

Notice is hereby given that an **EXTRAORDINARY MEETING** of the **COUNCIL OF THE BOROUGH OF GOSPORT** will be held in the **TOWN HALL, GOSPORT** on **MONDAY the EIGHTH DAY OF MARCH 2010 AT 6.00PM AND ALL MEMBERS OF THE COUNCIL ARE HEREBY SUMMONED TO ATTEND TO CONSIDER AND RESOLVE THE FOLLOWING BUSINESS –**

1. To receive apologies from Members for their inability to attend the Meeting.
2. To consider any Mayor's Communications.
3. To receive Deputations in accordance with Standing Order No 3.5 and to answer Public Questions pursuant to Standing Order No 3.6, such questions to be answered orally during a time not exceeding 15 minutes.

(NOTE: Standing Order No 3.5 requires that notice of a Deputation should be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON THURSDAY, 4 MARCH 2010** and likewise Standing Order No 3.6 requires that notice of a Public Question should be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON THURSDAY, 4 MARCH 2010**).

4. Questions (if any) pursuant to Standing Order No 3.4

(NOTE: Members are reminded that Standing Order No 3.4 requires that Notice of Question pursuant to that Standing Order must be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON FRIDAY, 5 MARCH 2010**).

5. Regeneration of Rowner – Exercise of Compulsory Purchase Powers

To consider the report of the Chief Executive (copy herewith)

IAN LYCETT
CHIEF EXECUTIVE

**TOWN HALL
GOSPORT**

26 February 2010

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

In the event of the fire alarm (single continuous sound) being activated, please leave the Council Chamber and Public Gallery immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

MEMBERS ARE REQUESTED TO NOTE THAT:

(1) IF THE COUNCIL WISHES TO CONTINUE ITS BUSINESS BEYOND 9.30PM THEN THE MAYOR MUST MOVE SUCH A PROPOSITION IN ACCORDANCE WITH STANDING ORDER 4.11.18

(2) MOBILE PHONES SHOULD BE SWITCHED OFF FOR THE DURATION OF THE MEETING

AGENDA ITEM NO. 5

Board/Committee:	FULL COUNCIL
Date of Meeting:	8 MARCH 2009
Title:	REGENERATION OF ROWNER-EXERCISE OF COMPULSORY PURCHASE POWERS
Author:	CHIEF EXECUTIVE
Status:	FOR DECISION

Purpose

To inform Council of the progress of the regeneration of the Rowner Estate and to propose the exercise by the Council of their compulsory purchase powers.

Recommendation

That the Council:

Having noted this report thinks the development is likely to contribute to the achievement of the following objects namely the promotion and improvement of the economic, social and environmental well-being of their area for the reasons set out in this report in accordance with Section 226(1A) of the Town and Country Planning Act 1990 and

- a. makes a compulsory purchase order pursuant to Section 226 (1)(a) of the Town and Country Planning Act 1990 ('1990 Act') and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to acquire the land and new rights identified at Sections 5 and 6 in this report within the Nimrod Drive, and Howe Road area of Rowner shown coloured pink on the Plan, attached, which it thinks is necessary to facilitate for the carrying out of development for a mixed use development including a new Neighbourhood Centre, retail and residential uses with car parking at Rowner Village;
- b. agrees the amendments to the terms of the CPO Costs Cap as set out in Section 7 of this report;
- c. notes the progress of the regeneration of Rowner;

1.0 BACKGROUND

- 1.1 The Council considered a report on the Regeneration of Rowner on 3 October 2007 and agreed to enter into a partnership with Portsmouth Housing Association Limited, English Partnerships (now the Homes and Communities Agency ('HCA')), Taylor Woodrow (now Taylor Wimpey ('TW')) and Hampshire County Council ('HCC') to secure the renewal of Rowner.
- 1.2 The partnership agreement was completed on 8 November 2007 and the

partners are collectively referred to as 'the Rowner Consortium'. Details of the significant progress made by the Rowner Consortium since 2007 is set out below.

