



WNDC Board Report

Report by Director of Regeneration & Development

Paper Reference: 2010-06-06-02

Agenda Item: 6

21 September 2010

Subject: Nunn Mills Road – Compulsory Purchase Order

Advice: That the Board:

1. **Note** the progress that has been made with this project and specifically the Collaboration Agreement, the CPO Costs, Indemnity Agreement and the insurance policy covering certain potential liabilities associated with the CPO process.
2. **Authorise** the making of a Compulsory Purchase Order (to be known as the West Northamptonshire Development Corporation the Nunn Mills Road Compulsory Purchase Order 2010 ('the Order') under sections 142(1) and 142(4) of the Local Government Planning and Land Act 1980 and the Acquisition of Land Act 1981 for the acquisition of land and the creation of rights within the area described in this report and shown edged red on the Plan at Appendix A of this report, being land and rights which are needed to facilitate the regeneration of this part of its area, as described in this report.
3. **Authorise** the Chairman, in consultation with the Chief Executive, to settle and finalise the precise extent of the land and new rights to be acquired by the CPO, provided that they fall within the land identified on the Plan at Appendix A.

4. **Authorise** the Chairman, in consultation with the Chief Executive, to:
 1. subject to him being satisfied that the appropriate legal agreements and protections are in place and that there are no planning impediments to the proposed road, take all necessary steps to secure the making, confirmation and implementation of the CPO including (but not limited to) finalising the Statement of Reasons, the publication and service of all notices and the presentation of WNDC's case at any Public Inquiry
 2. acquire interests in land within the area subject to the CPO either by agreement or compulsorily
 3. approve agreements with landowners and others having an interest in the area to be subject to the CPO setting out the terms for the withdrawal of objections to the CPO including where appropriate seeking agreements effecting the delivery of the road or any part(s) thereof
 4. take such steps as may be necessary under section 19 of the Acquisition of Land Act 1981 to secure the confirmation of the CPO.

5. **Summary:**

This report provides an update on progress in relation to the development of land and the provision of a spine road at Avon Nunn Mills. The report also seeks Board approval to use Compulsory Purchase powers in order to acquire land needed to construct an access road to facilitate regeneration in the Nunn Mills area. The construction of a new access road is needed to regenerate this part of Northampton and use of WNDC's powers to facilitate the construction of the road which will enable development to take place on this important brownfield site on the edge of Northampton town centre.

1 Background

- 1.1 At the meeting in July 2010 the Board received an update of progress made on this project (Paper Reference 2010-05(E)-07-01) and, in noting that discussions/negotiations regarding the Collaboration Agreement were progressing, agreed the principles of the Agreement and the CPO Indemnity Agreement associated with the potential making of the CPO. The Board also authorised the Chairman, in consultation with the Chief Executive, to approve any minor variations to the draft Agreements which may arise as a result of agreement on final drafting and subsequently sign the Agreements.
- 1.2 In addition the Director of Regeneration and Development was authorised to submit a planning application for the revised junction of Bedford Road / Nunn Mills Lane and spine road.
- 1.3 In terms of background the Board will be aware that;
 - In March 2008 the Board agreed the principle of the use of compulsory purchase powers to secure the land, which was preventing development from proceeding.
 - In July 2009 the Board resolved to make a CPO subject to completion of a binding collaboration agreement with all land owners and a binding indemnity agreement with Avon Cosmetics Ltd.

2. Current Position

CPO Costs Indemnity Agreement with Avon Cosmetics Limited and Insurance Policy

- 2.1 As reported at the Board meeting in July, Avon Cosmetics Ltd has agreed to indemnify WNDC against costs associated with the CPO. There are two elements to the protection for WNDC against liability under the CPO - first, an insurance policy will be put in place in favour of WNDC in respect of any CPO compensation and the costs associated with providing the CPO in respect of the land in unknown ownership. The insurance policy is deemed sufficient to cover any claims for compensation that may arise in the event that the owner of the land in unknown ownership comes forward and makes a claim. The second element of the

protection is a CPO Costs Indemnity Agreement between WNDC and Avon, to which Avon indemnifies WNDC for the costs of promoting the CPO (but not for any compensation liability). Separate agreements with the owners of the Avon HQ building have also been drafted for signature which reduce the potential for claims coming forward from them and further reduce the risk to WNDC. The draft documents are acceptable to all parties concerned and the wording of the insurance policy should be agreed with insurers shortly. It is envisaged that the CPO Costs Indemnity Agreement and the insurance policy will be completed and in force before the CPO is made.

