

Part A

Report to: Cabinet

Date of Meeting: 6 November 2017

Report of: Head of Democracy and Governance

Title: The Central Meriden Redevelopment by
Watford Community Housing Trust (The Trust)

1 Summary

- 1.1 The Council has been requested by the Trust to assist it in the redevelopment of Central Meriden by using its powers under the Town and Country Planning Acts to promote Compulsory Purchase Order(s) in relation to parcels of land that it has been unable to acquire by negotiation and agreement. The Trust has agreed to enter into an indemnity agreement with the Council to cover the costs to the Council of promoting the CPO and the payment of compensation.
- 1.2 This report therefore seeks approval of the Cabinet for the Council to acquire compulsorily, by means of a compulsory purchase order (CPO), properties, existing rights and interests where agreement cannot be reached in order to implement the Central Meriden redevelopment.
- 1.3 The report also seeks approval for the Head of Property and Regeneration in consultation with the Trust to agree compensation and acquisition payments where this will avoid the need to compulsorily purchase interests.

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2.1

Risks

Nature of Risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate, transfer)	Risk Rating (the combination of severity and likelihood)
Unable to provide clear evidence of viability and deliverability of the scheme.	That the CPO is not confirmed	Narrative below set out clear position statements on The Trust Internal development funding and also the current level of central government funding allocated to the project	Treat	4
The CPO process is not correctly followed.	That the CPO is not confirmed	It is proposed that the Council and the Trust will jointly appoint a specialist team of solicitors and Commercial valuers experienced in CPO matters	Treat	4
The CPO process is delayed.	There would be a risk to the Trust in retaining central government funding, plus	The Trust will continue the process of 1 to 1 negotiations; offer the support of	Treat	8

	increase in capital costs	3rd party advisors. Formulate treaty packages for each party whilst the CPO process is ongoing		
The cost of acquiring interests increasing	This will increase the capital costs and scheme long term loan requirements for the Trust	The Trust and the council will jointly Seek advice on suggested compensation packages and include in overall project budget. The indemnity agreement indemnifies the council in respect of any compensation payable as a result of the CPO	Transfer	8
Lack of skill and capacity to deliver the CPO and handle the negotiations.	That the CPO is not confirmed. Risk to retaining central government funding, plus increase in capital costs	It is proposed that the Council and the Trust will jointly appoint a specialist team of solicitors and Commercial valuers experience in CPO to support efforts to		4

		agree private treaty agreements. These will supplement the Trusts in house development team who have led on treaty negotiation so far		
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3 Recommendations

That having given consideration to all the provisions of this report, Cabinet resolves to:

3.1 To make all necessary Compulsory Purchase Order(s) to acquire compulsorily all of the properties shown outlined red on the plans attached at Appendix A entitled Watford Borough Council (properties at Central Meriden, Watford) Compulsory Purchase Order Plans 1 to 4, all rights and interests affecting the properties in order to enable the implementation of the Central Meriden redevelopment.

3.2 To delegate to the Head of Property and Regeneration:

3.2.1 to agree the wording of the Compulsory Purchase Order(s) and CPO Map, including the Statement of Reasons and to take all steps necessary to make and confirm the Order(s); and

3.2.2 to take all steps to seek to acquire the necessary interests in land by agreement or by utilising compulsory acquisition powers.

3.3 If the Secretary of State authorises the Council to do so, confirm any Compulsory Purchase Order(s) made.

CPO	Address	Property Details
1	158 The Gossamers	Long leaseholder -3 bed maisonette over shops
2	124 The Gossamers 148 The Gossamers	Meriden Café and tied 3 bed maisonette accommodation over shops

3	128 The Gossamers 146 The Gossamers	Meriden Post Office and tied 3 bed maisonette accommodation over the shops
4	136 The Gossamers	Meriden Fish and Chip Shop

3.4 To utilise, where appropriate, either the general vesting declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965 in respect of confirmed compulsory purchase order(s).

3.5 That in doing so the Cabinet has considered the provisions of the Human Rights Act 1998 contained in section 16.4 and 17 of this report so far as they might be applicable in deciding whether or not to make the Compulsory Purchase Order(s) and all other statutory powers that the Council seeks to exercise and resolves the following:

(a) With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the Order(s) against the benefit to the community of proceeding with the Order(s), the making of the Order resulting in the interference with the individuals rights is justified in the interests of improving the economic, environmental and social well-being of central Meriden.