2.0 HISTORY OF THE ROWNER ESTATE

- 2.1 The Rowner Estate, situated within the Grange ward, was built by the Ministry of Defence for Naval personnel and their families during the 1960s. The Rowner Village, which was constructed to be the centre of the naval community, contains 301 maisonettes and flats.
- 2.2 During the housing boom of the 1980s, the Estate was subsequently sold. A proportion of the low rise residential properties were purchased by Registered Social Landlords, whilst the remainder, including the high rise village area, were sold to a private company who offered the properties for purchase on 125 year leases.
- 2.3 The Rowner Village has suffered from a lack of financial investment which has seen the building fabric deteriorate over the past 25 years. The poor environmental standards have caused property prices to collapse and the Estate to suffer from social problems during the 1990s when crime, vandalism and anti-social behaviour came close to creating a no-go area for public services.
- 2.4 In response to these social problems, a considerable amount of public money has been invested in the Rowner Estate. In 2000 the seven year Single Regeneration Budget Round 6 programme commenced and has created approximately £2.4M of investment for the Rowner Estate. A 10 year SureStart programme was launched in July 2002 and many other initiatives have been undertaken by various public bodies.
- 2.5 Improvements have been achieved and the Rowner Estate has developed into an active community and instances of crime and anti-social behaviour have fallen. Issues remain, however, around education, health, employment and family life.
- 2.6 Unfortunately, a lack of investment has caused the Rowner Village building fabric to continue to deteriorate. The Doctors' surgery has closed and only two shops remain open. The 'NAAFI' building is derelict and the underground car parks are threatening environments.
- 2.7 The Rowner Estate remains in the top 20% most deprived in England and is generally regarded as the worst Estate in South-East England. It has been featured on "Panorama" and was nominated as one of the worst buildings in Britain in Channel 4's "Demolition" programme shown in early 2006. Property prices remain very low. A 2 bedroom large flat and maisonette for example, can still be purchased for approximately £20,000 - £25,000.

3.0 PROGRESS OF THE SCHEME FOR THE REGENERATION OF ROWNER

- 3.1 The regeneration of Rowner Village presents a complicated and unique challenge. The design and construction of the buildings and the relatively high cost of demolition coupled with its private ownership and mixture of tenure has made redevelopment unaffordable, despite the rapid increase in property and land values in Southern England.
- 3.2 As Council is aware, the regeneration of the Rowner Estate and particularly the redevelopment of the Village has been a corporate priority for this Council for a number of years. Officers and Members have been successful in securing public and private finance and the engagement of Government Agencies. Rowner is identified as a strategic area for redevelopment in the draft Core Strategy: Preferred Options dated September 2009 .
- 3.3 Since the last report to Council additional public funding of £3.2 million pounds has been provided by the Partnership for Urban South Hampshire. This money together with monies from PHA and HCA has enabled PHA to purchase, voluntarily, over 70% of the residential properties required to implement the whole regeneration scheme.
- 3.4 Negotiations with commercial tenants have been undertaken and terms agreed with the remaining tenant for their relocation within the new commercial centre.
- 3.5 Of the 506 residential interests on the site, agreement has been reached with 382 which leaves 124 residential interests to be acquired. Negotiations have been ongoing with landowners and tenants over a period of two and a half years. A relocation package has been offered which seeks to ensure people are not treated unfairly. The Consortium has made a serious effort to secure agreement with all persons having an interest in the order land. However, it is clear that without the use of compulsory purchase powers it will not be possible to assemble all the land required for the scheme and the project will not be able to proceed.
- 3.6 Outline planning permission has been obtained and reserved matters approval has been obtained for the first phase of the redevelopment. This phase includes affordable housing to allow the rehousing of those residents who wish to remain in Rowner.
- 3.7 A tenant has been secured for the supermarket to be built in phase 2 and which provides greater certainty on funding to ensure completion of the whole project and will provide around 200 local jobs.
- 3.8 However, despite the significant progress outlined above, the number of different landowners means that a CPO will need to be made to ensure that all the land and rights required for the scheme are obtained. This being the case, the Council has now received a request from the Consortium to proceed with the making of the CPO.

