

Meeting: Council

Date: 18 October 2018

Wards Affected: Preston and Blatchcombe

Report Title: Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

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1. Proposal and Introduction

1. Approval is sought to acquire the leasehold interest in the land currently leased to Torbay Coast and Countryside Trust (TCCT) at Little Blagdon Farm, Collaton St Mary (CSM) and at Preston Down Road, Paignton (PDR), under, if necessary, a compulsory purchase order (CPO).

2. Reason for Proposal and associated financial commitments

- 2.1 Torbay Council (the Council) was awarded £3,076,000 of Land Release Fund (LRF) grant aid by the Ministry of Housing, Communities and Local Government (MHCLG) on 8 March 2018 for the purposes of securing early release of the land at both CSM and PDR for residential development.
- 2.2 Upon receipt of the LRF award, the Council considered whether to accept the award and by doing so considered whether the release of the land was deliverable by March 2020. The award was accepted by the Council on 14 March 2018 following the agreement of the Elected Mayor and Group Leaders.
- 2.3 The LRF grant requires that the sites are delivered to the market by March 2020. To ensure this occurs a decision on acquiring TCCT's leasehold interest, including the option of compulsory purchase acquisition, needs to be made in October 2018 at the latest to ensure that the grant conditions can be met. Any decision not to proceed with the CPO will see the £3,076,000 of LRF returned to Government.
- 2.7 Bringing both sites forward for development will potentially generate a significant capital receipt for the Council in advance of what would otherwise be possible.

- 2.8 The Council has been in negotiations for the early release of these sites with TCCT. For Preston Down Road these negotiations have been ongoing for many years, although discussions commenced again in earnest at the beginning of 2018 when discussions in respect of Little Blagdon properly commenced. Despite the efforts of both parties, it has not yet been possible to reach agreement for the surrender of this land. Whilst it is anticipated that the negotiations will result in an agreement between the Council and TCCT, the Council has to have a contingency plan for how to progress the sites should this not be achieved. This requires the Council to make an initial decision to commence the CPO process in October 2018. Officers have delayed bringing this forward to Council in the hope that an agreed position could be reached, however it cannot be delayed further. If such a decision is not made in October 2018, then the Council would not be able to use CPO powers in the event that negotiations fail with TCCT, as there will not be sufficient time within which to complete the CPO process and comply with the LRF conditions. This could result in a scenario whereby the grant monies have to be returned to Government.
- 2.9 Officers will continue to use best endeavours to reach an agreed position with TCCT, as this is in all parties' best interests.
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3. Recommendation(s) / Proposed Decision

- 3.1 That delegated authority be given to the Chief Executive to continue negotiations with TCCT to acquire by agreement the land identified red (Appendices 1 and 2) at Preston Down Road and Collaton St Mary, with consultation with the Elected Mayor, Group Leaders and Section 151 Officer on any Heads of Terms.
- 3.2 That Council approve, if necessary, to progress and ultimately acquire the land identified red (Appendices 1 and 2) at Preston Down Road and Collaton St Mary by making a Compulsory Purchase Order, under Section 226(1)(a) of the Town & Country Planning Act 1990 and the Acquisition of Land Act 1981 in respect of all or part of the land edged red on the Order Plan attached at Appendices 1 and 2 and any additional land which is considered to be required in order to bring forward the Enabling Works and the residential development to ensure the early release of this land by March 2020.
- 3.3 That in furtherance of 3.2, Council authorise the Chief Executive to take all necessary steps to secure the making, confirmation and implementation of a Compulsory Purchase Order(s), including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council's case, including at any public inquiry, to secure confirmation of the Compulsory Purchase Order(s) by the Secretary of State.
- 3.4 That in furtherance of 3.2 above, the Chief Executive be given delegated authority to enter into agreement with any person to secure the withdrawal of objections to the Compulsory Purchase Order(s) and/or to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for the Scheme.
- 3.5 That the Chief Executive be given authority to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation

to the acquisition of land and other interests or for the overriding or acquisition of rights in consultation with the Councils S151 Officer.

- 3.6 That Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of Preston Down Road and Collaton St Mary, either by agreement or by CPO, on the basis that there is a clear business case which demonstrates how the monies are to be repaid from the development of the sites.

Appendices

Appendix 1: Plan of land at Preston Down Road

Appendix 2: Plan of land at Collaton St Mary

Appendix 3: Burges Salmon report for Preston Down Road dated 8 October 2018

Appendix 4: Burges Salmon report for Collaton St Mary, dated 8 October 2018

Appendix 5: Statement from Strategic Planning, dated 8 October 2018

Section 1: Background Information

1. What is the proposal / issue?

The Council owns the freehold of 18.38 hectares (45.4 acres) of land at CSM and 4.06 hectares (10.03 acres) of land at PDR.

