

1. Background

- 1.1 Slough Borough Council has the power to acquire land by compulsion under a range of existing legislation. The Planning and Compulsory Purchase Act 2004 makes changes to some of these statutory provisions. In particular these include:
- Town and Country Planning Act 1990 – the 2004 Act amends section 226 and provides for the power to acquire land to secure the carrying out of development, redevelopment or improvement in circumstances where this is likely to contribute to the economic, social or environmental wellbeing of the area.
 - Land Compensation Act 1961 and Land Compensation Act 1973 – the 2004 Act inserts provisions relating to the compensation to be provided to owners where their interest in land is acquired.
- 1.2 Historically, the Council has made little use of its compulsory purchase powers, having been able to secure acquisition through negotiation with owners. However, the Council has a range of key priorities which it wishes to meet, particularly in relation to affordable housing, regeneration and economic development. The 2004 Act provides an opportunity to help deliver these priorities where agreement cannot be reached but where the public interest permits compulsory acquisition for these purposes.

2. When will the Council seek to acquire land or buildings under the potential use of Compulsory Purchase?

- 2.1 The Council may seek to acquire land or buildings for a range of purposes. These will usually be closely linked to the delivery of its key priorities and objectives, such as the provision of affordable homes, improving infrastructure and the creation of quality jobs. The purchase of development sites, existing buildings or redevelopment properties could all meet these needs and thus fall within the boundaries of the legislation.
- 2.2 Such acquisitions should only be considered where it can be shown that there is a compelling case in the public interest. Given that the potential for compulsory purchase exists, the Council will only make a decision to follow this route where it can be shown that the public benefit of this action will outweigh the private loss of the owner. In addition, the Council will only seek to pursue this route in circumstances where the scheme will not be delivered by a third party without public intervention.

- 2.3 Before deciding to take this route, the Council will have ensured that there is a reasonable prospect of the scheme going ahead and that it is unlikely to be blocked by any impediments to implementation. Where planning consent is required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld.

3. Examples where powers may be used

- 3.1 Whilst it is not possible to list all circumstances under which the Council may use its compulsory purchase powers, some examples listed below are some areas which are currently relevant to the Council's priorities and objectives:

- **Education** – the Council will be able to utilise powers under Section 530 Education Act 1996 to acquire land for the construction of school facilities. Section 530 states – “*The Secretary of State may authorise a local education authority to purchase compulsorily any land (whether within or outside their area) which—is required for the purposes of any school or institution which is, or is to be, maintained by them or which they have power to assist, or is otherwise required for the purposes of their functions under this Act.*”].
- **Housing** – sites identified in the Local Plan or Local Development Framework which owners are not bringing forward but which would make a significant contribution to the provision of affordable housing in the district. Reasons for these not being brought forward may be concerns regarding viability as the result of proportion of affordable housing, complex ownerships or simply unwilling vendors.
- **Economic Development** - sites identified in the Local Plan or Local Development Framework which owners are not bringing forward but which would make a significant contribution to the delivery of Economic Development in the district. Reasons for these not being brought forward may be concerns regarding viability, complex ownerships or simply unwilling vendors.
- **Regeneration** - As the local planning authority, the SBC is authorised by the Secretary of State under section 226 of the Town and Country Planning Act 1990 to acquire compulsorily any land in their area if they believe it will facilitate development or redevelopment. Under these powers the Council need to believe that the subject development is likely to contribute to the achievement of improvement of the economic, environmental or social well-being of their area.

Slough Borough Council Compulsory Purchase Policy Statement

- **Vacant or underused sites** - where vacant or underused, so adversely affecting the amenity of an area, and there is little evidence that a landowner is pursuing appropriate development options, or where land within, or adjacent to, development which is designed to meet a corporate priority but is inhibited by ransom strips or multi/complex ownership.

