

STROUD DISTRICT COUNCIL
STRATEGY AND RESOURCES COMMITTEE

**AGENDA
ITEM NO**

3 OCTOBER 2019

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Report Title	ADVANCE NOTICE OF THE PROPOSED USE OF COMPULSORY PURCHASE POWERS FOR COTSWOLD CANALS CONNECTED ('PHASE 1B')
Purpose of Report	To seek Committee support in principle for the use, at the earliest opportunity, of the Council's powers to acquire land compulsorily, so as to allow the delivery of the Cotswold Canals Connected regeneration project.
Decision	<p>Strategy and Resources Committee RESOLVES:</p> <p>a) To support the principle of compulsory purchase of land including (and in the vicinity of) the proposed route of the reinstated canal between Stonehouse and Saul Junction (Cotswold Canals Connected – Phase 1b).</p> <p>b) To instruct the Head of Property Services to return to this Committee with detailed proposals for a Compulsory Purchase Order (CPO) resolution, should that be considered necessary.</p> <p>c) To authorise the Head of Legal Services in consultation with the Head of Property Services to engage the services of Counsel as considered appropriate with regard to the preparation and processing of a CPO to confirmation.</p>
Consultation and Feedback	Our partners in the project; Cotswold Canal Trust, Stroud Valleys Canal Company, the Canal and River Trust and Gloucestershire County Council are all supportive of the use of CPO powers.
Financial Implications and Risk Assessment	<p>The costs of using CPO powers, if necessary, will be met from the within the overall canal project budget.</p> <p>The budget for the canal project includes budget for acquiring all of the land necessary for the scheme. The budget for the next phase will be reported back to this Committee before the bid is submitted to HLF.</p> <p>Andrew Cummings, Interim Director of Resources (Section 151 Officer) Tel: 01453 754115 Email: andrew.cummings@stroud.gov.uk</p>

Legal Implications	<p>Considerable preparatory work will be needed before the Council will be able to present a sustainable case for a CPO. Consequently, an 'in principle agreement' to such action is sought at this stage for review once essential preparatory work has been undertaken.</p> <p>Alan Carr, Solicitor Tel: 01453 754357 Email: alan.carr@stroud.gov.uk</p>
Report Author	<p>Alison Fisk, Head of Property Services Tel: 01453 754430 Email: alison.fisk@stroud.gov.uk</p> <p>David Marshall, Canal Project Manager Tel: 01453 754646 Email: david.marshall@stroud.gov.uk</p>
Options	<p>The reinstatement, including the construction of new sections where the historical line no longer exists and is incapable of being reinstated, of the canal and associated infrastructure between Ocean, Stonehouse and Saul Junction (The Cotswold Canals Connected project) cannot proceed without the use of land not owned or controlled by the Council or its partners. Whilst every endeavour will continue to be made to acquire the necessary lands and rights by voluntary agreement, certainty is needed in order for the project to proceed, and that can only be delivered by having compulsory powers available should purchase(s) by agreement be unsuccessful.</p> <p>The other option is to try to continue to acquire land by negotiation with the likelihood that HF deadlines will not be met, putting the release of further funding of £8.9m at risk and the project failing.</p>
Performance Management Follow Up	<ul style="list-style-type: none"> • Report back to committee regarding the use of CPO powers • Report back to S&R Committee before the final delivery Stage application is made to the Heritage Lottery Fund (HLF)

1. Background

- 1.1. On 24th April 2018, the then Heritage Lottery Fund (HLF) awarded £842,800 as Development Funding, to the Cotswold Canals Connected project (Phase 1b) enabling us to work towards submitting a further Delivery Stage bid, in the order of £8.9 million, by a deadline of 24th April 2020.
- 1.2. The project will see restoration of a 4-mile length of canal connecting the national waterway network at Saul Junction to the already restored 5 mile section running from Stonehouse to Thrupp. This would make Stonehouse and Stroud canal towns once again.

- 1.3. The project will bring significant biodiversity, economic, leisure and health and wellbeing benefits.
- 1.4. Whilst Development funding does not automatically guarantee a Delivery Stage pass, the then HLF was clearly sufficiently impressed to award funding. Provided the project looks certain to deliver its outcomes to budget, there is no reason why the further bid should fail.
- 1.5. Work on the Development Stage is now well advanced and will be formally reviewed by the Heritage (Lottery) Fund on 16th October. This formal review will particularly look at risks to deliverability of the project, with inability to acquire the necessary land identified as the primary risk.
- 1.6. The expectation is that we will submit the formal Delivery stage bid on 2nd March 2020.

