

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 16 November 2020

CONTACT OFFICER: Stephen Gibson, Director of Place
01753 – 875852

WARD(S): Elliman

PORTFOLIO: Leader of Council and Cabinet Member for Regeneration and Strategy - Cllr Swindlehurst.

PART I **KEY DECISION**

STOKE GARDENS REGENERATION AREA COMPULSORY PURCHASE ORDER

1 Purpose of Report

- 1.1 The regeneration of Stoke Gardens is identified as an opportunity site within the Centre of Slough Regeneration Framework approved by Cabinet in September.
- 1.2 Berkeley Homes have enquired whether the Council would consider using Compulsory Purchase (“CPO” or “the Order”) powers to assemble the Stoke Gardens Regeneration Area site (“the site”), at the entrance of the Horlicks scheme, for redevelopment as a high quality mixed tenure residential development. Subject to approval by Cabinet, the full cost of the CPO would be underwritten by Berkeley Homes.
- 1.3 The purpose of this report is to seek approval for the Council to support Berkeley Homes by using CPO powers to acquire and simultaneously dispose of land and properties to Berkeley Homes on regeneration grounds.

2. Recommendation(s)/Proposed Action

Cabinet is requested to:

- a) Delegate authority to the Director of Place to enter into a Compulsory Purchase Order Indemnity Agreement (CPOIA) and if necessary, a development agreement with Berkeley Homes (and any other relevant third party) prior to undertaking any preparatory works in respect of the CPO,
- b) Agree that the Director of Place be authorised to take all necessary steps to secure the making, submission, confirmation and implementation of a CPO to acquire and third party proprietary interests within the Stoke Gardens Regeneration Area (see Appendix 1),
- c) Agree that the Director of Place be authorised to issue all relevant notices and certificates in connection with the making, confirmation and implementation of any CPO,
- d) Agree that the Director of Place be authorised to acquire third party proprietary interests by private treaty negotiation,

- e) Agree that the Director of Place be authorised to dispose of any third party proprietary interests acquired pursuant to the CPO to Berkeley Homes in accordance with terms to be agreed,
- f) Agree that the Director of Place be authorised to make General Vesting Declarations (GVDs) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or to serve notices to treat and notices of entry (if required) following confirmation of a CPO by the Secretary of State,
- g) Agree that the Director of Place be authorised to issue and serve any warrants to obtain possession of property acquired by the Council following the execution of a GVD or service of a notice of entry if it was considered appropriate to do so; and
- h) Delegate authority to the Director of Place to work with Berkeley Homes to facilitate the regeneration of this strategic town centre site.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

3a. **Slough Joint Wellbeing Strategy Priorities**

The redevelopment of the Stoke Gardens Regeneration Area will make a significant contribution to the joint priorities captured within the Slough Wellbeing Strategy 2020-2025:

- PRIORITY 1: constructing the new development will improve local temporary employment opportunities as well as increasing apprenticeship opportunities enabling local people to start their working life well and improve their learning and skill base,

3b. **Five Year Plan Outcomes**

The development will help deliver the following of the Five-Year Plan outcomes:

- OUTCOME 3: Strategic regeneration within the town centre will contribute to Slough being an attractive place where people choose to live, work and stay,
- OUTCOME 4: Increasing the supply of good quality new homes will contribute towards our residents living in good quality homes; and
- OUTCOME 5: residential regeneration on underutilised sites within the town centre will increase demand, footfall, vibrancy and activity in the town centre helping to attract, retain and grow businesses and investment that creates opportunities for our residents.

4 **Other Implications**

a) Financial

Berkeley Homes have agreed to underwrite the Council's costs in relation to any compulsory purchase order that SBC makes in order to facilitate the redevelopment of the site. SBC will require Berkeley Homes to enter into a CPO Indemnity Agreement ("CPOIA").