(b) With regard to Article 1 Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the Scheme particularly taking into account the fact that there is a legal right to compensation for the property taken and any rights extinguished under the Order(s).

3.6 Approve the entering into of a CPO Indemnity Agreement with the Trust to reimburse the council for all costs and liabilities arising as a result of the Compulsory Purchase Order.

3.7 Agrees to transfer to the Trust the interests it acquires in order to enable the Trust to implement the development

Contact Officer: For further information on this report please contact:
Carol Chen Head of Democracy and Governance ext 8350

Report approved by: Managing Director

4 The proposal

4.1 The Council has been requested by the Trust to use its powers under Section 226 Town and Country Planning Act 1990 (the Act) to acquire compulsorily properties rights and interests in land at Central Meriden that it has been unable to acquire by negotiation and agreement in order to progress the redevelopment of the area.

4.2 The proposed development will involve the demolition of the central Meriden estate shopping parade, 11 existing dwellings located above the shops, 10 dwellings located on York Way and The Touchstones, 2 garage blocks on York Way and a further group of garages located to the rear of the shopping parade. This will enable the site to be redeveloped to provide a total of 133 new homes, a new shopping parade specifically designed to accommodate the existing retail operators, upgraded infrastructure and public open spaces. The breakdown across the site is as follows:

4.3 Bungalows and open space at the Turnstones

Demolition of the existing 10 bungalows and the construction of the following :

Block A – A terrace of 9, one bedroom bungalows fronting York Way. Parking provision is within on-street parking bays on York Way.

Block B – A terrace of 9 two storey, four bedroom houses fronting onto the open space. Some parking spaces are provided in front of the houses.

Block C1 – A detached, two storey, two bedroom house fronting The Turnstones.

Block C2 – A row of 6 two storey, link-detached, 3 bedroom houses fronting The Turnstones. Each will have a single, on-site parking space.

The proposed dwellings will all have private garden areas and are arranged as a perimeter block around an internal parking court to supplement the parking provision. The open space will be improved with the addition of a children's play area.

4.4 Shopping parade and Alterstart garage

Demolition of the existing 3 storey parade of shops and maisonettes, single storey commercial unit, Alterstart garage, community room and estates office, and lock-up garages and the construction of the following:

Block D – An irregular Y-shaped block of 2-4 storeys providing 47 one bedroom 'Extra care' flats for the elderly. The block also includes 3 one bedroom 'Extra care' bungalows for the elderly. The block is set around an internal garden courtyard for residents and also includes a residents' lounge/dining area, kitchen and staff facilities. The southern corner of the block incorporates a retail unit for a hairdresser to serve both the residents and the wider community. Parking spaces to serve the block are provided to the side and rear of the building.

Block E1 – This is attached to the southern end of Block D and incorporates 1, 3 and 4 storey elements. It provides a retail unit and community Hub at ground floor and 9 one and two bedroom flats on the upper floors.

At the southern corner of the site, adjoining the junction with York Way and The Gossamers, a new market square will be formed which is intended as a multi-use space. This provides car parking to serve the shops but can also be used for community events, occasional markets, etc.

4.5 Green verge at junction of Meriden Way/ York Way and car park to Coldharbour House

The construction of the following:

Block E2 – A part 1, 3 and 4 storey block fronting York Way providing 7 commercial units at ground floor and 8 one and two bedroom flats on the upper floors.

Block E3 – A part 3, part 4 storey block sited at the corner of York Way and Meriden Way and attached to the eastern end of Block E2. It provides 1 commercial unit at ground floor and 17 one and two bedroom flats above.

The existing car park serving Coldharbour House is to be enlarged and reconfigured to provide parking for the Coldharbour House and Blocks E2 and E3.

4.6 Green verges and garage courts along York Way and adjoining car park

Demolition of existing lock-up garages sited at the end of Foxtree House and Maple Court and the construction of the following:

Block F1 – A 3 storey block attached to the eastern end of Foxtree House, providing 8 one and two bedroom flats.

