



Officer Decision Record

1. Subject and details of the matter (to include reasons for the decision)

Approval is sought to make and publish the North East Lincolnshire (Stallingborough Industrial Development Site) Compulsory Purchase Order 2021 and to submit the Order to the Secretary of State for Housing, Communities and Local Government.

SHIP has previously been considered at Cabinet on 8 July 2015, 13 January 2016 & 14 December 2017, and the issue of the use of compulsory purchase powers for the Stallingborough Industrial Development Site was considered on 12th February 2020. At this meeting Cabinet gave support in principle for the use of compulsory purchase powers in relation to land within the Stallingborough Industrial Development Site. However, if mutual agreement could not be reached on the purchase of the land, Cabinet requested further approval be sought to authorise a formal compulsory purchase order.

As mutual agreement could not be reached the Cabinet Meeting on January 13th, 2021 resolved that authority be delegated to the Executive Director for Environment, Economy and Resources in consultation with the Leader of the Council to consider and approve a Statement of Reasons and a North East Lincolnshire (Stallingborough Industrial Development Site) Compulsory Purchase Order 2021 then once approved, to submit the Order to the Secretary of State for Housing, Communities and Local Government.

2. Is it a Key Decision as defined in the Constitution?

No.

3. Details of Decision

Pursuant to the Cabinet meeting 13th January 2021, where delegated authority was given to the Executive Director for Environment, Economy and Resources in consultation with the Leader of the Council, to make all consequential arrangements in connection with and arising from the making of the Compulsory Purchase Order including, but not limited to, the instructing of experts in connection with this matter, dealing with any objections and public inquiry, the making of General Vesting Declarations, the taking of any steps in connection with the stopping up or diversion of public or private rights and agreeing compensation.

Since the Cabinet Report on the 12th of February 2020 negotiations have continued with the land agents for Phase 1B (Plot 1) and Phase 2A (Plot 2). Also, the Council has exercised its Option to acquire Phase 2B. For ease of reference the respective parcels are identified in appendix 1.

In tandem with the negotiations referred to above, officers have assembled a professional team to advise on the necessity of, and process for, seeking Compulsory Purchase Order (CPO) powers. This includes the appointment of solicitors Browne Jacobson LLP and continued engagement of JLL who had already been appointed to provide valuation advice

Negotiations with the freehold owners of Plots 1 and 2 have been ongoing for a considerable time now (including significant engagement since the last report to Cabinet) and formal offers have now been made to both parties. However, it has not proved possible to secure an agreement with the owners of Plots 1 and Plot 2 as the value of the land is in dispute. Plot 3 comprises parts of the Old Kiln Lane and Ephams Lane which are ancient tracks with no obvious owner. It is therefore necessary for the Council to action the making of a CPO.

Negotiations are still ongoing with the two owners, but the making of the Order will require the owners to make decisions about the steps they now wish to take, and it is still possible that agreements could be reached.

4. Is it an Urgent Decision? If yes, specify the reasons for urgency Urgent decisions will require sign off by the relevant scrutiny chair(s) as not subject to call in.

No.

5. Anticipated outcome(s)

To bring Plots 1, 2 and 3 under the ownership of North East Lincolnshire Council.

6. Details of any alternative options considered and rejected by the officer when making the decision

Do nothing – a decision not to proceed with the CPO could allow the landowners to procrastinate indefinitely. This would delay the land assembly process and therefore impact upon the Council's ability to generate jobs and business rates through the SHIP programme

7. Background documents considered

Cabinet on 14 December 2017 approved the following:

DN.79 –

(2) That authority be delegated to the Director of Economy and Growth, in conjunction with the Portfolio Holder for Regeneration, Assets, Skills and Housing, to take all actions necessary to secure the continued implementation of SHIP.

In addition, Cabinet on January 13th, 2021 approved the following:

CB.84 –

(3) That authority be delegated to the Executive Director for Environment, Economy and Resources in consultation with the Leader of the Council to consider and approve a Statement of Reasons and a North East Lincolnshire (Stallingborough Industrial Development Site) Compulsory Purchase Order 2020 then once approved, to submit the Order to the Secretary of State for Housing, Communities and Local Government.