The CPOIA will cover all of SBC's costs in relation to the preparation, making, confirmation and implementation of any Compulsory Purchase Order. These costs include: the purchase price or any compensation for any land or interest which SBC has to acquire either pursuant to the Compulsory Purchase Order or in consequence of the service of valid blight notices, (including all payments made pursuant to the Compulsory Purchase Act 1965 and the Land Compensation Acts

1961 & 1973); any statutory interest payable and SBC's reasonable and proper internal and external costs (including legal surveying and other professional costs).

As SBC will seek to recover all CPO costs – including land acquisitions, legal costs and staff time – there is no financial risk.

Once acquired all third party interests will be transferred to Berkeley Homes in accordance with terms to be agreed.

If Cabinet decide to pursue an alternative option involving more financial commitment the Council would have to borrow the money to do so and there would be an associated revenue cost with the borrowing.

SBC will seek to secure an overage so that the people of Slough participate in any super profit achieved above an acceptable fundable developer profit, as defined in SBC's Developers Guidance to Residential Development Viability, either via a planning obligation (s.106) agreement or via potential sale agreements.

b) Risk Management

Recommendation from section 2 above	Risks/Threats / Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
a) Delegate authority to the Director of Place to enter into a Compulsory Purchase Order Indemnity Agreement (CPOIA) and if necessary, a development agreement with Berkeley Homes (and any other relevant third party) prior to undertaking any preparatory works in respect of the CPO.	The CPOIA doesn't protect SBC from all expenditure.	The CPOIA will be drafted by experienced and competent solicitors acting SBC.	4	Where possible appointments will be made with joint duties of care to SBC and Berkeley Homes allowing costs to be paid directly by Berkeley Homes avoiding cashflow and cost recovery issues.
b) Agree that the Director of Place be authorised to take all necessary steps to secure the making, submission, confirmation and implementation of a CPO to acquire and third party proprietary interests within the Stoke Gardens Regeneration Area (see Appendix 1).	As above	As above	4	As above

c) Agree that the Director of Place be authorised to issue all relevant notices and certificates in connection with the making, confirmation and implementation of any CPO.	None	None	0	None
d) Agree that the Director of Place be authorised to acquire third party proprietary interests by private treaty negotiation.	As a) above	As a) above	4	As a) above
e) Agree that the Director of Place be authorised to dispose of any third party proprietary interests acquired pursuant to the CPO to Berkeley Homes in accordance with terms to be agreed.	None	None	0	None
f) Agree that the Director of Place be authorised to make General Vesting Declarations (GVDs) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or to serve notices to treat and notices of entry (if required) following confirmation of a CPO by the Secretary of State.	None	None	0	None
g) Agree that the Director of Place be authorised to issue and serve any warrants to obtain possession of property acquired by the Council following the execution of a GVD or service of a notice of entry if it was considered appropriate to do so.	None	None	0	None

h) Delegate authority to the Director of Place to work with Berkeley Homes to facilitate the regeneration of this strategic town centre site.	As a) above	As a) above	4	As a) above
---	-------------	-------------	---	-------------

c) Human Rights Act and Other Legal Implications

General

Under Section 13 of the Planning and Compulsory Purchase Act 2004 the Council must keep under review the matters which may be expected to affect the development of their area or the planning of its development.

These matters include the principal physical, economic social and environmental characteristics of the area, the principal purposes for which land is used in the area, the size, composition and distribution of the population of the area, the communications, transport system and traffic of the area, and any other considerations which may be expected to affect those matters. The matters also include any changes which the Council think may occur in relation to any other matter and the effect any such changes are likely to have on the development of the Council' s area or on the planning of such development.

Statutory Powers

The Council has the power through various enactments to make Compulsory Purchase Orders and to apply to the Secretary of State for confirmation of any order.

Town and Country Planning Act 1990 Powers

Section 226 (1) (a) of the Town and Country Planning Act 1990, (as amended by the Planning and Compulsory Purchase Act 2004), provides that a local authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area if they are satisfied that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. However the power must not be exercised unless the authority thinks that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of their area.

