

CABINET MEETING – 22 MARCH 2022

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Use of Compulsory Purchase Powers and Side Roads Order to Support the Upgrade of the A1290

Author(s):

Development Director (Residential)

Purpose of Report:

The purpose of the report is to obtain Cabinet's approval for the making of Compulsory Purchase and Side Roads Orders to facilitate the upgrading of the A1290 between its junction with the A19 at Downhill Lane and its junction with Cherry Blossom Way ("the Scheme").

Description of Decision:

Cabinet is recommended to;

- (i) Authorise the Development Director (Residential) in consultation with the the Executive Director of Corporate Services and the Cabinet Secretary to take all appropriate actions necessary for the purpose of negotiating and agreeing terms and conditions to acquire the land and new rights over land which are needed to allow the construction operation and maintenance of the Scheme;
- (ii) Authorise the making of a Compulsory Purchase Order (or Orders) pursuant to sections 239, 240, 264, 249, 250 and 260 of the Highways Act 1980 and all other enabling powers to be known as "The City of Sunderland Council (A1290 Dualling International Drive to A19 Downhill Lane Junction) Compulsory Purchase Order 2022" ("the CPO") for the compulsory purchase of land and rights required for the Scheme within the area shown on the draft Order Map as set out in Appendix 1;
- (iii) Authorise the making of a Side Roads Order (or Orders) pursuant to Sections 6, 14 and 125 of the Highways Act 1980 and all other enabling powers, to be known as the "The City of Sunderland Council (A1291 Dualling International Drive to A19 Downhill Lane Junction) (classified Roads) Side Roads Order 2022" ("the SRO") to improve or stop up existing highways, to construct new highways and to stop up and provide replacement private means of access as required to deliver the Scheme;

- (iv) Authorise the Assistant Director of Law and Governance to make the CPO and SRO and take all necessary action to achieve confirmation of the orders;
- (v) Authorise the Development Director (Residential) to agree the final draft of the proposed Statement of Reasons set out in Appendix 2 in consultation with the Executive Director of Corporate Services and Cabinet Secretary;
- (vi) Subject to confirmation of the CPO and SRO (as the case may be), authorise the Assistant Director of Law and Governance to take all necessary action to implement the CPO and SRO and to acquire all land, interests in land and / or new rights over the CPO land and / or possession of the CPO land as necessary, including the service of Notices to Treat and Notices of Entry, or as the case may be, the execution of General Vesting Declarations;
- (vii) Authorise, in the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) the Assistant Director of Law and Governance to take all steps in connection with the conduct and, if appropriate, settlement of such proceedings;
- (viii) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to seek to acquire the land and rights (or extinguish rights) required for the Scheme by agreement and to take all necessary steps to enable the negotiation of and entering into the agreements necessary to complete such acquisitions;
- (ix) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to take all necessary steps to enable the negotiation and approval of the payment of relevant and reasonable professional fees incurred by the landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the Scheme and related compensation claims and also in advancing the development or implementation of the Scheme; and
- (x) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to enter into an indemnity agreement with IAMP LLP in relation to all costs associated with the Council's promotion of the CPO and SRO.

Is the decision consistent with the Budget/Policy Framework? Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

- (i) In order to support the further development of the International Advanced Manufacturing Park (IAMP), including the recently announced Envision AESC battery plant, upgrades are required to highway infrastructure within the local area. IAMP has previously been designated a project of national significance and is a major strategic economic development site in Sunderland and South Tyneside. The comprehensive delivery of IAMP will lead to significant economic, social and environmental benefits to the city.

