

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	15

### PURCHASE OF LAND ADJACENT TO SQUIRES GATE STATION – CPO REQUEST

#### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### SUMMARY

A report is being heard at the Finance and Democracy Committee, to be held on 28<sup>th</sup> June 2021, to obtain approval in principle for a Compulsory Purchase Order (CPO) for a parcel of land adjacent to Squires Gate Station to enable an accessible route at Squires Gate Station to be constructed to the platform. This parcel of land is a key piece of infrastructure in allowing access to the station for all persons under the Equality Act.

The land is currently unregistered, and the Council have sought confirmation from all landowners of the surrounding area, one of whom was forthcoming in accepting ownership but has been unable to substantiate their claim or engage with the Council to register the land.

This report and the proposed CPO demonstrate this Council's intention to deliver this scheme.

#### RECOMMENDATIONS

##### Council is recommended:

1. To approve, in principle, to the making of a Compulsory Purchase Order for land adjacent to Squires Gate Station to enable an accessible route to the station platform to be created.
2. To note that a report was presented to Finance & Democracy Committee (28/06/21) to request Delegation of authority to the Director of Development Services to acquire the land by purchase outside any compulsory purchase process provided that the purchase price and other terms are, in his opinion, broadly consistent with the aspirations and expectations of the Council.
3. To note that a report was presented to Finance & Democracy Committee (28/06/21) to request a funded capital budget increase of £1,000 in 2021/22 from the Capital Investment Reserve for additional legal and surveying fees associated with the CPO process subject to Council approval of the Compulsory Purchase Order.

#### SUMMARY OF PREVIOUS DECISIONS

At the Finance and Democracy Meeting of 24<sup>th</sup> June 2019 it was resolved:

1. That officers approach Network Rail with a request that Network Rail fund, or contribute to funding of, the purchase of the land and the associated legal fees in the first instance;
2. If 1. above is unsuccessful, to approve the purchase of approximately 35.6 square metres of land adjacent to Squires Gate Station for the sum of £3,000 plus payment of the vendor's legal costs up to £2,400 i.e. to a total cost of no more than £5,400, in the absence of recouping any of those costs;

3. To approve an addition to the Council's Capital Programme for 2019/20 in the sum of £5,400 to be met from the Capital Investment Reserve for the purchase of the land adjacent to Squires Gate Station as described above;
4. To approve expenditure in the maximum sum of £5,400 for the purchase of the land adjacent to Squires Gate Station as described above; and
5. To approve the granting of a long ground lease of this land, once purchased, to Network Rail to include the transference of responsibility for management and maintenance of the land.

#### CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

## REPORT

### BACKGROUND

1. The delivery of a step-free accessible route to Squires Gate Station platform has been a long-term desire of the Council and the South Fylde Line Community Rail Partnership.
2. As part of the development of the former Pontins site by Persimmon Homes, a footpath at the end of New Road has been installed behind Lindsey Court garages towards Squires Gate Station platform up to the end of the land which Persimmon owns. There remains a small patch of land between the land owned by Persimmon and the station platform. For an accessible route to be created this patch of land of approximately 35.6m<sup>2</sup>, as shown in Appendix 1, needs to be acquired.
3. The land is unregistered. The Council made enquiries in 2018 and 2019 and identified a person who claims ownership of the land. In 2019 the council agreed<sup>1</sup> to purchase the land for a purchase price of £3,000 and fees of up to £2,000 plus VAT, provided that the claimed owner first register their ownership with the Land Registry.
4. Following this agreement, the assumed owner, through a solicitor, advised that they were only willing to proceed if the Council guaranteed that costs for registering the land would be covered even if the registration process failed. The Council were not willing to commit public money to the process with the risk that it did not end up acquiring the land.
5. Subsequently, the South Fylde Line Community Rail Partnership offered to act as guarantor to the process. This ensured that, if the registration attempt failed or, if it succeeded but the owner failed to sell the land to the Council, that they would cover the legal costs incurred. This was agreed in January 2020.
6. The solicitors of the assumed owner were advised that their fees would be guaranteed in January 2020. The solicitors advised they had received formal instructions from the assumed owner to proceed with registering possessory title for the land.
7. Fylde officers followed this up over the next few months. In April 2020 the Council were advised that a Statutory Declaration had to be signed in front of a solicitor which, as the first Covid lockdown had come into effect, was not possible at that time. Following easing of lockdown restrictions this was followed up in June and July 2020 without response. In August 2020 Fylde officers were advised by the assumed owner's solicitors that they had received no further instructions to progress. Fylde Officers continued to follow-up monthly with either no response or to be advised that no further instruction had been given.