4.0 DELIVERY

The Council has entered into a legal agreement with the Consortium for the delivery of the project. This has secured funding and the involvement of a major national house builder with the resources and expertise to ensure that the project will be completed once the land has been assembled.

5.0 THE CASE FOR A COMPULSORY PURCHASE ORDER

- 5.1 The Council and its partners are seeking to secure the regeneration of the Rowner Estate through the redevelopment of the area known as the Village and selected viable 'intervention' areas. This development will provide a new Neighbourhood Centre and up to 700 new residential units ('the Scheme') which will facilitate the regeneration of the wider Rowner area through the delivery of new homes, job opportunities and access to community facilities, to create a place in which people will want to live and work. The Council and its partners view the implementation of the Scheme as an important step towards seeking to achieve the long term holistic regeneration and the renewal of the Rowner Estate.
- 5.2 The compulsory purchase powers conferred on the Council by Section 226 (1)(a) of the Town and Country Planning Act 1990 enables compulsory acquisition (following confirmation by the Secretary of State) where the Council consider the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to land; and where it thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the Council's area.
- 5.3 On 24 July 2009 the Council granted outline planning permission for the redevelopment of land at Rowner. This included the area known as the Village and the intervention sites.
- 5.4 The key planning benefits of the proposals are:
- The delivery of new homes, job opportunities and access to community facilities, to create a place in which people will want to live and work.
 - The removal of outdated and neglected landscape features and their replacement with attractive new public spaces (including a community square) and a substantial improvement of the existing site and its features.
 - The creation of an attractive, safer and more permeable environment.
 - A mix of housing tenures to help create a mixed and balanced community responding to the identified needs, including affordable housing in Gosport.
 - The new Neighbourhood Centre which could create around 200 new jobs in an area where current unemployment is above the national average.

- The Neighbourhood Centre will be a central facility to reinforce the community facilities already in place and to provide an accessible and safe retail resource for local residents. The mix of uses and function of the Neighbourhood Centre are anticipated to contribute significantly to the creation of a sustainable community for Rowner.
 - The Development of up to 199 additional new dwellings which will contribute towards the Council's future housing target as set out in the South East Plan.
 - That of the 700 new dwellings, at least 37% will be affordable housing, and within Phase 1 approximately 45% of the new units will be affordable housing in order to assist with the rehousing of residents who wish to remain within the Rowner area.
 - The new Neighbourhood Centre will be anchored by a food store and will also include a pharmacy and up to three new retail units. This will replace the existing arrangement where most of the shops have closed and the Precinct fails to function as an effective centre.
 - The provision of quality spaces for community use, children's play, and improving linkages and access to the informal open space resource of the Alver Valley Country Park.
 - Improved road layout and improved accessibility.
 - Located on a previously developed site, predominantly within the urban area, the regeneration proposals have been formulated to maximise the benefits of orientation and layout and minimise the impact on noise, height and air quality.
 - The Scheme will deliver a minimum of Level 3 of the Code for Sustainable Homes and BREEAM 'Very Good' rating for non-residential buildings. The detailed design of Phase 1 of the Scheme is an energy efficient design, seeking to reduce energy usage and therefore keep energy costs low for residents.
 - Bringing regeneration to the Rowner area through high quality, environmentally sustainable homes and facilities and engaging with local community capacity and structures.
- 5.5 The land to be included in the CPO is shown on Plan 1 and whilst the Council and PHA own a significant proportion of this land, the freehold of the Village and a number of the flats themselves are in the ownership of third party landowners. In addition, there are some small, undeveloped plots of land and statutory undertakers' and telecommunication operators' interests to be acquired.
- 5.6 The Council has been aware of the social, economic and environmental problems on the Rowner Estate for a number of years. SRB and SureStart funding has been obtained to address some of the social and economic issues

experienced by the community. The Rowner Estate suffers from:

- High levels of deprivation.
- A lack of investment in the physical condition of the buildings.
- Continuing social problems including crime, vandalism and anti-social behaviour.
- An existing Neighbourhood Centre that fails to function as an effective centre.
- Collapse of property prices.
- An ownership structure which inhibits redevelopment of the Precinct area.
- Neglected landscape features.
- A distinct lack of architectural quality.

