was Friday 10<sup>th</sup> May. The Council has not yet received a response from the Secretary of State on this.

#### 6.4 Broad Green, Wellingborough

6.4.1 Officers had been asked to investigate the potential for a compulsory purchase order on a property at: 16-17 Broad Green, Wellingborough (see Appendix 1)

- 6.4.2 The registered land owner was contacted by letter, with regard to the future of this scheme.
- 6.4.3 The land owner responded to confirm that work was due to start again in the near future but did not provide any dates.
- 6.4.4 The situation has been monitored by officers and to date, there is no evidence of any further works taking place.
- 6.4.5 The Councils property advisors have been asked to provide a valuation report on the site for further consideration within existing budgets. Once this has been received and considered Officers will bring a report back to Resources Committee to propose a way on this site.

## 6.5 Empty Dwellings

- 6.5.1 Appendix Two provides an update on the CPOs that the Housing Team are pursuing.

## 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 .
- 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 CPOs made by a local authority under section 226 must be confirmed by the Secretary of State where an objection is made and not withdrawn. If the owner of the land which is the subject of a 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. CPOs made by a local authority under section 226 must be confirmed by the Secretary of State. If the owner of the land which is the subject of a 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. An acquiring authority may however be authorised by the Secretary of State to "self-confirm" an order if no objections to it are lodged or any objections made are withdrawn.
- 7.7 **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.
- 7.8 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.
- 7.9 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 a developer partner 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.
- 7.10 This position changes from 25 June 2013. On that date, section 8 of the Growth and Infrastructure Act 2013 comes into effect and the Secretary of State will be

able to give a general consent to local authorities to dispose, for less than the best consideration reasonably obtainable, of land held for planning purposes

- 7.11 **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 and other interests under the Convention, notably under Article 1 of the First Protocol and Article 8 of the Convention which protects the right of everyone to the peaceful enjoyment of possessions and respect for his private and family life, his home and correspondence respectively. These rights cannot be interfered with except in the public interest and subject to the relevant national and international laws.
- 7.12 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 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.
- 7.13 This opportunity has been given to landowners and other interests to make representations regarding the council's planning process 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.

## **8 Financial and Value For Money Implications**

- 8.1 There are numerous cost implications arising out of the use of CPO power 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, would be funded by a developer(s) partner by way of Deed of Costs Indemnity with the council.
- 8.2 The Resources Committee made it clear that action was required irrespective of whether an appropriate Deed of Costs indemnity agreement had been entered into in respect of the proposed acquisitions. It is however important that the council has identified funds to carry out the acquisition and compensation if deemed necessary. The council would, however, look for a developer partner to reduce financial risk once approval the CPO process was underway. Each of the projects mentioned above are at different stages but reflect this principle.

9 Risk Analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
<p><b>Stanton Cross</b> Land is not acquired</p>	<p>The infrastructure element of the Stanton Cross development could not proceed as proposed</p>	<p>High</p>	<p>Move forward with the CPO process to purchase the said land.</p>
<p>Land not acquired</p>	<p>The area will be exposed to development requests for other parts of the district</p>	<p>High</p>	<p>Agree to the CPO process to purchase the said land.</p>
<p><b>Tudor Gate</b> Collateral costs become prohibitive or are otherwise not able to be accounted for in the final sale</p>	<p>Cost to the Council</p>	<p>Unlikely</p>	<p>Appropriate forward cost control, management and sale price negotiation.</p>
<p><b>Lea Way</b> The remains derelict encouraging anti-social behaviour</p>	<p>Reputation</p>	<p>High</p>	<p>Pursue the compulsory purchase of the site with the view to the development of a residential site.</p>
<p><b>Empty Houses</b> Objections to how the funding is being spent. Delays and costs if procedure is appealed.  Refusal of application by Secretary of State.</p>	<p>Bad publicity for the Council  Additional expense and delayed resolution of problem.  Continuation of problems caused by properties concerned.</p>	<p>Unlikely  Likely  Very unlikely</p>	<p>Doing nothing is not considered an acceptable option. Budget can accommodate additional costs. Re-sale of properties. Use of very experienced CPO legal service.</p>

## **10 Implications for Resources**

- 10.1 Significant internal and external resources are needed throughout the plan delivery process. A better planned and costed delivery programme will enable greater potential to access and lever in additional external funding.

## **11 Implications for Stronger and Safer Communities**

- 11.1 These properties will provide a major contribution to community cohesion, and community safety matters and the objectives within the local area agreement.

## **12 Implications for Equalities**

- 12.1 There is an obligation within the design and evaluation of projects to assess the impact of proposals both in terms of project management and on different groups in Wellingborough.

