

APPENDIX A: Further essential background / detail on the proposal.

Compulsory Purchase Order at Temple Gate, Bristol.

PURPOSE OF REPORT

1. The purpose of this report is:

1. To update the authority to acquire the land required for the Temple Gate (previously Temple Square) development by agreement and also to promote Compulsory Purchase Order(s) under S226 (1)(a) of the Town and Country Planning Act 1990 to acquire the required land, if agreement with the current owners is believed to not be possible within a reasonable timeframe.
2. To obtain authority to, as necessary, (a) apply to the Secretary of State for a Stopping Up Order to close highway areas included within the regeneration scheme area to enable development to be carried out, pursuant to S247 of the Town and Country Planning Act 1990, and (b) to make an application to the Magistrates Court under s116 of the Highways Act 1980 to stop up or divert some of the highway.
3. To use the Council's positive planning powers of compulsory purchase and appropriation to assemble the required land for the Temple Gate Scheme.

RECOMMENDATIONS

2. That the decision maker:

Notes the intention to continue with the Compulsory Purchase Order as set out in this report and

1. Authorises the Executive Director Growth and Regeneration, in consultation with the Deputy Mayor for Finance Governance & Performance to proceed with the Making of a Compulsory Purchase Order under S226(1) (a) of the Town and Country Planning Act 1990 as set out in the Cabinet decision of 6 November 2018 for any or all of the interests in the land included within the red line on the attached plan entitled "Draft Compulsory Purchase Order Plan", and numbered PROP-ARC-0067c, for the regeneration, development or improvement of that land.
2. Authorises the Executive Director Growth and Regeneration, in consultation with the Deputy Mayor for Finance Governance and Performance to take all necessary steps to prepare, and to make (a) an application to the Secretary of State for a Stopping Up Order pursuant to S247 of the Town and Country Planning Act 1990, and (b) an application to the Magistrates Court under s116 of the Highways Act 1980 to stop or divert some of the highway for those areas of highway required to be stopped up within the area shown on plan PROP-ARC-0067c attached to the report to enable development to proceed, and to make the case for the proposed order at a public inquiry, if one is called.
3. Authorises the Executive Director Growth and Regeneration, in consultation with the Deputy Mayor for Finance Governance & Performance to appropriate to the Council's planning purposes any or all of the land included within the red line on the attached plan entitled "Draft Compulsory Purchase Order Plan", and numbered PROP-ARC-0067c, that is held by the Council to enable the regeneration, development or improvement of that land.

BACKGROUND

3. The full background to the Temple Gate project is set out in a Cabinet report of 6 November 2018. The Council remains fully committed to the project which includes the site assembly of the land at Temple Gate shown edged red on the plan in Appendix M numbered PROP-ARC-0067c.
4. The Council intends to shortly enter into the Joint Development and Land Agreement (JD&LA) with Skanska UK Limited (Skanska). This will enable the Engine Shed 2 element of the Temple Gate regeneration to commence. There is already a resolution to grant planning consent for the

Skanska's proposed comprehensive development of the Temple Gate and Engine Shed 2 sites. The grant of that consent is subject to the completion of a planning agreement under S106 of the Town and Country Planning Act 1990. The agreement has been drafted and is in agreed form but cannot be completed until the Council and Skanska have entered into the JD&LA which gives Skanska the necessary land interest to enter into the planning agreement. On that basis it is not considered there are any planning impediments to the scheme that the proposed compulsory purchase and stopping up orders will enable.

5. Under the JD&LA the Council will be responsible for the land assembly of the remainder of the site released by the recently completed highway realignment works. It remains the Council's aim to develop this land comprehensively. This requires certainty over the availability of the site.
6. The Council has continued discussions with the owner of Grosvenor Hotel but unfortunately these have not proved successful to date. To ensure certainty of the comprehensive regeneration the Compulsory Purchase Order proposed in the 6 November 2018 Cabinet report is still required.

