

CABINET MEETING – 14 SEPTEMBER 2021

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

New Wear Footbridge Compulsory Purchase Order

Author(s):

Executive Director of City Development

Purpose of Report:

The purpose of the report is to obtain approval for the making of a Compulsory Purchase Order to support delivery of the New Wear Footbridge (“NWF”).

Description of Decision:

Cabinet is recommended to:

- i. Approve the making of a Compulsory Purchase Order (“NWF CPO”) pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to be known as The Sunderland City Council (New Wear Footbridge) Compulsory Purchase Order 2021 for the areas of land described in Appendix 1 to this report;
- ii. Authorise the Assistant Director of Law and Governance to make amendments, modifications or deletions to the schedule of interests and Statement of Reasons should this be necessary and to finalise and make the NWF CPO;
- iii. Authorise the Assistant Director of Law and Governance to take all necessary action to achieve confirmation of the NWF CPO; and
- iv. Subject to confirmation of the NWF CPO, authorise the Assistant Director of Law and Governance to take all necessary action to implement the NWF CPO and to acquire title and/or possession of the NWF CPO land.

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:

To give absolute certainty that the Council can obtain all of the land interests (with the exception of the riverbed which is in the ownership of The Crown Estate) that is needed for the NWF. This certainty can only be guaranteed by successfully completing the compulsory purchase process. It is considered that there is a compelling case in the public interest to justify use of compulsory purchase powers to secure any land interests and rights required.

Alternative options to be considered and recommended to be rejected:

The alternative option is not to approve the implementation of the NWF CPO.

At the current time all known third party land interests needed for the construction and operation of the NWF have been acquired or are in the process of being acquired through negotiation, with terms agreed, and it is unlikely that compulsory purchase will be required.

It is still however necessary to mitigate against the risk of failure to complete any of the live acquisitions or those relating to any other unknown land interests.

It is therefore necessary to implement a compulsory purchase order to provide absolute certainty that the Council can secure all of the required land interests.

As this approach is supported by MHCLG guidance it is recommended that the alternative option of not making the order is rejected.

Impacts analysed;

Equality **Privacy** **Sustainability** **Crime and Disorder**

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

CABINET – 14 SEPTEMBER 2021

NEW WEAR FOOTBRIDGE COMPULSORY PURCHASE ORDER

Report of the Executive Director of City Development

1. Purpose of the Report

- 1.1 The purpose of the report is to obtain approval for the making of a Compulsory Purchase Order to support delivery of the New Wear Footbridge (“NWF”).

2. Description of Decision

- 2.1 Cabinet is recommended to:

- i. Approve the making of a Compulsory Purchase Order (“NWF CPO”) pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to be known as The Sunderland City Council (New Wear Footbridge) Compulsory Purchase Order 2021 for the areas of land described in Appendix 1 to this report;
- ii. Authorise the Assistant Director of Law and Governance to make minor amendments, modifications or deletions to the schedule of interests and Statement of Reasons should this be necessary and to finalise and make the NWF CPO;
- iii. Authorise the Assistant Director of Law and Governance to take all necessary action to achieve confirmation of the NWF CPO; and
- iv. Subject to confirmation of the NWF CPO, authorise the Assistant Director of Law and Governance to take all necessary action to implement the NWF CPO and to acquire title and/or possession of the NWF CPO land.

3. Introduction/Background

- 3.1 Two bridges over the River Wear were consulted upon in the Riverside Sunderland Masterplan, a high-level pedestrian/cycleway bridge linking Vaux and Sheepfolds and an intermediate level bridge linking Galleys Gill with the riverside path to the north.
- 3.2 Consultation during development of the Masterplan subsequently led to prioritisation of the high-level bridge, as part of the first key stage in delivery of the Masterplan (2020-23). The programme requires enabling works associated with the construction of the NWF to commence in Summer 2021 to minimise interference with the office development plots on Vaux which are adjacent to the southern end of the proposed bridge and the delivery of the Vaux housing.
- 3.3 At its meeting on the 8th December 2020 Cabinet approved the design of the scheme and a number of recommendations to enable the delivery of the NWF to be progressed.

- 3.4 Since the previous report full planning permission for the NWF scheme has been obtained, a tender exercise has been completed and a preferred contractor appointed, and all known land interests needed for the scheme have been acquired or agreed.
- 3.5 At the outset of the scheme both physical inspection and land registry searches were carried out to identify ownership and interests in the land required for the construction of the NWF. The majority of the land required was already in the ownership of the Council with only six parcels of land known to be subject to third party interests.

4.0 Current Position

- 4.1 The table below summarises the current position with all of the known third-party interests identified at the outset of the scheme.

