

**Bolsover District Council**

**Council**

**8<sup>th</sup> November 2017**

**Land Compulsory Purchase Order – Rood Lane, Clowne**

**Report of the Leader and Portfolio Holder – Strategic Planning and Regeneration**

This report is public

**Purpose of the Report**

To enable the council to secure the acquisition of all necessary land interests to deliver the regeneration of the Rood Lane site as shown on the plan in appendix A ("the Site") and seek approval from council for the making of a compulsory purchase order (CPO) to enable development of the site.

**1 Report Details**

**Background**

- 1.1 In October 2016 Executive approved the disposal of Rood Lane, Clowne to enable the development of circa 50 new homes on the site. The disposal is subject to 'good/clean title' where the Council ensures there are no land restrictions which prohibit the development.
- 1.2 Whilst managing the whole site for a many years, BDC do not have title to the entire site. The plan in appendix A shows an area coloured blue which is unregistered land in unknown ownership. As this area is likely to form the entrance to any proposed housing development, it is essential that BDC acquires this area before completion of the sale agreement.

**The Proposed Scheme**

- 1.3 In January 2017, Council agreed funding to support the development of housing on Rood Lane and acknowledged the complexity around incomplete title. The scheme is forecast to deliver the following:

**Site area to be developed:** 1.55ha (3.58 acres)

**Site address:** Rood Lane, Clowne, Derbyshire

**Estimated number of units:** 49

**Housing Mix:** Majority family homes, ranging from 2 to 4 bedrooms

- 1.4 Should Council be minded to support the recommendations and following the conclusion of the CPO process, working with development partners, the Council will submit a planning application to the Local Planning Authority for the development of the site. The proposed Scheme is not considered to be a strategic site in Local Plan terms and is considered a 'windfall' development site within settlement.

#### CPO Process

- 1.5 A CPO should only be made where there is a compelling case in the public interest. It is not always feasible or sensible to wait until the full details of a scheme have been worked up and planning permission has been obtained before proceeding to prepare a CPO. An acquiring authority will however have to demonstrate that there are no reasons why any required planning permission for the scheme should not be secured.
- 1.6 A compulsory purchase order will require confirmation by the Secretary of State to become effective.
- 1.7 Other factors the Council should have regard to the when considering making a CPO are:
1. That the purposes for which the order is made sufficiently justify interfering with the human rights of those with an interest in the land affected.
  2. The degree to which other bodies (including the private sector) have agreed to make financial contributions or to underwrite the scheme.
  3. Whether it is likely that the Scheme will be blocked by any physical or legal impediments to implementation.
- 1.8 In undertaking feasibility work on the Rood Lane development, Officers became aware of incomplete title on Rood Lane and sought to resolve the matter through both trying to identify the owner and an adverse possession claim to Land Registry, all of which have been unsuccessful. A significant part of the Site is already in the ownership of the Council but it is not been possible to secure the area of unregistered land. The Council considers that the failure to acquire all necessary land interests will prevent the development of the site, hence the need to pursue a CPO.
- 1.9 The land required for regeneration of the Site and proposed for CPO is identified as the blue area on the plan annexed.
- 1.10 Whilst care has been taken to ensure the plan represents the area of unregistered land to be subject of the CPO, the plan may be subject to amendment before any CPO. Therefore, for the avoidance of doubt, the land proposed to be subject to the CPO is the full extent of the unregistered land within the red line plan. The Council will continue to search for the landowner(s) of the unregistered land, with a view to acquiring as much of the land interest by agreement as possible. This may further reduce the extent of the land to be compulsorily acquired.

