

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Cabinet **DATE:** 24<sup>th</sup> January 2011

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**WARD(S):** Central

**PORTFOLIO:** Neighbourhood and Renewal - Councillor Swindlehurst

### **PART I** **KEY DECISION**

#### **HEART OF SLOUGH - COMPULSORY PURCHASE OF LAND AND INTERESTS IN LAND - PROPOSED NEW LEARNING AND CULTURAL CENTRE AT DAY CENTRE AND PRUDENTIAL YARD, WILLIAM STREET, SLOUGH**

##### **1 Purpose of Report**

- 1.1 This report is in respect of the Heart of Slough Regeneration Project (“the HoS Project”). The HoS Project concerns the land shown edged red on Plan 1.
- 1.2 The purpose of this report is to seek Cabinet authority to:-
- (a) appropriate land owned by the Council as shown hatched black on Plan 2 to planning purposes and,
  - (b) make a Compulsory Purchase Order under Section 226 (1) (a) of the Town and Country Planning Act 1990 (the 1990 Act) and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land and interests in land shown coloured pink on Plan 3 and new rights in the land shown coloured blue on the said Plan 3 at the proposed new Learning and Cultural Centre which forms part of the HoS Project.

##### **2 Recommendation(s)/Proposed Action**

The Cabinet is requested to resolve:

- (a) That the progress on the Heart of Slough Project generally and the current position on how far negotiations have progressed on the acquisition of the land, interests in the land and new rights in the land which are the subject of this report be noted.
- (b) That the Council owned land hatched black on Plan 2 be appropriated to planning purposes pursuant to Section 122(1) of the Local Government Act 1972 in order to advance the development of the proposed new Learning and Cultural Centre.
- (c) That the Council make a Compulsory Purchase Order pursuant to Section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local

Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land and interests in the land which is shown coloured pink on Plan 3 and in respect of the acquisition of new rights over the land shown coloured blue on the said Plan 3, which is required for implementation of the proposed Learning and Cultural Centre.

(d) That the Strategic Director of Resources be authorised to:-

- (i) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry.
- (ii) to acquire the land, the interests in the land and new rights within the Compulsory Purchase Order either by agreement or compulsorily.
- (iii) where appropriate agreement has been reached to reduce or delete the plots of land which are the subject of the Compulsory Purchase Order as shown on Plan 3.
- (iv) to approve agreements with land owners and other interested parties setting out the terms for the withdrawal of objections to the Compulsory Purchase Order.

(e) That the Acting Borough Secretary and Solicitor be authorised to prepare, approve and execute all the necessary documentation required throughout the CPO process including the transfer of the land and interests in the land to the Council and the settlement and litigation of any compensation claims.

(f) That in the event of a reorganisation of Council functions and the re-designation of posts the authorisations approved in paragraphs 2.2-2.5 (inclusive) will be transferred to those postholders who are responsible for the functions of Regeneration and Legal Services respectively.

### **3 Community Strategy Priorities**

The HoS Project will support through the construction of buildings or the provision of services and activities the following:-

- **Celebrating Diversity, Enabling inclusion**
- **Adding years to Life and Life to years**
- **Being Safe, Feeling Safe**
- **A Cleaner, Greener place to live, Work and Play**
- **Prosperity for All**

### **4 Other Implications**

#### Financial

4.1 The HoS Project remains a complex matter but an outline of the scheme as shown on Plan 1 is set out in paragraphs 5 and 6 below. The Project has a number of significant implications for the Council and these include:-

- a) Funding and construction of a new Bus Station and Learning and Cultural Centre,

- b) Undertaking highway infrastructure and public realm works on behalf of the Homes and Communities Agency (HCA) including risks arising from those works,
- c) The transfer of funds from the HCA,
- d) The acquisition and sale of land to facilitate the development, including the payment of statutory compensation,
- e) The sale of surplus land at the TVU Site for residential and other purposes.
- f) The use of current and future capital receipts.

4.2 The report to Cabinet on 7<sup>th</sup> December 2009 (Agenda item 8) set out the Heart of Slough budget requirement of £45.204M for the financial years 2009/10 to 2012/13 (potential completion). The budget included provision for potential acquisition and compulsory acquisition of sites required for the implementation of the Heart of Slough Project. The Cabinet on 12<sup>th</sup> July 2010 (Agenda item 8) received and considered an update on the scheme progress including potential contingency sums that may be required in addition to the approved budget. The Cabinet resolved to note the potential contingency sum requirement and further resolved that any request for a contingency sum to be called on be referred to the Cabinet. In an agreement dated 23<sup>rd</sup> December 2009 between the Council and the HCA relating to the provision of infrastructure and development works at the HoS Project the Council has confirmed that it has budgeted to undertake the new library works (as defined in the agreement) during the period 1<sup>st</sup> April 2010 to 1<sup>st</sup> April 2013 which relates to the proposed Learning and Cultural Centre.