Block F2 – A 3 storey block attached to the eastern end of Maple Court, providing 8 one and two bedroom flats.

Block G – A part 2, part 3 storey block sited at the junction of Garsmouth Way and York way and fronting York Way. The two storey element comprises 3 two bedroom houses and the 3 storey element 5 two bedroom flats.

Parking provision will be in the form of small parking courts between the blocks and new parking lay-bys on York Way and Garsmouth Way. The existing car park between Maple Court and Foxtree House is to be reconfigured and improved.

5 Need for the scheme

5.1 The scheme, which has been approved at the Council's Development Management Committee on 29 October 2015, provides an opportunity to create a high quality mixed used development. It contains new retail space specifically designated for the current retail operators which is also flexible to cater for the need of future operators.

5.2 The project also offers the opportunity to significantly address the chronic affordable housing need within the Borough. Currently there are 530 families registered on the Council housing register that are deemed to be in urgent housing need. This single project will provide an additional 112 new affordable homes within the Meriden estate, as well as replacing the 21 residential dwellings that will have to be demolished as part of the regeneration process.

5.3 The new development will include a 50 unit extra-care scheme, that will provide specialist self contained apartments for older clients. The scheme is designed to cater for a range of support needs, for example physical disabilities and dementia. It has been designed so individual apartments can be adapted to meet the long term changing needs of the residents, allowing them to remain in their homes for as long as possible.

5.4 The office for national statistics has produce the following table which predicts

the anticipated population growth and age profiling between 1975 and 2045. This table highlights a significant growth, over the next 30 years, in the overall U.K. population and the proportion of residents over the age of 65.

Year	U.K. Population	Age 16-to 64 (% of total)	Age 65 years and over
1975	56,226,00	61.0%	14.1%
1995	58,025,000	63.4%	15.8%
2015	65,110,000	63.3%	17.8%
2025	69,444,000	60.9%	20.2%
2045	76,055,000	57.8%	24.6%

- 5.5. It is estimated that there are currently 850,000 people with dementia with the UK. This is expected to rise to over 1 million by 2025 and is expected to increase to over 2 million by 2051. It is anticipated that the UK will spend over £26.3 Billion over the next 30 years on health social care and informal care relating to dementia.
- 5.6 The Trust currently has 4732 primary tenancy holders, of which 44.6% are aged 55 and over.
- 5.7 The Trust is the only provider of extra care accommodation within Watford. They currently have 45 apartments split between two schemes. 26 are self contained 1 bedroom apartments and the remaining are studio apartments. The Trust's greatest demand is from older clients currently in family accommodation, who wish to down size into 1 bed apartments with the added benefit of on site support services.
- 5.8 The delivery of the extra care scheme will provide the added benefit, by allowing affordable family homes to be freed up to be offered to families on the Councils waiting list.
- 5.9 Hertfordshire County Council have indicated that they wish to fund an additional 160 flexi care spaces within Watford to cater for current and future needs.
- 5.10 The extra care scheme has been specifically designed to meet the projected growth in this housing need, and will be constructed within the 2nd phase of the regeneration process. It can only be delivered if vacant possession is gained over the properties listed in item 3.3.

6 Timescale for delivery

6.1 The Trust is in detailed negotiations to finalise the construction programme and phasing of the works. The exact details will be available shortly. However the scheme has been designed so it can be delivered in two phases. The first phase will contain newly constructed retail space to enable the retail operators to transfer from their current premises on the Gossamers. Once they have relocated the Gossamers Shopping parade and the maisonettes above will then be demolished and redeveloped as phase two of the project. It is therefore essential that vacant possession is gained on the properties highlighted in section 3.3 to enable the 2nd phase of the project to proceed in a timely and cost-effective manner.

6.2 The projected timescale for delivery of the project are shown below follows:

Action	Time	Activity
A	1 st Quarter 2018	Commence enabling works and service infrastructure
B	Spring 2018	Commence construction of Ph1 retail and residential new build properties
C	1 st Quarter 2020	New retail space handed over for fit out
D	Spring 2020	New retail space fit out completed and retailers operational
E	Summer 2020	Commence demolition and redevelopment of Ph 2, the Gossamers retail parade and extra care homes
F	Spring 2020	Completion of Ph 1 residential units
G	Spring 2022	Completion of Ph 2 residential units

6.3 The Trust has already commenced some enabling works to allow the scheme to proceed. The Alterstart garage building, which is on the site of the extra care scheme, has been demolished. The Trust has also placed orders with the gas, electricity and telecoms utility providers for the new infrastructure networks needed for the regeneration scheme. The utility infrastructure package values are in excess of £500,000.

