

**PROPOSED DEVELOPMENT OF NORTH WESTGATE:
 IN PRINCIPLE AGREEMENT FOR USE OF THE COUNCILS COMPULSORY
 PURCHASE POWERS**

**COUNCILLOR JOHN HOLDICH – LEADER OF THE COUNCIL AND DEPUTY MAYOR OF
 THE CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY**

July 2020

Deadline date: *July 2020*

Cabinet portfolio holder:	Councillor John Holdich – Leader of the Council and Deputy Mayor of the Cambridgeshire and Peterborough Combined Authority in consultation with Councillor Peter Hiller – Cabinet Member for Strategic Planning, Commercial Strategy and Investment
Responsible Director:	Steve Cox – Executive Director Place and Economy
Is this a Key Decision?	NO If yes has it been included on the Forward Plan: N/A
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO

R E C O M M E N D A T I O N S

It is recommended that the Cabinet Member agrees:

1. In principle to make a Compulsory Purchase Order (“CPO”) under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) for the acquisition of the land and interests within the area shown edged in red on the plan (including the potential re-location sites shown Blue and Orange) attached to this report for the purpose of enabling the carrying out of a scheme (the “Scheme”) of development, redevelopment and improvement of part of the Peterborough City Centre (the Property”) being satisfied that (i) the acquisition will facilitate the carrying out of the development, redevelopment or improvement on or in relation to the land, and (ii) the development, redevelopment or improvement is likely to contribute to the promotion or improvement of the economic, social and environmental wellbeing of Peterborough City

Centre, and acquisition of any new rights pursuant to Section 13 of the Local Government (Miscellaneous) Provisions Act 1976 as may be required, for example for access and construction purposes.

2. To authorise the Executive Director Place & Economy to take all necessary steps as considered appropriate to secure the making of the CPO including but not limited to; issuing notices pursuant to section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (Section 16 notices), engaging, consulting and negotiating with landowners and preparation of documentation and undertaking all matters that the Council might need to undertake to inform a further report to Cabinet to resolve to make, the CPO if required.
3. To authorise the Executive Director Place & Economy, in consultation with the Cabinet Member for Strategic Planning, Commercial Strategy and Investment to approve the acquisition of legal interests by agreement including for the purposes of resolving any objections to the CPO.

1. PURPOSE OF THIS REPORT

- 1.1 This report is for Councillor John Holdich to consider exercising delegated authority under Part 3, Delegations Section 3 – Executive Functions, “All Executive functions are delegated to the Leader who may then delegate further to the Cabinet, Committees of the Cabinet, Cabinet Members and officers. The Leader retains responsibility for the functions so delegated and may exercise those functions in person regardless of the further delegation.”

2. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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3. BACKGROUND AND KEY ISSUES

- 3.1 This report relates to the Council’s long-standing policy aspiration to achieve the comprehensive regeneration of the North Westgate area of the city (as defined in Appendix 1), and follows the approval given by the Planning and Environmental Protection Committee to the outline planning application made by Hawksworth Securities plc on 27th November 2018.
- 3.2 This report is also in addition to the CMDN reference; APR20/CMDN/99, which enabled the Council to negotiate and enter into a Collaboration Agreement with Hawksworth Securities Plc, together with granting approval for a referencing agent and valuation surveyor to be commissioned, to commence the Land Assembly of the site.
- 3.3 The Council has powers pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 which enables it to make a Compulsory Purchase Order, should negotiation by private treaty not be possible.
- 3.4 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides that in all cases where an authority is authorised to acquire land, it may, under the CPO, be authorised to acquire specific rights over land, for example, crane oversail rights.

Purpose

- 3.5 The purpose of this report is to agree, in principle, for the Council to use its CPO powers to support Hawksworth Securities PLC (“Hawksworth”) with the acquisition of interests and rights which cannot be acquired by private treaty, so as to secure the regeneration of the North Westgate Development.