<p>(ii) The use of CPO and SRO powers under the Highways Act 1980 is required to acquire the necessary land and/or rights that enable the delivery of the Scheme and facilitate the provision of the necessary highways upgrades that provide highway capacity and road safety improvements to support the further comprehensive delivery of IAMP.</p> <p>(iii) In light of the above, it is considered that there is a compelling case in the public interest to support the making of the CPO and SRO to deliver the Scheme.</p>
<p>Alternative options to be considered and recommended to be rejected: The alternative options are:</p> <p>(i) Not to progress the delivery of the Scheme - This is likely to prejudice the delivery of the subsequent stages of IAMP and therefore is not recommended given the strategic importance of IAMP as a development site;</p> <p>(ii) Not to progress the CPO and rely on IAMP LLP pursuing a Development Consent Order (DCO) to enable the compulsory acquisition of the land required for phase two of IAMP (including the Scheme land) which cannot be acquired by agreement. IAMP LLP has stated its intention not to pursue the DCO process so this alternative is unlikely to be available.</p> <p>(iii) Not to progress the CPO and rely on IAMP LLP securing the relevant land interests by negotiation – IAMP LLP has been unable to reach agreement with the relevant known landowners to date and in respect of the unregistered parcels of land it is not clear in whose ownership they fall. In the circumstances the CPO is the only way to achieve certainty that the relevant land can be secured and the Scheme delivered.</p>
<p>Impacts analysed;</p> <p>Equality Yes Privacy N/A Sustainability N/A Crime and Disorder N/A</p>
<p>Is the Decision consistent with the Council’s co-operative values? Yes</p>
<p>Is this a “Key Decision” as defined in the Constitution? Yes</p> <p>Is it included in the 28 day Notice of Decisions? Yes</p>

USE OF COMPULSORY PURCHASE ORDER POWERS AND SIDE ROADS ORDER TO SUPPORT THE UPGRADE OF THE A1290

Report of the Development Director (Residential)

1. Purpose of the Report

- 1.1 The purpose of the report is to obtain Cabinet’s approval for the making of Compulsory Purchase and Side Roads Orders to facilitate the upgrading of the A1290 between its junction with the A19 at Downhill Lane and its junction with Cherry Blossom Way (“the Scheme”).

2. Description of Decision

- 2.1 Cabinet is recommended to;

- (i) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to take all appropriate actions necessary for the purpose of negotiating and agreeing terms and conditions to acquire the land and new rights over land which are needed to allow the construction operation and maintenance of the Scheme;
- (ii) Authorise the making of a Compulsory Purchase Order (or Orders) pursuant to sections 239, 240, 264, 249, 250 and 260 of the Highways Act 1980 and all other enabling powers to be known as “The City of Sunderland Council (A1290 Dualling International Drive to A19 Downhill Lane Junction) Compulsory Purchase Order 2022” (“the CPO”) for the compulsory purchase of land and rights required for the Scheme within the area shown on the draft Order Map as set out in Appendix 1;
- (iii) Authorise the making of a Side Roads Order (or Orders) pursuant to Sections 6, 14 and 125 of the Highways Act 1980 and all other enabling powers, to be known as the “The City of Sunderland Council (A1291 Dualling International Drive to A19 Downhill Lane Junction) (classified Roads) Side Roads Order 2022” (“the SRO”) to improve or stop up existing highways, to construct new highways and to stop up and provide replacement private means of access as required to deliver the Scheme;
- (iv) Authorise the Assistant Director of Law and Governance to make the CPO and SRO and take all necessary action to achieve confirmation of the orders;
- (v) Authorise the Development Director (Residential) to agree the final draft of the proposed Statement of Reasons set out in Appendix 2 in consultation with the Executive Director of Corporate Services and Cabinet Secretary;
- (vi) Subject to confirmation of the CPO and SRO, authorise the Assistant Director of Law and Governance to take all necessary action to implement the CPO and SRO and to acquire all land, interests in land and / or new rights over the CPO land and / or possession of the CPO land as necessary, including the service of Notices to Treat and Notices of Entry, or as the case may be, the execution of General Vesting Declarations;

- (vii) Authorise, in the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) the Assistant Director of Law and Governance to take all steps in connection with the conduct and, if appropriate, settlement of such proceedings;
- (viii) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to seek to acquire the land and rights (or extinguish rights) required for the Scheme by agreement and to take all necessary steps to enable the negotiation of and entering into the agreements necessary to complete such acquisitions;
- (ix) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to take all necessary steps to enable the negotiation and approval of the payment of relevant and reasonable professional fees incurred by the landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the Scheme and related compensation claims and also in advancing the development or implementation of the Scheme; and
- (x) Authorise the Development Director (Residential) in consultation with the Executive Director of Corporate Services and the Cabinet Secretary to enter into an indemnity agreement with IAMP LLP in relation to all costs associated with the Council's promotion of the CPO and SRO.