UPDATE ON COMPULSORY PURCHASE ORDER

7. The Cabinet report of 6 November 2018 set out the proposals for making a Compulsory Purchase Order (CPO) of the land shown in plan PROP-ARC-0067c in Appendix M. In that report at section 6 it stated:

6.3.2 Recent market activity has led to a number of parties registering an interest in the Grosvenor Hotel site. The effect of these interests being added to the land registry title is that a significant number of parties must now be included in the compulsory purchase process so they have notice of the Order if made and could in due course seek to justify a claim for compensation under the compensation code. The existence of these many interests makes it more important that the Council has compulsory powers available so that the much needed comprehensive development of the Order Land is not delayed by one or more parties seeking to hold out against the development proposals and for the development to be delayed by legal argument or proceedings to determine the nature of those interest that have been registered.

8. At the time of the November 2018 Cabinet report, based on the title information available to the Council at that time, the report anticipated that the significant number of parties with registered interests would be included in the CPO schedule. However since then the Council has continued to explore the nature of these interests and undertaken further diligent enquiries. The registered interests consist of Unilateral Notices (UN) registered against the freehold title by third parties who had placed deposits against the failed development proposals. Since 6 November 2018 report:
 - 8.1. the proposed development company for the Grosvenor Hotel (Grosvenor Property Developers Limited) has gone in to liquidation;
 - 8.2. the interest of the proposed development company for the Grosvenor Hotel has been removed from the title; and
 - 8.3. there was an additional intervening interest belonging to Park Limited which connected the freehold owners of the Grosvenor Hotel and the proposed development company which has also now been removed from the title. Park Limited has also gone in to liquidation.
9. On the basis of the change in circumstances, the Council sought advice from specialist property Counsel whether the unilateral notices still protected what could be considered to be interests in land for the purposes of the Acquisition of Land Act 1981 and accordingly on who should be listed in any CPO schedule. Counsel advised that the holders of the UN do not need to be served with notice of any CPO. As a result, the holders of the UN will not now be included in the CPO schedule.

Counsel's legal advice is at this time confidential to the Council and as such is attached in the Exempt Appendix I.

10. It is the intention that on making the CPO out of courtesy the Council will, where it is possible to provide notice, still send a copy of the notice of making of the CPO to all the UN holders informing them that a CPO has been made and submitted to the Secretary of State for confirmation. The letter will include a copy of counsel's opinion. A number of the holders have addresses for service outside of the UK jurisdiction and may well have changed addresses since the unilateral notice was registered on the freehold title. Whilst officers and the Council's appointed consultants will use reasonable endeavours to notify the holders of the unilateral notices that the CPO has been made, it may not be possible to reach all such parties easily. Officers will also instruct the Council's consultants to post site notices and is required under the Acquisition of Land Act 1981 to place a notice in two successive weeks in a local newspaper.
11. The Compulsory Purchase Order Schedule will include rights to light over the CPO Land held by parties with interests falling outside of the CPO Land. Some of the CPO Land is in unknown ownership, and the Council will accordingly invoke the process under the Acquisition of Land Act 1981 to notify unknown owners including the posting of site notices.
12. The Council holds sufficient funds for the payment of compensation for the parties affected by the compulsory purchase (and for compensation due for the appropriation discussed below). If the land is assembled and stopping up and appropriation powers are secured then there is every reason to believe that Skanska will proceed with its proposed development.
13. Prior to the making of the Order the Council will continue to assess the potential compensation and costs liability arising from the CPO against the budget approved by Cabinet on 6 November 2018. If it was considered there was increased potential for the liability to exceed the budget then a further report would be brought back to Cabinet.
14. In summary the compelling case in the public interest for the exercise of compulsory purchase remains, in order to support the regeneration of the Temple Gate area as proposed by Skanska.