6.4 This timescale will be dependent on the successful negotiation for the surrender of the leases or confirmation of a Compulsory Purchase Order made by the Council to acquire third party leasehold interests of the properties contained within the Order. It is therefore recommended that Cabinet agree that a Compulsory Purchase Order(s) be made in respect of all interests in the properties within the boundary which is shown edged red on plans 1 to 4 and

entitled Appendix A Watford Borough Council (properties at Central Meriden, Watford) Compulsory Purchase Order Plans 1 to 4, and any other interests within the land that are deemed necessary to be acquired for the scheme by Officers.

7 Appointment of preferred developer

- 7.1 In January 2016 the Trust undertook an OJEU compliant tender exercise to identify the preferred construction contractor. A small number have been shortlisted for detailed negotiations. The Trust is expecting to appoint a preferred contractor by the end of December 2017.
- 7.2 The award of the building contract is conditional upon the satisfactory resolution of a number of conditions, one of which is the acquisition of all interests in the site with satisfactory title to the extent required for the implementation of the scheme.

8 Development funding

- 8.1 The Trust has confirmed that the capital cost of the Central Meriden Regeneration scheme is contained within its existing business plan.
- 8.2 The Trust has secured £1,665,000 of Social Housing Grant, from the Homes and Communities Agency (HCA) as part of its 2015-2018 Affordable Housing Programme. Half of this has already been claimed to enable site pre-construction works.
- 8.3 A further grant allocation of £2,500,000 for the 50 unit Extra Care element of the scheme has been approved by the HCA under the new Shared Ownership Affordable Housing Programme (SOAHP) 2016-21. This grant is specific to creating specialist housing, for affordable rent, to meet a particular need.
- 8.4 The overall project therefore attracts a total grant funding of £4,165,000. The aggregate represents a significant investment in the Borough to support affordable housing provision.
- 8.5 Both of these packages of funding are provided on condition that key milestones are achieved and these include physical start on site for the project and practical completion of the new homes. It is essential that vacant possession is gained over the properties highlighted in item 3.3 the project to proceed.

9 Indemnity agreement

9.1 The Council and Government guidance acknowledges that financial viability may not always be finalised until there is certainty about the necessary land assembly. As a result of the indemnity agreement with the Trust relating to the redevelopment of the site there is sufficient funding in place to deal with any valid blight notices which may be served on the Council arising from the making of a CPO.

10 Land assembly and obtaining clean title to the land

10.1 The properties within the proposed CPO to be compulsorily acquired are shown in edged red in plans 1 to 4.

CPO	Address	Property Details
1	158 The Gossamers	Long leaseholder -3 bed maisonette over shops
2	124 The Gossamers 148 The Gossamers	Meriden Café and tied 3-bed maisonette accommodation over shops
3	128 The Gossamers 146 The Gossamers	Meriden Post Office and tied 3-bed maisonette accommodation over the shops
4	136 The Gossamers	Meriden Fish and Chip Shop

10.2 The Trust has been able to negotiate lease terms to exclude security of tenure under the provisions of the Landlord and Tenant Act 1954 with seven of the existing 10 retailer operators on The Gossamers, who have been more recently granted leases. This means that where possible the Council will not need to use CPO powers against those occupiers as their interests will be terminable by the Trust as landlord.

10.3 In order to ensure that the regeneration of the area and development can take place it will be necessary for the Council to compulsorily acquire the properties needed. The properties are shown edged red the CPO Plans at Appendix A. Cabinet is therefore asked to authorise compulsory purchase of the properties and new rights identified on the CPO Map.

10.4 The purpose of this CPO would be the delivery of the Scheme to facilitate the carrying out of redevelopment of Central Meriden and ensuring that clean title to land can be transferred to Watford Community Housing Trust

in a timely manner, free of encumbrances which could otherwise prevent development. The CPO is also necessary to ensure site assembly in a timely manner.

