

POLICY AND RESOURCES COMMITTEE – 7 OCTOBER 2019

COUNCIL – 22 OCTOBER 2019

PART I – NOT DELEGATED

6. PROPOSED DELEGATION OF COMPULSORY PURCHASE POWERS TO WATFORD BOROUGH COUNCIL IN RESPECT OF LAND AT WATFORD BUSINESS PARK FALLING WITHIN THE ADMINISTRATIVE AREA OF THE COUNCIL (CED)

1 Summary

- 1.1 The Policy and Resources Committee is asked to recommend to Council to delegate its powers of compulsory acquisition under Section 226 of the Town and Country Planning Act 1990 (TCPA) to Watford Borough Council (“WBC”) using Section 101 of the Local Government Act 1972 in respect of part of the Watford Business Park within the Council’s administrative area.

2 Details

- 2.1 Watford Borough Council intends to use its powers under section 226 of the TCPA in order to compulsorily acquire land shown coloured blue on the plan attached at Appendix 1 at Watford Business Park. The purpose of the CPO is to regenerate this area of Watford Business Park which is dilapidated and in need of investment. WBC says the regeneration will deliver new fit for purpose commercial accommodation and employment opportunities.
- 2.2 Part of the site on the western boundary (identified as plots 6, 7 and 17 and coloured blue on the plan at Appendix 1) falls within this Council’s administrative area. This totals an area of 688 square metres (0.06883 hectares) and represents 3.14% of the total site area. The Council does not have any legal interest in the parcels of land affected. The freehold is owned by WBC and the long lease and sub leases by private individuals.
- 2.3 The power in Section 226 of the TCPA does not permit WBC to use its powers of compulsory acquisition outside of its administrative area.
- 2.4 WBC made a Compulsory Purchase Order on the 29 August 2019 in advance of TRDC delegating the relevant powers. WBC has asked if TRDC would agree to enter into an agency agreement. The agreement would formally delegate TRDC’s power of Compulsory Acquisition under section 226 of the TCPA to WBC in respect of those areas of land that falls within TRDC’s administrative boundary identified on the Plan. It would also deal with the terms of delegation such as compensation and indemnity and ensure that this Council’s position is fully protected.

3 Options and Reasons for Recommendations

- 3.1 Womble Bond Dickinson (UK) LLP (external Solicitors) was instructed by WBC to produce a Legal Opinion for the benefit of both TRDC and WBC. The opinion states that it is lawful for TRDC on express approval from Full Council to delegate its powers of compulsory acquisition. It recommends that WBC and TRDC enter into an agency agreement to expressly delegate TRDC’s power under s.226 of the TCPA to WBC. A copy of that advice is attached as Appendix 2.

- 3.2 WBC has agreed to fully indemnify against any loss to TRDC arising from the Compulsory Purchase Order. WBC will compensate TRDC for all reasonable costs associated with or arising from the agency agreement and the exercise of the CPO of the sites. WBD has been asked to draft the agency agreement.

4 Policy/Budget Reference and Implications

- 4.1 Regeneration of the business park and improved employment opportunities will benefit both residents of WBC and the Council and fits with our vision statement and corporate objectives to achieve a successful economy and promote business opportunity;

5 Financial Implications

- 5.1 There will be no financial impact on the Council
- 5.2 Entering into an agency agreement with WBC would not affect or alter TRDC's administrative boundary, nor would it place any financial liability on TRDC.
- 5.3 It is proposed that the agency agreement expressly states that all costs and associated compensation arising from exercising the delegated CPO powers are assumed entirely by WBC and TRDC will be indemnified.

6 Legal Implications

- 6.1 The advice note from WBC's solicitors outlining the legal powers which TRDC can delegate their CPO powers to WBC is attached. At 2.2 the advice note sets out in detail the areas of land to be the subject of CPO delegation

The advice specifically provides that it is lawful for TRDC on express approval from Council to delegate its powers of compulsory acquisition under Section 226 of the TCPA to WBC using Section 101 of the LGA and this can be facilitated through a simple agreement.

- 6.2 If the Council decide not to delegate its powers of Compulsory purchase under s.226 of the TPCA to WBC, it will fall to the Secretary of State to decide whether to authorise the acquisition land in the administrative district of TRDC by WBC. The Secretary of State must consult with the Council before authorising an acquisition under section 226(5) and any representations made by the Council in relation to the use of Section 226(5) and WBC's acquisition of the Land will be taken into account by the Secretary of State.
- 6.3 The proposed agency agreement is attached at Appendix 3 the agency agreement, if agreed will be signed by both parties and WBC will present this to the Planning Inspector and Secretary of State when assessing the case.

7 Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre Implications Group the next ones together where no implications

- 7.1 There are none.

8 Communications and Website Implications

- 8.1 Information about the proposed CPO will be put on the website so members of the public are aware that WBC are exercising this power in respect of the land within this Councils administrative area

9 Risk and Health & Safety Implications

- 9.1 The risks associated with this report are included below.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
The Council does not agree to delegate its power to CPO land in its administrative area to WBC or the agency agreement is not signed	WBC will ask the Secretary of State to exercise his power to do so instead	Agency agreement in place	Tolerate	2

- 9.2 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks.

10 Recommendation

- 10.1 That the Policy & Resources Committee agree:

- 10.1.1 To recommend to Council to delegate its powers of compulsory acquisition under Section 226 of the Town and Country Planning Act 1990 (TCPA) to Watford Borough Council using section 101 of the Local Government Act 1972 in order to acquire the 3 plots of land (6, 7 and 17) shown coloured blue on the plan attached at Appendix 1.

- 10.1.2 That the Council enters into an Agency agreement with WBC in the terms attached and that the final version of the Agency Agreement be agreed by the Solicitor to the Council in consultation with the Lead Member for Resources and Shared Services.

Report prepared by: Jeff Ee, Property Lawyer

Data Quality

Data sources:

Data checked by: Anne Morgan- Checked the appendices.

1	Poor	
2	Sufficient	
3	High	X

Background Papers – none

APPENDICES / ATTACHMENTS

Appendix 1 Plan

Appendix 2 WBD Legal Advice

Appendix 3 Agency Agreement to follow