

COMPULSORY PURCHASE AND OVERRIDING EASEMENTS POLICY

1. RECOMMENDATION

- 1.1 That Cabinet recommend to Full Council that the draft Compulsory Purchase and Overriding Easements Policy is adopted subject to a minor amendment to the bullet points in paragraph 6.1, as set out in Annex A.

2. THE PURPOSE OF THE REPORT

- 2.1. The purpose of this report is to report on the responses received on the consultation undertaken between 26 July and 23 August 2019 and to adopt the Policy, subject to an amendment following these comments.

3. SUMMARY OF CONSULTATION

- 3.1. The consultation was advertised on the Council's website and specific letters were sent to those on the Local Plan database which consists of those people who have requested to be kept informed on such consultations. Regular agents who correspond with the Council were also consulted. In total, 30 responses were received to the consultation, of which 23 were from residents, 3 from statutory bodies, 1 from a neighbouring Council and 3 from developers.
- 3.2. A summary of the key issues raised in the responses is set out below:

Key Points raised	Number of times raised
General support for the principals of the policy	14
Concerns over the amount of profit this may give to both the developers and the Council	4
Question over how this policy fits with the planning system in general to promote development	3
Unsure how the policy will help assist young people with finding housing	1
General objection to the principal of the policy	5
Concerns over the level of housing figures proposed for the area and the ability to deliver	9
Neither supportive or objecting, but believe that more Affordable Housing is required in District	3
Further details and clarifications on the policy are required.	3
No Comment to make	4
Lacks detail on how it will be funded	1
Needs to be a robust reason to use powers	3

4. RESPONSE TO CONSULTATION

- 4.1. Overall, the response to the consultation was positive, with some of the main objections relating to the proposed levels of housing in the Local Plan, which is not a matter that is being considered by the Policy.
- 4.2. To address the concerns regarding the profit to both the Council and future developers, it is proposed to amend the bullet points in paragraph 6.1 to clarify that any disposal of land, must comply with the Local Government Act 1972 Regulation 123 which requires Local Authorities to dispose of land for the 'best consideration reasonably obtainable'. The revised wording is set out in paragraph 6.1 of Annex A.

5. FINANCIAL IMPLICATIONS

- 5.1. There are no financial implications from consulting on the adoption of this Policy.

6. CRIME & DISORDER, ENVIRONMENTAL, DATA PROTECTION IMPLICATIONS

- 6.1. There are none.

7. EQUALITY & DIVERSITY IMPLICATIONS

- 7.1. A full assessment of equality and diversity implications would need to be carried out on a case by case basis.

8. PORTFOLIO HOLDER COMMENTS

- 8.1. The Portfolio Holder supports the amendments and adoption of the policy.

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NEW FOREST DISTRICT COUNCIL

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COMPULSORY PURCHASE AND Section 203 POLICY

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1. PURPOSE

- 1.1. This Policy sets out the approach that New Forest District Council will take when it considers that land within its area should be acquired for facilitating development, redevelopment or improvement on or in relation to land, for the proper planning of its area.
- 1.2. New Forest District Council will only seek to acquire land compulsorily, in accordance with legislation and guidance set out in the Ministry of Housing Communities & Local Government Guidance on Compulsory Purchase Process and the Crichel Down Rule 2018. This will include the development, re-development or improvement of the area promotes the economic, social or environmental well-being of its area or is in the interests of the proper planning of the area. The Council will also consider this policy when using other specific compulsory purchase powers. The local planning authority will first pursue an Acquisition Strategy however, if progress is not being made the authority will not wait for negotiations to break down before starting the compulsory purchase process. In such cases, a compulsory purchase timetable will be agreed and authority will be sought from Cabinet for a Compulsory Purchase Order.
- 1.3. This Policy aims to provide information on the Council's approach to compulsory purchase and the practical guidance that the Council can provide to those affected.

2. SCOPE

- 2.1. The Policy applies to all freeholders, leaseholders and any tenants of the freeholder or leaseholder whose land the Council requires to purchase to facilitate development, for the proper planning of its area or other statutory purposes.