11 Compulsory Purchase Order (CPO)

11.1 The statutory authority for compulsory acquisition is contained within Part IX of the Town and Country Planning Act 1990 (Act). Section 226 (1)(a) of the Act empowers local authorities, on being authorised by the Secretary of State, to acquire land compulsorily if they think that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land. The Scheme would contribute to the promotion of the environmental, social and economic well being of the Council's area, in accordance with section 226(1A) of the Act because:

11.2 The Scheme will contribute to and enhance the central Meriden estate, by promoting a mixed use retail and residential accommodation on a currently under used site. It will create new retail space to cater for the existing retail operators, a total of 133 affordable new homes and will create temporary construction jobs, which will be available to the local labour market;

11.3 The Scheme will provide a high quality retail and residential development to serve the needs of the local community and visitors to the Meriden. The development is designed to create a high quality architectural scheme.

11.4 The Project represents a scheme where the Council and Watford Community Housing Trust are working together with a view to re-develop the Order Lands by improving the quality of life of those living, working or otherwise involved in community life of the central Meriden estate. The Scheme will bring regeneration to the centre of the estate and promote the urban shopping area.

12 Details of attempts to acquire interests by agreement

12.1 The Trust has been in negotiations with those leaseholder and tenants whose interests will be acquired compulsorily if the CPO is made and confirmed. Since May 2015 the Trust has held 1 to 1 meetings seek to enter agreements to acquire through private treaty wherever possible and have made positive progress in successfully acquiring a number of other interests by agreement.

12.2 The Alterstart garage lease was acquired on 22 June 2016 by private treaty.

12.3 The Trust has permanently rehoused 7 families into suitable alternative accommodation, that were previously renting maisonettes above the shops.

- 12.4 On 19 September 2016, the tied accommodation, linked to the Meriden Fish and Chip shop lease was surrendered by the retailer in return for alternative suitable family accommodation with the Meriden estate. This was agreed through private treaty.
- 12.5 The Trust is in direct dialogue with The Meriden café operator and the Meriden Post office operator on options for suitable residential accommodation within the local areas.
- 12.6 Since September 2016 The Trust has offered five 3 bedroom properties to the leaseholder at No 158 The Gossamers and will continue to look to identify suitable alternatives to be offered through private treaty.
- 12.7 The Trust has had 1 to 1 meetings with the 3 retail operators identified in section 3.3 on the design and location of alternative retail units that will be constructed as part of the first phase of the redevelopment. 3 shop units have been earmarked for them, shop footprints have been agreed and sample leases have been issued for discussion. The plans for the alternative retail premise are shown in Appendix D – Proposed Retail Relocation Plan.
- 12.8 The Trust is the freehold owner of all of the properties covered by the CPO order. It will continue to negotiate with third parties to acquire by private treaty; however a comprehensive agreement is required to enable the scheme to proceed swiftly.
- 12.9 It is envisaged that the construction Phase 2 of the scheme, which will include the 50 unit extra care scheme, will require the demolition of the Gossamers shopping parade and the maisonettes above, will commence in the autumn of 2020.
- 12.10 The 3 retail operators identified in section 3.3 have the right to seek an extension of their lease at the end of the current term. The residential leaseholder terms runs until 2113. Due to the termination dates contained in the existing leases (See the following table) there is no guarantee that the acquisition of all interests through private treaty could be achieved within the timescales envisaged. In this case the delivery of the extra care, which aims to meet the growing need for suitable older person's accommodation, can only proceed with the use of compulsorily purchase powers.

CPO	Address	Property Details	Lease Termination date
1	158 The Gossamers	Long leaseholder -3 bed maisonette over shops	9th May 2113
4	124 The Gossamers 148 The Gossamers	Meriden Café and tied 3 bed maisonette accommodation over shops	14 th March 2020
5	128 The Gossamers 146 The Gossamers	Meriden Post Office and tied 3 bed maisonette accommodation over the shops	24 th December 2020
8	136 The Gossamers	Meriden Fish and Chip Shop	25 th May 2020

12.11 The Trust is continuing discussions with affected parties with a view to securing the acquisition of interests at market value and reducing the number of interests which need to be acquired compulsorily. In addition to writing to all affected parties. The Trust has held 1 to 1 meetings with the individuals and businesses affected by the CPO order and will be holding Compulsory Purchase Order surgeries prior to the making of any Order, to assist those who may be affected and ensure contact is made with all parties. Where possible and appropriate the Trust will assist those looking for alternative premises beyond those that are already identified within the regeneration proposals, and provide guidance on the options available.

