

## **CABINET**

<b>DATE</b>	13/01/2021
<b>REPORT OF</b>	Councillor Phillip Jackson, Leader of the Council
<b>RESPONSIBLE OFFICER</b>	Clive Tritton, Interim Director Economy and Growth
<b>SUBJECT</b>	Review of the South Humber Industrial Investment Programme and approval to make a Compulsory Purchase Order for land at Stallingborough Industrial Development Site
<b>STATUS</b>	Open
<b>FORWARD PLAN REF NO.</b>	CB 11/20/08

### **CONTRIBUTION TO OUR AIMS**

The South Humber Industrial Investment Programme (SHIIP) will play a key role in creating a “Stronger Economy”. It will achieve this by delivering a programme of projects that will overcome key environmental and infrastructure constraints that are acting as a deterrent to business investment. The programme includes the provision of a quality serviced industrial site that is immediately available to new inward investors, secures ecological mitigation and the implementation of the South Humber Bank Link Road to improve the connectivity between the ports of Immingham and Grimsby.

### **EXECUTIVE SUMMARY**

#### **1. SOUTH HUMBER INDUSTRIAL INVESTMENT PROGRAMME**

The initial strategy for the South Humber Industrial Investment Programme (SHIIP) was first laid out in 2014. It has previously been considered at Cabinet on 8 July 2015, 13 January 2016 and on 14 December 2017 Cabinet agreed the final programme. The programme consisted of four projects together with running costs.

- The Stallingborough Industrial Development Site
- The new Humber Link Road
- The Strategic Mitigation Project
- The Speculative Units

A budget was set for each project which generated a gross capital spend of £41.8m and with public and private funding of £18.2m, maximum net borrowing was set at £23.6m.

A great deal has changed since December 2017, from both a micro and a macro perspective, and, although the fundamental values of SHIIP remain, the initial strategy has been refined and updated. The main areas of proposed change are land assembly at the Stallingborough Industrial Development Site project and the

## Speculative Units.

Initially it was intended that land assembly would consist of the acquisition of Phase 1A only. (see Appendix 1) The remaining phases of 1B and 2 were intended to be Joint Ventures but it became clear that the authority needed to be in control of the whole of the Stallingborough Industrial Development Site. This was to ensure that the jobs and the business rates identified in the Financial Model were delivered in a timely manner and achieve the return on investment.

The CPO section outlines the negotiating process and the benefits of acquiring the land, taking control of the development of the site and why a compulsory purchase order is necessary. In line with this it is now an opportune time to align the SHIIP Financial Model to reflect the acquisition of the land.

At the same time, it would be prudent to remove the Speculative Units from the Financial Model. An Industrial Unit is already under construction and an anchor tenant has been secured and already looking to expand. The Speculative Units were designed to be self-financing therefore they will have no effect on the SHIIP Financial Model other than to make it more transparent and focused on SHIIP.

## **2. CPO**

Since the last Cabinet report, which sought approval for a Compulsory Purchase Order in principal, negotiations have been ongoing and formal offers to purchase the relevant land have been made to landowners, but a settlement has not been reached.

Negotiations will continue with landowners, but the making and publishing a Compulsory Purchase Order will encourage landowners to actively engage in negotiations, increasing the chance of a successful resolution.

In the event no agreement can be reached, proceeding to acquire the land by way of Compulsory Purchase Order is the only viable option to maintain a supply of land at the Stallingborough Industrial Development Site.

## **RECOMMENDATIONS**

It is recommended that Cabinet:

1. Approves the review of the South Humber Industrial Investment Programme.
2. Notes the steps already taken to acquire land at the Stallingborough Industrial Development Site
3. Resolves to make and publish the North East Lincolnshire (Stallingborough Industrial Development Site) Compulsory Purchase Order 2020 and to submit the Order to the Secretary of State for Housing, Communities and Local Government.
4. Delegates authority to the Director for Economy and Growth in consultation with the Leader of the Council, to make all consequential arrangements in connection with and arising from the making of the Compulsory Purchase Order including, but not limited to, the instructing of experts in connection with this

matter, dealing with any objections and public inquiry, the making of General Vesting Declarations, the taking of any steps in connection with the stopping up or diversion of public or private rights and agreeing compensation.