The capital cost of this was agreed to be met by Fylde Council at the Finance and Democracy Committee meeting of 24th June 2019. The agreement with the assumed owner was made on 16th August 2019.

8. In February 2021, with no progress having been made and the assumed owner's solicitors advising that they had no instruction to pursue further, Fylde's legal team advised the agent that if the registration was not progressed imminently then authority would be sought to start the process to obtain a Compulsory Purchase Order ('CPO') for the land. In March 2021 the solicitors advised that they had received no response from the assumed owner.
9. The power to obtain the land compulsorily is in section 226(1)(b) of the Town and Country Planning Act 1990, which covers land "*which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situate*". Officers consider that enabling access to the rail network at Squires Gate station for wheelchair users and others for whom the present stepped access would present difficulties is a purpose which falls within the power.

#### PROPOSED ACTION

10. The CPO procedure involves up to four stages: making the order, confirming the order, implementing the order and settling compensation.
11. The order can only be made after a number of preparatory steps, including making all practicable enquiries to identify reputed owners of interests in the land and preparation of a CPO scheme, which is the formal document intended to justify the acquisition and the use of compulsory powers.
12. An order cannot be implemented (which means acquiring the land) until it has been confirmed by the Secretary of State. If there is an objection to an order (for example, by the landowner), the Secretary of State will normally only confirm it after a public inquiry to consider the objection. The council needs to be in a position at an inquiry to support its decision to make a CPO.
13. Best practice is for the council to resolve in principle to use compulsory purchase powers, following which officers would prepare the compulsory purchase documentation in detail (including the draft order and scheme). Once all of the CPO documentation has been prepared, a further report would be prepared seeking a second resolution to formally make the CPO. The CPO would then be made as soon as practicable after the second resolution.
14. At all stages, the council needs to be prepared to agree to acquire the land by a non-compulsory sale, rather than using its CPO powers, which should always be seen as a last resort. The second recommendation would provide delegated authority to purchase the land without using its CPO powers.

#### FINANCIAL IMPLICATIONS

15. Within the Capital programme, £3,000 has been allocated for purchase of the land and £2,000 plus VAT for legal fees. A further £1,000 is expected to be required to cover additional legal and surveying fees as a result of the CPO process. This has been recommended to the Finance and Democracy Committee for a decision on 28<sup>th</sup> June 2021.

#### COMPENSATION

16. Where an authority acquires the land by the use of CPO powers, the compensation to be paid to the owners of interests in the land is determined either by agreement or, if no value is agreed, by a tribunal. The compensation is based on the open market value of the land taken, any loss caused by losing possession of the land and compensation for damage to any retained land of the affected party. While it is not possible to be certain of the compensation that would be awarded by a tribunal, professional valuation evidence should provide a strong indication of the likely range. It is expected that this amount will be within the £3,000 already allocated for the purchase.

IMPLICATIONS	
Finance	No financial implications identified within this report.
Legal	Subject to Finance and Democracy Committee recommendation on 28 <sup>th</sup> June 2021, Full Council is requested to approve in principle to the making of a Compulsory Purchase Order for land adjacent to Squires Gate Station to enable an accessible route to the station platform to be created.
Community Safety	None
Human Rights and Equalities	The provision of an accessible access will enable those with restricted mobility to use Squires Gate Station.
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached documents

Appendix 1 – Plan of land adjacent to Squires Gate Station