4. The CPO Process

4.1 Before embarking on the use of compulsory purchase, the Council will usually seek to acquire the land by negotiation wherever practicable. The use of compulsory purchase will normally be considered where reasonable attempts to acquire by agreement with the owner have failed. However, there may be circumstances where it is necessary to commence formal compulsory purchase procedures at the same time as negotiating a purchase. For example, where timescales for delivery of the scheme are short or where it is important to make clear the Council's intentions to use its powers in the absence of agreement. The Council will, therefore, consider early use of compulsory purchase prior to completing negotiations where necessary to expedite the project or reinforce its intention to use statutory powers if required.

4.2 The key stages of the process can be summarised as follows:

- The initial stage of the CPO process will be for the Council to make a Resolution to Make a Compulsory Purchase Order.
- The next stage will involve referencing to establish details of all the affected parties so that a draft schedule can be prepared. The CPO, which includes a CPO schedule and map and a statement of reasons, is then produced.
- The Council will then be required to resolve to make the Order, after which notification of affected parties will take place. Notices are also posted on the sites and the Order must be advertised in the local press. At this stage affected parties will be given an opportunity to object to the CPO. The acquiring authority and their representatives will then liaise with the any statutory objectors to reach a mutually agreeable position.
- If any of the objections are not withdrawn an Inquiry or an informal hearing will usually be held which will be subject to the laws of natural justice. This is held before a Planning Inspector. Both the acquiring authority and the remaining objectors will submit a statement of case which will then be cross-examined during the Inquiry or hearing. If all parties agree, objections can be considered by "written representations" as an alternative to the Inquiry.

Appendix 3

Slough Borough Council Compulsory Purchase Policy Statement



The inspector will then consider the cases put forward and report his/her conclusions back to the relevant Minister, who will then decide to confirm, modify or reject the CPO.

- If the CPO is confirmed, its validity can be challenged for a period of six weeks following the first newspaper publication of the notice of confirmation of CPO. There are only certain legal grounds on which the CPO can be challenged namely that the powers granted are ultra vires, the procedural rules have not been followed or the Minister has not acted properly in reaching the decision. If there is no challenge to the CPO the acquiring authority can then proceed with the acquisition of the land.

4.3 Should owners with concerns about proposals for compulsory purchase orders so wish, the Council will support access to alternative dispute resolution techniques throughout the process. This will not remove objectors' rights to be heard at an inquiry or claimants rights to recourse to the lands tribunal to determine compensation disputes.

5. Assessment of Compensation

5.1 Legislation sets out the compensation that is payable when land is acquired under compulsory purchase powers. The Council will adhere to these requirements.

6. Delegated Powers

6.1 The use of CPO powers requires Cabinet approval. Such reports will seek the following delegated authority:

a) To Make a compulsory purchase order (a 'CPO') for the acquisition of land and rights within the area shown edged red on the draft plans entitled "Area to be Referenced for Proposed (*name of project*) Compulsory Purchase Order (*year*)".

b) To authorise that the Director, Regeneration, Housing and Resources, in consultation with the Cabinet Member for Neighbourhoods and Renewal to finalise the CPO map, schedule and statement of reasons.

c) That the Director, Regeneration, Housing and Resources be authorised to take all necessary steps to secure the making, submission, confirmation and implementation of the CPO (and where appropriate amendments to the Order) including;

- Publication and service of all notices
- Advertise the Order and submit it to the Secretary of State for Transport in accordance with the Acquisition of Land Act 1981.
- Negotiation with landowners.
- Setting out the terms for the withdrawal of objections to the CPO.
- Where appropriate, seeking exclusions of land from the CPO
- Making arrangements to assist with the relocation of occupiers.

Appendix 3

Slough Borough Council Compulsory Purchase Policy Statement

- Making arrangements for the presentation of the Council's case for confirmation of the CPO at any Public Inquiry.
- Exercising the compulsory purchase powers authorised by the CPO by way of general vesting declaration and / or notices to treat and notices of Entry.
- Acquiring third party interests in the site by private treaty.
- Making arrangements for highway management and traffic regulation orders required to implement the highways scheme.
- Making any third party payments of compensation due pursuant to the national Compensation Code as a result of the implementation of the CPO. Compensation due to unidentified owner can be paid to the Crown .
- That the Director, Regeneration, Housing and Resources be authorised to appropriate the land in the ownership of Slough Borough Council required for the (*name of project*).