## REASONS FOR DECISION

To ensure the SHIP is up to date and takes account of current economic events. Also, to ensure land acquisition is dealt with in an appropriate and timely manner

### 1. BACKGROUND AND ISSUES

#### 1. SOUTH HUMBER INDUSTRIAL INVESTMENT PROGRAMME

1.1 The initial strategy for the South Humber Industrial Investment Programme (SHIP) was first laid out in 2014. It has previously been considered at Cabinet on 8 July 2015, 13 January 2016 and on 14 December 2017 Cabinet agreed the final programme. The programme consisted of four projects together with running costs.

- The Stallingborough Industrial Development Site
- The new Humber Link Road
- The Strategic Mitigation Project
- The Speculative Units and

1.2 A budget was set for each project which generated a gross capital spend of £41.8m and with public and private funding of £18.2m, maximum net borrowing was set at £23.6m. A comprehensive financial model was developed to manage and control all the elements of SHIP to ensure that the programme remained within the approved borrowing limits set out in the December 17th, 2017 Cabinet meeting.

1.3 The headline figures are shown below together with the individual project spend.

Individual Project	Original Budget £m	Description
Stallingborough	16.1	Strategic Infrastructure to provide on "oven-ready" industrial site.
Mitigation	7.4	To provide 120ha of mitigation land ahead of demand
Humber Link Rd	8.3	Linking the major ports of Grimsby and Immingham
Spec Units	8.7	Financed entirely by private funding
Running Costs	1.2	Fees and marketing costs
<b>Total Capital Spend</b>	<b>41.8</b>	
Funding	18.2	
<b>Net Borrowing</b>	<b>23.6</b>	

1.4 Good progress has been made since construction started with Phase 1A of Stallingborough and the Humber Link Road due to complete in January 2021 and two more mitigation sites due to complete in June 2021.

1.5 A great deal has changed since December 2017, from both a micro and a macro perspective, and, although the fundamental values of SHIP remain, the initial strategy has been refined and updated to take into account both the practicalities of delivering the programme as per the original model and the current environment. The main areas of proposed change are the Stallingborough Industrial Development Site project and the Speculative Units.

1.6 Initially it was intended that land assembly would consist of the acquisition of Phase 1A only. (see Appendix 1) The remaining phases of 1B and 2 were intended to be Joint Ventures with the Landowners so there was no capital expenditure shown in the Financial Model.

1.7 Following initial work to explore potential joint venture approaches it became clear that the authority needed to be in control of the whole of the Stallingborough Industrial Development Site. This was to ensure that the jobs and the business rates identified in the Financial Model were delivered in a timely manner and achieve the return on investment.

1.8 The CPO section below outlines the negotiating process and the benefits of acquiring the land, taking control of the development of the site and why a compulsory purchase order is necessary. In line with this it is now an opportune time to align the SHIP Financial Model to reflect the acquisition of the land.

1.9 A summary of the current Financial Model is listed below and shows a forecast balance of £17.5m of uncommitted Capital Spend in 2021 following completion of all the current projects. (including £8.7m for the Speculative Units).

<b>Individual Project</b>	<b>Original Budget £m</b>	<b>Total commit'd £m</b>	<b>Balance £m</b>	<b>Description</b>
Stallingborough	16.1	9.8	6.4	All utilities, A1173, new round't and spur roads for Phase 1A
Mitigation	7.4	5.2	2.2	One inland and two coastal sites completed
Humber Link Rd	8.3	8.3	0.0	Due to complete in January 2021
Spec Units	8.7	-	8.7	Not started yet
Running Costs	1.2	1.0	0.2	Ongoing
<b>Total Capital Spend</b>	<b>41.8</b>	<b>24.3</b>	<b>17.5</b>	Balance includes £8.7m for Spec Units which are self-financing
Funding	18.2	7.4	10.8	
<b>Net Borrowing</b>	<b>23.6</b>	<b>16.9</b>	<b>6.7</b>	

1.10 With an estimated land assembly cost of around £3.3m the intention is to phase in the remaining project works so that net borrowing remains within the limits set by Cabinet in December 2017. It is also important to point out that, the land will end up as an asset on the balance sheet.

1.11 At the same time it would be prudent to remove the Speculative Units from the Financial Model. An Industrial Unit is already under construction and an anchor tenant has been secured and already looking to expand. The Speculative Units were designed to be self-financing therefore they will have no effect on the SHIP Financial Model other than to make it more transparent and focused on SHIP.