The compulsory acquisition of third party proprietary interests and/or rights in relation to Stoke Gardens Regeneration Area will enable the delivery of circa 200 homes and will provide certainty with regard to land assembly and the implementation of the redeveloped.

The area does not benefit from a residential allocation under the current Slough Local Development Framework Site Allocations Development Plan Document (November 2010) but it is noted in the Update on Emerging Spatial Strategy (February 2018) to Planning Committee that should it be “redeveloped in a comprehensive way for either residential or preferably mixed use, it would provide a better looking approach to the Horlicks site” and more recently the site is identified as a residential development opportunity site within the Centre of Slough Regeneration Framework (approved by Cabinet in September 2020) as a corporate aspiration.

Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides for the acquisition of new rights over land where such rights are not in existence when the order specifying them is made. In order to facilitate the redevelopment of

the site it may be necessary to acquire new rights over land for purposes such as crane oversailing.

Government guidance on the use of compulsory purchase powers is set out in “Guidance on Compulsory Purchase Process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion” 2015 (“DCLG CPO Guidance”). That guidance states that compulsory purchase orders should only be made where there is a compelling case in the public interest.

The proposed regeneration scheme is in the public interest and will improve the wellbeing of residents in a number of ways:

- Social – Due to limited natural surveillance the properties have attracted anti-social behaviour, including fly tipping and vandalism. Homelessness has also been reported in this area and noise disturbance from the scrapyards is deemed to exceed acceptable levels for a residential area. Unlocking these sites will allow for a new high quality residential development that will provide a use that is befitting the surrounding residential character and will provide new amenity space for people to enjoy.
- Environmental – Delivery of general access improvements, public realm enhancements and in particular improved linkage to the station. Along with abandoned untaxed and unroadworthy cars, the land owners of the industrial properties utilise the existing highways to park cars as part of its business. When the Stoke Gardens improvement works are complete the cars will obstruct the pedestrian/ cycle route, preventing it from being easily accessible to the wider community and discourage sustainable transport. The concrete wall enclosing the scrapyards is of a poor condition and cracked. This will continue to deteriorate and become an unsafe structure that is immediately adjacent to the pedestrian/ cycle route. The delivery of high quality new housing will remove these poor quality industrial properties and replace it with purpose built new homes that will contribute towards the environment, creating a more pleasant street scene. In addition, through design better controls can be in place to ensure this becomes a safe place for both pedestrians and cyclists ensuring the Horlicks development, the town centre and key local public transport interchanges are easily accessible.
- Economic – Parcel 1 has not been occupied since December 2019 and Parcel 2 & 3 are currently underutilised with the W.N Thomas Ltd recently acquiring another site with twice capacity within Slough’s Trading Estate. The redevelopment of these sites will increase Slough’s housing supply by over 200 homes, create construction jobs and apprenticeships and generate S106 contributions to improve infrastructure within the local area. In addition, the site is a key gateway to and from the Horlicks development and a high quality scheme will contribute towards the positive forward looking image of Slough ensuring it is an attractive place where people choose to live, work and visit.

To date, Berkeley Homes have attempted to acquire third party interests through private treaty negotiations. Unfortunately these negotiations have not proved successful. Officers are of the view that there is a compelling case in the public interest to secure the redevelopment of the site. To that end, officers are recommending that SBC utilise the powers under section 226(1)(a) of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976, because it is not certain that Berkeley Homes will be able to acquire all third party proprietary interests and/or rights by agreement.

Human Rights

The Human Rights Act 1998 requires (amongst others) that every public authority acts in a manner which is compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”). The following parts of the Convention are relevant to the Council’s exercise of its compulsory purchase powers:

Article 1 of the First Protocol – the right to peaceful enjoyment of possessions;

Article 8 – respect for private and family life and home.