### Risk Management

<i>Recommendation</i>	<i>Risk/Threat/Opportunity</i>	<i>Mitigation(s)</i>
The Cabinet are requested to note the progress on the Heart of Slough Project generally and the current position on how far negotiations have progressed on the acquisition of the land, interests in the land and new rights in the land which are the subject of this report.	Lack of progress will threaten the viability of the Project.	The officers and the Council's Property Consultants will continue to seek acquisition of the Land, interests in the land, and new rights through negotiation and subsequent agreement.
That the Council owned land hatched black on <u>Plan 2</u> be appropriated to planning purposes pursuant to Section 122(1) of the Local Government Act 1972 in order to advance the development of the proposed new Learning and	If the Council land is not appropriated to planning purposes any easements and covenants (third party rights) may hinder or prevent the development.	Appropriation will override the third party rights subject to payment of statutory compensation.

Cultural Centre		
<p>That the Council make a Compulsory Purchase Order pursuant to Section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land and interests in the land which is shown coloured pink on <u>Plan 3</u> and in respect of the acquisition of new rights over the land shown coloured blue on the said <u>Plan 3</u> to this report which is required for implementation of the proposed Learning and Cultural Centre.</p>	<p>Inability to acquire the land and any interests in the land together with new rights may cause delays and uncertainties</p>	<p>The use of CPO powers may assist in negotiations with landowners and third parties who may have legal interests/ rights over the land.</p>
<p>That the Strategic Director of Resources be authorised to :-</p> <p>(a) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry.</p> <p>(b) to acquire the land, the interests in the land and the new rights within the Compulsory Purchase Order either by agreement or compulsorily.</p> <p>(c) to approve agreements with land owners and other interested parties setting out the terms for the withdrawal of objections to the Compulsory Purchase Order.</p>	<p>Delegation to the Director of the matters identified will enable officers to proceed without any delays inherent in referring such matters back to the Cabinet.</p>	<p>The matters identified may need urgent attention/ decisions and without such delegation the CPO process will be delayed.</p>

<p>2.5 That the Acting Borough Secretary and Solicitor be authorised to prepare and execute all the necessary documentation required throughout the CPO process including the transfer of the land and interests in the land to the Council and the settlement and litigation of any compensation claims.</p>		
<p>That in the event of a reorganisation of Council functions and the re-designation of posts the authorisations approved in paragraphs 2.2-2.5 (inclusive) will be transferred to those post holders who are responsible for the functions of regeneration and Legal Services respectively.</p>	<p>Lack of clarity of the decision making process will cause unnecessary delays to the Project.</p>	<p>This resolution will provide a smooth and clear authorisation process should there be changes to the Council's officer structure.</p>

#### Human Rights Act and Other Legal Implications

- 4.3 Section 122 (1) of the Local Government Act 1972 enables the Council to appropriate its own land for any purpose if it is no longer required for the current purpose. The Council's records are unclear as to the current purpose of the Council's land hatched black on Plan 2, and so for the sake of clarity it is considered best practice to formally appropriate it to planning purposes. Appropriation to planning purposes will invoke Section 237 of the 1990 Act so that the development will override any private rights that exist such as restrictive covenants and easements subject to payment of statutory compensation.
- 4.4 When acquisition is not practicable or agreement cannot be reached on acceptable terms, or for other reasons, a local authority may use its powers of compulsory acquisition, subject to Ministerial confirmation. The relevant power is provided by Section 226(1)(a) of the 1990 Act which authorises the acquisition of land, interests in land, including existing rights. Section 226(1) (a) gives a local authority power to acquire compulsorily any land in their area :-
- i. if the authority think that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and
  - ii. if they think the development, redevelopment or improvement is likely to contribute to the promotion or improvement of the economic or social or environmental well-being of their area.

An extract from the relevant government guidance in Circular 6/2004 which explains the use of the power is set out in Appendix A to this report.

