

**Classification:** Public

**Key Decision:** No

## Gravesham Borough Council

**Report to:** Cabinet

**Date:** 1 February 2021

**Reporting officer:** Director (Planning and Development)

**Subject:** Albion Waterside (Canal Basin area) - Possible Compulsory Purchase Order requirement

### **Purpose and summary of report:**

To seek Members' commitment, in principle, for pursuing the Compulsory Purchase of land required to bring forward the comprehensive redevelopment of land in the vicinity of the Canal Basin, as shown at Appendices 3 – 5.

### **Recommendations:**

Members are requested to authorise the Chief Executive, in consultation with the Leader of the Executive and other officers as appropriate, to progress the making of a Compulsory Purchase Order for the land as outlined red on the plans attached at Appendices 3 - 5 in the event that acquisition by agreement cannot be secured.

## **1. Introduction**

- 1.1 On 7 September 2020, Cabinet considered a report in respect of the above matter, resolving as follows:

*To authorise the Chief Executive, in consultation with the Leader of the Executive and other officers as appropriate, to progress the making of a Compulsory Purchase Order for the land as outlined red on the plan attached at Appendix 2 to the report in the event that acquisition by agreement cannot be secured.*

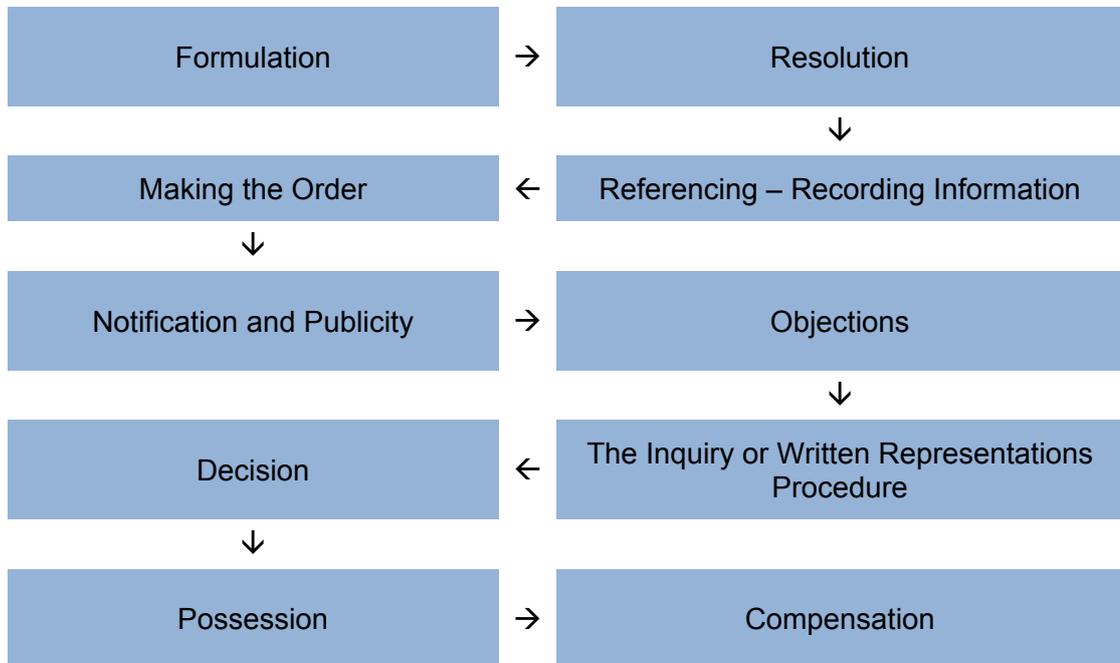
A copy of the land subject of that report is attached at Appendix 2.

- 1.2 Development of the scheme, which is due to be submitted as a formal planning application during week commencing 15 February 2021, has identified a need to include the swing bridge at the Basin, shown in an adjusted plan at Appendix 3, and some additional land at the junction of Ordnance Road / Milton Road to facilitate access improvements, the red-line plan being attached at Appendix 4. In order to put this in perspective, these two plans are combined at Appendix 5. This very much follows the principle of the previously agreed highways solution and was included within the commitment to pursuing CPO procedures in favour of Countryside Plc.

- 1.3 It is therefore considered appropriate to consider the principle of using compulsory Purchase Order powers under part IX of the Town and Country Planning Act 1990 in the event that acquisition by agreement is not possible.