- 5.7 The proposals seek to provide a new Neighbourhood Centre, improved landscaping and new residential development in locations which it is considered will act as a catalyst to stimulate the long term regeneration of not only the Rowner Village but also the wider Rowner Estate.
- 5.8 The Scheme seeks to, inter alia, improve the quality, choice and range of residential units within the Rowner Estate to encourage a more balanced, sustainable community. Existing units within the Rowner Village and especially the block known as Livingstone Court are of poor quality both in terms of the premises and the environment. The Scheme has been carefully designed to seek to design out crime, and to reduce the building heights and massing of the Estate in order to reduce its 'threatening' appearance.
- 5.9 The new Neighbourhood Centre will incorporate a new food store, a pharmacy and up to three other independent retail units which will replace the existing retail units in the Precinct, most of which are no longer trading. The Neighbourhood Centre is proposed to be a central facility which reinforces the community facilities already in place, providing an accessible and safe resource for local residents, as well as jobs for local people.
- 5.10 The proposal includes a new north-south road and the realignment of the southern end of Howe Road together with new pedestrian crossing provisions which will be designed to provide improved 'at-grade' crossing points.
- 5.11 The proposal also seeks the reconfiguration and re-provision of green spaces on the Estate, to create an attractive environment and provide amenity space for residents. The Scheme will also seek to provide better linkages to the Alver Valley Country Park.

- 5.12 The regeneration scheme has been designed to improve the environment within which the community lives; the opportunities for employment in the local area and support the community by providing a focal point in the new Neighbourhood centre and improved linkages to the existing community facilities i.e. Community Centre, SureStart and 'Youthie'.
- 5.13 The Council therefore believes that the resultant Development will lead to an improvement to the economic, social and environmental wellbeing of the area.
- 5.14 In addition, the Council is utilising its powers under Section 226 (1)(a) of the Town and Country Planning Act 1990 because it is not certain that their partners will be able to acquire all the required land and interests by agreement although efforts to do so will continue in parallel with the compulsory purchase process.

6.0 RIGHTS

In addition to acquiring the land within the site it is necessary to acquire rights to i) provide works to a party wall at Lindbergh Close; ii) provide rights to a party wall at the petrol filling station on Grange Road..

7.0 HUMAN RIGHTS ACT 1998

- 7.1 The provisions of the European Convention on Human Rights ('ECHR') have been enacted directly into UK law under the Human Rights Act 1998 ("the 1998 Act") and the 1998 Act also places direct obligations on public bodies (such as the Council) to demonstrate that the use of compulsory purchase powers is in the public interest and the use of such powers is proportionate to the ends being pursued.
- 7.2 It is acknowledged that the compulsory acquisition of the land shown on Plan 1 ('the Order Land') will amount to an interference with Article 8 of the ECHR which provides that everyone has the right to respect for his private and family life his home and his correspondence. This may not be interfered with by a public authority except as in accordance with the law and as necessary in the interests of, inter alia, the economic well being of the country.
- 7.3 It is also acknowledged that the compulsory acquisition of the Order Land will amount to an interference with Article 1 of the First Protocol of the ECHR, which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions.
- 7.4 However, there is a compelling case in the public interest for the compulsory acquisition of the Order Land which outweighs the ECHR rights. Furthermore, the use of compulsory purchase powers in this matter is proportionate. The Council is pursuing a necessary and legitimate aim and without the use of compulsory purchase powers, the much needed redevelopment of the Rowner Area will not be achievable as there is no evidence that the Order Land will be acquired and developed in the absence of the exercise of these powers.

