

Item No.	Classification: Open	Date: 25/2/03	MEETING NAME Executive
Report title:		Canada Water – Permission to Seek CPO powers	
Ward(s) or groups affected:		Surrey Docks & Rotherhithe Ward	
From:		Strategic Director of Regeneration	

RECOMMENDATIONS

1. That Executive agree in principle to the use of compulsory purchase powers, under section 226(1)(a) of the Town and Country Planning Act 1990, in respect of all outstanding interests suitable and required for the purposes of facilitating the implementation of a development scheme reflecting the masterplan subject to receiving a full indemnity from the selected development partner.

BACKGROUND INFORMATION

2. July 2002 - Executive approval for adoption and release of the Development Brief for the masterplanning of Canada Water.
3. January 2003 - Executive approval for the proposed short-list of three teams to prepare masterplans, and the in principle approval to come back for authority to seek CPO powers.
4. Masterplans are to be submitted in May 2003 and will undergo a consultation phase before a recommendation to select a preferred team can be put forward for Executive consideration.
5. There are 3 main land holdings in the development area. The Council owns only 20% of the land it is seeking to influence through the masterplanning process. The major land holding is nearly 60% of the area, and fundamental to the creation of a new centre at Canada Water. The third ownership is smaller, however it occupies one side of the Canada Water basin, again, fundamental to the creation of a new centre.
6. At this point there is no agreement in place committing any other land owners to this masterplan.
7. During the competitive stages so far, there have been 2 teams (2 of 8 long listed) withdraw from the process due to concerns over the ultimate deliverability of the project. Other teams have also expressed concerns but have chosen to remain involved due to the scale of the opportunity.

KEY ISSUES FOR CONSIDERATION

8. The objective of this report is to ensure that Council has taken all measures available to it as local authority to deliver on its commitments to Canada Water.

9. The process of masterplanning at Canada Water has always had concerns over deliverability, as the authority only controls approximately 20% of the land in question. The authority has always been of a view that the final masterplan will prove to be beneficial to all land owners, which will encourage their involvement in a co-operative manner, and lead to the better planning of the area.
10. Currently, 3 short-listed teams are preparing masterplans, with a view to being selected to implement their plan. The concerns over land assembly are becoming more apparent. The situation may arise whereby the Council has a preferred masterplan and wishes to implement physical change, but without all the land owners co-operating the Council may be held to ransom by one land owner and the complete vision will not be deliverable.
11. All land holdings are essential to this masterplan's success in creating a new centre for the Rotherhithe Peninsula. Due to the size of the holdings and their locations it would take only one land owner to not become involved, and the co-ordinated approach to development would not be possible. This is a real risk to the Council and the masterplanning concept.
12. Discussions are under way with the various land owners and are progressing well. However it is felt that the Council should have measures in place to ensure the delivery of the vision is not prejudiced. It is therefore considered appropriate for the Executive to confirm its agreement in principle to the use of compulsory purchase powers to acquire requisite outstanding legal interests. The Council's selected development partner will be expected to use its reasonable endeavours to assist with acquisitions by agreement to avoid the need for a compulsory purchase order.

POLICY IMPLICATIONS

13. Chapter 9 of the current UDP outlines specific Proposal Areas, in which development is welcomed. Proposal number 26 refers to part of the Canada Water site and encourages development of use categories such as Business, Entertainment, Housing, Shops, Ancillary Open Spaces and Community Facilities. The Master Development Brief will provide for all the uses and more in the new centre for the Peninsula.
14. The emerging UDP identifies the masterplan area as the Canada Water Action Area. The Draft Southwark Plan Part 1 states: "Canada Water contains a number of development opportunities of London wide strategic significance. It has the potential to become an important commercial centre serving the local community and the wider area due to the excellent accessibility it now enjoys through the Jubilee Line. It will also be an important location for new housing."
15. The Draft Supplementary Planning Guidance for Canada Water ties together the objectives of the Mayor's Spatial Development Strategy at a regional level with the objectives of the emerging UDP. This document refers to and acknowledges the Master Developer Brief and the process that we have embarked on as a regeneration agency, and states that the SPG itself is intended to be a step towards the preparation of a masterplan, further showing commitment to the delivery of a masterplan for the area.

