

CABINET MEETING – 14 SEPTEMBER 2021

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Land Acquisition and Potential Use of Compulsory Purchase Powers to Support the Upgrade of the A1290

Author(s):

Development Director (Residential)

Purpose of Report:

The purpose of the report is to obtain approval for the acquisition of land by agreement for the upgrading of the A1290 between its junction with the A19 and its junction with Glover Road (“the Scheme”) and approval in principle to the future use of the Council’s compulsory purchase powers to facilitate the Scheme.

Description of Decision:

Cabinet is recommended to:

- i) Authorise the Development Director (Residential), in consultation with the Leader of the Council, the Cabinet Secretary and the Executive Director of Corporate Services, to acquire such land and/or rights by agreement as may be needed to allow the delivery of the Scheme on such terms as considered appropriate.
- ii) Approve in principle, the potential use of Compulsory Purchase Order (CPO) powers pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to facilitate the delivery of the Scheme;
- iii) Authorise the Development Director (Residential) to undertake a detailed land referencing exercise in respect of the Scheme land and take all preparatory steps required to prepare for the potential CPO referred to above;
- iv) Authorise the Development Director (Residential), in consultation with the Cabinet Secretary and the Executive Director of Corporate Services, to agree the terms of, and enter into, appropriate indemnification arrangements with IAMP LLP in respect of the costs of the proposed CPO process and
- v) Agree to receive a further report in due course in respect of the proposed making of the CPO once the land referencing exercise is complete and the draft order and the accompanying statement of reasons has been prepared.

Is the decision consistent with the Budget/Policy Framework?	Yes
If not, Council approval is required to change the Budget/Policy Framework	
<p>Suggested reason(s) for Decision:</p> <p>In order to support the further development of the International Advanced Manufacturing Park (IAMP), including the recently announced Envision Battery Plant, upgrades are required to highway infrastructure within the local area. IAMP is a nationally significant infrastructure project and a major strategic economic development site in Sunderland and South Tyneside. The comprehensive delivery of IAMP will lead to significant economic, social and/or environmental benefits to the city.</p> <p>The proposed use of CPO 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.</p>	
<p>Alternative options to be considered and recommended to be rejected:</p> <p>The alternative options are:</p> <ul style="list-style-type: none"> (i) Not to progress the delivery of the Scheme- however, 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 IAMP Two land (including the Scheme land) which cannot be acquired by agreement. Acquisition via the DCO cannot take place until the process is brought to a conclusion which is likely to take some time and is likely to take longer than a specific CPO process for the Scheme. Therefore this will delay the delivery of the IAMP scheme as a whole and is therefore not recommended. 	
<p>Impacts analysed;</p> <p>Equality N/A Privacy N/A Sustainability N/A Crime and Disorder N/A</p>	
Is the Decision consistent with the Council's co-operative values?	
Yes	
Is this a "Key Decision" as defined in the Constitution?	
Yes	
Is it included in the 28 day Notice of Decisions?	
Yes	

A1290 UPGRADE WORKS – ACQUISITION OF LAND AND POTENTIAL USE OF COMPULSORY PURCHASE ORDER POWERS

Report of the Development Director (Residential)

1. Purpose of the Report

- 1.1 The purpose of the report is to obtain approval the acquisition of land by agreement for the upgrading of the A1290 between its junction with the A19 and its junction with Glover Road (“the Scheme”) and approval in principle to the future use of the Council’s compulsory purchase powers to facilitate the Scheme.

2. Description of Decision

- 2.1 Cabinet is recommended to:

- i) Authorise the Development Director (Residential), in consultation with the Leader of the Council, the Cabinet Secretary and the Executive Director of Corporate Services, to acquire such land and/or rights by agreement as may be needed to allow the delivery of the Scheme on such terms as considered appropriate.
- ii) Approve in principle, the potential use of Compulsory Purchase Order (CPO) powers pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to facilitate the delivery of the Scheme;
- iii) Authorise the Development Director (Residential) to undertake a detailed land referencing exercise in respect of the Scheme land and take all preparatory steps required to prepare for the potential CPO referred to above;
- iv) Authorise the Development Director (Residential), in consultation with the Cabinet Secretary and the Executive Director of Corporate Services, to agree the terms of, and enter into, appropriate indemnification arrangements with IAMP LLP in respect of the costs of the proposed CPO process and
- v) Agree to receive a further report in due course in respect of the proposed making of the CPO once the land referencing exercise is complete and the draft order and the accompanying statement of reasons has been prepared.