- 4.5. In addition to the requirements of Section 226(1)(a) of the 1990 Act summarised in paragraph 4.4 above Members will also need to be satisfied as follows:-
- a. That the proposed development of the Learning and Cultural Centre will not be blocked by any planning problems.
  - b. That the proposed Learning and Cultural Centre is potentially viable and achievable.
  - c. That consideration has been given on how the use of a Compulsory Purchase Order (CPO) will impact on those whose human rights might be infringed if compulsory acquisition occurs.

The need and justification for a CPO under Section 226 (1) (a) of the 1990 Act is dealt with in paragraphs 5 and 6 below and the consideration of the human rights implications are specifically referred to in paragraphs 4.7 and 4.8 below.

- 4.6 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides, in the context of the compulsory purchase of land, for the acquisition of such new rights in that land as are specified in the CPO which may be required for the construction and/or operation of the proposed development. In this case new rights may include, for example oversailing rights and construction of hoardings and works to neighbouring properties, together with rights of access and all other rights necessary for the construction, use and maintenance of the new development.
- 4.7 The use of compulsory purchase is the power of last resort where agreement has not been reached with the land owners or those with an interest in the land. Such a step will interfere with the land owners property rights which are protected by the European Convention on Human Rights. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way that is incompatible with the European Convention on Human Rights. Various Convention rights are likely to be relevant to the CPO, including:
- **Entitlement to a fair and public hearing** in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process.
  - **Peaceful enjoyment of possessions** (First Protocol Article 1). This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws, as it deems necessary to control the use of property in accordance with the general interest.
  - **Right to respect for, private and family life**, in respect of which the likely health impacts of the proposals, will need to be taken into account in evaluating the scheme (Convention Article 8).

Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local authority. Any interference with a Convention right must be necessary and proportionate. The Council is therefore required to consider whether its actions would infringe the human rights of anyone affected by the making of the CPO. The Council must carefully consider the balance to be struck

between individual rights and the wider public interest. It is considered that any interference with the Convention rights caused by the CPO will be justified in order to secure the social, physical and environmental regeneration that the project will bring. As well as the fairness of the procedures to be followed under the Acquisition of Land Act 1981, appropriate compensation will be available to those entitled to claim it under the relevant provisions of the statutory Compensation Code.

- 4.8 If the CPO is confirmed and the compulsory purchase powers are implemented, parties with a qualifying interest (including freeholders, owners of possessory title and owners of leasehold interests) whose land is acquired, will be entitled to submit a claim for compensation for items such as the market value of the land acquired and disturbance costs where applicable, to be assessed in accordance with the statutory Compensation Code.
- 4.9 Members attention is drawn to the potential for Blight Notices to be received by the Council. At any time after the CPO is made, qualifying landowners, (essentially residential owner-occupiers any owner-occupiers of commercial property with a rateable value below a prescribed limit, currently £34,800) can serve a Blight Notice on the Council. This procedure reflects the fact that a proposed CPO may have an impact on property values prior to the Order being implemented, and that qualifying landowners might suffer particular hardship as a result of this impact. If a Blight Notice is accepted by the Council it will be compelled to acquire the "blighted" property, at a timetable which suits the landowner, rather than the Council which is essentially compulsory purchase in reverse. This might require acquisition prior to the CPO being confirmed.
- 4.10 Members should note that none of the properties that may serve a Blight Notice fall within the land coloured pink on Plan 3 (i.e. that which is required to be permanently acquired) so the risk of blight is considered to be low.
- 4.11 The acquisition of land and interests in land through compulsory purchase is solely a matter for the Cabinet as it is an executive function by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and Section 13 (2) of the Local Government Act 2000 ( as amended).

#### Staffing Implications

- 4.12 There are no staffing implications arising out of this report.

#### Equalities Impact Assessment

- 4.13 The overall HoS Project takes into account the Council's requirements relating to the impact for age, religion, sexual orientation and seeks to mitigate against any adverse impact.

### **5 Background/ Supporting Information**

#### Outline of Heart of Slough

- 5.1 The HoS Project is the Council's innovative, ambitious, and comprehensive regeneration of the town centre covering the following four sites immediately adjoining the Wellington Street/ William Street, roundabout:-

(a) Brunel Bus Station /Compair House ('Brunel')

- (b) Thames Valley University ('TVU')
- (c) The Learning and Cultural Centre (where the new library will be located) ('LCC')
- (d) The Existing Library ('Existing Library')

In addition major road improvement/infrastructure works form part of the HoS Project with the central improvement being the removal of the roundabout and subways at the junction of Wellington Street, and Windsor Road/ Stoke Road. Each of the four sites are shown on Plan 1.

