

Rother District Council

Report to: Cabinet

Date: 7 September 2020

Title: Residential development at, Blackfriars, Battle

Report of: Ben Hook - Head of Service, Acquisitions, Transformation, and Regeneration

Cabinet Member: Councillor Byrne

Ward(s): South Battle and Telham

Purpose of Report: To enable the Compulsory Purchase Order to acquire third party land necessary to deliver the residential scheme at Blackfriars, Battle to be made.

Decision Type: Key

Officer

Recommendation(s): **Recommendation to COUNCIL:** That:

- 1) the draft Rother District Council (Blackfriars) Compulsory Purchase Order 2020 as attached at Confidential Appendix 1 ("the Order"), the map comprising the land that is proposed to be compulsorily acquired ("Order Land"), as may be subject to amendment pursuant to paragraph (3 a. below) as attached at Appendix 2 and referred to in the Order ("the Order Map") be approved;
- 2) the draft Statement of Reasons made in support of that Order and attached at Appendix 3 ("the Statement of Reasons") be approved; and
- 3) the Executive Director be granted delegated authority to:
 - a. Make changes to the draft Order, the Order Map (within the red line boundary as shown on the Order Map) and Statements of Reasons as considered necessary.
 - b. Exercise powers in the Town and Country Planning Act 1990 to secure the removal of any apparatus of statutory undertakers.
 - c. Acquire by agreement all third-party interests in and over the Order Land under Section 227 of the 1990 Act before and after confirmation of the Order and in respect of any new rights required for the development or use of the Order Land.
 - d. Take all necessary steps to secure confirmation of the Order and the acquisition of all third party interests in the Order Land, including: the publication and advertisement of the Order, serving appropriate notices, seeking confirmation of the Order, taking all steps to acquire relevant interests and such other steps as deemed appropriate to facilitate the development, redevelopment or improvement of the Order Land.

- e. Enter into agreements and make undertakings, contracts and transfers on behalf of the Council with third party interests in the Order Land or for the creation of new rights in favour of or over the Order Land or with parties otherwise affected by the Order, including for the withdrawal of objections to the confirmation of the Order and also including the offering back of any part of the Order Land or rights over it, or acquisition of additional land or interests in or over any such land and the removal of any land from the Order.
 - f. Defend any proceedings challenging these decisions, and the making, confirmation or implementation of the Order or any notice, general vesting declaration or anything else made pursuant to the Order.
 - g. Publish and serve all appropriate notices of confirmation of the Order and to make one or more general vesting declarations or serve notices to treat and notices of entry (as appropriate) in respect of the Order Land.
 - h. Initiate or take part in any arbitration or proceedings before the Upper Tribunal (Lands Chamber) or the Courts in order to resolve any disputes as to compensation or other payments payable for any interests in the Order Land or arising from the making or confirmation of the Order or securing possession of any part of the Order Land or title to any part of the Order Land or the removal of any occupants or apparatus of statutory undertakers or communication code operators.
-

Introduction

1. On June 8, 2020, Cabinet authorised the preparatory work required for the making of the Compulsory Purchase Order (CPO) at Blackfriars, Battle including the completion of land referencing and budget (Minute CB20/4 refers).
2. Through the appointed Land Referencing Agents (Arden), the Council has issued notices under S16 of the Local Government (Miscellaneous Provisions) Act 1976 to those with registered and identified interests in the land that is proposed to be compulsorily acquired (Order Land). These notices request information from those who have or may have interests in the land and are used to confirm the ownership and occupation information.
3. From Land Registry checks, information from the returns on the notices and further due diligence made by the Land Referencing company, the draft Rother District Council (Blackfriars) Compulsory Purchase Order 2020 (the Order) attached at Confidential Appendix 1 has been prepared to identify the various interests and rights in the Order Land, and those who own them or have the benefit of them. The Order identifies those who have interests in the Order Land, which is itself identified in the redline plan in Appendix 2 (the Order Map). Any further relevant persons identified will be added into the Order prior to it being made.
4. The draft Statement of Reasons attached at Appendix 3 sets out the Council's reasons for making and seeking confirmation of the proposed Order. This document will form part of a suite of information to be prepared to support the proposed Order. The Statement of Reasons document has been produced in accordance with the Ministry for Housing, Communities and Local Government Guidance.