PDR is identified for future housing need and CSM allocated for residential development in the Council's Adopted Local Plan (A Landscape for Success) 2012-30.

A full public consultation exercise has been undertaken at CSM as the site falls within the remit of the Collaton St Mary Masterplan (Supplementary Planning Guidance). Proposals to bring this site forward are in accordance with this adopted Masterplan.

The Council was awarded £3,076,000 of LRF grant aid by MHCLG on 8 March 2018 for the purposes of securing early release of the land at both CSM and PDR for residential development.

Prior to the acceptance of the LRF Grant, the Elected Mayor and the Group Leaders were consulted on the proposals and they were informed that a CPO may be necessary to ensure the grant conditions were met. Notwithstanding this it was agreed to accept the grant to assist with bringing forward these sites

Despite the best efforts of TCCT and the Council as yet we have not reached agreement as to the surrender of the land. Whilst the principle of releasing both parcels of land is agreed by both parties, the compensation in terms of monies or alternative land is still outstanding.

The Council remains committed to reaching an agreed position in respect of the surrender of the land, however approval to commence the CPO process is now required in order to have a contingency plan in the event that agreement cannot be reached, so as to ensure that the sites can be released to the market in accordance with timescales set out by MHCLG for the LRF funding.

2. What is the current situation?

The Government has repeatedly stated that increasing housing supply is a high priority.

It is projected that CSM and PDR would deliver in the region of 500 new homes enabling the Council to deliver real housing growth in Torbay.

It is envisaged that the capital receipt receivable through bringing the sites forward for development will be significant and will provide capital funding to both pay for the land acquisition and assist the Council to meet its priorities.

Collaton St Mary:

This land is split into two parts. One part is under a Farm Business Tenancy that includes break provisions that will give the Council possession by March 2020. Whilst the legal position is not clear cut due to unsigned documents on the second and larger part of the site, the Council has taken the view that TCCT's has possession of the site for a further 9 years.

Discussions have been held with TCCT throughout this year in respect of the early surrender of the Farm Business Tenancy. Heads of Terms have in principle been agreed for the acquisition of the site on the basis that the Council finds suitable alternative land for TCCT of at least the same size and quality as the land at CSM within the Torbay and South Hams area, but which would provide a longer security of tenure for them than exists at CSM. The Council appointed a specialist land agent to identify possible sites although despite its best efforts, to date the Council has been unable to fulfil this aspiration. The search continues in earnest and the Council keep the Trust fully informed of potential options, with one site currently being actively pursued.

Preston Down Road:

TCCT's lease at PDR expires in 41.15 years.

The Council has been in negotiations with TCCT for the surrender of the lease for many years and in March 2016 discussions reached an advanced stage, however ultimately matters were not concluded. Negotiations commenced again in earnest early this year

Negotiations are ongoing and the principle of the acquisition has been agreed. However, there is currently a significant gap between TCCT's valuation position and that of the Council's.

The Council engaged the District Valuer in May 2018 to provide an independent valuation of the land assuming a CPO is forthcoming and this report has been shared with TCCT in an open and transparent way. This valuation was significantly below that of the Trusts and discussions are ongoing with a tripartite meeting being arranged between the Council; TCCT and the District Valuer to try to reach common ground on values.

Should negotiations fail on either site, the Council will need to exercise its powers under the Town & Country Planning Act 1990 to secure control of the land in accordance with MHCLG timescales.

The Council shall continue to negotiate with TCCT alongside the CPO process to seek to agree terms for purchase by private treaty throughout. Exercise of the CPO powers shall be an option of last resort.

<p>3.</p>	<p>What options have been considered?</p> <p>The Council has held negotiations with TCCT with the aim of agreeing a capital payment for purchase of TCCT's interest.</p> <p>Simultaneously the Council has initiated a specialist land search to identify suitable alternative land for TCCT in order to agree a land swap.</p> <p>If agreement cannot be reached through negotiation with TCCT, and the principle of exercising the Council's CPO powers is not supported by Members, the Council will not be able to meet the LRF Grant conditions and would have no choice but to return the Grant to MHCLG.</p> <p>A decision to return the Grant may have a negative reputational risk for the Council and is likely to adversely affect the Council's ability in the short to medium term to successfully secure other Government grants.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The proposals meet the following Corporate Plan objectives:</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use reducing resources to best effect <input type="checkbox"/> Reduce demand through prevention and innovation <input type="checkbox"/> Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Working towards a more prosperous Torbay <input type="checkbox"/> Promoting healthy lifestyles across Torbay <input type="checkbox"/> Ensuring Torbay remains an attractive and safe place to live and visit
<p>5.</p>	<p>How does this proposal tackle deprivation?</p> <p>The proposals shall result in bringing forward the early delivery of c. 500 new homes, 30% of which (c. 150 homes) will be affordable housing for local people.</p> <p>A greater housing supply within the local market will help limit future house price growth.</p> <p>The proposals will help ensure a mixed and balanced community, supplying housing of the right type, size and design in the right locations.</p>