12.12 The Trust is also in negotiations with the single residential leaseholder on possible options to acquire the lease at market value

12.13 In promoting a compulsory purchase order, acquiring authorities should have regard to government guidance. The relevant government guidance is DCLG Guidance on Compulsory Purchase Order Process and the Crichel Down Rules for the disposal of surplus land acquired by, or under threat of compulsion 2015 (the Guidance). Matters which must be addressed are:

- Authorities should seek to acquire interests by negotiation where practicable. A compulsory purchase order is intended as a last resort in the event that attempts to acquire by agreement fail. A summary of the negotiations with third parties is contained in paragraph 10 above.
- There must be a compelling case in the public interest – as to

which see Paragraph 5.

- There must be a clear idea of how the Council intends to use the land and that the necessary resources are likely to be available to achieve that end within a reasonable timescale. as to which see paragraphs 6 to 9 above
- Full details for the funding of the scheme are required including timing as to which see paragraph 6 and 8 above
- There must be a reasonable prospect of the scheme proceeding and be unlikely to be blocked by impediments to implementation. As to which see paragraph 6.

12.14 A Compulsory Purchase Order can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order Lands.

12.15 On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made. Officers have carried out this assessment and are of the view that there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme

12.16 In accordance with the advice contained within the Guidance the Council has had careful regard to:-

- the adopted planning framework
- the extent to which the Scheme would comply with the Council's statutory requirements to satisfy the well-being test
- the financial viability of the Scheme
- whether the acquisition could be achieved by any other means

12.17 Single unencumbered ownership of the Order Lands is required to enable the development to proceed. Compulsory Purchase will enable redevelopment to take place at an early date by providing certainty for site assembly and programming and thus enable the Council's policy

objectives for the area to be achieved.

12.18 The Trust attempted, and will continue to attempt, to purchase outstanding interests by agreement. Discussions have taken place and are continuing with those affected by the proposals. However, whilst the Members should note that a Compulsory Purchase Order can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order (see sections 5). On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made and consider the contribution to the economic environmental and social well-being of those who live work and visit Watford which will be made by the Scheme.

12.19 Officers have carried out this assessment and are of the view that as a result of the economic environmental and social well-being benefits arising from this Scheme for redevelopment there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme.

13 Planning Position of the Order Lands

13.1 The principle of development for the Scheme proposed is established by planning policy, and there is certainty that the Scheme will proceed and that the properties comprising the Order are required in order to secure the carrying out of the proposed development, in accordance with section 226(1)(a) of the 1990 Act.

13.2 It is not anticipated that there will be any planning problems preventing the scheme from proceeding. On 29 October 2015 the Council's Development Management Committee resolved to grant planning permission subject to entering into a s106 agreement. An Unilateral Undertaking was completed on 1 February 2016 and a decision notice was issued on the same date.

13.3 The planning application was accompanied by several in-depth statements explaining how the Scheme complies with planning policy including the Planning Statement, Transport Assessment, Townscape and Visual Impact Assessment and Sustainability Strategy (all dated September 2013)