## 2. The Compulsory Purchase Process

- 2.1 The compulsory purchase process is made up of a number of stages. It is important to note that the acquiring authority, in this case the Council, does not have the powers to compulsorily acquire land until the appropriate Government Minister confirms the CPO. However, it (or the developer) can acquire by agreement at any time and should attempt to do so before acquiring by compulsion. In this instance, as stated above, those efforts to acquire by agreement are being made by the developer and compulsory acquisition would only be considered as a last resort.
- 2.2 If the acquiring authority (or developer) is unable to purchase by agreement because it is unable to agree or it is impractical to do so, it can go down the compulsory purchase route. Various stages need to be completed before the powers are confirmed, the full process being summarised below:



- 2.3 At this stage a decision is only being sought 'in principle', in the event that negotiations fail. However, in the event that Members are interested in understanding the process in greater detail, a booklet entitled *Compulsory Purchase and Compensation – Compulsory Purchase Procedure*, the first in a series of related booklets, can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571449/booklet1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/571449/booklet1.pdf), and it is from that booklet that the above information has been taken.
- 2.4 Prior to making of such an Order, however, agreement would be required that the developer would underwrite all the Council's costs and enter into a back-to-back agreement to acquire the land from the Council under agreed terms upon the Council taking possession of the land in question.

- 2.5 Whilst the developer currently benefits from an interest in a large part of the development site, when seeking to undertake Compulsory Purchase it is considered sensible to include all of the land that may need to be acquired, regardless of ownership, and thus the plan at Appendix 2 includes all that land for which action was previously agreed.

### 3. Financial considerations

- 3.1 The quickest and most cost-effective way for the Council to acquire land is to seek to purchase it by agreement.
- 3.2 Should the Council determine the need to invoke CPO proceedings, costs for a simple CPO (where legal support is provided externally) may be accrued as follows:

|   |   |
|---|---|
| <i>Legal costs associated with the making and confirmation of the CPO</i> | <i>Up to £3,000</i>   |
| <b><i>If Public Enquiry Required</i></b>                                  |   |
| <i>Additional legal costs</i>   | <i>Up to £2,000</i>   |
| <i>Ancillary and administrative costs</i>                                 | <i>Up to £2,000</i>   |
| <i>Secretary of State costs for holding the inquiry</i>                   | <i>£5,000 (one day public enquiry)</i>                                |
| <b><i>On acquisition of asset</i></b>                                     |   |
| <i>Market Value of the Property</i>                                       | <i>Based on estimated market value</i>                                |
| <i>Land Registry Fees</i>   | <i>£200</i>   |
| <i>Stamp Duty Land Tax (if payable on acquisition)</i>                    | <i>Based on estimated market value</i>                                |
| <i>Compensation payable to party on which CPO action has been taken</i>   | <i>Could be based on market value of the land plus loss payments.</i> |
| <i>Surveyors fees and negotiating compensation</i>                        | <i>£1,000</i>   |
| <i>If CPO is not confirmed</i>  | <i>£10,000+</i>   |

- 3.3 Based on the figures above, a useable budget of circa £25,000 would be required to support a single property CPO taking into account a contingency amount and excluding property costs. In the event that a decision is made to proceed down this route, appropriate budget provision will be identified and any necessary further authorities sought.
- 3.4 These figures are intended to provide broad estimates of potential costs of any such action.