RESOURCE IMPLICATIONS

16. The Projects Team continues to resource this project in terms of officer time. At the point of selecting a Master Development Partner, it is intended that the cost of running the

project would then be shared with that party.

17. Should the use of compulsory purchase powers be required to deliver this project the financial resourcing would be provided through the Master Developer by means of an indemnity agreement arrangement. This has formed part of the financial assessment by ABROS.

CONSULTATION

18. There has been no consultation on the potential use of CPO powers with regard to this site due to commercial sensitivity.

SUPPLEMENTARY ADVICE

Concurrent Report - Legal Issues

19. "The report recommends that the Executive grants approval to seek CPO powers from the Secretary of State with regard to freehold and leasehold property interests and any rights or easements in the development area of the Canada Water Masterplan.
20. The Council has various powers which enable it to acquire land both by agreement and by compulsory purchase. The Council can acquire land by agreement for any of its statutory purposes or for the benefit, improvement or development of their area under section 120 Local Government Act 1972. Section 121 of the Local Government Act 1972 confers a power to acquire land compulsorily for statutory purposes.
21. The Council also has powers under section 226 of the Town and Country Planning Act 1990 to acquire land by compulsory purchase where the land is suitable for or required to secure the carrying out of development, redevelopment or improvement or required to assist in the proper planning of the local authority's area. The Council may also acquire land by agreement under section 227 of the Town and Country Planning Act 1990 in circumstances where it could acquire compulsorily under section 226. On the basis of the information currently available it would seem that the use of Town and Country Planning Act powers will be most appropriate in this case.
22. Currently no interests have been identified for acquisition and the Executive is recommended to receive a further detailed report as and when it becomes necessary for the Council to make a Compulsory Purchase Order and submit it to the Office of the Deputy Prime Minister for confirmation. At this later stage it will be possible to identify the statutory powers to be used and to provide advice on the matters which need to be taken into account when making the order.
23. It may also be necessary to acquire certain rights in or over land to enable the development to proceed physically, e.g. rights of way, rights of oversailing for cranes etc. It may not be possible to identify what rights will be required or the land which will be affected until the agreed form of the development and method of construction have been identified.
24. In considering whether to agree to make a compulsory purchase order in respect of this land, members attention is drawn to the right of protection of property contained in the Human Rights Act 1998. This provides that no-one should be deprived of his/her possessions except in the public interest and subject to the conditions provided for by law and in accordance with the principles of international law.

25. The exercise of compulsory purchase powers by public authorities also involves other human rights such as the right to privacy and family life and the right to a fair hearing in respect of rights and interests. Compulsory purchase is subject to a statutory regime which provides for objections by affected owners, public hearings by independent inspectors and oversight by the courts: it has been considered by the courts and found to comply with the requirements of the Human Rights Act. In agreeing to make a compulsory purchase order members should satisfy themselves that the making of the order is in the public interest.
26. Further detailed legal advice will be provided when members are asked to approve the CPO. At the present time no interests are adversely affected by this decision and members are simply underlining the Council's commitment to this scheme. As indicated in the report it is hoped that the benefits of a comprehensive development of the area will enable the project to proceed with the agreement of all parties."

Concurrent Report of the Chief Finance Officer

27. The acquisition of land and buildings by CPO powers is capital expenditure. It is anticipated all costs will be funded by the Master Developer. The full details of this operation have yet to be determined.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Executive Report – Canada Water – Adoption of the Development Brief	Chiltern House	Adam Faulkner
Executive Report – Canada Water – Permission to seek CPO powers	Chiltern House	Adam Faulkner

APPENDIX A

Audit Trail

Lead Officer	Paul Evans	
Report Author	Adam Faulkner	
Version	FINAL	
Dated	2003	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	YES
Chief Finance Officer	Yes	YES
Executive Member	Yes	YES
Date final report sent to Constitutional Support Services	17 th Feb 2003	