Any decision to make a Compulsory Purchase Order must strike a fair balance between the public interest in the redevelopment of the land and interference with private rights. Bearing in mind the fact that the exercise of compulsory purchase powers is a statutory process, the provisions for compensation to be paid to those affected and the compelling case in the public interest for the redevelopment, it is considered that the interference with private property rights is necessary, proportionate and strikes a fair balance towards meeting SBC’s objectives.

Those affected by a Compulsory Purchase Order will be informed and advised of their right to make representations to the relevant Secretary of State, to be heard at public inquiry and of a fair entitlement to compensation (where applicable). Thus ensuring consistency with Article 6: right to a fair hearing.

d) Equalities Impact Assessment

The public sector equality duty under section 149 of the Equality Act 2010 (“PSED”) requires SBC to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. ‘Protected characteristics’ are: gender, race and disability, sexual orientation, age, religion or belief, pregnancy and maternity and gender reassignment.

There are currently no equalities issues associated with this report.

e) Property Issues

See Section 5 below.

5. **Supporting Information**

Background

- 5.1 Stoke Gardens is on the opposite side of Stoke Road to Stanley Cottages and is circa 150m to the North West of Slough train station.
- 5.2 The area does not benefit from a residential allocation under the current Slough Local Development Framework Site Allocations Development Plan Document (November 2010) but it is noted in the Update on Emerging Spatial Strategy (February 2018) to Planning Committee that should it be “redeveloped in a comprehensive way for either residential or preferably mixed use, it would provide a better looking approach to the Horlicks site” and more recently the site is identified as a residential development opportunity site within the Centre of Slough Regeneration Framework (approved by Cabinet in September 2020) as a corporate aspiration. This demonstrates SBC’s long term aspiration for Stoke Gardens to become more residential in character.
- 5.3 The adjacent Horlicks Factory site, owned by Berkeley Homes, extends to 4.95 hectares and has planning permission (P00094/039) for a residential led mixed use development to include up to 1,300 homes of which 25% is to be delivered as

affordable, a nursery, flexible commercial floorspace and high quality landscaping. Permission was obtained on 23rd March 2020 with construction commencing shortly after.

- 5.4 Whilst the Horlicks site has several highway accesses SBC were committed to creating improved links with the train station and town centre from the eastern boundary of the site along Stoke Gardens. As such the Horlicks scheme will also deliver an east-west 3 metre pedestrian/ cycle route through the site, extending off-site along Stoke Gardens to Stoke Road, allowing for a safe route to the train station and town centre.
- 5.5 Berkeley Homes has undertaken initial land assembly immediately adjacent to the Horlicks site to secure the improved Stoke Gardens access but several secondary industrial and car trade related properties along Stoke Gardens remain in third party ownership.
- 5.6 To date Berkeley Homes have attempted to acquire third party interests through private treaty negotiations. Unfortunately all these negotiations have not proved successful due to high expectations of the land owners seeking a substantial premium on the Existing Use Value (EUJ), which has made these parcels unviable.
- 5.7 Berkeley Homes are approaching SBC to establish if the Council would consider using CPO powers to assemble these additional properties to improve the local environment, the street scene and pedestrian/ cycle connectivity along Stoke Gardens and to enable a high quality residential scheme that could provide over 200 homes.

Site Description

- 5.8 The subject area is made up of three properties over four titles. Please refer to Appendix 1 for details of each ownership boundary.

Parcel 1

- 5.9 Freehold Title: BK413025 (Address: Land on the south side of Stoke Gardens, Slough SL1 3QB).
- 5.10 The property extends to 0.22 acres and is defined by an existing metal palisade fence and brick wall, and contains mostly hardstanding with a small single storey brick building to the east.
- 5.11 The property has been vacant since December 2019, however was formerly a tyre depot.

Parcel 2

- 5.12 Freehold Title: BK421093 (Address: Unit A, Stoke Gardens, Slough SL1 3QB).
- 5.13 The property extends to 0.20 acres and is defined by an existing metal palisade fence and brick wall, and contains mostly hardstanding with a small single storey brick building to the east.
- 5.14 The property has been occupied by The Tyre Depot since June 2012, for use as a car garage.