- 3.6 Such approval will enable the Council Officers to work with Hawksworth to progress a development programme for implementing the scheme.
- 3.7 It is anticipated that a further report will be submitted to Cabinet seeking a full resolution to make a CPO in the event that Cabinet is satisfied that private treaty negotiations are unlikely to be successful in securing all outstanding third party owners' land or any rights that may be required over land. At that stage the Cabinet will be updated as to negotiations on land acquisition, and officers will report on the to proposed funding arrangements and viability issues.

Background

- 3.8 The regeneration of the North Westgate area of Peterborough City Centre is a longstanding policy aspiration of the Council dating back almost 30 years.
- 3.9 The site in question forms a pivotal connection between the City Centre, the Rail and Bus Stations and the communities along the Lincoln Road corridor to the North of the City Centre.
- 3.10 Hawksworth are the principal landowner in the area bounded by the phase 1 scheme as shown in the land ownership plan at Appendix 1. The Hawksworth proposals ("the Scheme") (as described in the outline planning permission reference 18/01374/OUT) are for a mixed use scheme of up to 57,000sqm to include up to:-
- Restaurants and cafes (class A3)
 - Retail units (Classes A1 and A2)
 - A Food hall (Classes A1, A3, A4 and A5)
 - Office space (Class B1a)
 - A hotel (Class C1)
 - Residential (Class C3)
 - Non-residential institutions (Class D1)
 - Leisure (Class D2)
 - Car parking, new access arrangements for vehicles, pedestrians and cyclists, public realm improvements and landscaping.
- 3.11 The proposed site excludes the car parks in the ownership of Invesco to the rear of the Brewery Tap, west of the coach layover and the car park accessed off Lincoln Road and to the west of the coach layover. A small slither of land lying immediately to the north and east of the Brewery Tap is proposed to be included to enable the improved integration of the Brewery Tap into the remainder of the scheme and to enhance pedestrian access between the scheme and the train station subject to any necessary planning consent. Hawksworth carried out public consultation on their proposals including an exhibition of the scheme design proposals in late summer 2018 prior to the submission of their planning application.
- 3.12 Subject to the detailed land referencing process, it is understood that the proposed development site includes approximately 10 third party land ownerships that will need to be acquired to enable the site to be redeveloped, and other freehold interests which may need to be overridden by use of appropriate statutory CPO powers, if negotiation is unsuccessful.
- 3.13 The Council have appointed a land referencing agent to check all title ownerships and constraints such as historic covenants and also a valuation surveyor to carry out an independent valuation of the third-party properties that will need to be acquired to allow the scheme to proceed. This is the appropriate approach given the information from the referencing agent and valuer will need to be relied upon by the local planning authority should a CPO become necessary. Hawksworth are working separately on plans to relocate the Methodist and United Reform Church congregations who currently meet in the

Westgate new church hall to the rear of the Portuguese Church. The Peterborough Christian Book Shop will also be relocated. (See areas coloured blue and Orange on the Plan in Appendix 1) It may be necessary to secure further planning permission(s) to enable these relocations.

3.14 Under the terms of the proposed collaboration agreement it is proposed that the Council would transfer any properties it currently owns or acquires either through private treaty negotiations, or via a CPO, to Hawksworth once the necessary pre-conditions have been met for development to commence.

3.15 In the event that Hawksworth are unable to progress the scheme for any reason the Council retain an option to acquire the land owned by Hawksworth. This would enable the Council to progress the development scheme on its own either independently or working through a joint venture arrangement with another private developer or investment partner.

3.16 The Council has already commenced land assembly at North Westgate having acquired nine properties on Cromwell Road. These are currently being used as temporary accommodation for households at risk of homelessness.

4. Compulsory Purchase Powers

4.1 The Council has the power in section 226 of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) to make a compulsory purchase order in respect of any land in their area if the Council thinks that the purchase of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

4.2 The Council may not exercise the power unless it considers that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:

- The promotion or improvement of the economic well-being of their area
- The promotion or improvement of the social well-being of their area
- The promotion or improvement of the environmental well-being of their area.