- 7.5 The ECHR has recognised in the context of Article 1 that regard must be had to the fair balance which has to be struck between the competing interests of the individual and the community as a whole. Similarly any interference with Article 8 rights must be necessary for the reasons set out. In this case, any interference with convention rights is considered to be justified in the public interest in order to secure the regeneration of the Order Land.
- 7.6 Extensive consultation has been undertaken during the planning application process with the opportunity being given for interested parties to make representations regarding the proposals. Further representations can be made in the context of any public inquiry which the Secretary of State decides to hold in connection with the CPO. Those directly affected by the Order will be entitled to statutory compensation.

8.0 RISK ASSESSMENT

- 8.1 There is a financial risk for the Council in respect of the Compulsory Purchase Order.
- 8.2 To manage the risk, a number of control mechanisms were included in the CPO Agreement referred to in the previous report to Council. These included that:
- (i) All costs associated with the Compulsory Purchase Order for the Project will be met by the Partnership.
 - (ii) The Council shall not be obliged to proceed with any purchases under the Compulsory Purchase Order until it has been fully placed in funds to do so by the Partnership.
 - (iii) A CPO Cost Cap will be agreed after the date of confirmation of the Order. The cap will be the higher of either of the following:
 - (A) The aggregate of:
 - (a) The highest sum properly estimated by three Compulsory Purchase Order cost expert valuers as representing the likely Compulsory Purchase Order costs which will arise following confirmation and
 - (b) 35% of the sum in (a) above or
 - (B) the Community Costs Cap of approximately £32 million.
 - (iv) If the cost gap is exceeded and the completed Project is in surplus, before any 'further profit' is paid to parties (see clause 4.14), this Council will receive all 'further profit' until all costs incurred with the Compulsory Purchase Order are cleared.
 - (v) If the cost gap is exceeded despite all the above, Hampshire County Council have agreed to share any financial loss equally with this Council.

8.3 However given the extent of voluntary acquisitions the Council's partners have asked that the calculation of the CPO Costs Cap is varied as set out below:-

1. For the purposes of agreeing the first cost cap, which is now to be agreed before all the information on ownership of the land is known the figure to be used should be £11,561,938 as set out in December appraisal as verified by the Council's valuer.
2. The Contingency percentage to be applied to this figure remains at 35%.
3. The first costs cap will therefore be £15,608,616.
4. When the CPO boundary and referencing is finalised then the valuation of the interests to be acquired would be repeated (first review) and this would then set the maximum for any subsequent costs cap.
5. This valuation figure should be reviewed periodically and could decrease to take account of interests the Partnership have acquired, or increase but it would never increase above the figure set at the first review.
6. The Council would be accepting that the Community Costs Cap was no longer relevant to the CPO Costs Cap.
7. The contingency to be added to the first review valuation referred to in 4 would remain at 35%. However on subsequent reviews the Council will be prepared to accept a lower percentage figure if it can be demonstrated that the valuation of the land and interests to be acquired and the professional costs and fees are robust. For example, the acquisition of the freehold interest and the properties owned by the investors by the Partnership reduces the current risk of a compensation claim based on an alternative scheme and therefore the Council would be in a position to consider proposals for a reduction in the contingency provision.

8.4 It is considered that this variation to the calculation of the CPO Costs Cap strikes a fair balance in seeking to minimise the risk to the Council's financial position and recognising that there should be a review of both the valuation figure and contingency provision as the CPO process progresses.

8.5 The Borough Solicitor will need to make arrangements for the CPO Agreement to be varied.

8.6 All other terms of the CPO Agreement remain as set out in the earlier report to Council.

8.7 Additional risks include the Secretary of State refusing to confirm the CPO or a successful challenge to the Order. However the retention of expert advisors is the appropriate control mechanism to minimise this risk.