2. Land Acquisition

- 2.1 Part of the development stage is negotiating and agreeing land acquisitions.
- 2.2 An Outline planning application for reinstating the canal through the 'Missing Mile' (Westfield Lock to the A38 roundabout) was submitted earlier this year, but is currently being upgraded to a Full application.
- 2.3 Discussions and negotiations with 11 landowners have been progressing, but to date it has only been possible to agree terms of sale with one of those landowners. Legal agreements will need to be secured in respect of all land and rights required before the Heritage Fund will release any further funding above the development stage funding already granted. Consequently it has become critical to consider exercising the Councils Compulsory Purchase Powers pursuant to section 226 of the Town and Country Planning Act 1990.
- 2.4 A CPO can provide timely possession of the necessary land and associated rights (permanent and temporary); and would also ensure that there are no title issues which might otherwise compromise or undermine delivery of the scheme.
- 2.5 Whilst every endeavour will be made to acquire the necessary land and rights by agreement, certainty is needed in order for the project to proceed, and that can only be delivered by having compulsory powers available should purchase(s) by agreement be unsuccessful. It should also be pointed out that some of the land required is in unregistered and unknown ownership in which case a CPO is the only means of securing this
- 2.6 The Council should only make a CPO if it considers that there is a compelling case in the public interest to do so, and that it is confident that, should the CPO be approved, there is reasonable certainty that the scheme will proceed. The "compelling case in the public interest" is the standard that will be applied by the Secretary of State in considering whether or not to approve the Council's CPO, and is the test that Members will need to apply when considering a report in due course, recommending a resolution to authorise the use of CPO powers.

3. Consequences of the decision sought

- 3.1 The decision sought will enable work to be undertaken to prepare for a CPO, and to deliver a report recommending a resolution authorising the making of a CPO
- 3.2 Some of the work involved in promoting a CPO is as follows:
- determining the boundaries of the land and nature and extent of interests to be included within the CPO (this can only be achieved when the scheme design has been completed). This is a necessary preliminary step to enable the land referencing exercise (ref below) to be undertaken
 - preparing the Statement of Reasons, which is the document which supports the case for a CPO.
 - undertaking a land referencing exercise (the term used to describe clarification of land ownerships and the precise property interests needed to include in any CPO. This includes all persons who are owners, occupiers, tenants or others who may have compensatable interests in the land including the benefit of any easements or covenants which affect the land).

4 Timescale

- 4.1 The timescale for obtaining confirmation of a CPO can be lengthy. Much will depend on whether objections are raised by landowners and whether a public inquiry is required. Given the significance of the scheme and the complex legal nature of compulsory purchase it is recommended that the Committee authorise the retention of Counsel to (i) advise on specific legal issues which may arise as determined by the Head of Legal Services in consultation with the Head of Property Services and (ii) to represent the Council at any public inquiry.

5 Negotiations

- 5.1 Negotiations by private treaty will continue before and after any CPO is made, as the Council would rather acquire the outstanding interests by agreement. The CPO code requires this in any event. However, the CPO is needed to ensure that vacant possession can be secured and to clean up any title issues so that the project can proceed unhindered.

6 Risk Assessment Implications

- 6.1 Any process of land assembly involves risks, and those attaching to a CPO are many and varied, including:
- a) The CPO might be unsuccessful (i.e. not confirmed by the Secretary of State).
 - b) Planning permission for the scheme may not be granted, meaning that the development underpinning the CPO cannot happen.
 - c) The development may not be viable, meaning that the project behind the CPO cannot be delivered.
 - d) Inadequate resources applied to the CPO process. Promoting a CPO is resource-intensive and the Council needs to accept that considerable resource will be needed to pursue the CPO process effectively.

7 Conclusion and Recommendation

- 7.1 The Council now has a (probably unique) opportunity to bring forward the reinstatement of this section of the canals, linking Phase 1a to the national canal network. In order to assist in the economic regeneration of the area and deliver the Cotswold Canals Connected project, the promotion of a CPO is pivotal to that objective. Committee is, therefore asked to support the decision sought.