- 1.11 As set out later in the report, development of the site is aligned to the key aims of the Corporate Plan 2015-2019 and within planning policy objective of the Council, all be it as a 'windfall' site rather than an allocated site. The development of the site will deliver social and economic benefits, as outlined later in the report.
- 1.12 When planning the development of the scheme the majority of the site was already in the freehold ownership of the Council albeit with a small area of unregistered land. The Council has sought over the last 6 months to identify the owner of the unregistered land through site notices (Displayed 15 June 2017) and notices on the Council's website and Clowne Contact Centre.
- 1.13 The Council considers that the inability of the Council to secure the unregistered land interests in the Site will have the effect of preventing the construction of the estimated 49 dwellings Site.
- 1.14 The Council accordingly considers that there is a compelling case in the public interest for the Council to exercise compulsory purchase powers as proposed in this report.

Corporate Aims:

**Key Aim: Unlocking our Growth Potential**

Priority: Enabling Housing Growth - increasing the supply, quality and range of housing to meet the needs of the growing population and support economic growth

**Key Aim: Transforming Our Organisation**

Priority: Making the best use of our assets

- 1.15 The development of Rood Lane for new homes directly delivers on the two corporate aims above by the development of an underutilised area of Council owned land currently used for grazing, into a good quality, housing development of family homes to meet the housing needs in the area.

Economic and Societal Benefits:

- 1.16 In 2010, DCLG published 'Valuing the benefits of Regeneration' which researched the benefits of different types of regeneration. This includes the calculation of benefit cost ratios (BCR) in the three areas of housing activity, namely; new build, Improvements to existing and demolition and rebuild. BCRs provide a ratio of the full costs of regeneration against the value of the full societal and economic benefits. BCRs were based on a systematic review of evaluation evidence of prior regeneration programmes.

- 1.17 The findings were that new build housing activity had a benefit cost ratios of 1:1.7 (that is for £1 of investment there are wider economic and societal benefits of £1.70)
- 1.18 In addition, findings from the HCA's Affordable Homes Programme (2011-2015) suggests that the BCR for new build schemes supported by the Affordable Homes Programme is 1:3 (that is for £1 of investment there are wider economic and societal benefits of £3)

(Source: <https://www.yourhousinggroup.co.uk/media/1133/regeneration-revival-cih-summary.pdf>)

- 1.19 Based upon an estimated gross development cost of £8m for Rood Lane, the wider economic and societal benefits to the community are anticipated to be in the region of £13.6m to £24m. In addition to delivering high quality, family homes on currently underutilised public land, the site will see both a qualitative and quantitative improvement of housing in the district.

### Strategic Housing Case

- 1.20 The North Derbyshire and Bassetlaw Strategic Housing Market Assessment (SHMA) 2013 calculated that the district needs an additional 230 homes per annum, representing 0.7% annual growth in the housing stock. This housing need is reflected within the council's Growth Strategy, which includes a key strategic priority to 'Enable Housing Growth: increasing the supply, quality and range of housing to meet the needs of a growing population and support economic growth.'
- 1.21 In addition to a need for the increase the number of houses in the district, rebalancing is the housing market is also a priority and an important part of housing growth. 84% of the District's housing has either two or three bedrooms, with fewer than average larger family homes, or small one beds. Unsurprisingly therefore, 78% of the District's stock falls within council tax bands A and B, with just 4% of the District's properties being in bands E and above. Diversifying the area's housing market to support economic growth ambitions, while meeting local housing need, is therefore an ongoing challenge.
- 1.22 The Rood Lane development is an opportunity for the Council to enable approximately 50 new homes with the benefit for the Council to directly influence the mix to support the diversification of the housing market in Clowne.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 In pursuit of the Council's Corporate Plan aims, the CPO of the unregistered land identified in appendix A will enable the development of circa 50 new, good quality family homes in addition to the wider benefits outlined in the report.

## **3 Consultation and Equality Impact**

### Human Rights Implications

3.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (“the Convention”). The Convention includes provisions in the form of articles, the aim of which is to protect the rights of the individual. In resolving to make the CPO the Council should consider the rights of property owners under the Convention, notably under the following Articles:

Article 1 - This 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.

Article 8 - This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.