## **13 Author and Contact Officer**

- 13.1 Steven Wood – Head of Planning and Local Development

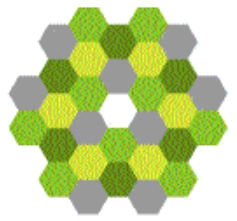
## **14 Consultees**

- 14.1 Terry Wright – Director of Services.
- 14.2 Victoria Phillipson – Principal Planning Policy and Regeneration Manager
- 14.3 Jennifer Bell – Project Co-ordinator
- 14.4 Tracey Cave – Accountant
- 14.5 Clive Culling – Assistant Principal Housing Officer
- 14.6 Vicki Jessop – Principal Housing Manager

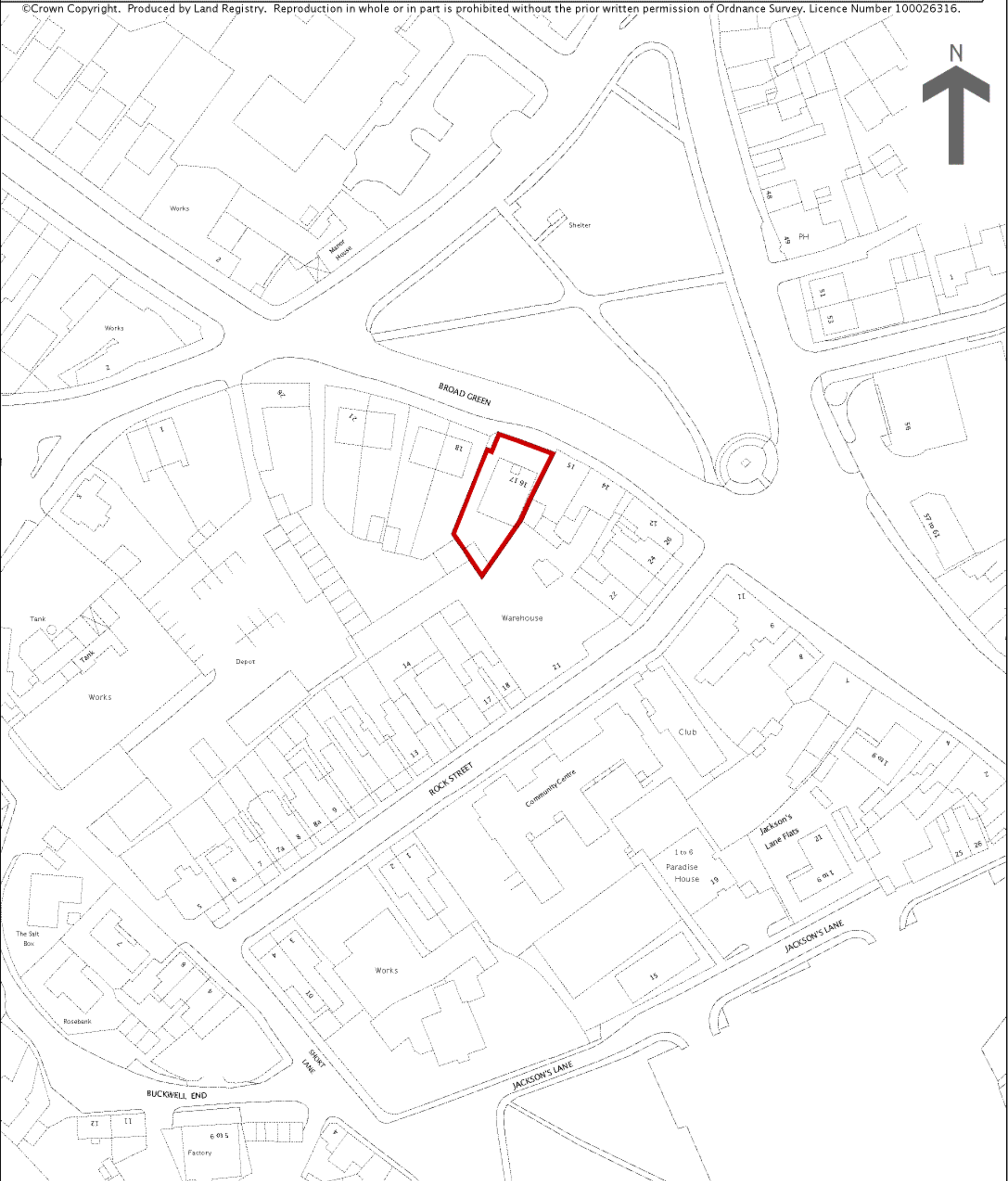
## **15 Background Papers**

- 15.1 None





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## Appendix 2

### **1. 9 Ash Close Irchester Empty since 2005**

Modern semi-detached house boarded up, in very poor condition and with overgrown gardens in an otherwise attractive cul-de-sac. Property has been used by squatters and has been the focus of anti-social behaviour in the past. Owner has been offered grant assistance and given details of interested purchasers but refuses to take any action whatsoever. Gardens have been subject to Section 215 clearance by the Council in 2011, at a cost of £4012.00.