<p>6.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>TCCT shall be affected by the proposals. However, they shall be fairly compensated either through negotiated agreement or via the CPO process.</p> <p>Extensive consultation has occurred throughout the Local Plan planning process and, in particular, the Collaton St Mary Masterplan has undergone extensive public consultation.</p> <p>Since the adoption of the Local Plan the principle of housing development in these locations appears to be accepted by the community.</p> <p>As part of the planning process the community will be fully consulted on the detail of any development proposed, however, there will be a benefit to the local community in terms of additional supply of good quality housing and an improved mix of units.</p> <p>It is anticipated that the proposed development of the CSM site will help fund flood alleviation works within Collaton St Mary village thereby benefitting the wider local community.</p>
<p>7.</p>	<p>How will you propose to consult?</p> <p>Briefings have been held with Group leaders and the Elected Mayor and briefings with all political groups will take place throughout the process.</p> <p>TCCT has been, and shall continue to be, consulted fully throughout the process.</p>

Section 2: Implications and Impact Assessment

8. What are the financial and legal implications?

The legal process to undertake a CPO is extensive. Please see Appendix 1 for a legal briefing on the process.

A substantial net capital receipt for the Council is envisaged.

Any outgoings and the financial implications are expected to be limited as the LRF can be used to pay for exercising the CPO including associated legal and valuation costs. However, capital acquisition or compensations payments to TCCT (including costs of acquiring alternative land) cannot be met via the LRF.

The Council is required to ensure that it pays a fair value for the land, supported by an independent valuation of the land.

Assuming that the principle of a CPO is supported by Members, the LRF can be applied to:

- (a) Implement enabling works thus increasing the projected financial return to the Council.
- (b) Undertake a comprehensive suite of surveys thereby expediting delivery dates for bringing the site to market and reducing the risk for potential purchasers thus having a positive impact on land value.
- (c) Undertaking ecology mitigation and enhancement works to offset planning risk.

9. What are the risks?

If the principle of CPO is not supported by members and the Council is unable to negotiate a settlement with TCCT:

- (a) The Council will repay any LRF monies received.
- (b) There will be a reputational risk for the Council.
- (c) Future grant income streams may be adversely affected.

10. Public Services Value (Social Value) Act 2012

The Council's procurement team has been fully consulted and all works on these site are in accordance with the Councils financial regulations and standing orders.

Legal advice has been procured in accordance with the Council's protocol.

<p>11.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The proposal shall facilitate the development of c. 500 new homes. The project will help protect more sensitive sites from development and will enable the Council to influence the location for growth of the Collaton St Mary area.</p>
<p>12.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>Extensive consultation has occurred throughout the Local Plan planning process and, in particular, the Collaton St Mary Masterplan has undergone extensive public consultation.</p> <p>The proposed development is fully compliant with Torbay’s Housing Strategy 2015 – 2020 and the Planning Contributions and Affordable Housing SPD.</p>
<p>13.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>None</p>

Equality Impacts

14.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The proposal shall result in the provision of better quality housing in the Paignton area and shall deliver housing stock for all age groups. As per Council policy 30% of the development will be affordable housing thus helping to deliver housing stock for local people and serving to reduce the numbers of those of the waiting list.		
	People with caring Responsibilities			There is no differential impact
	People with a disability	As per Council policy a percentage of affordable housing provided will be wheelchair adapted units.		
	Women or men			There is no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
	Religion or belief (including lack of belief)			There is no differential impact

People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)	<p>The proposal is consistent with Local Plan policies for planning for sustainable development in the Torbay area. This takes into account the overall level of housing and jobs growth to represent a balanced and sustainable approach to future growth.</p> <p>The local planning authority is required to maintain a 5 year land supply in order to deliver the strategy and policies contained in the Local Plan. Without a 5 year housing land supply, the local authority is subject to increased risk of development occurring in unsuitable locations, or being of a lower quality than that which might have otherwise been required through local policies.</p> <p>Significant social benefits will be generated by the provision of a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities. It is envisaged that the new development will offer the opportunity to design out crime within residential layouts and could support the vibrancy of existing local centres.</p>		

	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	<p>The scheme shall include provision of affordable housing which is likely to reduce poverty in the area and improve health.</p> <p>There is potential to incorporate energy efficiency and micro renewable measures. The proposals will include green infrastructure and it is anticipated that the location could encourage sustainable modes of travel.</p> <p>The proposals are compliant with Policy SS11 Sustainable Communities as there will be opportunities to contribute to sustainable community objectives.</p>		
15	<p>Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)</p>	None		
16	<p>Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)</p>	None		