Parcel 3 & 4

- 5.15 Freehold Titles: BK418305 & BK479353, Leasehold Title: BK481815 (Address: Belmont Works, Stoke Gardens, Slough SL1 3QA).
- 5.16 The property extends to 0.69 acres is within two ownerships with the proprietor of Parcel 3, W.N. Thomas & Sons Ltd, occupying the whole property under a 99 year lease, for use as a scrapyards. The site is defined by a concrete wall topped with

barbed wire along Stoke Gardens, two storey brick office building on the east and a metal palisade fence on the south. The site also contains a dilapidated single storey warehouse type structure.

Reasons for CPO

- 5.17 As considered in section 4 c) above it is considered that the proposed regeneration of the above sites is in the public interest for the following reasons:

Social

- 5.18 Due to limited natural surveillance the properties have attracted anti-social behaviour, including fly tipping and vandalism. Homelessness has also been reported in this area and noise disturbance from the scrapyards is deemed to exceed acceptable levels for a residential area.
- 5.19 Unlocking these sites will allow for a new high quality residential development that will provide a use that is befitting the surrounding residential character and will provide new amenity space for people to enjoy.

Environmental

- 5.20 Delivery of general access improvements, public realm enhancements and in particular improved linkage to Slough Station. Along with abandoned untaxed and un-roadworthy cars, the occupiers of the industrial properties utilise the existing highways to park cars as part of their business. When the Stoke Gardens improvement works are complete the cars will obstruct the pedestrian/ cycle route, preventing it from being easily accessible to the wider community and discourage sustainable transport. The concrete wall enclosing the scrapyards is of a poor condition and cracked. This may continue to deteriorate and become an unsafe structure that is immediately adjacent to the pedestrian/ cycle route.
- 5.21 The delivery of high quality new housing will remove these poor quality industrial properties and replace it with purpose built new homes that will contribute towards the environment, creating a more pleasant street scene. In addition, through design better controls can be in place to ensure this becomes a safe place for both pedestrians and cyclists ensuring the Horlicks development, the town centre and key local public transport interchanges are easily accessible.

Economic

- 5.22 Parcel 1 has not been occupied since December 2019 and Parcel 2 & 3 are currently underutilised with the W.N Thomas Ltd recently acquiring another site with twice the capacity within Slough's Trading Estate.
- 5.23 The redevelopment of these sites will increase Slough's housing supply by circa 200 homes, create construction jobs and apprenticeships and generate s106 contributions to improve infrastructure within the local area. In addition, the site is a key gateway to and from the Horlicks development and a high quality scheme will contribute towards the positive forward looking image of Slough ensuring it is an attractive place where people choose to live, work and visit.

Deliverability

- 5.24 Draft proposals indicated the capacity for circa 200 apartments, including a mix of apartment types with buildings ranging from 4 to 8 storeys in height, high quality landscaping and a parking strategy in line with the approved Horlicks Factory scheme.
- 5.25 Berkeley Homes had an informal pre-app with the Local Planning Authority and have received officer level written advice which broadly supported the principle of solely residential development and the overall quantum proposed.

5.26 Berkeley Homes have recently acquired the freehold interest in Parcels 2 and 3 via commercial negotiation.

6 **Comments of Other Committees**

6.1 This report has not been considered by any other committee.

7. **Conclusion**

7.1 Stoke Gardens Regeneration Area is the front door to the Horlick scheme, arguably the most important regeneration scheme under construction in Slough at the present moment in time.

7.2 There is a compelling case in the public interest that SBC should help facilitate the successful delivery of the Horlicks scheme and the Stoke Gardens Regeneration Area.

7.3 Should Cabinet decide to decline the recommendations an opportunity to work with the private sector to comprehensively redevelop an important town centre site may be lost in the short term.

8 **Appendices**

Appendix One – Stoke Gardens Regeneration Area Proposed CPO Properties

9 **Background Papers**

None