1.12 It is therefore recommended that the South Humber Industrial Development Programme is amended to include the land assembly costs and the Speculative Units are removed, and the Financial Model updated as shown in the table below

<b>Individual Project</b>	<b>Revised Budget £m</b>	<b>Total commi'd £m</b>	<b>Land Assem'y £m</b>	<b>Balance £m</b>
Stallingborough	16.1	9.8	3.3	3.0
Mitigation	7.4	5.2		2.2
Humber Link Rd	8.3	8.3		0.0
Running Costs	1.2	1.0		0.2
<b>Total Capital Spend</b>	<b>33.1</b>	<b>24.3</b>	<b>3.3</b>	<b>5.5</b>
Funding	9.5	7.4		2.1
<b>Net Borrowing</b>	<b>23.6</b>	<b>16.9</b>	<b>3.3</b>	<b>3.4</b>

## **CPO**

1.13 SHIP has previously been considered at Cabinet on 8 July 2015, 13 January 2016 & 14 December 2017 and the issue of the use of compulsory purchase powers for the Stallingborough Industrial Development Site was considered on 12th February 2020. At this meeting Cabinet gave support in principle for the use of compulsory purchase powers in relation to land within the Stallingborough Industrial Development Site. However, if mutual agreement could not be reached on the purchase of the land, Cabinet requested further approval be sought to authorise a formal compulsory purchase order

1.14 More recently, Cabinet has approved the Supplementary Planning Guidance for the Stallingborough Industrial Development Site.

1.15 The background to SHIP set out in the Cabinet Report of the 12th February 2020 has not significantly changed, although Cabinet should note that good progress has been made with the installation of infrastructure and the development of the first letting on Phase 1A to myenergi which is due for completion February 2021. The latter is now leading to the prospect of the disposal of a linked second larger parcel for a development by myenergi. This would result in about 40% of Council owned land in the site area already being developed/committed. Moreover, the Council has received a number of further enquiries and expressions of interest in the land.

1.16 Since the Cabinet Report on the 12th February 2020 negotiations have continued with the land agents for Phase 1B (Plot 1) and Phase 2A (Plot 2). Also, the Council has exercised its Option to acquire Phase 2B. For ease of reference the respective parcels are identified in appendix 1.

1.17 In tandem with the negotiations referred to above, officers have assembled a

professional team to advise on the necessity of, and process for, seeking Compulsory Purchase Order (CPO) powers. This includes the appointment of solicitors Browne Jacobson LLP and continued engagement of JLL who had already been appointed to provide valuation advice.

1.18 Negotiations with the freehold owners of Plots 1 and 2 have been ongoing for a considerable time now (including significant engagement since the last report to Cabinet) and formal offers have now been made to both parties. However, it has not proved possible to secure an agreement with the owners of Plots 1 and Plot 2 as the value of the land is in dispute. Plot 3 comprises parts of the Old Kiln Lane and Ephams Lane which are ancient tracks with no obvious owner

1.19 It is therefore necessary for the Council to consider the making of a CPO.

1.20 In accordance with guidance issued by the Secretary of State for Housing, Communities and Local Government, offers have been made at a price above the assessed compensation estimate of the Council's valuers, on the basis that a deal at this stage could save significant Council officer time in respect of the various legal procedures to secure the land and pay compensation, as well as financial savings on the associated professional costs.

1.21 Negotiations are still ongoing with the two owners, but the making of the Order will require the owners to make decisions about the steps they now wish to take, and it is still possible that agreements could be reached.

1.22 Plot 3 as shown on the Plan relates to parts of Old Kiln Road and Ephams Lane. These tracks have no obvious occupier or owner. As these tracks provide access and services into Phases 1B and 2, compulsorily purchasing this plot avoids the potential for any challenge when these services are constructed. At the time of publication, it is possible a claim that either road is a highway bridleway or footpath may be raised. No such claims have arisen to date, and the risk is minor but nevertheless the Council may need to make consequential stopping up or diversion arrangements.

1.23 National Grid and the former Grimsby Cleethorpes District Water Board have the benefit of easements over Plots 1 and 2. It is not intended to interfere with the overhead lines and pylons of National Grid. Anglian Water has advised that it has no plant nor an adoption agreement affecting the land and it is not certain whether the old easement was ever vested in another public body. It is expected that compulsory purchase will ultimately extinguish this right, though it may be possible to resolve through negotiation if Anglian Water lay claim to the easement.

1.24 With landowner negotiations so far proving unsuccessful in moving the acquisition forward, progressing by way of compulsory purchase is considered to be the only viable option. The fuller justification for the use of compulsory purchase powers is set out in Section 6 of the Statement of Reasons.