STOPPING UP ORDER

15. There is also a need for stopping up of some highway to enable the development proposals to proceed. Since the Temple Gate highways works were completed in 2020, a large part of the former carriageway between the former Grosvenor Hotel and 100 Temple Street is no longer required for highway purposes. Skanska's planning application submission indicates that this area will be occupied by in part new buildings but also the new Temple Gate plaza area (see Appendix M, drawing reference 16008- GAL- MP- 00- DR- AX- P0003).
16. It is therefore proposed to stop up those areas within the development areas to the extent that is required to permit the development of the buildings and the spaces. Some areas will be stopped up completely. Others will be stopped up to vehicular traffic only for example spaces will remain available to pedestrians and for servicing and access.
17. An application for stopping up of highways under s247 of the Town and Country Planning Act 1990 can be made to the Secretary of State on the basis that the stopping up is necessary to enable development to be carried out in accordance with planning permission. In addition to seeking a Stopping Up Order there may be a requirement to pursue stopping up of part of the highway to allow the siting of a builders compound and this can be achieved by an application an application to

the Magistrates Court under s116 of the Highways Act 1980. The SUO will deal with any land within the CPO boundary that is required for the development scheme as proposed by the planning application made by Skanska. It is expected that any inquiry arising as a result of the CPO and SUO would be held at the same time.

18. Final details of the areas to be stopped up are being worked up by officers, the Council's highway team and Skanska, but will principally include the former all-purpose carriageway and associated footways between 100 Temple Street and the Grosvenor Hotel. There are also other elements of the highway network within the red line, most notably the pavement areas outside 100 Temple Street and the Millennium Mile foot and cycle path, that will remain unaffected by Skanska's proposals. Whilst these highways are also included within the redline plan provided with this Report, officers do not intend to seek stopping up powers to close the whole of these public rights of way. It is therefore proposed in the recommendation that, as with the CPO, the final detail of the SUO and any application under s116 of the Highways Act 1980 be delegated to the Executive Director of Growth and Regeneration in consultation with the Deputy Mayor for Finance Governance and Performance.

APPROPRIATION

19. As some of the land within the redline boundary is held by the Council already, it may be that the Council decides to appropriate that land to its planning purposes rather than include all of the land in a General Vesting Declaration following the confirmation of compulsory purchase powers. The effect of the recommendation above is that members will be declaring that the land in the Council's ownership that is within the red line is no longer required for the purpose for which it is currently held and instead it is required for the Council's planning purposes. This appropriation then allows the provisions of sections 203-205 of the Housing and Planning Act 2016 to apply to the appropriated land. In essence these statutory provisions allow the Council or its successor to proceed with activities on the relevant land even if existing rights or covenants in land would be breached by those activities, subject to the pre-requisite that the development benefits from planning permission.
20. The use of section 203-205 of the 2016 Act (which will apply both to land appropriated to planning purposes and land acquired under the Compulsory Purchase Order) means that Skanska will be able to develop the land without risk of injunction by the beneficiaries of the historic rights, and the beneficiaries' interests will be converted into a right to compensation.
21. It is to be noted that the Council will remain liable for the compensation that may arise as a result of either the appropriation or compulsory purchase, if compensation is not paid for the breach of the rights by Skanska.
22. Officers believe the power of appropriation is necessary to give Skanska and its successors in title comfort that injunction proceedings will not be pursued or, if pursued, will not be successful. The appropriation tool is frequently used by local planning authorities to enable developments such as Skanska's proposed scheme. As with the promotion of compulsory purchase powers there is a compelling case for such powers to enable the proposed regeneration to proceed.

ECO IMPACT SUMMARY

23. There will be no environmental impacts from the compulsory purchase or reassignment of road space. The design construction, and use phases will have a range of significant beneficial and harmful environmental impacts associated with travel, plant, building materials, waste, heating,

cooling, and energy and water use. In the current climate and ecological emergencies, impacts on reducing greenhouse gas emissions and enhancing green infrastructure should particularly be prioritised.

24. However, providing additional space for the Engine Shed should have a very significant range of environmental benefits by supporting low carbon industry start-ups. A wide range of mitigation and enhancement measures are proposed to avoid harmful environmental impacts as far as possible. The overall impact is likely to be beneficial.