13.4 The report to the Council's Development Management Committee is attached as Appendix E.

14. Land in Unknown Ownership

- 14.1 The purpose of this part of the report is to inform the Cabinet of the procedure which the Council must follow to deal with unknown ownership on making the Compulsory Purchase Order for the Scheme and to obtain the necessary Council authority to do so.
- 14.2 The Trust has provided the Council land registry title documentation and copies of existing leaseholder lease documentation needed to establish all those ownerships within the boundary of the proposed Compulsory Purchase Order. This is necessary because when serving notices in relation to the Compulsory Purchase Order, the Council is required to send these to all persons owning an interest in the Site.
- 14.3 Section 6(4) of the Acquisition of Land Act 1981 provides that if the Council is satisfied that diligent inquiry has been made and it is not practicable to ascertain the name or address of an owner, lessee or occupier on whom any document has to be served, the document may be served by addressing it to the "owner/lessee/tenant/occupier" and adding a description of the premises and delivering it to some person on the premises.
- 14.4 If there is no person on the premises to whom it may be delivered, then the notice can be served by affixing a copy of it to some conspicuous part of the premises. In adopting this approach the Council must be satisfied that reasonable enquiries have been made to establish ownership.
- 14.5 The Trust's legal representatives have now completed their title investigations. They have confirmed that on behalf of the Council they have made all reasonable enquiries to establish ownership, and have provided copies of the leases and land registry titles for each of the properties identified in item 2.1.
- 14.6 To proceed with the making of the Compulsory Purchase Order it is necessary for the Council to give authority to dispense with individual service of notice in respect of any properties or areas of land where it has not been possible to ascertain the name or address of an owner, lessee or occupier despite diligent inquiry and to authorize the service of notices in accordance with the provisions of Section 6(4).
- 14.7 The purpose of this paragraph is to deal with land subject to third party rights. As a result of changes to the compulsory purchase procedure following the introduction of the Planning and Compulsory Purchase Act 2004 all parties who have the benefit of rights, easements and covenants in land which is the subject of a compulsory purchase order must be served with notices. Diligent

inquiry has been carried out but if there are any parties who have not been notified of the order who are within this category they may still be notified of the order by the posting of notices on site.

15 Stopping up orders

15.1 It is anticipated that a stopping up order will be required to public footpaths serving the existing car parking spaces on the Touchstones and also pedestrian rights of way across the existing car par and pavements serving the shopping parade. An application for stopping up order will be promoted by Watford Community Housing, once a building contractor has been appointed. The extent of the stopping up orders and amended public rights of way within the shopping parade area have been discussed within Hertfordshire County Council Highways as part of the statutory consultation process required for the planning application to be stopped up as follows:

	Max Length (metres)	Max Width (metres)	Terminal Points	
			From	To
1	60 metres	5 metres	From 145 York Way, past the Trust Community Hub	The Gossamers
2	70 metres	15 metres	The Gossamers - Existing public car parking and pedestrian pavement in front of the Gossamers retail units	The Gossamers

16 Implications

16.1 Financial

16.1.1 The Council has entered into an Indemnity Agreement with the Trust where the Trust will meet all reasonably and properly incurred costs by the Council in connection with the making, confirmation and implementation of the CPO or as a result of acquiring interests required for the Scheme by agreement.

16.1.2 The following cost implications arising from acquisition of the interests should be noted:

- the acquisition of land and properties
- overriding other third party rights; and
- extinguishing rights over land.

16.1.3 As a matter of general principle all costs associated with pursuing a CPO will be met by the acquiring authority. These would include:

- time spent by Council staff and consultants in progressing the CPO and land referencing;
- legal costs of the Council (including any time spent by external Counsel and Legal advisers);
- other relevant CPO related costs, including all costs, fees and expenses relating to any public inquiry in respect of the CPO:
- payment to include costs and disturbance payments to all affected landowners, lessees or tenants which arise from the CPO and are a natural and reasonable consequence of the interests being acquired; and
- Compensation payments for any statutory nuisance, severance, injurious affection, interference with, disposal or acquisition of rights or interests, which flow as a consequence of the Scheme.

16.1.4 Once the CPO is made and implemented the Council will be liable to meet statutory compensation claims. Pursuant to the provisions of the Indemnity Agreement referred to at paragraph 9, the Council has the necessary funding in place to cover these costs due to its ability to recover these costs from the Trust.

16.1.5 There will be no financial implications for the Council. The Trust will set up a bank account in accordance with the terms of the Indemnity Agreement and the Council will make the compensation payments from the funds in this bank account.

16.2 Legal Issues

16.2.1 The Human Rights Act 1998 (HRA) came into force on 2 October 2000.

16.2.2 Provisions of the HRA which are relevant in relation to the CPO are:

16.2.3 The European Convention on Human Rights (the Convention) is an international treaty signed under the auspices of the Council of Europe. Whilst the United Kingdom was instrumental in drafting the Convention it was never incorporated into United Kingdom law.