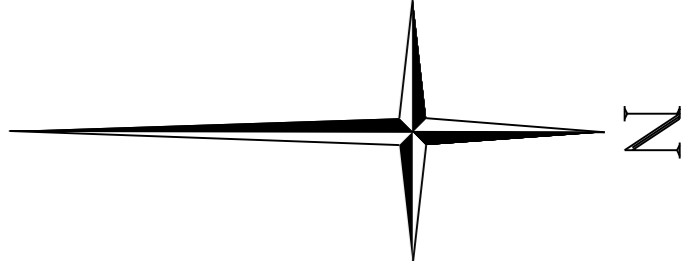
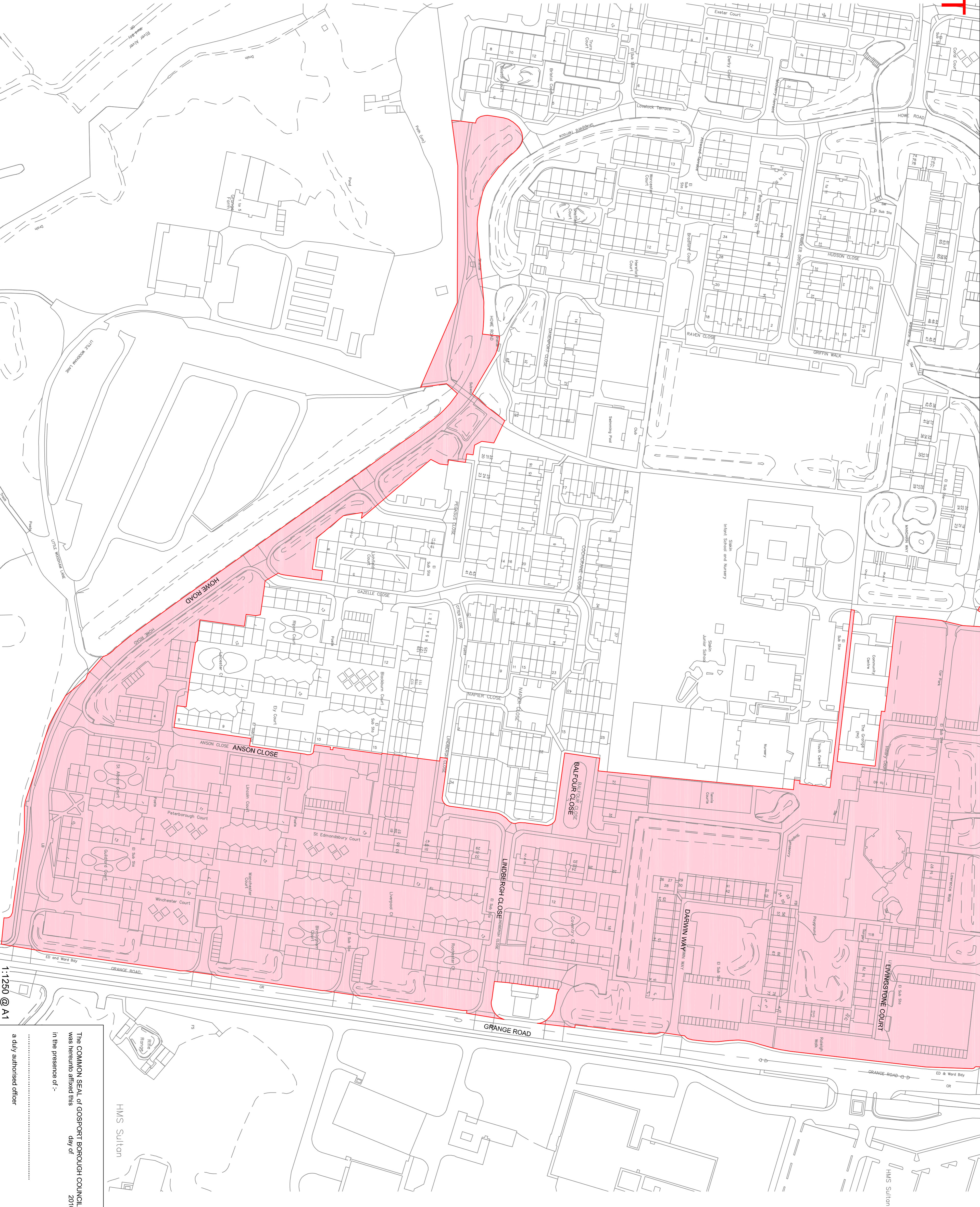
9.0 CONCLUSION

