

Cabinet – 24 October 2012

Black Country Enterprise Zone – Use of Compulsory Purchase Powers

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Related Portfolio: Councillor Chris Towe, Finance and Personnel

Service: Regeneration

Wards: Bentley and Darlaston North; Pleck.

Key decision: Yes

Forward plan: Yes

1. Summary

This report invites Cabinet to support, where appropriate, the use of compulsory purchase powers to help facilitate the future development of the Darlaston sites within the Enterprise Zone.

2. Recommendations

- 2.1 That Cabinet supports the use of a compulsory purchase powers within the Darlaston element of the Black Country Enterprise Zone where it considers that:
 - a) the relevant statutory and Ministerial Circular tests for making a compulsory purchase order ('CPO') are met; and
 - b) the use of CPO powers would help facilitate delivery of particular sites within the Enterprise Zone.
- 2.2 That prior to making any CPO for any site within the Enterprise Zone Cabinet receives a further report to a future meeting setting out the detailed proposals.

3. Report detail

- 3.1 Budget 2011 announced that the Government would establish new Enterprise Zones in local enterprise partnership (LEP) areas in England, and named the first 11 LEPs that would benefit from Zone status. The Black Country LEP formed part of this group.
- 3.2 In August 2011 the Department for Communities & Local Government (DCLG) formally approved the location of the Black Country Enterprise Zone. The

purpose of the Zone is to create sustainable, private sector led, economic growth. The Zone comprises a portfolio of development sites situated in Darlaston and Wolverhampton North with the Darlaston part made up of a cluster of sites either side of the M6 at Junction 10. Following DCLG approval Cabinet endorsed the establishment of the Black Country Enterprise Zone at its meeting on 9 November 2011. A plan of the Darlaston element of the Black Country Enterprise Zone is attached as **Appendix A**.

- 3.3 Since that time discussions have been taking place with the owners of the individual sites in Darlaston to better understand their aspirations and the issues which could impact on future development. The sites in Darlaston currently consist of low grade employment land that is either cleared/vacant or under utilised and initial due diligence work indicates that poor ground conditions across all the sites prevents them being readily available.
- 3.4 In the absence of a comprehensive understanding of the nature of ground conditions and the means to reclaim the sites a significant risk exists to the delivery of the overall EZ programme. On this basis at its meeting on 20 June 2012 Cabinet endorsed the submission of a Growing Places Fund application for grant funding for the Black Country Enterprise Zone – Darlaston Site Investigation Strategy.
- 3.5 At its meeting on 26 June 2012 the Black Country LEP Board approved the Council's Growing Places Fund application and as such the Council now has funding to enable it to operate a grants programme whereby individual site owners can be awarded funding for comprehensive site investigation works. The results of the site investigation works will subsequently inform any strategy for future interventions such as site reclamation in order that readily available sites can be presented to the market.
- 3.6 It is anticipated that the outcome of the site investigations will be that viability issues – that the cost of reclamation creates a negative land value – become apparent on particular sites and mean that owners are not willing to promote them for development at the present time, although even if this were not the case there may be other reasons why the owners do not want to bring their sites to the market. This would mean that the land would remain vacant and the opportunity to access business rate discounts or enhanced capital allowances would be lost given their availability is time limited (business rate discounts are only available for companies moving onto a site by 31 March 2015 while the deadline to claim enhanced capital allowances is 31 March 2017). In such circumstances it may be justified and possible for the Council to intervene to secure ownership of sites in order to help facilitate the development of sites and secure the investment and job creation that the Zone is intended to provide. Should it prove necessary for the council to seek to acquire land for the purposes then of reclaiming and offering market-ready sites the funds required to deliver such a programme will need to be identified as part of the wider EZ programme in conjunction with the LEP, and is referred to in more detail in the report on Black Country Enterprise Zone – Business Rate Uplift that appears elsewhere on the agenda.
- 3.7 This could be achieved through the use of compulsory purchase powers. For any CPO to be successful it must meet the statutory and Ministerial Circular tests which are set out in section 7 of this report. At present circumstances are such

that there is no current identified site within the Enterprise Zone where officers consider all of those tests are satisfied. However, should an appropriate scheme of development come forward which does satisfy those tests, then Cabinet may consider it appropriate to resolve to make a CPO if land assembly for that development cannot be achieved through voluntary negotiation.

