



# CABINET REGENERATION SUB COMMITTEE

THURSDAY, 14TH JULY, 2016

At 2.00 pm

in the

DESBOROUGH 2 & 3 - TOWN HALL,

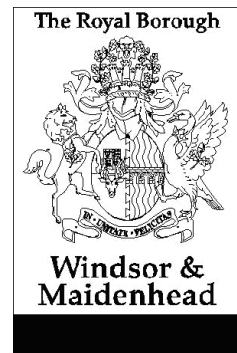
## SUPPLEMENTARY AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
4.	<u>THE COUNCIL'S USE OF COMPULSORY PURCHASE POWERS - CHAPEL ARCHES DEVELOPMENT</u>  To consider the above report	3 - 12

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Report for: ACTION



<b>Contains Confidential or Exempt Information</b>	No - Part I with exception of <b>Appendix B which is Part II (Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)</b>
<b>Title</b>	The Council's Use of Compulsory Purchase Powers – Chapel Arches Development
<b>Responsible Officer(s)</b>	Russell O'Keefe, Strategic Director of Corporate and Community Services
<b>Contact officer, job title and phone number</b>	Chris Hilton, Director of Planning, Development and Regeneration
<b>Member reporting</b>	Cllr J Rankin, Lead Member for Economic Development and Property Cllr D Evans, Principal Member for Maidenhead Regeneration and Maidenhead Cllr M Saunders, Lead Member for Finance
<b>For Consideration By</b>	Cabinet Regeneration Sub Committee
<b>Date to be Considered</b>	14 July 2016
<b>Implementation Date if Not Called In</b>	Immediately
<b>Affected Wards</b>	All

## REPORT SUMMARY

- This report seeks Cabinet Regeneration Sub Committee's confirmation to support, in principle, to using the Council's compulsory purchase powers to facilitate the land assembly needed to deliver the final (3<sup>rd</sup>) phase of Chapel Arches.
- The support of the Council will ensure the delivery of 240 residential units and the provision of significant public realm improvements including the opening up of the historic river crossing at Chapel Arches Bridge.
- The Council will enter into a Compulsory Purchase Order (CPO) Indemnity Agreement with the developer of Chapel Arches to ensure the Council is not financially exposed.

## If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit

3

Dates by which residents can expect to notice a

	difference
1. Residents will see the completion of the final phase of Chapel Arches, a key site in the Maidenhead Regeneration Programme.	2017 - 2020
2. Chapel Arches will ensure the delivery of 240 new homes and enhanced public realm to Maidenhead.	2017 – 2020

## 1. DETAILS OF RECOMMENDATIONS

### **RECOMMENDATION: That Cabinet Regeneration Sub Committee:**

- i. Approves its support, in principle, to using compulsory purchase powers to facilitate the land assembly needed to deliver the final phase of Chapel Arches.**
- ii. Delegates authority to the Strategic Director of Corporate & Community Services to undertake all necessary negotiations to enter into a CPO Indemnity Agreement with Sorbon Estates Limited, the developer of Chapel Arches.**
- iii. Following completion of the CPO Indemnity Agreement above, delegates authority to the Strategic Director of Corporate & Community Services to proceed with preparations for the making of the CPO (as described in paragraph 2.8 of this report) in parallel with discussions and negotiations for the acquisition of property by agreement.**
- iv. Endorses a subsequent report being brought to full Council making the case for a CPO.**

## 2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 Chapel Arches Regeneration Project (the “Scheme”) comprises a comprehensive residential led mixed use development in the town centre, incorporating high quality design and providing improved public realm, either side of a rejuvenated York Stream.
- 2.2 The development is being undertaken by Sorbon Estates Limited (the “Developer”) which is part of the Shanly Group of Companies. The Scheme is being brought forward in three phases and the Developer has the necessary funds to complete all three phases of the Scheme. A plan of the scheme is attached Appendix A.
- 2.3 Phases 1 and 2 of the Scheme have full planning permission (ref: 12/02771/FULL) and there are no land ownership issues. The Developer is currently on site and these phases are under construction.
- 2.4 Phase 3 has outline planning permission (ref: 12/02762/OUP) and the Developer is in the process of discharging pre-commencement conditions, which it is anticipated should be complete by the end of October 2016.