- 9.1 At the heart of this regeneration proposal is the Rowner Village, which contains 301 properties all in private ownership.
- 9.2 For the Rowner Estate to be successfully regenerated for the long term it is necessary to provide absolute certainty and ensure the land can be assembled in a reasonable timescale. To do this the Village must be acquired by agreement and as set out in Section 5 of this report by compulsory acquisition and the buildings demolished.
- 9.3 To make this both physically and financially possible, the regeneration Project must be wider than just the Village. A number of “intervention” sites have been identified and PHA have also included an extensive area of their land.
- 9.4 A ‘do nothing’ scenario is not an option at Rowner. The Livingstone Court building and the other buildings around the Precinct building have clearly failed and their current condition is having a very negative impact both aesthetically and socially on the surrounding area. The nature of the tenure of the occupiers and the interests of the absentee landlords make it extremely unlikely that any initiative to redevelop or refurbish the site will come forward from the private sector. Similarly private sector developers cannot invest in the area as without the Compulsory Purchase Order it will be impossible to assemble the land and secure vacant possession, particularly at Livingstone Court and the other properties around the Precinct. It is considered that any attempt to redevelop Rowner without addressing the Village area would be likely to fail as the history of initiatives in this area demonstrates.
- 9.5 The current initiative has resulted in the Consortium having secured a major food retailer to operate the food store as an anchor to the new Neighbourhood Centre. It is the Consortium’s view that this operator would not have been willing to invest in this food store without certainty of the scheme, the funding to be invested, planning permission and the promise of a Compulsory Purchase Order.
- 9.6 The Council has secured the commitment of all the partners to ensuring that anyone residing on the Estate who wishes to remain will be offered a property on a suitable tenure. PHA has undertaken and will continue to undertake all negotiations with residents on behalf of the partnership and will be assisted in this by the Council’s Housing Services Unit.
- 9.7 There is little doubt that this process and particularly the CPO process has the potential to be stressful for residents and all will be done to investigate and alleviate concerns and anxieties. The process of community consultation has been used not only to engage the community in the design of the redevelopment but also to seek to address individual concerns and allay any fears.
- 9.8 It should be stressed that negotiations have been ongoing and will continue with all residents and owners to agree the purchase of properties within the estate.

Financial Services comments:	The proposals should have no direct impact on existing Council budgets.
Legal Services comments:	Set out in the report. Anyone who has an interest in the land to be included in a Compulsory Purchase Order will receive compensation calculated in accordance with the relevant Land Compensation Acts. In addition Home Loss payments and Disturbance payments may be payable. The Council has retained specialist Legal Advisors to deal with the Compulsory Purchase Order and associated issues. Residents and other land owners and occupiers will shortly be receiving a request for information as to ownership of land and this work is being undertaken by a specialist land referencing company.
Service Improvement Plan implications:	
Corporate Plan:	The regeneration of Rowner is a Corporate Plan priority
Risk Assessment:	See Section 8 above
Background papers:	Report to Council 3 October 2007, Reports to Regulatory Board 21 April 2009 and 6 October 2009
Appendices/Enclosures:	Plan 1
Report author/ Lead Officer:	Ian Lycett

MAP REFERRED TO IN THE GOSPORT BOROUGH
COUNCIL (HOWE ROAD, NIMROD DRIVE, ROWNER)
COMPULSORY PURCHASE ORDER 2010

DRAFT



The COMMON SEAL of GOSPORT BOROUGH COUNCIL
was hereunto affixed this day of 2010
In the presence of:-
.....
a duly authorised officer

DRAFT