4. Council priorities

4.1 The Council has committed to focus on three priorities in the Corporate Plan and one of these is the economy. Supporting the delivery of the Black Country Enterprise Zone will lead to economic growth and job creation.

4.2 The proposal to use CPO powers where appropriate is in line with the following objectives as set out in the Marmot Review:

- Give every child the best start in life
- Enable all children, young people and adults to maximise their capabilities and have control over their lives
- Create fair employment and good work for all
- Ensure a healthy standard of living for all
- Create and develop healthy and sustainable communities
- Strengthen the role and impact of ill-health prevention

The purpose of any CPO would be to help facilitate the delivery of particular sites in the Enterprise Zone. The future development of these sites would have a positive impact on the lives of local people by creating new job opportunities.

5. Risk management

If there are statutory objections to the CPO which are not withdrawn then a Public Inquiry will be arranged to hear these objections. The Inquiry Inspector will produce a report for the Secretary of State recommending whether or not the Order should be confirmed. The risks associated with the response of the existing landowner will need to have been managed before the CPO can be made. The degree to which these risks can be minimised revolve around the strength of the case for supporting the project, which, in this case, is the comprehensive nature of the proposal and the wider benefits for the local area.

6. Financial implications

If a CPO is proposed then there are a number of associated costs relating to the acquisition, including the purchase price, any disturbance payments, all professional fees as well as the costs in making the Order and, if necessary the costs of any Lands Tribunal hearings. There would also be costs associated with any external support that may be procured to support the process. There may also be costs of remedial works relating to ground conditions if development sites are to be made viable. These costs could be met from approved budgets or alternative sources of funding to be considered as part of the wider Enterprise Zone programme in conjunction with the LEP.

7. Legal implications

The Council has powers under various statutes to pursue the compulsory purchase of land if the acquisition of privately owned property cannot be negotiated. It is likely that any CPO in the Enterprise Zone would be made under Section 226(1)(a) of the Town and Country Planning Act 1990. This provides that the local authority has powers to acquire compulsorily any land in its area if it thinks the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The power is exercised where the Council thinks the development, redevelopment or improvement is likely to contribute to the achievement of one or more of the following objectives:-

- (a) promotion or improvement of the economic well being of the area;
- (b) promotion or improvement of the social well being of the area;
- (c) promotion or improvement of the environmental well being of the area.

In addition to the statutory tests, the Secretary of State for Communities and Local Government (who decides whether to confirm the CPO) will apply the tests contained in Circular 06/04: Compulsory Purchase and the Crichel Down Rules. These tests can be summarised as follows:

- i) Are there clear proposals for the land to be acquired?
- ii) Are all the resources available to deliver the proposed development on the land?
- iii) Are there any impediments to implementation?
- iv) Are there any means of delivering the proposed development which would not require the use of CPO powers?
- v) Is the interference with the landowner's human rights justified?

If the Secretary of State considers the above tests are met and is satisfied that there is a compelling case in the public interest, then it is likely he will confirm the CPO.

Prior to making any CPO the Council must seek to acquire the land via private treaty. Should these negotiations prove unsuccessful then preparations for a CPO can commence.

8. Property implications

Any CPO would relate to property in third party ownership and in the Council acquiring land aim to more quickly facilitate the development of land for employment purposes.

9. Staffing implications

There will be a need to commit staff resources to the process of attempting to acquire the land by negotiation and making a CPO if necessary. There may be a need to procure external support to support the process.

10. Equality implications

- 10.1 Bringing contaminated land back into productive use will benefit the wider community.
- 10.2 An Equalities Impact Assessment has been undertaken for this report which has considered the 9 protected characteristics and action accordingly.

11. Consultation

Initial discussions have taken place with the owners of the sites and they are aware that the successful delivery of the Enterprise Zone is a key priority. Further discussions will take place as the project moves forward.