4.3 It is immaterial that the development, redevelopment or improvement may be carried out by a third party.

4.4 Section 13 of the Local Government (Miscellaneous) Provisions Act 1976 enables the Council to compulsorily acquire new rights. These may be necessary for access and construction purposes.

4.5 Guidance

In July 2019 the Ministry of Housing Communities and Local Government published updated guidance entitled "Guidance on Compulsory Purchase Process and the Cribchell Down Rules" (the "Guidance") which provides guidance to acquiring authorities in England on the use of compulsory purchase powers.

Paragraph 1 of the Guidance states:

"Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.

4.6 Particular advice on orders made by local authorities under Section 226 of the Town and Country Planning Act 1990 is contained in Paragraph 95 of the Guidance, which states:

“This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate”

4.7 The Guidance requires the Council to have regard (inter alia) to the following when considering making a Compulsory Purchase Order:

- a compulsory purchase order should only be made where there is a compelling case in the public interest.
- an acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention
- it is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.
- the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. Funding is expected to be available now or early in the process.

4.8 The Guidance looks to acquiring authorities to seek to acquire land by agreement wherever practicable. However, the Guidance recognises that it may be sensible for acquiring authorities to start formal compulsory purchase procedures in parallel with their efforts to acquire by agreement. The Guidance notes that this has the advantage of making the seriousness of the acquiring authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.

4.9 A compulsory purchase order to which there are objections will require confirmation by the Secretary of State to become effective. The Guidance provides that any decision by the Secretary of State about whether to confirm an order under Section 226 will be made on its own merit, but the factors that the Secretary of State can be expected to consider include; (a) whether the purpose to which the land is being acquired fits in with the adopted planning framework for the area; (b) the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area; and (c) whether the purpose for which the acquiring authority is

proposing to acquire the land could be achieved by other means, for example any alternative proposals put forward by the owners of the land.

4.10 A draft 'Statement of Reasons' for the CPO will be prepared and will be attached to the Order, if made. This will provide a detailed overview, background to the scheme, planning history, planning policy and policy context and reasons why a CPO is appropriate.

CASE FOR MAKING A CPO
As explained in Section 8 below, it is an important policy objective of the Council to secure the redevelopment of the North Westgate Opportunity Area.

It is therefore considered that use by the Council of its compulsory purchase powers to facilitate the Scheme will help wider regeneration of the city and economy by increasing the cultural leisure and retail offer as well as meeting local housing needs, and helping to create local jobs.

5. CONSULTATION

- 5.1 Public consultation on the scheme proposed by Hawksworth took place in late summer 2018 and included an exhibition of their scheme proposals. Hawksworth have maintained communication with the church and a number of the third party landowners. At this stage Hawksworth have an outline planning consent with a number of reserved matters that will need to be dealt with. There will be a need for ongoing public consultation and a further opportunity for the public to comment upon the proposals once the detailed planning application is submitted. In the event that a CPO is needed (and subsequently approved by Cabinet) that process will ensure all evidence relating to the scheme proposals are properly examined through an inquiry. This will be a public process.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 Approval of the recommendations made in this report will enable the Council to continue collaboration with Hawksworth to acquire third-party land interests through private treaty negotiations and if necessary enable the Council to present a further report to Cabinet to request a resolution to make a CPO. This will help expedite land assembly and make it more likely that North Westgate can be regenerated in the near future. The regeneration to this area will deliver a significant number of new homes, office space, hotel, restaurant, retail and leisure uses enabling North Westgate to make a more positive contribution to the sustainable growth of the city's economy.
- 6.2 It should be noted that agreeing in principle to use compulsory purchase powers in relation to the scheme will not disrupt the process of seeking to acquire any required land interests and new rights by agreement which will proceed in tandem with the compulsory purchase process. The exercise by the Council of its compulsory purchase powers would only be recommended to the Cabinet where it had not been possible, despite reasonable efforts having been made, to acquire land interests and any new rights by agreement.

7. REASON FOR THE RECOMMENDATION

- 7.1 The proposed recommendations will enable the council and Hawksworth to progress the approved North Westgate scheme to the benefit of the City and its local economy.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Given that Hawksworth own 50% of the land at North Westgate there appears to be four main options.