3. Background

- 3.1 The Council, in collaboration with South Tyneside Council (acting through their joint venture IAMP LLP) and supported by Henry Boot Developments Limited (HBDL), is engaged in promoting the International Advanced Manufacturing Park (IAMP) on land to the North of the A1290, West of the A19 and South of the A184 via a joint venture, IAMP LLP. IAMP has previously been designated as a project of national significance and is a major strategic development site within Sunderland and South Tyneside. Development of IAMP is supported by the IAMP Area Action Plan.
- 3.2 The first phase, IAMP ONE, already has the benefit of planning permission and its delivery is well underway. To date three buildings have been developed at IAMP One including industrial units for Faltec and SNOP, both key suppliers to the automotive industry, and the Innovation Centre which is currently being used by the NHS as a Covid-19 Vaccination Centre.
- 3.3 In addition, terms have recently been agreed for a further phase of development on IAMP ONE which will see a purpose-built battery plant to be delivered by Envision AESC. Planning permission was obtained for a battery plant on the relevant plot last year.
- 3.4 Further, IAMP LLP has submitted a planning application for development on land in phase 2 of IAMP ("IAMP TWO") to the north of the River Don. In order to facilitate this proposed development, whilst also allowing further growth on IAMP ONE, the A1290 must be upgraded to dual carriageway between its junction with the A19 and its junction with Cherry Blossom Way ("the Scheme").
- 3.5 In order to be able to carry out the Scheme, it will be necessary to acquire land which is currently in third party ownership.

4. Current Position

- 4.1 IAMP LLP have continued negotiations with the private owners of land required to facilitate the Scheme but at this stage have been unable to reach a commercial agreement to acquire these interests.
- 4.2 At the Cabinet meeting held on 14th September 2021, Cabinet approved the principle of using CPO powers to deliver the Scheme, subject to receiving a further report for approval once the land referencing exercise was complete and the accompanying statement of reasons had been prepared.
- 4.3 The land referencing exercise has been carried out identifying the exact CPO boundary. This has identified land that is in private ownership which is required to facilitate delivery of the Scheme. The table below summarises the land interests which will be subject to the proposed CPO:

Landowner	Legal Interest	Area (acres)
Town End Farm Partnership	Freehold	1.83 – permanently Up to 0.76 temporarily for works
National Highways	Freehold	6.87

- 4.4 The land referencing exercise has also identified approximately 1.78 acres of unregistered land within the permanent land take required for the Scheme. The CPO will secure the adequate level of legal title required to these parcels of land. The CPO will also include all land required for the Scheme to ensure certainty of delivery.
- 4.5 Members will be aware that when making a CPO, the Council needs to provide a supporting statement of reasons. A draft statement of reasons for the making of this CPO is provided in Appendix 2 for Cabinet's consideration.
- 4.6 The draft Statement of Reasons is structured to meet the requirements of the relevant Government guidance for CPOs as published by the Ministry of Housing, Communities and Local Government (2019). It:
- (i) describes the A1290 as it exists today, the proposed improvements to it (including the resulting public benefits arising from the proposed Scheme) and the land needed to be acquired to deliver those improvements;
 - (ii) explains, with reference to the highway capacity and road safety, together with planning policy, the compelling need for the Scheme;
 - (iii) provides an account of IAMP LLP's progress in acquiring land for IAMP, and the status of negotiations in relation to the outstanding land needed for the Scheme;
 - (iv) explains the planning context for the Scheme, including the planning application submitted in December 2021 which includes the Scheme;
 - (v) explains how the Scheme will be funded and delivered;
 - (vi) identifies any other orders or consents needed to deliver the Scheme, or any potential impediments; and
 - (vii) summarises any views on the Scheme expressed by government departments.