1.25 It is therefore recommended to the Cabinet that the Council make the proposed CPO in order to maintain a supply of land at the Stallingborough Industrial Development Site.

## **2. RISKS AND OPPORTUNITIES**

2.1 There are no new risks associated with the changes to the South Humber Industrial Development programme

2.2 There are a number of risks arising in respect of making a compulsory purchase order. The Council has taken the steps below to mitigate these risks.

2.3 Any legal errors can compromise the CPO process. The Council is confident it has an experienced professional team working on the project. The draft powers and Order have also been submitted to the CPO Case team at the Department for Communities and Local Government for pre-submission audit.

2.4 In common with all Compulsory Purchase Orders there could be a public inquiry with its consequent cost, plus the time and effort of Council Officers. The right to be heard at a public inquiry only applies to persons who have interests affected by the Order and objections on ground of inadequate valuation of land is not a ground for objection. Even though neither of the freehold owners objected to the local plan allocation or the planning application it is still possible that this may arise.

2.4 There is a further risk that the Council's justification will not be supported by the Secretary of State and the Order will not be confirmed. Browne Jacobson advise that the Council's position is strong, given the planning permission, the commitment of funding and the progress with Phase 1A. Nevertheless, given what is at stake they advise that Council should retain suitable counsel to represent it at any inquiry in order to ensure that the Council's case is presented as well as it can. Decisions about whether any external experts are required can await a review of the nature of any objections.

2.5 The final risk is that once the Order has been confirmed and the land acquired, the final determination on land value is made at a level above the figure currently expected. Browne Jacobson advise that the uncertainty of valuation disputes at the Upper Tribunal (Lands Chamber) means that a continuous review approach has to be taken throughout the process to see at what point to improve an offer or to even to withdraw it, on the basis of the respective strengths of evidence. The Council's acquisition team is already engaging in this approach and will continue to do so. However, there cannot be ultimate certainty until there is either a deal or a determination by the Tribunal.

2.6 Despite the risks set out above, it is considered that the proceeding by CPO is the most suitable course of action, putting into motion a sequence of events that (subject to confirmation by the Secretary of State) provides certainty to the Council and the development.

2.7 By using CPO powers, those whose interests are contained within an order will need to make positive decisions rather than relying on the Council to make all the running. Further, once an order is confirmed the Council has the opportunity to vest the land in itself within 3 months of making a General Vesting Declaration. Therefore, the Council can carry on developing the land even though at that stage

compensation has not been settled.

### **3. OTHER OPTIONS CONSIDERED**

3.1 Do nothing – a decision not to proceed with the CPO could allow the landowners to procrastinate indefinitely. This would delay the land assembly process and therefore impact upon the Council's ability to generate jobs and business rates through the programme

### **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

4.1 SHIIP will be an active demonstration of the Councils on-going commitment to achieving the aspirations set out within the new Local Plan and the Council's Economic Strategy.

4.2 The Stallingborough Industrial Development Site is a key infrastructure project within SHIIP and will raise the profile of the programme upon completion of the land assembly process.

4.2 Progressing SHIIP has already had a positive impact upon the reputation of the Council locally, regionally, and nationally, resulting in improved perceptions of North East Lincolnshire as a business investment location. There has already been a number of serious inward investment enquiries relating to sites included within the programme area.

4.3 A communications plan is currently in place and is regularly monitored and updated by the SHIIP board. The plan includes press opportunities, stakeholder management and public engagement.

### **5. FINANCIAL CONSIDERATIONS**

5.1 The SHIIP initiative is in accordance with the Council's key financial objective to create long term financial stability through a commercial approach to generating and retaining external income and funding.

5.2 The programme has been closely monitored by the SHIIP Board and regular reviews of the SHIIP Financial Model are part of the governance expectations within the programme. As identified in previous reports to Cabinet, the ability to retain 100% business rates generated from the Enterprise Zone status presents a significant opportunity to the Council with an estimated £75m additional income forecast by the end of the project

5.3 The cost/benefit implications of acquiring the land by CPO will be kept under continual review throughout the process to ensure a CPO remains the most suitable route to acquire the land.