Option One - Do nothing.

In this scenario Hawksworth can be expected to seek to implement the scheme without Council support potentially acquiring further properties as and when they come to the market. This is likely to materially delay if not prevent a comprehensive solution. Hawksworth may determine to bring forward proposals for the incremental development of their land holdings at some point which would not be likely to provide the high-quality comprehensive solution to the regeneration of the area but may be difficult to resist if the Council is unwilling to support the comprehensive scheme at this time. Hawksworth could also continue to manage income from the car parks they own and, at some point, sell the land to a new investor. This option is unlikely to see regeneration taking place in the foreseeable future.

Option Two - Attempt to buy out Hawksworth's interest.

Hawksworth have not indicated any willingness to sell their assets to the Council at this time and this would not address the issue of the remaining third party properties, which would be required for a comprehensive solution in any event. This option is likely to be achieved only at a premium to market value and would make it difficult for the Council to progress a viable scheme thereafter.

Option Three - Pursue a CPO to acquire Hawksworth assets.

Hawksworth would be expected to resist any CPO of their interest. As 50% site owners and given their willingness to progress a comprehensive scheme, which the Council has supported through both the planning consent and the resolution to enter the Collaboration Agreement, this would have little prospect of success, given the existing principal landowner of the site (Hawksworth) being ready and willing to develop in co-operation with the Council.

Option Four – Collaboration supported by the Council's compulsory purchase powers where necessary (recommended option)

To agree in-principle, the making of a CPO pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 at North Westgate, subject to a further specific resolution of Cabinet in respect of making, confirming and implementing CPOs, if required, and the relevant test satisfied, to support Hawksworth to deliver their approved scheme. This is the recommended option.

RISK APPRAISAL

There are several risks associated with the recommended option. Should the Cabinet Member approve the in principle CPO (and subsequently a specific resolution for a CPO), in the event that the Secretary of State refused to confirm the CPO, under the terms of the agreement the Council would face abortive costs for the work to be undertaken by the land referencing agent and valuation surveyor, in the interim. The majority of these costs risks, have already been accepted by the Council, in resolving to enter the proposed Collaboration Agreement. They are expected not to exceed £60,000 and the work to understand title restrictions and property values would be of useful value for any other subsequent development.

Should a CPO be ultimately pursued, and in the case of the failure of the CPO, the Council would also be faced with meeting 50% of the legal and technical expert costs for the CPO process and any public inquiry. Given that only 10 third party land ownerships are involved it can be reasonably assumed that the CPO Inquiry would be relatively short one, the Council's share of such costs is likely to be less than £50,000.

If the Council acquires further properties through private treaty negotiations and Hawksworth fails to progress the scheme, as envisaged in the proposed Collaboration

Agreement, there is a risk that the Council will not be able to recover the full price paid for such properties and/or the additional costs associated with individual property transactions and compensation payments. However, the Council retains a call option, under the Collaboration Agreement that would enable it to acquire the Hawksworth land assets, and in such circumstances, be in a position to progress the development of a comprehensive scheme independently once market conditions allow.

No major urban development of this sort is without risk and given that the Council has a longstanding aspiration to achieve regeneration in this area of the city centre, the aforementioned risks should be manageable ones especially given that the site in question is a highly sustainable location in close proximity to the city centre and both the bus and rail stations.

8. IMPLICATIONS

Financial Implications

- 9.1 If it becomes necessary to pursue a CPO, additional revenue will be required to cover legal and witness support and related CPO Inquiry costs. In total, CPO costs are estimated at £100,000. Any CPO related costs would be recovered from the developer provided the scheme proceeds but there will be abortive costs if the CPO fails. These will be met on a 50:50 basis with the developer.

Legal Implications

- 9.2 This report sets out (in section 4) the legal powers which enable the Council to make a CPO to assist Hawksworth in obtaining full ownership of any outstanding interests and rights. At present authority is sought only for an in principal agreement to begin the compulsory purchase process and prepare the CPO documentation for future consideration. Hawksworth will be expected to take all reasonable steps to acquire the properties and any rights needed on a voluntary basis pursuant to the Collaboration Agreement, but if a CPO is required then there will be a further report.