Collaboration Agreement

- 2.2 At the meeting in July the Board agreed the principles of the Collaboration Agreement and, subject to agreement with other parties, authorised the Chairman in consultation with the Chief Executive to sign the final document. Following the July Board meeting copies of the draft collaboration agreement incorporating the revised principles have been circulated to all parties for consideration and agreement.
- 2.3 All parties have now had the opportunity to review and comment on the revised draft Agreement and I am pleased to report that the agreement is now in a form that is acceptable to all parties and therefore ready for signature. This is a significant milestone in allowing the CPO process to start and subject to the CPO being confirmed will remove a significant constraint to development.
- 2.4 As reported in July the Collaboration Agreement includes reference to a number of 'unresolved matters' including the sharing of costs for infrastructure between landowners and, once agreement is reached, around the form of development for the site. WNDC have previously funded the preparation of a Strategic Development Framework for Avon Nunn Mills but the precise parameters and form of development are still to be agreed with landowners. It is proposed that this will be settled before the CPO proceeds to any potential Public Inquiry and before any of the land needed for the spine road is vested. It will also need to be settled before WNDC will consider any Growth Funding to deliver the spine road for the site, if

this is required. This provision is made in order to secure that redevelopment of the Avon, Nunn Mills and Ransome Road sites is comprehensive.

- 2.5 Highway engineering consultants have now carried out an assessment of the adequacy of the junction at Bedford Road to reflect the scale of the development envisaged and the traffic movements that are likely to be generated. The revised junction layout to cater for capacity, sensitive land and additional Borough Council land is underway as are discussions with NBC. It is intended that the red line boundary for the CPO will exclude land in the ownership of the Borough Council. If agreement is not reached with the Council prior to the making of the CPO, the land will be included in the CPO but on the basis that it can be excluded from any confirmed CPO in the event that agreement is reached. As this land forms open space, if it is to be kept in the CPO, the WNDC will either need to provide replacement land or take the CPO through Special Parliamentary Procedure to secure its confirmation. However, as stated above, it is expected that agreement will be reached with the Council.
- 2.6 Ongoing discussions with the Environment Agency are underway. The land referencing process will confirm the extent of the Environment Agency position and subsequent, negotiations to secure the rights needed for the road.
- 2.7 The Collaboration Agreement allows for WNDC to take forward the CPO at the same time as progressing a revised planning application for the junction improvement and spine road. Work is underway to take forward the planning application as agreed at the last Board meeting. Given that the previous highway layout was granted permission, and given the policy support for the regeneration of this part of Northampton, there is no reason why planning permission will not be granted.
- 2.8 Network Rail has confirmed that the line of the disused railway is safeguarded and all local authorities have agreed that a joint approach to Network Rail and the Rail Regulator is required to seek release of the safeguarding restriction. It is anticipated that it will take time to resolve this matter, but this need not hold up the making of the CPO.

3 Taking forward the CPO – Statement of Reasons

- 3.1 A Statement of Reasons to support the CPO has been prepared by legal advisors and the current draft is attached as Appendix B. It specifically sets out WNDC's reasons for making the CPO to facilitate the creation of a road to help deliver the redevelopment of the Avon Nunn Mills site. It describes in detail the nature of the site, the planning history and current policy context, the implications of developing the road and the wider site and need for CPO powers. The Statement of Reasons also covers the Human Rights implications of taking forward the CPO. It should be noted that the Human Rights Act 1998 places direct obligations on public bodies such as WNDC to demonstrate that the use of compulsory purchase powers is in accordance with the law, is in the public interest, and that the use of such powers is proportionate to the ends being pursued. Attention is drawn to the section of the Human Rights Act in the draft Statement of Reasons.
- 3.2 The Statement of Reasons in support of the making of the Order will be finalised by the Director of Regeneration and Development and a copy served on each person with an interest in the land.

4 CPO - Financial considerations

- 4.1 Avon Cosmetics have already committed to covering the cost of WNDC promoting (but not compensation liability related to) the CPO up to an agreed cap. The insurance policy will be put in place to cover the costs of pursuing the CPO occasioned by, and any CPO compensation claimed by, the owner of the land in unknown ownership. All other costs will be agreed as part of the Collaboration cost share arrangement.

5 Conclusion

- 5.1 The development proposals for the Avon Nunn Mills site deliver key objectives for WNDC, local partners and Government. The benefits to the area resulting from the development of this site are set out in the draft Statement of Reasons. Without the use of WNDC's powers of compulsory purchase to facilitate the construction of the spine road the regeneration and redevelopment of this site and the benefits to the

area will not be realised. There is therefore a compelling case in the public interest for the compulsory acquisition of interests in the land in order to facilitate the provision of the access road to the Avon Nunn Mills site.

Appendix A - Nunn Mills Road Compulsory Purchase Order 2010 - Draft Plan.

Appendix B - Draft Nunn Mills Road Compulsory Purchase Order 2010 – Statement of Reasons