

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Corporate Services

to
Cabinet

on
22nd September 2015

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

Compulsory Purchase Order Authorities re land at Roots Hall and Fossetts Farm

Policy & Resources Scrutiny Committee
Executive Councillor: Councillor Ron Woodley

A Part 1 Public Agenda Item

1. Purpose of Report

To review the resolutions of the Council made on 1st March 2012 to compulsorily purchase land within the Roots Hall Site and at Fossetts Farm pursuant to Section 226 Town and Country Planning Act 1990 in order to facilitate the development of the area.

2. Recommendations

- (a) That the resolution made by the Council on 1 March 2012 to make a Compulsory Purchase Order in respect of land within the Roots Hall Site be reviewed at the next meeting of Cabinet on 10 November 2015.**
- (b) That Cabinet recommends to the Council that the resolution made by the Council on 1 March 2012 to make a Compulsory Purchase Order in respect of land at Fossetts Farm be withdrawn as it is no longer required.**

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*".

Roots Hall

- 3.2 This report focuses on one aspect of that 2012 report, namely the compulsory purchase of land at Roots Hall comprising commercial properties fronting Victoria Avenue and the Prospects Site 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 at Roots Hall.

- 3.3 The CPO in respect of the land at Roots Hall has not yet been made because Roots Hall Limited and Sainsbury’s have not entered into the required Indemnity Agreement or wanted the Council to proceed.

In the meantime the companies have purchased certain properties in Victoria Avenue, but not all of them. Neither have either of the companies purchased the Prospects Site fronting Fairfax Drive, although the owner has been a willing seller.

- 3.4 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.

However, it is appropriate that the Council should review the 2012 Resolution (and particularly the basis of the justification in section 5.1.5 of the report to Cabinet on 26th January 2012 for pursuing compulsory acquisition) not least because some three and a half years have passed and some circumstances have changed.

It is intended to bring a report to the next meeting of Cabinet on the 10th November detailing those changed circumstances and progress on the development proposals at Roots Hall and Fossetts Farm. Additional information has been requested from Ron Martin on these matters, so the Cabinet can make an informed decision on how to proceed.

In the meantime Ron Martin has confirmed that he will contact the owners of the Prospects Site to enter into further negotiations for a purchase of their land by agreement. The owners of the Prospects Site have confirmed that they remain a willing seller. Hopefully this will result in a sale by agreement to Roots Hall Limited or Sainsbury’s.

Fossetts Farm

- 3.5 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. The report and minutes at **Appendix A** refer to this matter. On 14th April 2015 it was confirmed by Roots Hall Limited that this CPO was no longer required. Accordingly it is recommended that the CPO resolution in minute 780(4) of Council be withdrawn.

4. Other Options

The Council could confirm or withdraw the previous CPO resolutions.

5. Reasons for Recommendations

Further information is required in order make an informed decision as to whether a CPO is still required in respect of the Roots Hall Site.

A CPO in respect of the land at Fossetts Farm is no longer required.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Prosperous Southend

6.2 Financial Implications

None

6.3 Legal Implications

The Council is entitled to confirm or withdraw the 2012 CPO resolutions 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 resolutions 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; hence the CPO resolution re the Roots Hall Site will be subject to detailed consideration at the next Cabinet meeting.

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

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 CPO Resolution