

**TOWN CENTRE ACCESS PACKAGE (TCAP) COMPULSORY PURCHASE  
ORDER - PROJECT 601**

Report of the Corporate Director for Place Management & Regeneration

**1. INTRODUCTION AND PURPOSE OF REPORT**

- 1.1 On 22 March 2016, the Executive agreed in principle to the making, by the Council, of all necessary compulsory purchase orders and (if applicable) side roads orders pursuant to the Highways Act 1980, required in order to support the delivery of the schemes comprised within Phase 2 of the Stockport Town Centre Access Plan. Amongst the Phase 2 schemes addressed within the report which was before the Executive ("**the 2016 Report**") was Scheme 601: New Bridge Lane ("**the 601 scheme**").
- 1.2. The Executive also agreed to delegate the final decision as to the authorisation of the individual orders referred to in paragraph 1.1 ("**the Phase 2 Orders**") to the appropriate Corporate Director in consultation with the Executive Member. On 20 February 2017, the Deputy Chief Executive in consultation with the Executive Member for Economy & Regeneration authorised the submission of the Phase 2 Orders to the Secretary of State for Transport for confirmation.
- 1.3. The Council is now in a position to make the compulsory purchase order for the 601 scheme ("**the Order**"). However, since the Order was last considered by the Executive, there have been a number of developments.
- 1.4. The Order front sheet setting out the powers pursuant to which the Order is proposed to be made (i.e. powers contained in the Highways Act 1980 and the Road Traffic Regulation Act 1984), the Order Schedule and the Order Map have been drawn up. The Statement of Reasons, which sets out the Council's case for making the Order, has also been prepared. A full and detailed account of the Council's justification for the use of its powers of compulsory acquisition to assemble the land and secure the rights required to deliver the 601 scheme is set out in the draft Statement of Reasons. A summary of the key matters, pertaining to that justification, is set out in this report.
- 1.5. The purpose of this report is to update Councillors in respect of the 601 scheme and the Council's detailed reasons for making the Order; to provide a summary of the Council's negotiations with those parties whose land and interests are required to be assembled, and the stage which those negotiations have reached; and to enable the Councillors to consider the human rights and equalities implications should the Order be made.
- 1.6. A copy of the report to the Executive dated 22 March 2016, and the subsequent report to the Deputy Chief Executive and Executive Member for Economy & Regeneration dated 20 February 2017, are appended to this report by way of background (see Appendix 1 and Appendix 2 respectively). Furthermore, drafts of the Order front sheet, the Order Schedule and the Order Map (Appendix 3), together with the draft Statement of Reasons (Appendix 4), are also provided.

## **2. SCHEME UPDATE**

- 2.1 The 601 scheme forms part of the Stockport Town Centre Access Plan (“**TCAP**”), an extensive package of integrated highway improvements aimed at tackling congestion and barriers to movement and transforming accessibility and connectivity to and around Stockport town centre (“**the wider TCAP proposals**”).
- 2.2 Scheme 601 is located on New Bridge Lane outside Units 1-3, which are let to various tenants including Crown Paints and Plumbase.
- 2.3 The works to deliver the Scheme include the widening of an existing shared use path to facilitate cyclist and pedestrian movements past an existing bus shelter, the relocation of signage to the new back of footway and the creation of a concrete edge, located at the back of the widened shared use path. The path will be widened into an area of private land which is currently grass. A general arrangement drawing showing the various elements of the Scheme is at Appendix 3 of the Statement of Reasons. The scheme does not require planning permission to be implemented.
- 2.4 Furthermore, the 601 scheme connects in with proposals being delivered as part of the ‘Series 600: Eastern Links’ package of measures, and, in particular, St Mary’s Way and Knightsbridge. The ‘Series 600: Eastern Links’ package of measures are aimed at greatly enhancing access to the town centre from the east for pedestrians and cyclists and at relieving the very congested links to the east of the town centre by transferring trips to sustainable modes.

## **3. SCHEME BENEFITS**

- 3.1 The wider TCAP proposals have been developed in order to bring forward a range of transport benefits, including:
  - 3.1.1 Significantly improving the connectivity and interaction of Stockport’s retail, commercial and residential quarters which are considered critical by the Council to the evolution of Stockport as a coherent, connected and successfully functioning town centre. Improved accessibility and legibility will significantly enhance the perception of key routes, increasing local use, and also at gateways into the town centre for visitors.
  - 3.1.2 Improving access and road safety for pedestrians and cyclists between the town centre and surrounding areas. A shift in traffic away from the town centre will create a safer environment for non-motorised users including pedestrians and cyclists travelling within this area. Furthermore, the implementation of dedicated cycling and pedestrian infrastructure (i.e. improved pedestrian and cycle routes/links/facilities), will foster improved traveller safety and wellbeing as more people utilise active modes (i.e. cycling, walking etc.) to access the town centre.
  - 3.1.3 The implementation of the 601 scheme will contribute towards the achievement and realisation of the last of the above-mentioned benefits, particularly the

improvement of access and road safety for pedestrians and cyclists between the town centre and surrounding areas.