9.2.1 PLANNING CONTEXT

The Scheme has the benefit of planning permission (reference 18/01374/OUT) granted on 30th November 2018.

- 9.2.2 The boundary of the CPO area (as identified at Appendix 1) is located within the City Centre boundary and within the City Core Policy Area (Policy LP47) of the recently adopted Peterborough Local Plan (July 2019). The CPO area also falls within the North Westgate Opportunity Area (Site LP47.3) and is the same as identified Local Plan site LP47.2 (Application 1801374/OUT) for 300 dwellings.

Relevant national policies include NPPF (2019) paragraphs 80 (building a strong, competitive economy, 117 (making effective use of land), 122 (efficient use of land) and 131 (innovative use of design)

Local Plan policy LP47 states that:

- 9.2.3 *'Within the North Westgate Opportunity Area (LP47.3) planning permission will be granted for comprehensive mixed-use redevelopment including retail, employment, housing, office and leisure uses, which is well integrated with the existing retail area. The design, layout and access arrangements must enhance the transition between the residential area to the north and the city centre.'*

Individual proposals which would prejudice the comprehensive redevelopment of this Opportunity Area will not be permitted. Any proposals for North Westgate should complement existing Community regeneration projects coming forward in the City North Policy Area'

The North Westgate Opportunity Area is a large underused part of the city centre and has been identified as an opportunity area that has the potential for comprehensive redevelopment and wider regeneration of the City Centre. This will help achieve the Local Plan vision for Peterborough that:

'By 2036 Peterborough will have become a destination of choice, a bigger and better city, growing in the right way to meet the needs of its growing population, and providing a range of high quality attractions and facilities making it a distinctive place to live, work and visit. Peterborough city centre, with its iconic cathedral and historic core, will have maintained and strengthened its position as the top retail centre in the area, drawing visitors from the wider region to enjoy the shopping, leisure, culture and entertainment it has to offer, including a redeveloped riverfront and enhanced city core, with a range of restaurants and bars supporting a safe and vibrant night time economy'.

9.2.4 And the overreaching strategy for the city centre as set out in Policy LP6 which states that: *'Major new retail, cultural and leisure developments which will meet the needs of the city and its sub-region, as well as the local needs of a significantly larger city centre resident population, are encouraged.*

9.2.5 *The city centre, is promoted as a location for substantial new residential development at a range of densities according to location. It is also promoted as a location for employment development, with an emphasis on B1 development (together with employment in all of the service sectors outside the B Use Classes). Mixed use development is encouraged, especially outside the PSA'.*

The proposed development at North Westgate would help achieve the above Local Plan objectives and requirements for the area and there is, therefore, solid local policy support for delivering regeneration in this area, with such policy tested rigorously, and with independent examination, via the Local Plan preparation process.

With reference to the statutory criteria for the exercise of compulsory purchase powers, it is considered that the use by the Council of its compulsory purchase powers to facilitate the scheme will contribute to the achievement of the promotion or improvement of the economic, social and environmental well-being of the Council's area; in particular, the proposed scheme will significantly contribute to increasing the residential offer in the city centre and meeting the Local Plan housing requirements. The proposed mixed use scheme will help the wider regeneration of the city centre and economy, by improving the cultural, retail and leisure offer, which in turn will help attract more visitors to the city, boost the evening economy and create more jobs.

Other legal implications relating to the redevelopment of the site will be considered as part of the relevant statutory processes under the Planning, Building Control and Highway legislation.

Equalities Implications

9.3 The development scheme will have an impact on existing third-party land holders and the Council will need to proceed with sensitivity in private treaty negotiations to take account of those residents and businesses whose properties are acquired through private treaty negotiations.

Carbon Impact Assessment

9.5 Neutral impact

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

10.1 None.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

11.1 None.

12. APPENDICES

12.1 Appendix 1 – CPO plan
Appendix 2 – CPO Process - Guidance Document