

**APPENDIX 1 & 2 TO THIS REPORT ARE NOT FOR PUBLICATION
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LOCAL GOVERNMENT ACT 1972**

AGENDA ITEM 11

**REPORT TO THE TEES VALLEY
COMBINED AUTHORITY CABINET**

15 MARCH 2019

REPORT OF ASSISTANT DIRECTOR REGENERATION, STDC

PORTFOLIO: INVESTMENT & BUSINESS GROWTH

**COMPULSORY PURCHASE OF LAND BY SOUTH TEES DEVELOPMENT
CORPORATION (STDC) – STATUTORY REQUIREMENTS**

SUMMARY

This paper seeks consent from TVCA Cabinet for STDC to progress to the making of a Compulsory Purchase Order (CPO).

RECOMMENDATIONS

It is recommended that the Combined Authority Cabinet confirms that it:

- i. has considered the scope and extent of and the case for the CPO; and
- ii. consents to the submission of the CPO to the Secretary of State for confirmation pursuant to section 207(3) of the Localism Act 2011.

DETAIL

1. STDC has been progressing its requirement to make a CPO over a period of time including identification of the land that is required to secure the delivery of the Master Plan and regeneration of 2,300 acres of developable land. The focus of the Project Team to date has been on the practicalities of exercising of the powers to acquire land in this manner and the requirements of the STDC Constitution in this regard.
2. The STDC Board has discussed the requirement to make a CPO, in parallel with undertaking negotiations to purchase land, at several meetings. At its meeting on 25 July 2018 the STDC CEO was authorised to:

- a) make one or more CPOs to acquire the necessary land interests in the Site and, as necessary, the creation of new rights, pursuant to sections 201 and 207 of the Localism Act 2011 ("2011 Act") and the Acquisition of Land Act 1981 ("1981 Act") to secure the regeneration of the Area by facilitating the regeneration or development of the Site;
 - b) take all necessary steps to make one or more CPOs and thereafter to continue the process for the confirmation and implementation of the CPO(s); and
 - c) make a submission of the CPO(s) to TVCA for consent to submit the CPO(s), once made, to the Secretary of State for confirmation pursuant to section 207(3) of the 2011 Act.
3. At its meeting on 26 September the STDC Board agreed that the physical extent of the CPO should be restricted to those parcels of land required for development, where the case for acquisition is absolutely clear and the risk of successful challenge very low. The final CPO area is outlined on the attached CPO map – exempt Appendix 1.
 4. The background to making of a CPO was covered in a paper (agenda item 15 on 5 February 2018) for the TVCA Cabinet where it was specified that “to the extent that any (land) acquisition requires local funding, this will be a referral decision and will come to Combined Authority for approval”. That was achieved through approval of the funding for STDC in the TVCA Investment Portfolio at Cabinet on 24 January 2019. Although the funding was approved, it is now a separate statutory requirement that **TVCA Cabinet consent to the actual making of the CPO**. The case for CPO is made in the attached draft Statement of Reasons – exempt Appendix 2.
 5. The Development Corporation has a number of powers including “Powers to acquire land – in its area or elsewhere in accordance with the provisions of the Localism Act 2011”. In order for STDC to exercise those powers, it must conform to the statutory framework (see Appendix 1 to STDC Constitution) set by:
 - the Localism Act 2011 (“the 2011 Act”);
 - the South Tees Development Corporation (Establishment) Order 2017 (“the 2017 Order”); and
 - the Tees Valley Combined Authority (Functions) Order 2017 (“the MDC Order”).
 6. S207(3) of the Localism Act 2011 states that “An MDC must obtain consent of the Mayor of London before submitting a compulsory purchase order authorising an acquisition under subsection (2) to the Secretary of State for confirmation”. This was changed by Schedule 1 Article 11 of the Tees Valley Combined Authority (Functions) Order 2017 to read the “Combined Authority” rather than the “Mayor of London”.
 7. The (Tees Valley) Mayor may only exercise these functions conferred on the Combined Authority with the Combined Authority Cabinet’s Agreement, and, Constitutionally, if the Constituent Authority Member for an Authority whose council area contains any part of the area to be designated, consents to the exercise of the

functions. Fundamentally the TVCA Cabinet and, Constitutionally, the Leader of Redcar & Cleveland Borough Council must give consent at a meeting of the Cabinet.

8. In addition to recognition that the making of the CPO requires TVCA Cabinet consent it has recently been confirmed that the actual making of the CPO (proposed for end March 2019) does not commit STDC to acquiring the land subject to the CPO (save where there is a successful blight notice) and in itself is not therefore a Referral Decision under clause 28 of the Constitution. **Following the making of the CPO, there will be an objection period and potentially an Inquiry to hear any objections (likely given the scale and nature of this CPO). The Secretary of State will then decide whether or not to confirm that STDC has power to implement the CPO to acquire the land subject to the CPO and STDC can choose to acquire all, part or none of that land. It is only on implementation that STDC commits to purchasing the land and is obligated to pay compensation for that land.**

FINANCIAL IMPLICATIONS

9. There are no financial implications to the actual making of the CPO as it does not commit STDC to take any action.
10. Funding for delivery of the CPO has been approved as part of the Investment Portfolio for Tees Valley approved at the Cabinet meeting on 24 January 2019

LEGAL IMPLICATIONS

11. The report has been endorsed by the Monitoring Officer and STDC legal advisors on CPO, ensuring it meets relevant statutory requirements.

RISK ASSESSMENT

12. The only risk associated with this report is that lack of consent means that STDC cannot proceed to making of the CPO.
13. This (subject matter of report) is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

CONSULTATION & COMMUNICATION

14. Consultation is not required as this is a statutory requirement to enable STDC to make a CPO.

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