3.2 Furthermore, it is considered that the following scheme specific benefits will be delivered:

3.2.1 The achievement of a minimum shared path width in line with prevailing design guide recommendations thereby reducing the likelihood of conflict between pedestrians and cyclists utilising the path in the location of the 601 scheme. This will also facilitate separation between the users of the shared path and passengers waiting at the existing bus shelter.

3.2.2 As a result of a mode switch from car to active modes (i.e. walking and cycling), there will be a benefit for those who continue to use the highway (i.e. a decongestion benefit), together with environmental benefits (i.e. carbon savings);

3.2.3 A contribution towards improved health benefits from increased physical activity (for those who switch from the car to active modes); and

3.2.4 A time saving to pedestrians and cyclists through the provision of a more user friendly and, as a consequence, a quicker route where the likelihood of conflict between pedestrians and cyclists is minimised.

3.2.5 When seen in context, the 601 scheme is the missing link in miles of cycle network and footway which stretches across the Borough. The 601 scheme is a crucial connector between a number of other TCAP works packages, all of which have improvements in local accessibility and the provision of enhanced pedestrian and cycle facilities as a key element.

3.2.6 Accordingly, the 601 scheme will result in a number of very significant public benefits, both in its own right, and as an integral part of the wider TCAP proposals, the success of which will be the sum of their parts.

#### **4. FUNDING & RESOURCE IMPLICATIONS**

4.1 Funding from the Department for Transport for the package of schemes comprising the totality of the wider TCAP proposals, which are costed at £73.212 million, was secured in March 2015 (see paragraph 4.3).

4.2 On 31 March 2014, Greater Manchester submitted 'A Plan for Growth and Reform in Greater Manchester' ("**the Plan**") to government as part of the Growth Deal process. Through this process, Local Enterprise Partnerships ("**LEP(s)**"), were invited to seek freedoms, flexibilities and influence over resources from government and to apply for a share of the Local Growth Fund in order to target their identified growth priorities. The Plan incorporated a bid for funding in the total sum of £304 million to enable all of the major scheme investment priorities of the Greater Manchester Local Transport Body to be delivered.

4.3 In July 2014, the Greater Manchester LEP was awarded £476.7 million from the Local Growth Fund for the period 2015-2021, followed by a further £56.6 million of funding in January 2015. Notwithstanding these awards of funding, the Department for Transport retained responsibility for the approval of a small

number of large and/or complex schemes – the wider TCAP proposals were one such scheme. However, the Department for Transport's grant funding letter dated 23 March 2015 confirmed the funding for the wider TCAP proposals – in the maximum sum of £73.212 million – and devolved full (final) approval of the proposals to the Greater Manchester Combined Authority ("**GMCA**").

- 4.4 Funding for the wider TCAP proposals, including the 601 scheme, has therefore been ring-fenced.
- 4.5 The wider TCAP proposals, of which there are in excess of 50 discrete works packages, are in the process of being delivered and will continue to be so up to and including 2020/21, with the construction programmes for the relevant works interfacing with a number of other key town centre projects. A considerable number of works packages have already been delivered – 21 schemes have been completed and a further 13 are under construction, leaving a minimum of a further 20 schemes which are yet to start on site.
- 4.6 On 31<sup>st</sup> March 2017, the GMCA approved the final business case for those projects falling within Phase 2A of the wider TCAP proposals – the 601 scheme was amongst the projects considered in the business case. Having previously obtained GMCA approval of the final business case for the Phase 1 and the approval of both Phase 2A and 2B TCAP schemes, the Council is now authorised to drawdown the Department for Transport's full £73.212 million funding allocation.
- 4.7 The drawdown of funding for the 601 scheme will be via a quarterly application process, whereby applications are made to the GMCA and payments are made to the Council on a costs incurred basis. In the circumstances, it is considered that there are no resource or funding impediments to the delivery of the 601 scheme – the requisite funding has been secured and is immediately available such that the compulsory acquisition proposed by the Order can be completed and the scheme implemented within a reasonable timeframe, and most certainly within the statutory period following the date on which the Order becomes operative.

