

# Report to Cabinet

**15 March 2023**

<b>Subject:</b>	Use of Compulsory Purchase Order Powers to enable strategic acquisitions in West Bromwich Town Centre
<b>Cabinet Member:</b>	Cabinet Member Regeneration and Growth, Councillor Peter Hughes
<b>Director:</b>	Director of Regeneration & Growth, Tony McGovern
<b>Key Decision:</b>	Yes
<b>Contact Officer:</b>	Capital Projects Manager- Alex Oxley <a href="mailto:Alexander_oxley@sandwell.gov.uk">Alexander_oxley@sandwell.gov.uk</a>

## 1. Recommendations





- 1.1 That approval be given to authorise the Director of Regeneration and Growth to use Compulsory Purchase Order powers to acquire any land and property interests necessary to enable delivery of zones 1 & 2 identified in the West Bromwich Masterplan.
- 1.2 That the Director of Law and Governance, in consultation with the Director of Regeneration & Growth, be authorised to take all preparatory actions to enable the making of a Regeneration Compulsory Purchase Order, subject to a further resolution to formally make the Compulsory Purchase Order and confirm the agreed (red-lined) order lands.
- 1.3 That the Director of Regeneration & Growth be authorised to procure any professional services required to advise the council on the preferred Compulsory Purchase Order strategy and execution, including a revised Property Cost Estimate (PCE) on any necessary interests located within zones 1 & 2 in the West Bromwich Masterplan.



## 2 Reasons for Recommendations

- 2.1 Use of a Compulsory Purchase Order (CPO) will assist SMBC in the delivery of the aspirations outlined in the West Bromwich Masterplan, which seeks comprehensive regeneration of the town centre.
- 2.2 The Retail Diversification Programme (RDP) is a transformational regeneration project which aims to address the current retail oversupply in West Bromwich town centre and enable land for the delivery of the West Bromwich Masterplan. The above recommendations will support the delivery of the RDP by enabling the acquisition of land and property in the town.
- 2.3 The RDP received £13m grant funding through the Towns Fund in order to progress a number of strategic acquisitions in the town centre. Failure to secure these acquisitions will result in a grant funding underspend which would need to be returned to the funding body (DLUHC), otherwise referred to as 'clawback'. Progressing a CPO will provide additional assurance that acquisitions can be delivered.

## 3 How does this deliver objectives of the Corporate Plan?

	<p>The Best Start in Life for Children and Young People- The delivery of the West Bromwich Masterplan and RDP will enable the delivery of land for new homes in the town centre. High-quality, family-friendly town centre homes in close proximity to a variety of academic institutions will allow young people the opportunity to learn and thrive in Sandwell.</p>
	<p>People Live Well and Age Well- Older residents increasingly require homes in well connected areas within Sandwell. These proposals will enable new homes around key public transport nodes.</p>
	<p>Quality Homes in Thriving Neighbourhoods- Proposals will enable land for the delivery of high-quality new homes in a sustainable town centre environment.</p>
	<p>A Strong and Inclusive Economy- West Bromwich's retail core is struggling. The proposals will rationalise the retail offer and enable new homes in the town centre to support the retail offer that remains.</p>





A Connected and Accessible Sandwell- New homes around public transport nodes will encourage the use of the public transport sector in Sandwell.

## 4 Context and Key Issues

### 4.1 West Bromwich Masterplan

The role of town centres is changing across the country as evolving consumer behaviours, particularly the increase in online shopping, impacts the high street. This has been exacerbated by the Covid-19 pandemic. To succeed, town centres need to re-shape and diversify. Introducing new uses including residential, leisure and offices, creating aspirational public spaces and high-quality design is key to creating vibrant places that residents can be proud of. West Bromwich remains one of the four strategic centres in the Black Country, and the implementation of the West Bromwich Masterplan is essential if it is to continue to serve the needs of local people, the wider population and the business community.