3. LEGISLATIVE CONTENT AND OTHER RELEVANT DOCUMENTS

- 3.1. The following legislation and policy documents will be relevant when considering whether to exercise compulsory purchase powers.
 - Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004)
 - Planning and Compulsory Purchase Act 2004
 - Housing Act 1985
 - Housing and Planning Act 2016
 - Compulsory Purchase Act 1965
 - Land Compensation Act 1973
 - Acquisition of Land Act 1981
 - Local Government Act 1972
 - DCLG Guidance on compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion.
[Government Guidance on the Compulsory Purchase Process and Crichel Down Rules](#)
 - New Forest District Council – Local Plan Policies
 - National Planning Policy Framework 2019
- 3.2. The following provisions of the Town and Country Planning Act 1990 will be of particular reference:-

S. 226 of the TCPA 1990 provides:

- (1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area –
 - (a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land; or
 - (b) 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 situated.
- (1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects –
 - (a) the promotion or improvement of the economic well-being of their area;
 - (b) the promotion or improvement of the social well-being of their area;
 - (c) the promotion or improvement of the environmental well-being of their area.

4. INTRODUCTION

- 4.1. It has been long recognised that compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, compulsory purchase powers can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, and the revitalisation of communities, much needed housing and the promotion of business, leading to improvements in quality of life.
- 4.2. More recently, the Government has expressly advocated the use of compulsory purchase powers for meeting development needs or to secure development outcomes which may not otherwise be achievable.

The National Planning Policy Framework para 119 says:

“Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.”

- 4.3. Opportunities for sustainable development within New Forest District are severely restricted by environmental constraints. It is therefore very important that when land has been allocated for development in the Local Plan, the site is delivered in a timely manner to ensure a 5 year Housing Land Supply is maintained and the housing needs of local people are met. Where sites are stalled and so not coming forward (for example, where land needs acquiring from a third party to implement a scheme) or inactive for a

period of time that is considered unreasonable by the Council, the Council will consider using its powers to compulsory purchase the land and bring it forward for development.

5. THE COUNCIL'S POLICY STATEMENT

5.1. The Council will consider the use of compulsory purchase powers in appropriate cases, in particular, to enable development or re-development to take place. It will consider in particular whether it is necessary to compulsorily acquire land to deliver the Local Plan on sites which are either not proceeding or which is being unreasonably delayed. Those cases will include:

- Allocations which are not being brought forward by landowners within the timeframe agreed through the Local Plan;
- Where ownership or rights issues exist, such as access problems or covenants, which inhibit the development of sites in these cases the Council will look to use Section 203 powers;
- Sites where there are more than one land owner and land assembly is needed to achieve proper planning.
- Sites with inactive land owners

5.2. In exercising any compulsory purchase powers, the Council will only do so when there is a compelling case in the public interest.

5.3. **The Local Plan Review 2016-2036** includes the following policy relating to the implementation of the strategic objectives of the plan, including the timely delivery of planned development.

Policy 36: Monitoring - The Council will monitor the implementation of the Local Plan 2016-2036 Part One using the Strategic Objective monitoring framework set out in Figure 9.1. If the strategic objectives of the Local Plan are not being achieved, including where planned development is not being delivered in a timely manner, the Council will investigate the reasons why and take appropriate action.

Depending on the scale and nature of the objective or delivery target not being met, actions may include:

Engagement with the relevant parties including developers, landowners, service and infrastructure providers and other relevant parties to identify barriers or obstacles to the achievement of a Local Plan objective, or to the timely delivery of a planned development, and how they can be resolved.

5.4. The local planning authority will work co-operatively with landowners, investors and developers to ensure that sites are made available for development within an acceptable timescale. However, if it becomes clear to the Council that land is unlikely to come forward within an acceptable timeframe, the Council will commence the process of acquiring the land by compulsory purchase.

5.5. Prior to the formal exercise of compulsory purchase powers, the Council will enter into discussions with any affected landowner with a view to acquiring the land by agreement.

5.6. The Council will at all time follow the Ministry of Housing Communities & Local Government Guidance on Compulsory Purchase Process and The Crichel Down Rules.

5.7. The Council will consider the use of Section 203 powers where there is an overriding easement or other right that may prevent desirable development. The Council will discuss the use of these powers with land owners, investors or developers prior to the submission of a planning application. Given the impact of these powers on third party rights these powers will only be used where there is a compelling planning justification to do so.

6. WHAT THE COUNCIL WILL DO FOLLOWING COMPULSORY PURCHASE OF THE LAND OR SECTION 203

6.1. Where the Council has acquired land for development by a third party, it will:

- Sell the land for the best consideration reasonably obtainable
- Require the prompt carrying out of the development

6.2. Alternatively, the Council may itself seek to develop the land for the purposes for which it was required.