- 5.2 The whole HoS Project has been supported by the Government through the Homes and Communities Agency who are providing overall support and funding through an agreement, dated 23<sup>rd</sup> December 2009. The funding of £11m provided by the HCA comprises a significant contribution to the road improvements/ infrastructure costs. The HCA applied for outline planning permission for the Heart of Slough regeneration scheme as a whole and planning permission was granted by the Planning Committee in July 2009.
- 5.3 Brunel -The development of the new Bus Station on the Compair House site is well advanced and Members will see that the frame of the structure is now in place and it is scheduled to be completed and operational by the end of April 2011. The existing bus operators will be relocated from the existing bus station which will, at the appropriate time, be demolished and redeveloped with offices through the Council's development partner Development Securities Ltd.
- 5.4 Infrastructure - The road improvement/infrastructure works contract is due to be let under the OJEU European Procurement regime through the competitive dialogue process in January 2011. The proposed road improvement/ infrastructure works are scheduled to commence immediately thereafter although there may be some early mobilisation on site. The majority of the funding of the road improvement/ infrastructure works is, as stated in paragraph 5.2, provided by the HCA and the proposed works are in budget.
- 5.5 TVU -Thames Valley University is proposing to relocate its educational facilities in Slough elsewhere and, as part of the HoS Project, the University has agreed with the Council to co-operate in the joint sale of the site (which is partly owned by the Council) for residential development and other purposes.
- 5.6 LCC - The LLC site is primarily in the ownership of the Council but in order to facilitate the development of the new public facility the acquisition of additional land is required. Further detail on progress is dealt with in paragraph 6 and Appendix C below.
- 5.7 Existing Library - The Existing Library Site is now owned by the HCA and has been leased back to the Council until January 2015 to enable the existing library facilities to continue to serve the public until the new Learning and Cultural Centre has been constructed and ready for use. Once that has occurred the HCA may redevelop or alternatively sell the site but no details of any proposals have been discussed at this early stage.

## 6. The Learning and Cultural Centre

### The Planning Position

- 6.1 The Local Plan for Slough 2004 recognised the inadequacy of the town centre and the potential for its redevelopment. The perceived problems within the town centre included:-
- a) Substantial areas of land being dominated by public highway including the wasted area of the sunken A4 / William Street roundabout.
  - b) Severe effect of the A4 with pedestrians forced to use subways and cyclists not catered for in a safe manner.
  - c) A lack of focus and identity or sense of entering the town centre.
  - d) Poor architecture and a lack of any landmark buildings at one of the principal gateways to the town.
  - e) Poor pedestrian cycle links between the railway station and the town centre/ shopping centre.
  - f) A bleak and unwelcoming environment outside Slough railway station with muddled usage patterns on forecourt areas.
  - g) A poor and unwelcoming environment in the bus station and the bus station stops outside the shopping centre.
  - h) A lack of integrated rail/bus/transport interchange.
- 6.2 As a result of this the Council and its partners promoted the HoS Project which is a comprehensive regeneration project designed to alleviate the problems identified in paragraph 6.1 above and regenerate the town centre. The Project as a whole was granted outline planning permission on 22<sup>nd</sup> December 2009 under reference P/14405/0000 (the Master Plan).
- 6.3 The LCC site falls within the “Church Square Quadrant” of the Heart of Slough Master Plan. Within this quadrant outline consent was secured for “The Learning Curve” building (as it was then known) which comprised a new public library; adult learning facility; café; together with a linked building comprising a church hall and several residential flats. The Learning Curve had a 5,192sqm floor area with a maximum height of 18 metres. A full environmental impact assessment was carried out as part of the Master Plan application which assessed the environmental affects of the Heart of Slough Master Plan proposal. This included an assessment of the environmental affects of the Church Square Quadrant development. This assessment concluded that the Heart of Slough proposal including the development of the nature and scale proposed on the LCC site would be acceptable and have a positive impact on the regeneration of Slough.
- 6.4 On the 5<sup>th</sup> August 2010 the Council secured full planning permission for the development of the LCC Site as follows:-

*“Redevelopment of the site for a new library and cultural centre including life long learning facilities , multi performance , council chamber, teaching*

*rooms, gallery space ,cafe, external reading room, new vehicular access, phased provision of enhanced pedestrian links, public realm and landscape improvements. The proposal involves the demolition of part of the rear 3-4 William St, the ramp and toilet block attached to the Queensmere Shopping Centre, and scope for the future demolition of 7-11 Mackenzie Square for enhanced public realm and pedestrian links.”*