Description of land to be acquired

5. As described in the statement of reasons, the Order Site comprises an area of approximately 16 ha within Battle located between Harrier Lane to the north and by Hastings Road to the south.
6. The development will be accessed by a new spine road, from the south from Hastings Road, off The Spinney, and from the north via Harrier Lane off Marley Lane.
7. The land interests to be acquired are as follows (plot numbers are as referred to in the Order Map and Order Schedule):
 - **Plot 1:** all interests in approximately 653 square metres of land being highway verge on Harrier Lane, Battle currently owned by the Council;
 - **Plot 2:** all interests in approximately 82,984 square metres of land being grassland, trees, shrubbery, path and public footpaths (Battle 76, Battle 77b), south of Harrier Lane, Battle currently owned by the Council;
 - **Plot 3:** all interests in approximately 38,201 square metres of land being grassland, trees, shrubbery and public footpath (Battle 77b), south of Harrier Lane and west of Starrs Mead, Battle. This land is currently owned by Piper Ventures Battle Limited;
 - **Plot 4:** all interests in 18 square metres of land being grassland, south of Harrier Lane, Battle of unknown ownership;
 - **Plot 5:** all interests in approximately 23,500 square metres of land being grassland, trees, shrubbery, north of Hastings Road, Battle currently owned by Taylor Wimpey UK Limited;
 - **Plot 6:** all interests in approximately 7,684 square metres of land being grassland, trees, shrubbery, pond and buildings at Highlands Farm, Hastings Road, Battle currently owned by Joyne Finance Corporation and Bellhurst Homes Limited;
 - **Plot 7:** all interests in approximately 395 square metres of land being access track associated with Highlands Farm, Hastings Road, Battle currently owned by Joyne Finance Corporation and Bellhurst Homes Limited; and
 - **Plot 8:** all interests in approximately 23 square metres of land being grassland, north of The Spinney and north west of Starrs Mead, Battle.
8. Formal written offers were sent to the relevant landowners by the Council in March 2020 but agreements to acquire the parcels of land by private treaty have not yet been finalised.
9. As part of the CPO process, the Council has sought further advice from specialist compensation valuers who have concluded that the previous financial offers made by the Council to acquire land interests are reasonable, and likely to be in excess of any compensation settlement calculated on the basis of the Compulsory Purchase Compensation Code.
10. In light of this advice, further correspondence was sent to the relevant landowners in August 2020, reiterating the Council's previous offer in an attempt to acquire the

land without the need for CPO. Responses have not yet been received but are expected before the end of August 2020.

11. It should be noted that the Council, will continue to use reasonable endeavours to assemble the land by agreement or private treaty.

Update on planning and project progression

12. The scheme currently has a resolution to grant Outline Planning Permission, subject to the signing of a S106 agreement. This resolution to grant secures access to the site, the alignment of the spine road, and the quantum of development across the site.
13. The S106 is currently being drafted by the Local Planning Authority's solicitors. Solicitors have been appointed to act on behalf of the Acquisition, Transformation and Regeneration Service in relation to this matter.
14. Architects have been appointed to work up the detailed design for a Reserved Matters Application (RMA), with a target for submission of October 2020.
15. The residential scheme to be served by the spine road will deliver 220 units, including the provision of approximately 35% affordable units which would assist in providing housing opportunities for local residents as well as helping to meet the District's affordable housing targets.
16. The Project Team has set a site-wide target to reduce of CO₂ by 31% over current building regs Part L requirements. Measures to future-proof the site for carbon zero through electrification of heating, and the provision of EV charging points will be incorporated within the design proposals, and Housing Quality Mark (HQM) certification being taken forward for all units across the site.
17. An initial pre-application meeting with the Local Planning Authority took place in August 2020. The proposals are currently being refined and will be presented to Members at a pre-application briefing in advance of the RMA's submission.
18. As face-to-face public consultation is not feasible during ongoing Covid-19 pandemic, an online webinar is planned to present the scheme to local residents in advance of the submission of the RMA. This will be followed by online consultation to seek the views of the local community.
19. This project would transform this part of Battle, delivering housing choice, increase local economic activity and deliver environmental improvements. The new development will be highly sustainable and futureproofed for carbon zero in line with the Council's climate emergency declaration and associated targets.
20. In addition, although construction jobs would be temporary, the construction phase of the development is scheduled to occur over a 4 year period, and is estimated to support the employment of 620 people, including at least 6 apprentices, graduates or trainees, for the duration of the project.

21. It is intended that the project be delivered by Alliance Homes (Rother) Ltd, the Council's wholly owned housing company.

Conclusion

22. The delivery of Blackfriars is a key corporate priority which will deliver much needed new housing, including approximately 35% affordable housing together with a new road to serve the residential development.
23. To ensure the progression of this project it is necessary to pursue the making of the Order. It is recommended that full Council approve this action and delegate the necessary authorities, as laid out in the recommendations above, to the Executive Director.

Implications and risks

Financial

24. The making of the Order will incur costs to the Council. These will be facilitated through the approved project budget. In the event the Order is confirmed compensation will be due to the current landowners, again this is already budgeted for as part of the approved project costs.

Environmental

25. The making of the Order will enable the Council to progress development on an ecologically sensitive site, if confirmed. The overall development will have a net positive impact on the environment, with the ambition to deliver a scheme that is as close to carbon zero as possible, improve local biodiversity, improve nearby habitat, and develop environmentally sustainable homes within a conservation area.

Legal

26. A Compulsory Purchase Order is a legal instrument under the Town and Country Planning Act 1990. The making of an order is challengeable and may lead to a public inquiry as part of the confirmation process.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	Yes	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Executive Director:	Dr A Leonard
Proper Officer:	Ben Hook, Head of Service Acquisitions, Transformation & Regeneration
Report Contact Officer:	Stephen Marsden, Development Project Manager
e-mail address:	Stephen.marsden@rother.gov.uk
Appendices:	1 Draft CONFIDENTIAL Order 2 Draft Order map 3 Draft Statement of Reasons

Relevant Previous Minutes: CB20/4

Background Papers: None.

Reference Documents: None.