- 2.5 The Developer is committed to the delivery of all three phases of the Scheme having already committed significant time and resources in the preparatory and planning phases of the Scheme, and is currently at an advanced stage of construction of Phases 1 and 2, and is now keen to progress Phase 3 in early 2017.
- 2.6 The Developer already owns the majority of the land required for the Scheme and has been in negotiations with the owners of the remaining interests for approximately two years to try to achieve privately negotiated acquisitions without the need for a CPO. Over this period it has secured agreements with 18 of the 20 tenants within the Colonnade leaving only two remaining. The Developer remains committed to these negotiations which are ongoing and is hopeful of them being concluded by agreement. However, despite these continuing efforts it has not yet been possible to secure agreements with the remaining parties and therefore the Developer has requested the support of the Cabinet Regeneration Sub Committee, via the use of the Council's CPO powers, to provide the certainty that Phase 3 can proceed. A summary of the negotiations to date between the Developer and the two remaining tenants is provided in the confidential Part II Appendix B.
- 2.7 It is intended that the decision in relation to the proposed CPO is made in two stages: a preliminary stage and a second, more detailed stage. This report deals with the preliminary stage and recommends that the Cabinet Regeneration Sub Committee confirms its support, in principle, to the Council using its compulsory purchase powers to facilitate the land assembly needed to deliver the Scheme. The second stage would include a comprehensive report being brought back to full Council making the case for a CPO (phase 3 would form the CPO Boundary Plan as shown in Appendix A).
- 2.8 The Developer has agreed to be responsible for all the Council's costs and potential liabilities associated with the making of a CPO. Delegated authority is sought to enable the relevant Officers to negotiate and agree the following:-
- The completion of a CPO Indemnity Agreement with the Developer to provide for the reimbursement of costs and potential liabilities incurred by the Council in processing the CPO and compensating parties affected by the exercise of the CPO. For the avoidance of doubt, the Council's legal costs in agreeing and completing the CPO Indemnity Agreement will also be met by the Developer.
  - To make any necessary requisitions for information from parties interested in the Order Land by way of the service of notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or section 5A of the Acquisition of Land Act 1981.
  - To appoint any necessary consultants jointly with the Developer (but at the Developer's cost) to advise on negotiations with interested parties acquiring interests by negotiation.
  - To proceed with preparations for the making of the CPO in parallel with discussions and negotiations for the acquisition of property by agreement.

2.9 The second stage – making the case for a CPO – will put forward a comprehensive report to full Council (supported by evidence) setting out the case for the CPO. It will include (but not limited to):-

- The outcome of attempts to acquire the outstanding land interests by negotiation since the date of this report.
- An update as to the current status of the case for making the CPO in light of circumstances as they stand at the date of the future report.
- Justification for use of CPO powers including relevant policies and statutory tests.
- Financial implications – funding, costs and third party compensation.
- Settling the form of, making and publishing the CPO.

2.10 For the avoidance of doubt, this stage and report does not commit the Council to a make a CPO. However, it does provide formal confirmation of the Council’s in principle consent that it will use its CPO powers to progress the Scheme if the Developer is unsuccessful in concluding its remaining site assembly negotiations.

Option	Comments
<p>To provide the Council’s in principle support to use its compulsory purchase powers to site assemble the final phase of Chapel Arches.</p> <p><b>This is the recommended option.</b></p>	<ul style="list-style-type: none"> <li>• This will provide certainty that the final phase of Chapel Arches will be completed and ensure the provision of a further 163 residential units to the 77 already being provided in phases 1 &amp; 2.</li> <li>• Phase 3 will bring improved access to the York Stream and enhance the Waterways Project. It will also provide significant public realm improvements including opening up the historic river crossing at Chapel Arches Bridge and restoring the 19th century bridge, and a landscaping plan which incorporates new high quality hard surfacing, new planting, seating, street furniture and public art.</li> <li>• Phase 3 will provide 154 car parking spaces to serve the apartments. In addition, there are 162 cycle spaces and 13 motorcycle spaces.</li> </ul>
<p>Not to provide the Council’s in</p>	<p>6 If the Developer is unable to reach</p>

Option	Comments
<p>principle support is to use its compulsory purchase powers.</p> <p>This is not recommended.</p>	<p>agreement with its two remaining Colonnade tenants, there is the potential for the commencement of phase 3 of Chapel Arches to be delayed for in excess of 3 years and potentially longer.</p> <ul style="list-style-type: none"> <li>A delay of 3 years or potentially longer substantially increases the development risk due to economic uncertainty.</li> </ul>