### 4. Conclusions and Recommendations

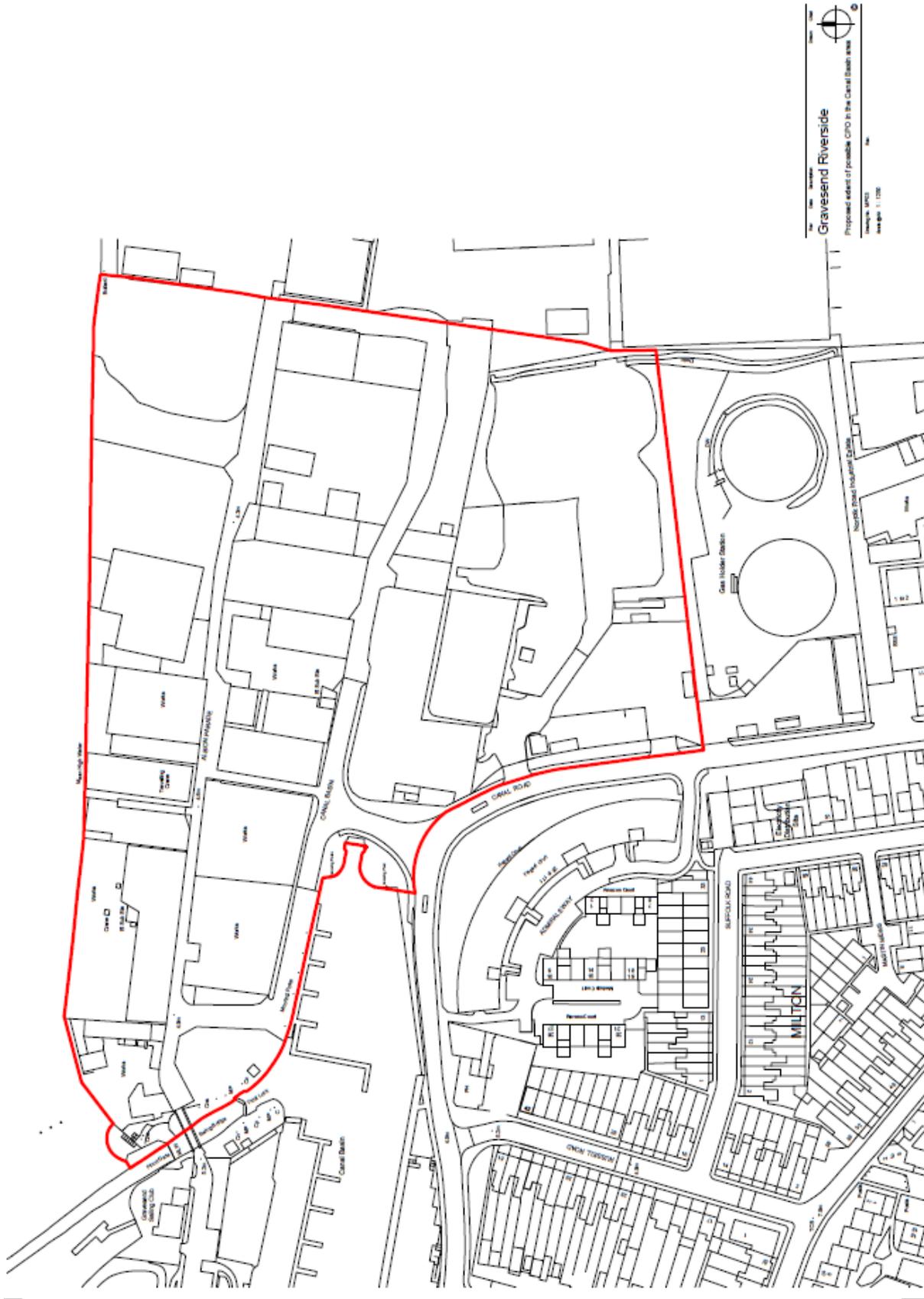
- 4.1 Given the importance of bringing this land forward for comprehensive redevelopment, in the event that it is not possible for the developer to acquire all of the necessary land interests by agreement, at this stage Members are requested to authorise the Chief Executive, in consultation with the Leader of the Executive and other officers as appropriate, to progress the making of a Compulsory Purchase Order for the land as outlined red on the plans attached at Appendices 3 - 5 in the event that acquisition by agreement cannot be secured.

### 5. Background Papers

- 5.1 There are no background papers pertaining to this report

| IMPLICATIONS                             | APPENDIX 1  |
|--|---|
| <b>Legal</b>                             | <p>As this is an in principle decision there are no legal implications arising directly from it. Any future decision to compulsorily acquire the land will need to consider both the powers available to the Council and the detail of agreements required with the developer to minimise the Council's exposure to risk.</p> <p>External legal support would be required as it isn't something that currently can be undertaken in house</p>   |
| <b>Finance and Value for Money</b>       | <p>There are no immediate financial implications but should the need arise to commence the process of a Compulsory Purchase Order, further consideration would need to be given to:</p> <ul style="list-style-type: none"> <li>• What does the statement "agreement would be required that the developer would underwrite all the Council's costs" mean in practise?</li> <li>• Would any expenditure fall to the council in the first instance and then be recovered from the developer or would the developer meet such costs up-front?</li> <li>• By Council's costs does this include the actual purchase of the land, associated legal costs and any compensation involved?</li> </ul>   |
| <b>Risk Assessment</b>                   | <p>There are no risks to the Council in agreeing to the principle of making an Order and, should it be necessary to proceed further, any risks and their mitigation will be clearly set out in further reports</p>  |
| <b>Data Protection Impact Assessment</b> | <p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>?</p> <p><b>No</b></p> <p>A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p><b>N/A</b></p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>.</p> <p><b>N/A</b></p> |
| <b>Equality Impact Assessment</b>        | <p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer.</p> <p><b>No</b></p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p><b>No</b></p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>   |
| <b>Corporate Plan</b>                    | <p>#1 People (Quality Living) –Deliver an ambitious and diverse programme of building</p> <p>#2 Place (Vibrant Economy) – Positively promote sustainable development</p>  |

|  |   |
|--|---|
| <b>Climate Change</b>                              | There are no climate change implications associated with this decision      |
| <b>Crime and Disorder</b>                          | There are no crime and disorder implications associated with this decision  |
| <b>Digital and website implications</b>            | There are no digital and website implications associated with this decision |
| <b>Safeguarding children and vulnerable adults</b> | There are no safeguarding implications associated with this decision        |





Scale: 1:1250  
Drawing No: 017-02  
Revision: 01

Proposed extent of possible CPO in the Canal Basin area

Scale: 0 10 20 30 m

North Arrow

Scale: 1:1250  
Drawing No: 017-02  
Revision: 01

Proposed extent of possible CPO in the Canal Basin area





Proposed extent of possible  
CPO to facilitate Alton  
Masterplan redevelopment  
1:1000  
Scale  
0 5 10 15 20  
Metres  
North  
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