- 4.7 The Council will enter into an appropriate indemnity arrangement with IAMP LLP as the relevant scheme promoter to ensure that the Council is fully indemnified for all costs arising from the potential compulsory acquisition and side roads orders process, including the costs of acquiring land and paying compensation, any public inquiry and the expenses incurred by the Council in appointing appropriate advisors, in taking a CPO forward.

5. Reasons for the Decision

- 5.1 In order to support the further development of the International Advanced Manufacturing Park (IAMP), including the recently announced Envision AESC Battery Plant, upgrades are required to highway infrastructure within the local area. IAMP has previously been designated as a project of national significance and is a major strategic economic development site in Sunderland and South Tyneside. The comprehensive delivery of IAMP will lead to significant economic, social and environmental benefits to the city.
- 5.2 The proposed use of CPO and SRO powers under the Highways Act is required to acquire the necessary land and/or rights that enable the delivery of the Scheme and facilitate the provision of the necessary highways upgrades that support the delivery of IAMP.
- 5.3 In light of the above, it is considered that there is a compelling case in the public interest to support the making of the CPO and SRO to deliver the Scheme.

6. Alternative Options

- 6.1 The alternative options are: -
- i) Not to progress the delivery of the Scheme- this is likely to prejudice the delivery of the subsequent stages of IAMP and therefore is not recommended given the strategic importance of IAMP as a development site;
 - ii) Not to progress the potential CPO and rely on IAMP LLP pursuing a Development Consent Order (DCO) which will enable the compulsory acquisition of the land required for IAMP Phase 2 ("IAMP Two") land (including the Scheme land) which cannot be acquired by agreement. IAMP LLP has stated its intention not to pursue the DCO process so this alternative is unlikely to be available.
 - iii) Not to progress the CPO and rely on IAMP LLP securing the relevant land interests by negotiation – IAMP LLP has been unable to reach agreement with the relevant known landowners to date and in respect of the unregistered parcels of land it is not clear in whose ownership they fall. In the circumstances the CPO is the only way to achieve certainty that the relevant land can be secured and the Scheme delivered.

7. Impact Analysis

- 7.1 An Equality Impact Assessment (“EIA”) in connection with the proposed CPO and SRO is included in Appendix 3. Members must read the document in order to assist them in complying with the Council’s general equality duty. In summary, the key findings of the EIA are that there is no negative impact.

8. Other Relevant Considerations

8.1 Financial Implications

As confirmed above, the Council will put in place a cost indemnity with IAMP LLP, as the relevant scheme promoter, to ensure that IAMP LLP funds any costs incurred by the Council in respect of the CPO process. Any subsequent acquisition costs will also be funded by IAMP LLP. There is therefore no direct cost implication to the Council from agreeing to the use its CPO powers.

8.2 Legal Implications

The Council, in its capacity as highway authority, has the relevant legal powers to make a CPO to enable the delivery of the Scheme pursuant to its powers under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980. Further, by virtue of sections 6, 14 and 125 of the Highways Act 1980 it also has the relevant powers to make the relevant Side Road Orders needed for the delivery of the Scheme.

The human rights implications of potentially making a CPO in this case are set out below.

Compatibility with European Convention on Human Rights - Article 1 of the First Protocol of the European Convention on Human Rights which is embodied in domestic law by the Human Rights Act 1998 provides that “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

Relevant parts of Article 8 of the Convention provide: “(1) Everyone has the right to respect for his private and family life, his home and his correspondence; (2) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests ofthe economic well-being of the country...”

In considering the above, regard must be had to the fair balance which must be struck between the public interest of the community as a whole and private rights. In the circumstances of this case, and taking into account the content of the draft Statement of Reasons, it is considered that there is a compelling case in the public interest for the making of the CPO and having the ability to acquire land in order to progress the Scheme. It is considered that such public benefit would outweigh any private loss. There are no residential occupiers included in the potential CPO. The land to be included within the potential CPO is a proportionate response to the needs of the Scheme. In addition, the potential CPO will follow all applicable legislative

provisions in respect of the making and confirming of compulsory purchase orders and the payment of compensation.

9. List of Appendices

Appendix 1 – I Order Plan

Appendix 2 – Draft Statement of Reasons

Appendix 3 – Equality Impact Assessment