

Southend-on-Sea Borough Council

Agenda
Item No.

12

Report of Corporate Director for Corporate Services

to

Cabinet

on

10th November 2015

Report prepared by: John Williams,
Head of Legal & Democratic Services

Compulsory Purchase Order Authority re land at Roots Hall

Policy & Resources Scrutiny Committee
Executive Councillor: Councillor Ron Woodley

A Part 1 Public Agenda Item

1. Purpose of Report

To review the resolution of the Council made on 1st March 2012 to compulsorily purchase land at Roots Hall (“the Roots Hall Site”) pursuant to Section 226 Town and Country Planning Act 1990 in order to facilitate the development of the area.

2. Recommendation

That Cabinet recommends to the Council that its resolution of 1st March 2012 to make a Compulsory Purchase Order in respect of land within the Roots Hall Site (and all earlier CPO resolutions relating to the same site) be withdrawn.

3. Background

- 3.1 On the 26th January 2012 the Cabinet considered a report on “*Variations to the agreed land transaction terms at Roots Hall and Fossetts Farm and revised Compulsory Purchase Order (CPO) Authorities*”.
- 3.2 This report focuses on one aspect of that 2012 report, namely the compulsory purchase of land within the Roots Hall Site comprising commercial properties fronting Victoria Avenue and a property owned by Prospects fronting Fairfax Drive.

The recommendation of Cabinet as confirmed by Council on 1st March 2012 was as follows:

- (i) *“That the parcels of land within the Roots Hall Site shown hatched black on the plan at Appendix 4 to the submitted report be compulsorily purchased pursuant to section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.1.5 of the said report, subject to Roots Hall Limited and Sainsbury’s indemnifying the Council in full in respect of all the costs and compensation involved.”*
- (ii) *“That the Corporate Director of Support Services in consultation with the Deputy Leader (subject to the Deputy Leader also consulting with the group leaders of the other political groups on the Council) was authorised to finalise the details of the CPO”.*

Attached at **Appendix A** is a copy of the report to Cabinet (without the confidential appendices), the corresponding minute (681) and the formal resolution of Council on 1st March 2012 (minute 780).

Particular attention is drawn to section 5.1.5 of the report which sets out the justification for the CPO of the land within the Roots Hall Site (“the 2012 CPO Resolution”) and also section 5.1.6 which high lights that the CPO will assist Southend United FC to relocate to a new stadium at Fossetts Farm.

3.3 As explained in an update report to Cabinet on 22nd September 2015 (minute 248 refers), the CPO in respect of land within the Roots Hall Site has not yet been made, although:

- The planning policy support for compulsory acquisition of the land within the Roots Hall Site is essentially unchanged since 2012: The Core Strategy adopted in 2007 remains in place and there has been no change in the guidance for compulsory acquisition in Circular 6 / 2004; and
- The Club wish the Council to maintain the 2012 CPO Resolution.

3.4 However, it is appropriate that the Council should review the 2012 CPO Resolution and the justification for pursuing compulsory acquisition, in the light of the following factors:

- Some three and a half years have passed with limited progress. In particular Roots Hall Limited and Sainsbury’s have not entered into the required Indemnity Agreement or wanted the Council to proceed with making the CPO;
- Acquisition by agreement has been successful in part, with 5 shops fronting Victoria Avenue being purchased. However, despite being urged to do so by the Council and Prospects stating that it is a willing seller, the Club has not concluded negotiations for the acquisition of the Prospects site;

- There is a significant degree of uncertainty over the comprehensive development of the Roots Hall Site upon which the 2012 CPO Resolution was predicated. Neither Roots Hall Limited, nor Sainsbury's have confirmed that the approved scheme for a comprehensive development including a major supermarket will still proceed. Furthermore the planning permission for the replacement St Mary's Court has expired;
- Little progress has been made on the original proposal for a new stadium scheme at Fossetts Farm, which was linked to the development at Roots Hall. The original permission has expired and the S.106 Agreement in connection with renewal planning application 11 / 00538 / EXTM has not been completed some 2 years after the Development Control Committee last considered the matter. The introduction of the new CIL regime in July 2015 now requires the renewal application to be reassessed and re-submitted to the Committee and the Club was notified of this fact well in advance;
- The latest proposals announced by the Club for a new stadium at Fossetts Farm are no longer dependent on the redevelopment of Roots Hall, at least for Phase one; and
- There is the potential for owners of properties affected by the 2012 CPO Resolution to allege their properties are being blighted. Prospects has already made such an allegation stating it was the reason why a potential purchaser decided not to proceed. While it is not considered that a legal claim based on blight would be successful, the Council should adopt a reasonable approach to the matter.

3.5 In the light of the factors set out in 3.4 there no longer seems to be a compelling case to justify the compulsory acquisition of the remaining properties in Victoria Avenue and the Prospects site in Fairfax Drive.

According it is recommended that the 2012 CPO Resolution (and all earlier CPO resolutions relating to the same site made in 2009 and 2010) be withdrawn.

Of course if circumstances change, then a report can be brought back to Cabinet.

The Council has always supported the Club in its plans to provide a new stadium and this report does not represent any change in this approach.

3.6 Fossetts Farm

On 26th January 2012 the Cabinet also recommended to Council that a small parcel of land at Fossetts Farm should be compulsorily purchased. The Council agreed to make a CPO.

On the 22nd September 2015 the Cabinet reviewed this resolution and recommended to Council that it be withdrawn because it was no longer required (minute 248 refers). The Council formally withdrew the resolution at its meeting on 22nd October 2015.

4. Other Options

The Council could confirm the 2012 CPO Resolution.

5. Reasons for Recommendations

There is not a compelling case to confirm the 2012 CPO Resolution at this point in time.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Prosperous Southend

6.2 Financial Implications

Withdrawing the 2012 CPO resolution will result in a saving of time and costs.

6.3 Legal Implications

The Council is entitled to confirm or withdraw the 2012 CPO Resolution if it considers it appropriate to do so.

6.4 People Implications

None

6.5 Property Implications

As set out in the report, Appendices and Background Papers.

6.6 Consultation

Internal and the planning process involved consultation in the usual way.

6.7 Equalities and Diversity Implications

There are no significant equality implications.

6.8 Risk Assessment

There are risks associated with making a CPO and also maintaining a CPO resolution if it cannot be justified. In terms of the latter there is the potential for owners of properties affected by the 2012 CPO Resolution to allege their properties are being blighted. While it is not considered that a legal claim based on blight would be successful, the Council should adopt a reasonable approach to the matter.

6.9 Value for Money

No issues.

6.10 Community Safety Implications

None

6.11 Environmental Impact

The proposed developments are subject to the full planning process.

7. Background Papers

Roots Hall – CPO report to Council 4th November 2010.

CPO authorities re land at Roots Hall and Fossetts Farm – Report to Cabinet 22nd September 2015.

8. Appendices

Appendix A

Report to Cabinet on 26th January 2012 (without the confidential appendices), Cabinet minute 681 and Council minute 870 of 1st March 2012 confirming the 2012 CPO Resolution.