The Masterplan, which has been approved by Cabinet earlier this year and is supported in formal planning policy by the West Bromwich Interim Planning Statement (2022), sets an ambitious vision for West Bromwich to be a thriving, optimistic and resilient town. It should be a destination town; a place where the people of Sandwell come to shop and relax, with things to do for all. It should be a gateway into higher education, where students choose to come to study; a landmark of sport through our public spaces and sports clubs; and a safe place where people want to live, with high quality housing available for people of all ages.

The Masterplan envisages that this will be achieved by:

- Creation of Metro gateway, new town square and a step change in the quality of place / public realm.
- Creation of green links, squares, parks and sustainable travel networks.
- Development of a major mixed-use community including residential and employment to create a vibrant, active and sustainable town centre.



This report pertains specifically to the delivery of zones 1 & 2 identified in the West Bromwich Masterplan. A red-line boundary of these areas can be viewed within the Masterplan which is appended to this report.

## 4.2 Retail Diversification Programme

The Retail Diversification Programme (RDP) is the largest of six projects contained within the West Bromwich Town Investment Plan (TIP) and forms part of the Towns Fund Programme.

The RDP is a £13m project aiming to deliver a comprehensive programme of strategic acquisitions, demolition and land remediation in the town centre- specifically targeting areas of retail decline- in order to further the Council's regeneration agenda. Successful delivery of the RDP will enable a large part of the vision outlined within the West Bromwich Masterplan.

The RDP will also deliver a new Indoor Market for West Bromwich which will provide a new fit-for-purpose home for traders and will deliver a much-needed boost to the evening economy in the town.

In July 2022 the first acquisition using funding derived from the RDP was concluded in the form of the acquisition of Kings Square Shopping Centre. This has resulted in an additional revenue stream for SMBC whilst also allowing the Council further control in the town to deliver against the ambitious vision in the Masterplan.

## 4.3 Legal Powers and Justification for CPO Action

S.226 of the Town and Country Planning Act 1990 provides the Council with the power to acquire land compulsorily for development and other planning purposes as defined in section 246(1) of the 1990 Act.

This power is intended to provide a 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. CPOs must be demonstrable in the public interest.

Based on a comprehensive assessment of need, the Council can evidentially justify the proposed CPO being in the public interest. Releasing land which, in its current state, is underutilised and contributing



to a significant retail oversupply in the town centre will enable development of much needed housing, as well as supporting the remaining retail offer and bolstering the evening economy. The details set out of this report when read in combination with the Town Investment Plan and West Bromwich Masterplan clearly demonstrate how the proposals will improve the economic, social and environmental landscape in West Bromwich.

#### 4.4 Project Risks

##### Acquisition by Negotiation

One of the critical risks to delivery of the West Bromwich Masterplan and the RDP, identified from project inception, has been the dependency on negotiation to acquire land to deliver the outputs/outcomes.

The Council is bound by the provision of Section 123 of the Local Government Act 1972 and therefore must demonstrate best value in all transactions. As such, the Council is financially constrained and must consider alternative acquisition strategies.

The Towns Fund grant is required to be spent by March 2026, and whilst the CPO process is time consuming, it is considered that the delivery of the required outcomes/outputs for the RDP can be achieved in this timeframe.

Compulsory purchase is intended as a last resort in order to secure the assembly of all the land needed for the implementation of projects. However, the Government's guidance on CPO "Guidance on Compulsory purchase process and The Crichel Down Rules" (July 2019) states that "...if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost".

The Council will therefore continue to seek to negotiate the purchase of these interests and come to an agreement however as recognised by the CPO guidance which states "*given the amount of time required to complete the compulsory purchase process and to also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations*" the formal approval and planning of a CPO can encourage the resolution of such negotiations.





## Revenue Risk

Subject to a further Cabinet resolution to identify a red-line boundary and make the CPO, acquisition of land and property interests in the town centre is likely to have implications for the Council's revenue streams. These could be positive or negative. Comprehensive financial due diligence is proposed throughout the process in order to ensure any planned acquisitions are financially sound, or, if not, that the Council has a viable route to sustainability.