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 (HBD), is engaged in developing 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 is a nationally significant infrastructure project and a major strategic development site within Sunderland and South Tyneside.

- 3.2 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 temporary Nightingale Hospital and Vaccination Centre.
- 3.3 In addition, terms have recently been agreed for a further phase of development on IAMP One which will see (subject to the grant of planning permission) a purpose-built battery plant to be delivered by Envision AESC.
- 3.4 In order to facilitate this proposed development, together with the subsequent delivery of IAMP Two, the A1290 must be upgraded to dual carriageway between its junction with the A19 and its junction with Glover Road ("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 has recently requested that the Council, in its capacity as the relevant highway authority, consider the potential use of its compulsory purchase powers (CPO) pursuant to its powers under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 ("the 1980 Act") in order to secure the acquisition of the required third-party land within the required timescale. The extent of the land required for the delivery of the Scheme is shown on the attached plan in Appendix A to this report.
- 4.2 The Council already owns some of the land needed for the Scheme and would seek to acquire the remainder by negotiation and agreement with the existing landowners. However, in order to provide sufficient certainty to the delivery of the Scheme, it is recommended that the Council considers the potential use of its CPO powers under the 1980 Act in parallel with conducting negotiations to acquire the relevant interests by agreement. This approach is in accordance with up to date Government advice in the MHCLG guidance dated July 2019.

5. Proposed Next Steps

- 5.1 Should Cabinet be minded to agree in principle to the potential use of the Council's CPO powers to facilitate the Scheme, it will be necessary to undertake certain preliminary work to prepare for the potential CPO. Firstly, the Council must enter into an appropriate indemnity arrangement with the IAMP LLP as the relevant scheme promoter to ensure that the Council is fully indemnified for all costs arising from the potential compulsory acquisition 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 potential CPO forward. It will also be necessary for the Council to undertake a land referencing exercise so as to obtain accurate information regarding the current land interests. Once the land referencing is complete, the exact CPO boundary can then be settled. It is proposed to submit a further report to Cabinet in due course to seek authorisation for the proposed making of the CPO providing there remains a compelling case in the public interest to justify the use of CPO powers and once the initial land referencing is complete, the exact CPO boundary has been confirmed and the schedule of interests to be acquired has been produced, the indemnity arrangements are complete and a draft Order and the accompanying detailed statement of reasons have been prepared.

6. Reasons for the Decision

- 6.1 In order to support the further development of the International Advanced Manufacturing Park (IAMP), including the recently announced Envision Battery Plant, upgrades are required to highway infrastructure within the local area. IAMP is a nationally significant infrastructure project and a major strategic economic development site in Sunderland and South Tyneside. The comprehensive delivery of IAMP will lead to significant economic, social and/or environmental benefits to the city.
- 6.2 The proposed use of CPO 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.

7. Alternative Options

- 7.1 The alternative options are: -
- i) Not to progress the delivery of the Scheme- however, 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 IAMP Two land (including the Scheme land) which cannot be acquired by agreement. Acquisition via the DCO cannot take place until the process is brought to a conclusion which is likely to take some time and is likely to take longer than a specific CPO process for the Scheme. Therefore this will delay the delivery of the IAMP scheme as a whole and is therefore not recommended.

8. Other Relevant Considerations

8.1 Financial Implications

As explained 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.

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 1980 Act.

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, it is considered at this stage that there is a compelling case in the public interest for making a potential 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.

These matters will be considered in further detail before any future resolution is made authorising the making of a CPO for the Scheme.

8.4 Property Implications –

The City Development directorate is actively engaged in the negotiation process for land acquisition across the IAMP development and will oversee activity on this project.

9. List of Appendices

Appendix 1 – Plan of the Scheme land