- 6.5 The planning permission dated 5<sup>th</sup> August 2010 is annexed as Appendix B to this report.
- 6.6 In order to complete the planning position Members are advised that despite the fact that the Heart of Slough proposals are well advanced they have still been included in the Development Plan Document (DPD) in order to give added weight to the approved Master Plan and to help ensure that development takes place in accordance with it. The site allocations DPD was submitted to Cabinet at its meeting on the 22<sup>nd</sup> November 2010 and was recommended for approval. At the full Council meeting on the 30<sup>th</sup> November 2010, the document was formally adopted by the Council.

#### The Design of the Learning and Cultural Centre

- 6.7 The LCC site currently serves as an inhospitable space between Slough’s prime retail area and the developments taking place elsewhere within the HoS Project. The existing land uses are of low order, predominantly comprising surface car parking and servicing access. The current pedestrian links through the site are poorly defined and uninviting. In particular, the area between St Ethelbert’s Church and the Queensmere Shopping Centre is known to attract anti-social activity.
- 6.8 The LCC has been designed to respond to the principles contained within the Heart of Slough Masterplan. The LCC design has sought to improve pedestrian connections through the town centre, particularly in the context of links between the transport interchange and the High Street. The proposed building has been developed as a ‘community object’, which is both a landmark in its own right, whilst offering a sympathetic setting to St Ethelbert’s Church.
- 6.9 It is envisaged that the LCC will offer a wide range of direct and indirect public benefits. The learning and cultural offer to the local community will be significantly enhanced and the building itself should serve as a confident and striking landmark to visitors to Slough.
- 6.10 Since the external design was approved in August 2010, the public and staff have been consulted on the internal services, layout and design. This will be completed by the end of March 2011 and will inform an updated specification and internal design in the Summer of 2011.

#### Negotiations with Landowners/occupiers

- 6.11 Section 226 of the 1990 Act enables local authorities to acquire land compulsorily for ‘planning purposes’. The power provided in the amended section 226 (1) (a) enables acquiring authorities with planning powers to exercise their compulsory purchase powers if they think that acquiring the land and any interests in the land in question will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land and it is not certain that they will be able to acquire it by agreement.

6.12 Government guidance contained within Circular 06/2004, advises that before embarking on compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by agreement wherever practicable.

6.13 In this context, the Council has sought to identify, through a land referencing exercise, those parties who have legal interests in the land which is required to deliver the LCC. Wherever possible the Council through its Property Consultants Drivers Jonas Deloitte have entered into early negotiations. The parties who have land interests which have been identified as being required for the delivery of the LCC and the current state of negotiations to acquire such land and other interests in land are detailed in Appendix C to this report.

## 7. **Conclusion**

7.1 As Members will see the HoS Project has evolved over a considerable number of years to provide a comprehensive regeneration of the town centre and in relation to this report these issues are addressed in paragraph 6 above. Outline planning permission (which included the Master Plan) was granted in December 2009. Detailed planning consent for the Learning and Cultural Centre was granted on the 5<sup>th</sup> August 2010. It is considered that the scheme will not be blocked by planning problems as there are no identified planning impediments. The design of the building is now underway and the funds have been committed to the scheme which is viable and which will be managed and maintained by the Council.

Negotiations with landowners and those with an interest in the land which the Council require to complete the assembly of the LCC site have been ongoing for some time. These will continue even if Members approve the making of a CPO in an attempt to resolve outstanding issues and reach agreement. However such an Order is deemed essential at this stage in order to ensure that the regeneration of the town centre is achieved if agreement cannot be reached.

Members therefore can conclude that there is a genuine need, justification and a compelling case in the public interest to pursue the CPO at this time having taken into account the human rights implications referred to above.

7.2 Members are therefore requested to approve the recommendations set out in paragraph 2 above.

## 8. **Appendices**

Appendix A – Extract from Circular 06/2004

Appendix B – Planning Permission dated 5<sup>th</sup> August 2010

Appendix C – LCC Site – Parties and Current State of Negotiations

Plan 1 – Outline of Heart of Slough Project

Plan 2 – The Council's land required for appropriation to planning purposes

Plan 3 – The land, interests in land and new rights to be acquired by compulsory purchase, if necessary

9. **Background Papers.**

‘1’ DPD Site Allocation.

‘2’ Report to Planning Committee August 2010.