16.2.4 The HRA still does not incorporate the Convention into United Kingdom law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.

16.2.5 The main articles of the Convention which are of importance in circumstances where the Council is considering making a compulsory purchase order are Article 8 – the right to respect for private and family life and his/her home and Article 1 of Protocol 1 – the protection of property.

16.2.6 In making a CPO an acquiring authority must show that the acquisition is justified in the public interest.

16.2.7 Article 8 is clarified below.

16.2.8 Article 8(1) provides that everyone has the right to respect for his/her home but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes for example; public safety, economic well being, protection of health and protection of the rights of others.

16.2.9 When considering Article 8 in the context of a CPO the Council needs to ask the following questions:

16.2.10 Firstly, does a right protected by Article 8 apply – to which the answer is "yes".

16.2.11 Secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made - to which the answer is again "yes".

- 16.2.12 The answers to these two questions being in the affirmative confirm that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are 3 questions for the Council to consider:
- 16.2.13 Firstly, is the interference in accordance with the law? The answer is “yes”, there being a legal basis for making the CPO under section 226(1)(a) of the Town and County Planning Act 1990.
- 16.2.14 Secondly, does the interference pursue a legitimate aim? The justification for the CPO is that the scheme seeks to improve the economic, environmental and social well-being of the Central Meriden estate in the public interest.
- 16.2.15 Thirdly, is the interference necessary in a democratic society? Here the Council must make a balancing judgment between the public interest and the rights of the individual – the CPO must be both necessary and proportionate.
- 16.2.16 Article 1 of Protocol 1 provides that:
- 16.2.17 Every natural or legal person is entitled to the peaceful enjoyment of his possessions.
- 16.2.18 No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.
- 16.2.19 However, the above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.
- 16.2.20 The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is an important factor in considering the balance between the two.
- 16.2.21 Recommendations Relating to the Human Rights Act
- 16.2.22 With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the wider public, economic and social well-being of local residents, visitors and

stakeholders of proceeding with the CPO, the making of the CPO and the interference with the individuals rights is justified in the interests of the community in order to effect the improvements.

16.2.23 With regard to Article 1 of Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to compensation for the property taken and rights extinguished under the CPO.

16.2.23.1 With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the Order(s) against the benefit to the community of proceeding with the Order(s), the making of the Order resulting in the interference with the individuals rights is justified in the interests of improving the economic, environmental and social well-being of central Meriden.

17 Equalities

17.1 In addition to the HRA, the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:

17.2 Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

17.3 The Trust has carried out an equality impact analysis. This identifies both the negative and positive impacts of the proposals and considers that, overall, the positive impacts outweigh the negative impacts of the Scheme. In addition, it identifies how any negative impacts might be mitigated and any positive impacts ensured through the delivery of the project. In summary the following are the key elements:

- The Trust will provide individual parties statutory compensation for loss of business and home. This will be applied to each party subject to the Compulsory Purchase order.

- The Trust has a Decant Policy that will be applied to all negotiations aimed at agreeing a treaty resolution. This includes a requirement to tailor the resolution around the specific needs of the individual concerned. This will include dealing with the logistics of relocation, the nature and suitability of alternative properties, and the minimisation of disruption to the parties involved
- The Trust has appointed independent translation services for both written and 1 to 1 meeting where English is not the leaseholders 1st language.
- To ensure alternative commercial units are available to allow a seamless transfer of business.
- To ensure alternative residential accommodation reflect the mobility needs and age / gender demographics of the leaseholder.
- To ensure where individual retail staff member are currently sharing tied accommodation, that they are dealt with on their individual needs basis.

18 Conclusion

18.1 In the light of the above Council is recommended to resolve to make a Compulsory Purchase Order in respect of the land at Central Meriden, Watford in accordance with the recommendations at the beginning of this report.

Appendices

Appendix A – Watford Borough Council (properties at Central Meriden, Watford)
Compulsory Purchase Order Plans 1 to 4

Appendix B – Existing Estate Plan

Appendix C – Proposed Regeneration Estate Plan

Appendix D – Proposed Retailer Relocation Plan

Appendix E – Report of Development Management Committee 29 October 2015