### 3. KEY IMPLICATIONS

#### 3.1

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
CPO Indemnity Agreement completed	Not completed	31 Oct 16	30 Sep 16	31 Aug 16	31 Oct 16

### 4. FINANCIAL DETAILS

#### Financial impact on the budget

4.1 None as a result of this report.

### 5. LEGAL IMPLICATIONS

5.1 The Council has the power in Section 226(1) of the Town and Country Planning Act 1990 to acquire land compulsorily for planning purposes. The relevant tests are set out in Section 226(1)(a). The local authority must believe that the acquisition will facilitate the development, redevelopment or improvement of the land. This test will be met by the implementation of the Scheme which accords with planning policy and for which planning permission has been granted.

5.2 Where land has been acquired for planning purposes the Council may dispose of the land under section 233(1) of the Town and Country Planning Act 1990 to secure the best use of that land or secure the construction of buildings needed for the proper planning of the area. The terms of this disposal will be covered in the CPO Indemnity Agreement which will be entered into before a CPO is made.

## 6. VALUE FOR MONEY

- 6.1 The Developer has agreed to meet the Council's legal fees in negotiating and agreeing the CPO Indemnity Agreement.

## 7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 None.

## 8. RISK MANAGEMENT

- 8.1

Risks	Uncontrolled Risk	Controls	Controlled Risk
The Developer fails to deliver phase 3 Chapel Arches.	Medium / High	RBWM supports the Developer with its CPO powers to assemble the site.	Low / Medium
Council exposed financially in using its CPO powers.	Medium / High	A CPO Indemnity Agreement will be completed between RBWM and the Developer.	Low / Medium

## 9. LINKS TO STRATEGIC OBJECTIVES

- 9.1 Residents First
- Encourage Healthy People and Lifestyles
  - Improve the Environment, Economy and Transport
  - Work for safer and stronger communities

## 10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

- 10.1 None.

## 11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

- 11.1 None.

## 12. PROPERTY AND ASSETS

- 12.1 None.



### 13. ANY OTHER IMPLICATIONS

13.1 None.

### 14. CONSULTATION

14.1 Corporate Services Overview & Scrutiny TBC

### 15. TIMETABLE FOR IMPLEMENTATION

15.1

<b>Activity</b>	<b>Completion Date</b>
Phase 3 discharge of pre-commencement conditions	End October 2016
Phase 3 commencement following negotiated settlement with the two remaining parties	Early 2017 (estimated by Sorbon Estates)
Phase 3 commencement following the making and implementation of a CPO	Early 2018 (estimated by Sorbon Estates)