## **5. IMPEDIMENTS TO DELIVERY**

- 5.1 Paragraph 15 of the CPO Guidance confirms that, in addition to demonstrating that there are no funding related impediments to the delivery of the scheme underpinning a compulsory purchase order (which is addressed in the preceding section of this report), an acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation.
- 5.2 Any need for planning permission or other consent or licence is amongst the examples given by the CPO Guidance as to what may constitute a legal impediment. As confirmed in paragraph 2.2, planning permission is not required for the 601 scheme. As regards physical impediments to scheme delivery, there are no programming or accommodation works related issues affecting implementation in this case.

## **6. NEGOTIATIONS UPDATE**

- 6.1 Paragraph 2 of the CPO Guidance contemplates that, whilst compulsory acquisition is intended as a measure of last resort to secure the assembly of all of the land required for the implementation of a scheme or project, it may often be sensible for the acquiring authority to initiate formal procedures and, in parallel, to continue to engage in meaningful negotiations with affected parties.
- 6.2 The Council is the freehold owner of part of the Order Land, specifically NLB1 – part of the New Bridge Lane Public Car Park. As regards the land parcels within the Order Land which are within third party ownership, we are negotiating to acquire the land within the freehold ownership of A D S Investments Limited (grassland and shrubs to light industrial Unit 2) and their tenant, Crown Paints Limited. However, an agreement remains to be reached with the freehold owners of Units 1 and 3 on the estate, Jill & Peter Callaghan and Catherine Marriott (Unit 1) and Leslie R Tipping Limited (Unit 3), together with their tenants. There are also a number of land parcels where the mines and minerals interests are in separate ownership. Despite diligent enquiries having been made, the beneficiaries of these interests are unknown.
- 6.3 It is considered that the Council has taken reasonable steps to acquire all of the land and interests included in the Order Land by agreement and, that where the ownership of any interests are unknown, the Council has undertaken sufficient investigation to identify the owner or beneficiary. However, in order to ensure certainty of the Council's ability to assemble the land required to implement the 601 scheme within a reasonable timeframe, and to deliver the significant public benefits which the scheme will give rise to, the Council considers that it must take the necessary steps to make the Order.
- 6.4 The making of the Order does not prevent ongoing engagement between the Council and those parties whose land and interests are included within the Order Land. Negotiations to acquire any remaining land and interests by agreement should and will continue.

## **7. HUMAN RIGHTS: DEMONSTRATING A COMPELLING CASE IN THE PUBLIC INTEREST**

- 7.1 Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Furthermore, the CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights ("**the Convention**") in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.
- 7.2 The Human Rights Act 1998 incorporates the rights set out in the Convention into domestic British law – section 6 prohibits public authorities from acting in a way which is incompatible with the Convention and the rights it protects.
- 7.3 The following articles of the Convention are of particular relevance and are accordingly engaged in the process of making a compulsory purchase order:
- 7.4 Article 1 of the First Protocol provides as follows: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should 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”.

- 7.5 Article 6 provides that in determining their civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 7.6 Article 8 protects private and family life, home and correspondence. No public authority can interfere with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 7.7 Each of the rights set out within the above-mentioned articles are qualified such that they may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Furthermore, within the context of Article 1 of the First Protocol, the European Court of Human Rights has recognised that regard must be had to the fair balance which is required to be struck between the competing interests of the individual and the community as a whole.
- 7.8 The Order Land does not comprise residential dwellings and therefore the making of the Order will not affect any private, residential interests. Accordingly, it is considered that Article 8 of the Convention is not engaged in this case.
- 7.9 As regards Article 1 of the First Protocol, consideration has been given to the individual rights of those affected by the Order and the wider public interest, together with the fair balance to be struck between these competing interests in the delivery of the 601 scheme. As set out in Section 3 of this report, the scheme will give rise to a number of very significant public benefits, both in its own right, and as an integral part of the wider TCAP proposals. Given these benefits and the imperative to secure their delivery, it is considered that the making and subsequent confirmation of the Order would be legitimate, proportionate and justified, such that the Order would not constitute an unlawful interference with the property rights of those affected.
- 7.10 Furthermore, the statutory procedures relating to the making of the Order, which include a right to object, for any objection to be considered by an independent inspector and, where necessary, to be heard through the public inquiry process, together with the right to pursue a legal challenge to a confirmed order, made under the Acquisition of Land Act 1981 and on the relevant statutory grounds, satisfy the requirements of Article 6. Affected persons are also entitled to claim compensation, proportionate to any losses incurred, where their interests within the Order Land have been acquired or where possession of their land has been disturbed as a consequence of the exercise of the Council's powers of compulsory acquisition.