5.4 The main costs in relation to the CPO relate to the cost of dealing with objections and the risk that those costs are wasted if the Council fails to get its order confirmed. Therefore, a judgement is called for concerning the amount of resource that should be expended in achieving the right result for the Council. Much depends upon the nature of objections and the respective strengths of the parties. At present it is uncertain whether indeed there will be any objections and therefore it is too soon to make decisions. However, the Programme Board will

ensure that the Council obtains value for money without prejudicing its case. At present an upper end projection if there were objections is a cost of around £50k but this remains very uncertain. It should be noted that if an objector is successful in getting the Secretary of State to dismiss or amend a CPO in that objector's favour the Council will almost certainly have to meet that objector's costs.

5.5 The settlement of compensation and the involvement of the Upper Tribunal (Lands Chamber) in a valuation dispute poses a further financial risk as costs in the Tribunal can be significant. This has already been identified in the Risk Section. Furthermore, wherever an agreement is reached part of the deal tends to involve the acquiring authority meeting the claimant's costs. The mitigation steps have been discussed in the risk section of this report. It is not possible to gauge the quantum of this risk at present because the two landowners have not yet identified their counter proposals for a deal. Again, the SHIIP Board will closely monitor this to ensure that the Council obtains value for money.

5.6 Even so the additional financial cost of the CPO exercise is not anticipated to be significant in terms of the overall SHIIP budget and will be funded from that programme. A decision not to proceed with the CPO will delay the land assembly process and therefore impact upon the Council's ability to generate jobs, investment, and business rates through the programme.

## **6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

6.1 The SHIIP project supports the Council's environmental priorities:

6.2 The new Humber Link Road will significantly reduce the time and cost of travel between Grimsby and Immingham as well as reducing the pressure on the A180. This will reduce waste and have a positive effect on carbon emissions.

6.3 SHIIP's mitigation strategy will have a huge impact on the areas environmental footprint by providing over 120 Hectares of mitigation land which is designated specifically for the protection of over-wintering birds. This has been done in a manner that presents wider environmental benefits through the scale and form of the habitat provided. This is effectively an example of biodiversity net gain.

6.4 The new Stallingborough Industrial Development Site is a flagship development and will aim to attract businesses that will support the Council's' ambitions in terms of reducing the areas carbon footprint and offer a positive impact on climate change.

## **7. CONSULTATION WITH SCRUTINY**

The Economy Scrutiny Panel received requested briefing notes in September 2018 and January 2019. On 22nd July 2019 the Panel called a workshop to receive an overview and update on SHIIP including the SHIIP Financial Model. All elected members were invited to attend

## **8. FINANCIAL IMPLICATIONS**

8.1 The recommendations outlined within this report do not materially impact upon the overall SHIIP financial model. The costs associated with the CPO are not likely to be material in the context of the overall programme and the direct financial returns are forecast to be significantly in excess of the Council's capital

investment.

## **9. LEGAL IMPLICATIONS**

9.1 The purchase of the remaining land at the Stallingborough Industrial Development Site will underpin the SHIP Project and is consistent with the stated aims and objectives of the Council underpinning its strategic objectives of Stronger Economy, Stronger Communities.

9.2 CPO powers should be used where it is expedient to do so. They should only be made where there is a compelling case in the public interest. When making and confirming an order acquiring and authorising authorities should be sure that the purposes for which the CPO is made justify interfering with the human rights of those which have an interest in the land affected.

9.3 The confirming minister has to be satisfied that the statutory procedures have been followed correctly, whether the CPO is opposed or not.

9.4 Undertaking negotiations in parallel with preparing and making a CPO is a sensible approach. It can help build a good working relationship with those whose interests are affected, make the seriousness of the authority's intentions clear from the outset and can help save time at the formal objection stage.

9.5 The delegations sought are consistent with an exercise of this nature

## **10. HUMAN RESOURCES IMPLICATIONS**

There are no direct HR nor Equality Duty implications arising from the contents of this report. These matters are explained in more detail at Section 11 of the Statement of Reasons.

## **11. WARD IMPLICATIONS**

The programme will have implications for the Immingham ward. The economic benefits of the project will be distributed across North East Lincolnshire reflecting the continued economic importance of the SHIP project.

## **12. BACKGROUND PAPERS**

Cabinet Report – SHIP – 12th February 2020.

(<https://democracy.nelincs.gov.uk/meetings/category/cabinet/>)

Draft Compulsory Purchase Order

Draft Order Map

Draft Statement of Reasons

## **13. CONTACT OFFICER(S)**

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**COUNCILLOR PHILLIP JACKSON**  
**LEADER OF THE COUNCIL**