### 4.5 Timescales

<b>Activity:</b>	<b>Completion date:</b>
Negotiation with landowners	Ongoing
Procurement of specialist CPO advise	February 2023 (complete)
Commence preparatory works-requisition for information	April 2023
Commence preparatory works-Draft Order and Statement of Reasons	Q2/Q3 2023

## 5 Alternative Options

- 5.1 Option 1: Continue to negotiate by agreement only- without proactive use of CPO powers it is likely that the status quo will persist. This will fail to deliver against the Councils regeneration agenda in West Bromwich and will fail to deliver against the Towns Fund outputs resulting in grant funding clawback. Reputation of the Council will be at risk as a result of failing to secure and spend government grant.
- 5.2 Option 2: Identify another site that could achieve the Town Fund project and submit another change request- this area of West Bromwich is specifically being targeted due to acutely high levels of vacancy. A comprehensive options appraisal has been conducted by officers and there are currently no other sites in the area that deliver similar strategic benefits and satisfy the grant funding criteria.

## 6 Implications



<b>Resources:</b>	Acquisitions will be funded from existing grant funding. Professional advice is proposed in order to understand the preferred CPO strategy and likely legal costs. These will need to be corporately agreed.
<b>Legal and Governance:</b>	<p><b>Legal</b></p> <p>Section 226 (1) of the Town and Country Planning Act (as amended by Section 99 of the Planning and Compulsory Purchase Act 2004) lays the basis of local authorities' positive planning powers. These provisions grant the authority the power to acquire any land compulsorily under section, if they think the acquisition will facilitate the carrying out of development, redevelopment, or improvement</p> <p>The details set out of this report when read in combination with the Town Investment Plan and West Bromwich Masterplan clearly demonstrate that the proposals will improve the economic, social and environmental landscape in West Bromwich.</p> <p><b>Governance</b></p> <p>The West Bromwich Masterplan and RDP are politically and corporately agreed. Further delegated approvals will be required in a subsequent report to make the CPO.</p>
<b>Risk:</b>	<p>Those affected by the making of a CPO have rights that are protected by the Human Rights Act 1998, particularly Article 8 and Article 1 and the European Convention on Human Rights.</p> <p>In making a CPO an acquiring authority must show that the acquisition is justified in the public interest. With regard to Article 1 of Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to</p>



	<p>compensation for the property taken and rights extinguished under the CPO.</p> <p>With regard to Article 8 it is considered that in balancing the rights of the individuals who would be affected by the proposed CPO against the benefit to the wider public, economic and social well-being of local residents , visitors and stakeholders of proceeding with the CPO, the making of the CPO and the interference with the individuals rights is justified in the interests of the community in order to effect the improvements.</p> <p>The making of a Compulsory Purchase Order may attract objection from the current landowner. In certain circumstances if land is blighted by the proposed scheme the owners of the land in question may serve a Blight Notice on the Authority.</p> <p>Furthermore, there is a potential revenue risk to the Council identified in section 4.4.2. Further due diligence and financial approval will be required before contractual agreements can be progressed.</p>
<b>Equality:</b>	<p>An equality impact assessment has been conducted on the Retail Diversification Programme at Full Business Case development stage. Out of the 10 characteristics tested, 9 would either positively benefit or be unaffected by the proposals.</p>
<b>Health and Wellbeing:</b>	<p>An improved, diversified town centre provides a high-quality sustainable place for residents of Sandwell to live and will improve the wider economic landscape in the town centre, all of which have positive implications for health and wellbeing.</p>
<b>Social Value:</b>	<p>As part of the Full Business Case submission to government, a monitoring and evaluation plan was included outlining the opportunities for apprenticeships, new construction jobs and other outcomes that would contribute to social value targets for this project.</p>





	The construction of new homes would also lead to increased spend within the local area by the new residents.
<b>Climate Change:</b>	Encouraging people to live and work in a more sustainable environment around core public transport nodes will reduce the dependency on car journeys in West Bromwich. Furthermore, environmentally sustainable new homes built to a high fabric efficiency will support the Councils climate change agenda.

## 7. Appendices

None.

## 8. Background Papers

West Bromwich Masterplan  
 West Bromwich Town Investment Plan  
 Retail Diversification Full Business Case