### 16. APPENDICES

16.1 Appendix A – Chapel Arches CPO Boundary Plan

16.2 Part II Confidential Appendix B – Briefing Note on Private Treaty Negotiations with Colonnade Tenants

### 17. BACKGROUND INFORMATION

17.1 None.

### 18. CONSULTATION (MANDATORY)

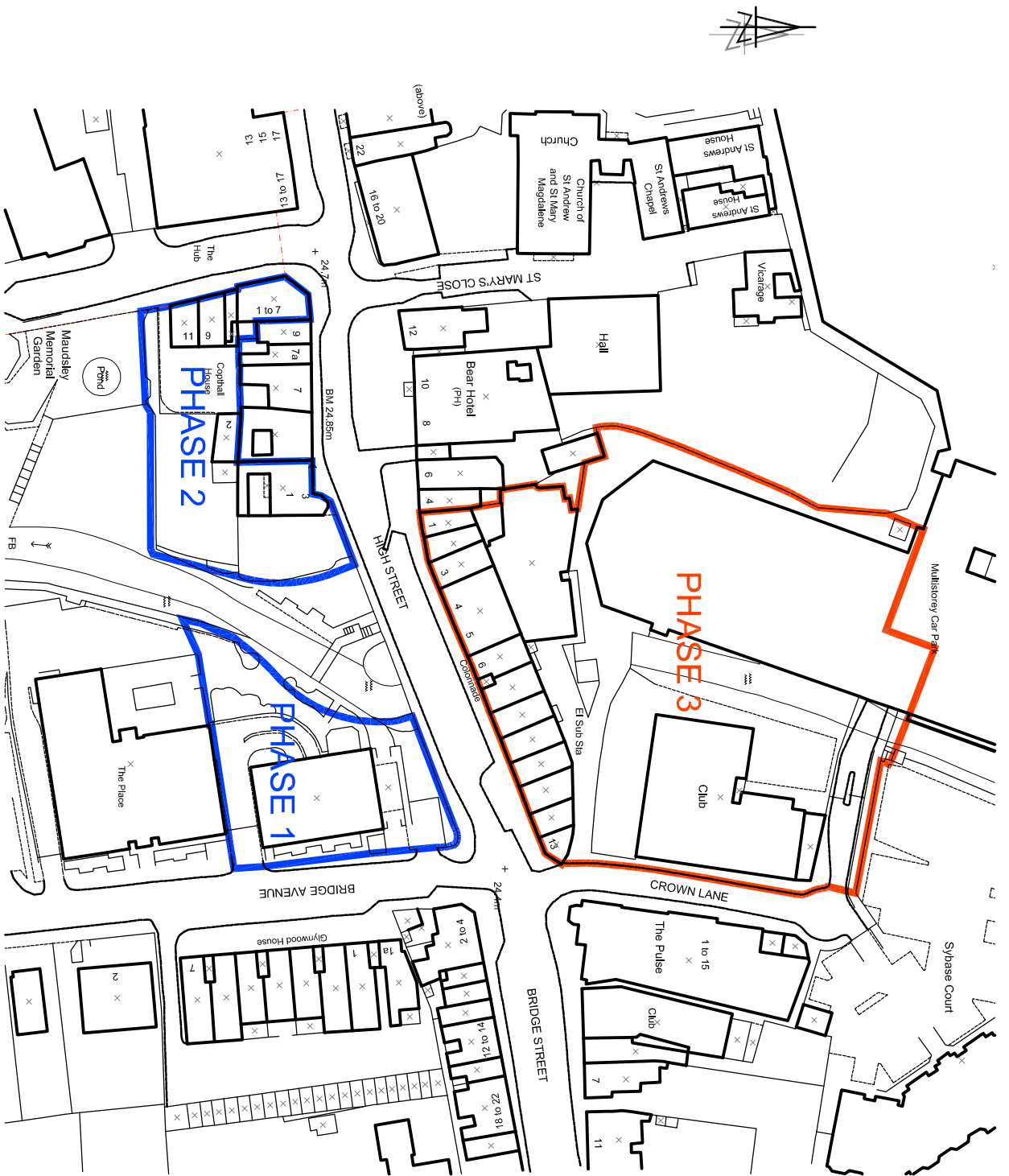
<b>Name of consultee</b>	<b>Post held and Department</b>	<b>Date sent</b>	<b>Date received</b>	<b>See comments in paragraph:</b>
<b>Internal</b>				
Cllr Dudley	Leader of the Council	11/7/16	13/7/16	
Cllr Saunders	Lead Member for Finance	11/7/16	13/7/16	
Cllr Rankin	Lead Member for Economic Development	11/7/16	13/7/16	

<b>Name of consultee</b>	<b>Post held and Department</b>	<b>Date sent</b>	<b>Date received</b>	<b>See comments in paragraph:</b>
	and Property			
Cllr Evans	Principal Member Maidenhead Regeneration and Maidenhead	11/7/16	13/7/16	
Russell O'Keefe	Strategic Director Corporate and Community Services	11/7/16	11/7/16	
Alison Alexander	Managing Director and Strategic Director Adults, Children's and Health	11/7/16	11/7/16	No Changes
Simon Fletcher	Strategic Director Operations and Customer Services	11/7/16		
Rob Stubbs	Head of Finance	11/7/16		
Chris Hilton	Director of Planning Development and Regeneration	11/7/16		
Chris Targowski	Cabinet Policy Manager	11/7/16		
<b>External</b>				
Matthew Bodley	Sorbon Estates	11/7/16		

## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>
Key Decision	Yes

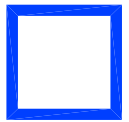
Full name of report author	Job title	Full contact no:
Mark Shephard	Regeneration and Property Service Lead	01628 796082



**KEY**



Compulsory Purchase Order Boundary



Boundary to Phases 1 and 2

**Chapel Arches Regeneration Project, Maidenhead  
CPO Boundary Plan**

Scale: 1:1250@A4  
Date: 08.07.2016