7.11 In the absence of the Order, there is no certainty that the Council will be able to assemble the land and secure the rights required to implement the scheme, thereby jeopardising the delivery of the scheme itself and of the associated public benefits. Accordingly, it is considered that there is compelling case in the public interest for the compulsory acquisition of the Order Land and that, in making the Order, there would be no unlawful interference with the Convention rights set out above.

## **8. EQUALITY**

8.1 Paragraph 6 of the CPO Guidance states that: “All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (eg powers of entry) these acquiring authorities must have regard to the effect of any differential impacts on groups with protected interests.”

8.2 The Council therefore has a statutory duty under section 149 to have due regard to the need to:

8.2.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

8.2.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

8.2.3 foster good relations between persons who share a ‘relevant protected characteristic’ (age, disability, gender reassignment, pregnancy, maternity, race, religion or belief, sex and sexual orientation) and persons who do not share it.

8.3 The Council has undertaken an appraisal of distributional impacts for the wider TCAP proposals as a whole (dated January 2015). This appraisal was prepared alongside the Major Scheme Business Case – Final Report for the wider TCAP proposals (also dated January 2015) and was revisited in spring 2016 in order to review its application to those proposals and the role of distributional impact analysis in scheme development.

8.4 Distributional impacts relate to the extent to which there are differences in the way the effects of a particular intervention, measured by reference to certain key indicators, will affect different groups, particularly vulnerable groups, in society, including children, older people, people with a disability, Black and Minority Ethnic communities and others. The appraisal has shown that there will be no disproportionate impact on groups with protected characteristics.

8.5 In promoting the wider TCAP proposals and, latterly, in formulating the Order, full regard has been had to the Council’s statutory obligations under the Equality Act 2010 and, in particular, its duty under section 149.

## 9. RECOMMENDATIONS

- 9.1 Agree the contents of this report, together with the drafts of the Order front sheet, the Order Schedule, the Order Map and the Statement of Reasons provided herewith, and having done so, to resolve to make the Order (under the Highways Act 1980 and the Road Traffic Regulation Act 1984) for the reasons set out in the draft Statement of Reasons and to assemble the land and secure the rights required to deliver the TCAP 601 Scheme, and to submit the Order to the Secretary of State for Transport for confirmation.
- Delegate to the Corporate Director for Place Management and Regeneration authority to:
    - a) make minor amendments and/or modifications, as required, to the Order front sheet, the Order Schedule, the Order Map and the Statement of Reasons, and to approve the said documents, prior to the Order being made and submitted to the Secretary of State for Transport for confirmation;
    - b) if authorised by the Secretary of State, to confirm the Order;
    - c) continue to engage in negotiations and, where possible, to agree terms for the Council to acquire by voluntary means all of the land and interests comprised within the Order Land where such land and interests are in third party ownership;
    - d) in the event that objections are made to the Order, take all necessary steps to address and, where possible, resolve those objections and, if necessary, to prepare for and participate in any public inquiry convened by the Secretary of State for Transport to consider the Order.
  - Delegate to the Head of Legal and Democratic Governance authority to:
    - a) provided the Order is confirmed by the Secretary of State, take all necessary steps to bring the Order into operation such that the Council's powers of compulsory acquisition, as secured by the Order, are exercised, and possession of the Order Land taken (including the making and service of one or more General Vesting Declarations and, where necessary, the preparation and service of Notices to Treat and Notices of Entry);
    - b) approve agreements with affected parties setting out the terms of any withdrawals of objections to the Order, including, where appropriate, the exclusion of land from the Order; if considered acceptable having regard to scheme delivery, seek the consent of the Secretary of State for Transport to make modifications to the Order (including the Order Schedule and the Order Map); and, where appropriate, agree to refrain from compulsorily acquiring/vesting any land and/or interests included within the Order;
    - c) defend any third party proceedings challenging the confirmation of the Order by the Secretary of State for Transport;

- d) commence or defend any proceedings in the Upper Tribunal (Lands Chamber) concerning the determination of the compensation to which affected parties whose land and/or interests are acquired pursuant to the Order may be entitled, and to take all necessary steps to deal with, settle and/or dispose of those proceedings (as the case may be);
- e) do all things necessary or incidental to the implementation of the above-mentioned resolutions.

#### BACKGROUND PAPERS

Draft CPO Front Sheet  
Draft Statement of Reasons  
Draft CPO Location Plan  
Draft CPO Map  
Draft CPO Schedules

Anyone wishing to inspect the above background papers or requiring further information should contact Sue Stevenson on Tel: 0161-474-4351 or by email on [sue.stevenson@stockport.gov.uk](mailto:sue.stevenson@stockport.gov.uk)