Article 14 - This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

3.2 In the case of each of these Articles under the Convention, the Council should 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 public benefit which would arise from the regeneration of the Site, balanced against the nature of the land subject to CPO, it is considered appropriate to make the CPO.

3.3 It is not considered that the CPO would constitute any unlawful interference with individual property rights. Further representations can be made in the context of any public inquiry which the Secretary of State decides to hold in connection with the CPO. Those directly affected will be entitled to compensation (in accordance with the statutory code) proportionate to the loss which they incur as a result of the acquisition of their interests.

#### **4 Alternative Options and Reasons for Rejection**

4.1 The alternative options to CPO are either:

- Adverse possession – BDC have pursued an adverse possession claim with the Land Registry but unfortunately failed in the claim due to not being able to demonstrate exclusive use.
- Acquire the land through negotiation – BDC have tried to identify the owner (if there is one) of the land in order to negotiate the acquisition of the land. Site notices have been displayed for in excess of 8 weeks, in addition to notices on both the Council’s website and in Clowne Contact Centre.
- Do nothing – Do not pursue the CPO and prevent the development of the Rood Lane site.

## **5 Implications**

### **5.1 Finance and Risk Implications**

5.1.1 With no known land owner(s) identified it is difficult to fully quantify the financial risk associated with the CPO. The Council's Senior Valuer's opinion is that the market value of the land for residential development, assuming no ransom value, is in the region of £78,000 and if an agreement through negotiation is not achievable compensation may also be required. A claim for compensation may be made by the owner of the land up to 12 years following the vesting of the land in the Council

### **5.2 Legal Implications including Data Protection**

5.2.1 Before making a CPO the authority must identify the appropriate statutory power. There are a couple of powers that may be used in this case as outlined below:

#### **1. Section 226 of the Town & Country Planning Act 1990:**

5.2.2 The Council has the power in section 226 of the Town and Country Planning Act 1990 (as amended) to make a CPO for any land within the District if the Council thinks that the purchase of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

5.2.3 Pursuant to section 226, the Council may not exercise this power unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

5.2.4 This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed means that no other single specific compulsory purchase power would be appropriate.

#### **2. Section 17 of the Housing Act 1985**

5.2.5 This is specific power that enables a local authority to acquire land for the purpose of providing housing accommodation. This includes acquiring land which the Council intends to dispose of to another party who will use the land for the erection of houses. In order to benefit from this power an acquiring authority will need to demonstrate that the compulsory purchase will result in either a qualitative or quantitative improvement in housing in the district.

5.2.6 The Housing Act power is likely the most appropriate single specific power and therefore officers consider it is this power, rather than the section 266, that should be used to acquire the Rood Lane site

**5.3 Human Resources Implications**

None other than staff resource in making the CPO

**6 Recommendations**

6.1 That Council agree to the making of ‘Bolsover District Council (Land to the East of Rood Lane) Compulsory Purchase Order ("CPO")’ to acquire the land indicated by the blue area on the annexed plan which is required to deliver the proposed housing development on the Site pursuant to section 17 Housing Act 1985 because it considers that the acquisition will deliver an increase in new, high quality housing within the District:

6.2 That Council authorise the Chief Executive, in consultation with the Leader and Executive Member for Planning and Regeneration, to take all necessary steps to commence the process for the making, confirmation and implementation of the CPO, including securing the appointment of suitable external advisors and preparing all necessary CPO documentation.

**7 Decision Information**

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>No</p>
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	<p>No</p>
<p><b>District Wards Affected</b></p>	<p>Clowne</p>
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	<p><b>Enabling Housing Growth:</b>  increasing the supply, quality and range of housing to meet the needs of the growing population and support economic growth</p>

**8 Document Information**

<b>Appendix No</b>	<b>Title</b>
Appendix A	Site Plan
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
<b>Report Author</b>	<b>Contact Number</b>
Commercial Property & Developments Manager	2210



Appendix A – Site Plan