Background papers

None

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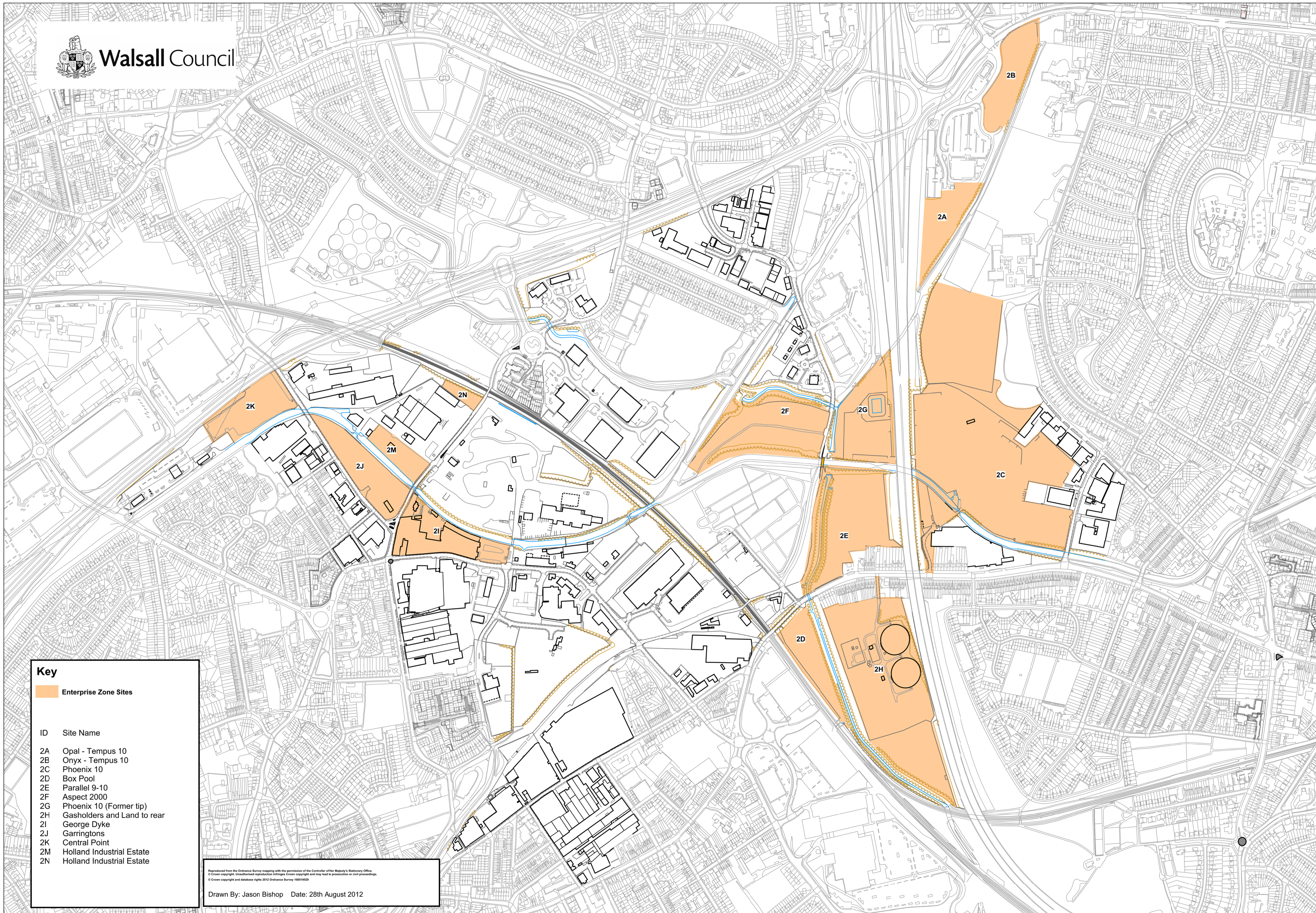
Tim Johnson
Executive Director

24 October 2012



Councillor Adrian Andrew
Deputy Leader
Portfolio holder – Regeneration

24 October 2012



Key

Enterprise Zone Sites

ID	Site Name
2A	Opal - Tempus 10
2B	Onyx - Tempus 10
2C	Phoenix 10
2D	Box Pool
2E	Parallel 9-10
2F	Aspect 2000
2G	Phoenix 10 (Former tip)
2H	Gasholders and Land to rear
2I	George Dyke
2J	Garringtons
2K	Central Point
2M	Holland Industrial Estate
2N	Holland Industrial Estate

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Drawn By: Jason Bishop Date: 28th August 2012