(4) That authority be delegated to the Executive Director for Environment, Economy and Resources in consultation with the Leader of the Council, to make all consequential arrangements in connection with and arising from the making of the Compulsory Purchase Order including, but not limited to, the instructing of experts in connection with this matter, dealing with any objections and public inquiry, the

making of General Vesting Declarations, the taking of any steps in connection with the stopping up or diversion of public or private rights and agreeing compensation.

8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons

No.

9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

N/A

10. Monitoring Officer Comments (Monitoring Officer or Deputy Monitoring Officer)

The decision is consistent with the Cabinet decisions and subsequent delegations. It allows for project continuity and to ensure timescales for the development of the site are met.

11. Section 151 Officer Comments (Deputy S151 Officer or nominee)

The compulsory purchase of the plots would allow the SHIIP Programme to continue and would facilitate increased employment opportunities and businesses to the area.

The anticipated purchases are to be funded through the budget within the Council's approved capital investment programme. The ultimate cost of the purchases would need to be monitored against the overall budget envelope for the scheme.

12. Human Resource Comments (Strategic Workforce Lead or nominee)

There are no direct HR implications

13. Risk Assessment (in accordance with the Report Writing Guide)

There are a number of risks arising in respect of making a compulsory purchase order. The Council has taken the steps below to mitigate these risks.

Any legal errors can compromise the CPO process. The Council is confident it has an experienced professional team working on the project. The draft powers and

Order have also been submitted to the CPO Case team at the Department for Communities and Local Government for pre-submission audit.

In common with all Compulsory Purchase Orders there could be a public inquiry with its consequent cost, plus the time and effort of Council Officers. The right to be heard at a public inquiry only applies to persons who have interests affected by the Order and objections on ground of inadequate valuation of land is not a ground for objection. Even though neither of the freehold owners objected to the local plan allocation or the planning application it is still possible that this may arise.

There is a further risk that the Council's justification will not be supported by the Secretary of State and the Order will not be confirmed. Browne Jacobson advise that the Council's position is strong, given the planning permission, the commitment of funding and the progress with Phase 1A. Nevertheless, given what is at stake they advise that Council should retain suitable counsel to represent it at any inquiry in order to ensure that the Council's case is presented as well as it can. Decisions about whether any external experts are required can await a review of the nature of any objections.

The final risk is that once the Order has been confirmed and the land acquired, the final determination on land value is made at a level above the figure currently expected. Browne Jacobson advise that the uncertainty of valuation disputes at the Upper Tribunal (Lands Chamber) means that a continuous review approach has to be taken throughout the process to see at what point to improve an offer or to even to withdraw it, on the basis of the respective strengths of evidence. The Council's acquisition team is already engaging in this approach and will continue to do so. However, there cannot be ultimate certainty until there is either a deal or a determination by the Tribunal.

Despite the risks set out above, it is considered that proceeding by CPO is the most suitable course of action, putting into motion a sequence of events that (subject to confirmation by the Secretary of State) provides certainty to the Council and the development.

By using CPO powers, those whose interests are contained within an order will need to make positive decisions rather than relying on the Council to make all the running. Further, once an order is confirmed the Council has the opportunity to vest the land

in itself within 3 months of making a General Vesting Declaration. Therefore, the Council can carry on developing the land even though at that stage compensation has not been settled.

14. Decision Maker(s):

Name: Sharon Wroot

Title: Executive Director Environment,
Economy and Resources

Signed: REDACTED

Dated: 25th February 2021

**15. Consultation carried out with
Portfolio Holder(s):**

Name: Councillor Callum Procter

Title: Portfolio Holder for Economic
Growth, Housing and Tourism

Signed: REDACTED

Dated: 25th February 2021

**16. If the decision is urgent then
consultation should be carried out
with the relevant Scrutiny
Chair/Mayor/Deputy Mayor**

Name: N/A

Title: N/A

Signed: N/A

Dated: N/A

APPENDIX 1

[Sealed-plan-19.04.2021.pdf \(nelincs.gov.uk\)](#)

[Sealed-Order-19.04.2021.pdf \(nelincs.gov.uk\)](#)

[Statement of Reasons - Compulsory Purchase Order of stallingborough Interchange Development Site \(nelincs.gov.uk\)](#)