Land / Interest	Owner	Current position
Mines & minerals under the southern bridge piers	Church Commissioners	Agreement reached for deed of assurance
Oversailing rights across riverbed	The Crown Estate	Agreement reached for deed of grant
Unregistered amenity land on North slope	Unregistered	The Council has occupied and maintained the land for the last 20+ years and has applied for the land to be registered under an adverse possession claim
Part of allotments/pigeon crees on Easington Street, Sheepfolds	The land was previously acquired by the Council via compulsory purchase. Compensation was paid to the previous owner, but the acquisition was not registered at the Land Registry	Application has been made to have the land registered in the Council's ownership
Part of allotments/pigeon crees on Easington Street, Sheepfolds	David Corner occupies part of land	Interest has been surrendered and property vacated
Builder's yard, Easington Street, Sheepfolds	Anthony Forrest	The Council acquired the freehold interest in the property in February 2021

- 4.2 As per the table above all known third party land interests required for the NWF have either been acquired, or acquisition is agreed and pending completion.
- 4.3 The unregistered amenity land and the allotments / pigeon crees are controlled by the Council by virtue of its possession and previous compulsory purchase subject to ownership being registered by the Land Registry.

- 4.4 It should be noted that the interest (airspace above and below the bridge) required from The Crown Estate, which owns the riverbed, can only be acquired by agreement. The Crown Estate cannot be subject to a compulsory purchase order and will therefore be excluded from the NWF CPO. Negotiations with The Crown Estate are at an advanced stage with the main terms for the use of the airspace agreed in principle.
- 4.5 Given the above, the Council does not currently intend to use CPO powers to acquire any land interests, rather it seeks to have such powers ready and available if:
- i. an unidentified land / property interest emerges that needs to be acquired and agreement cannot be reached with the owner of the interest, or
 - ii. the Land Registry does not register the Council's ownership of the two parcels of land which are subject to live registration applications.
- 4.6 On the basis there is no known third-party land or property interests that will need to be acquired by use of the NWF CPO it is considered that approving the making of the NWF CPO will not have any negative impact on any identified individuals.
- 4.7 Furthermore, it is not anticipated that the making of the NWF CPO will give rise to any compensation for land or property interests and expenditure will be limited to the costs and fees associated with the making of the NWF CPO. Should the NWF CPO be used by the Council to secure the registered title for the two land / property interests referred to in paragraph 4.3 above, the compensation payable has been estimated by the Council's appointed agent, Sanderson Weatherall LLP, to be less than £15,000.
- 4.8 The draft Statement of Reasons at Appendix 2 provides detailed information on the needs, benefits and funding of the NWF.

5. Reasons for the Decision

Suggested reason(s) for Decision:

- 5.1 To give absolute certainty that the Council can obtain all of the land interests (with the exception of the riverbed which is in the ownership of The Crown Estate) that is needed for the NWF. This certainty can only be guaranteed by successfully completing the compulsory purchase process. It is considered that there is a compelling case in the public interest to justify use of compulsory purchase powers to secure any land interests and rights required.

6. Alternative Options

- 6.1 The alternative option is not to approve the implementation of the NWF CPO.

At the current time all known third party land interests needed for the construction and operation of the NWF have been acquired or are in the process of being acquired through negotiation, with terms agreed, and it is unlikely that compulsory purchase will be required.

It is still however necessary to mitigate against the risk of failure to complete any of the live acquisitions or those relating to any other unknown land interests.

It is therefore necessary to implement a compulsory purchase order to provide absolute certainty that the Council can secure all of the required land interests.

As this approach is supported by MHCLG guidance it is recommended that the alternative option of not making the order is rejected.

7. Impact Analysis

- 7.1 **Equalities** – Potential impacts of the decision have been analysed specifically considering if there is an impact on any specific groups in the making of the CPO concluding that there is no adverse impact on any specific group and the public sector equality duty (PSED) has been complied with.
- 7.2 **Privacy Impact Assessment (PIA)** – PIA has been considered and concluded that the decision has no impact on privacy.
- 7.3 **Sustainability** - The development will conform to all the statutory requirements in terms of sustainability.

8. Other Relevant Considerations / Consultations

8.1 Financial Implications

- 8.1.1 The cost associated with the land purchases and any potential public inquiry which may arise from any objections to the NWF CPO will be met from the provision for Strategic Acquisitions and Developments within the capital programme.

8.2 Legal Implications

- 8.2.1 The NWF CPO will be made using the powers provided by the Highways Act 1980, as set out in the Description of Decision section of the report. The human rights implications of making the NWF CPO are set out in section 8.2.2 below. Once made, the NWF CPO will be publicised in accordance with the appropriate legislation. If objections are received in relation to the NWF CPO, it is likely that the Secretary of State will require a public local inquiry to be held so that the NWF CPO and objections can be considered by an Inspector. The Inspector will report to the Secretary of State, who will make the final determination regarding confirmation of the NWF CPO.
- 8.2.2 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 that there is a compelling case in the public interest for making the proposed NWF CPO and having the ability to acquire land to progress the completion of the NWF. It is considered that such public benefit would outweigh any private loss. No residential occupiers would be affected by the NWF CPO. The land to be included within the NWF CPO is a proportionate response to the needs of the scheme. In addition, the NWF CPO will follow all applicable legislative provisions in respect of the making and confirming of compulsory purchase orders and the payment of compensation

8.3 Property Implications

8.3.1 There are no additional property implications arising from this report

9. Appendices

Appendix 1 – NWF CPO Schedule of Land Interests

Appendix 2 – Draft Statement of Reasons

10. Background Papers

None