The Secretary of State has granted permission for the Council to confirm the Compulsory Purchase Order and the necessary publicity is in progress. The Council has been advised of the mortgagee's intention to repossess the property which may make the implementation of the order unnecessary should this lead to the occupation of the property.

### **2. 18 Weavers Road Wellingborough Empty since 1989**

Pre-1919 mid-terraced house in very poor condition. Appears to have been abandoned with large hole in rear main roof causing damp and rot to roof and floor timbers. Over-grown rear garden, damp and neglected appearance affecting neighbouring properties.

The Secretary of State has granted permission for the Council to confirm the Compulsory Purchase Order and the necessary publicity is in progress.

### **3. 11a Herriots Lane Wellingborough Empty since 1989**

Pre-1919 mid-terraced house in poor repair but no serious adverse impact on neighbourhood. The elderly owner has been advised of various options for bringing the property back into use including grant assistance but has not submitted a grant application.

The roof of the property has been replaced but the owner has failed to make a grant application or carry out the major renovation required to enable re-occupation. Therefore NP Law have been instructed to pursue compulsory purchase of the property.

### **4. 32a Harrowden Road Wellingborough Empty since 1996**

1950s detached house boarded up and in poor repair, with large rear garden and on prominent site entering the town centre. Owner has been offered grant assistance but has not yet submitted a formal application in spite considerable assistance. A petition signed by 80 local residents complaining about the appearance of the property and asking for action has been submitted to the Council.

An application to the Secretary of State for the confirmation of the Compulsory Purchase Order co-incided with the owner carrying out works to clear the gardens and replace the windows and doors. Permission to confirm the order has not yet been received but following the submission of additional information it is hoped that permission to confirm the Order will be granted in the near future.

**5. 34 Kestrel Lane, Wellingborough  
Empty since 2005**

Modern end-terraced former Council house, boarded up and in very poor condition following fire damage and with overgrown gardens on a Wellingborough Homes estate. The property, which had been used for private rental, has been abandoned since the fire in 2005.

The over-grown rear garden, damp and neglected appearance affecting neighbouring properties, has given rise to several complaints.

Wellingborough Homes contacted the owner to seek a negotiated purchase of the property but were unable to agree a realistic figure. NP Law have, therefore, been instructed to pursue compulsory purchase of the property.

**6. 6 New Street, Wellingborough  
Empty since 1996**

Pre-1919 mid-terraced house in poor condition. The person who claimed to be the owner has re-roofed the property and has planning permission to extend at the rear but progress has been extremely slow and the property has been empty for over 20 years.

The property has been the subject of complaints regarding dampness and the appearance of the house and gardens in the past. The back garden is very overgrown and the front yard full of building debris.

Following the instruction to NP Law to compulsory purchase the property the Council has been advised by the Land Registry that the person who was believed to be the owner is claiming adverse possession of the property. Council records of the history of the property have been used to dispute this claim and the CPO is progressing.

**7. 14 Masefield Close, Wellingborough  
Empty since 2008**

Modern mid-terraced former Council house in reasonable repair externally but a leak has caused considerable damage internally. The gardens are overgrown and the rear fence is falling down leading to complaints from other local residents.

The property has been repaired internally and the gardens maintained, however it remains empty. NP Law have therefore been instructed to pursue compulsory purchase of the property.

**8. 16 Berrill Street, Irchester  
Empty since 2000**

Pre-1919 mid-terraced house in very poor condition. The owner has begun renovation works but has been making very slow progress. The rear garden is very overgrown and there have been recent problems regarding the property being open to access.

The owner of this property is now carrying out comprehensive renovation works that are nearing completion and it is hoped that the property will be let through the Council's Rent Assistance Scheme.

**9. 141 Gold Street, Wellingborough  
Empty since 1989**

1930s semi-detached house in very poor repair. The gardens are kept under control by the owners and the property has not been the subject of any complaints from neighbours.

The current owners bought the property in 1997 with the intention of renovation. They have been offered grant assistance or the option of selling or leasing their property for rent but have failed to submit a grant application or bring the property back into use.

Following a decision by Community Committee compulsory purchase action has been suspended for this property until September on compassionate grounds.