

Meeting of:	CABINET
Date of Meeting:	4 FEBRUARY 2025
Report Title:	PORTHCAWL WATERFRONT REGENERATION COMPULSORY PURCHASE ORDER GENERAL VESTING DECLARATION
Report Owner / Corporate Director:	CORPORATE DIRECTOR COMMUNITIES
Responsible Officer:	JACOB LAWRENCE PORTHCAWL REGENERATION PROGRAMME MANAGER
Policy Framework and Procedure Rules:	Making the General Vesting Declaration (GVD) will result in title for all the Compulsory Purchase Order (CPO) plots automatically vesting with the Council, thereby ensuring there is no impediment to the delivery of the Porthcawl Waterfront Regeneration Scheme (PWRS) from a land ownership perspective. The PWRS is a strategically important regeneration opportunity that will deliver upon the policies within the Local Development Plan and provide much needed housing within a suitable location. As such the proposed GVD will positively support the Council's policies and procedures.
Executive Summary:	The report provides an update on the Porthcawl Waterfront Regeneration Compulsory Purchase Order and request for Cabinet approval to make the General Vesting Declaration.

1. Purpose of Report

- 1.1 The purpose of this report is to update Cabinet on the Porthcawl Compulsory Purchase Order (CPO) following confirmation of the Bridgend County Borough Council (Porthcawl Waterfront Regeneration) Compulsory Purchase Order 2021 ("the CPO") in December 2023. Since the CPO was confirmed officers have continued to engage with and negotiate with affected landowners in order to achieve voluntary acquisition / negotiated settlement of compensation amounts prior to the making of a General Vesting Declaration (GVD).
- 1.2 Approval is being sought from Cabinet to make arrangements to vest legal title in the Council by serving the GVD.

2. Background

- 2.1 On 20 July 2021 Cabinet gave approval to make, advertise, notify and progress confirmation of the CPO in order to acquire land to deliver the Porthcawl Waterfront Regeneration Scheme (PWRS). The CPO was subsequently made on 8 October 2021. Notice to affected land owners was given. The CPO was also advertised and formally submitted to Planning and Environment Decisions Wales (PEDW). The making of the CPO was followed by a statutory objection period between 21 October 2021 and 26 November 2021, during which a wide range of objections and representations were submitted to Planning and Environment Decisions Wales (PEDW). Whilst a public inquiry was due to take place in connection with the CPO this was cancelled, as following negotiations with statutory objectors all statutory objections were withdrawn. The CPO was confirmed by the Welsh Ministers on 19 December 2023 with a copy provided as **Appendix A**.

3. Current situation / proposal

- 3.1 Following confirmation of the CPO, officers have continued to engage and negotiate with those parties affected who were yet to agree to voluntary acquisition proposals. At the time of the CPO being made the only areas where owners or reputed owners were yet to agree a position were in relation to plots 1A, 6,7,8,9,10,10A, 11,11A and 11B . A summary of the position in relation to these plots is provided under separate headings below, with the CPO plan attached as **Appendix B**.

Plots 6, 8 and 9

- 3.2 In November 2024 the 3 parties with reputed ownership (via alleged adverse possession) over part of each of these plots have agreed to dispose of any rights they may have acquired over the passage of time. No further compensation will be payable to these parties following the making of the GVD since their rights, to the extent they had any, have already been acquired.

Plot 1A

- 3.3 Discussions have been held with Seashore Enterprises (Porthcawl) Limited whom are the beneficiary of rights to erect bathing tents over plot 1A. At the time of this report, an agreement regarding compensation amounts and voluntary acquisition has not been reached. The nature of these rights are particularly unique as is the effect of the CPO, as it is only a within the extent of plot 1A that they will no longer be able to exercise the rights with the rights remaining unfettered across the remainder of Sandy Bay Beach.

Plots 7,9,10,10A, 11,11A and 11B

- 3.4 Officers have continued to engage in detailed discussions with Newton Porthcawl Estates whom have a freehold interest in Plots 7,9,10,10A, 11,11A and 11B (these plots are located on land which is known as Sandy Lane and Rhych Avenue) and

progress has been made towards an agreed position, both in terms of potential voluntary acquisition and associated compensation amounts, albeit at the time of this report a contractual position has not been reached and as such it is considered appropriate to now progress the GVD.

- 3.5 Whilst negotiations will continue in the background up to and until any potential future Upper Tribunal (Lands Chamber) hearing in relation to compensation amounts should agreement not be reached, it is considered expedient to make the GVD at this juncture as in the event negotiations do not result in an agreement, the GVD will safeguard the PWRS by enabling the Council to obtain legal title to the CPO land that has not yet been acquired voluntarily, in advance of agreement of compensation.
- 3.6 With the exception of the position outlined above the Council has agreed a negotiated position in relation to the various interests in all other CPO plots. Notwithstanding this, it is considered prudent to include all CPO plots within the GVD for completeness and so as to cleanse the title to the land so as to safeguard against any unknown reputed ownership or beneficiary interests being asserted at a future date.
- 3.7 The making of a GVD will result in title for all the CPO plots automatically vesting with the Council without any conveyance or transfer being necessary. Three months notice of the intention to make a GVD must be given, but once the GVD is made, the GVD will confer an immediate right of entry for the Council against all those interested in the land on the vesting date specified in the GVDs which must be at least 28 days after a notice has been served on the persons with an interest in the land in question. As such, the GVD will remove any impediments to the PWRS scheme from a land ownership perspective and ensure that the current momentum in connection with the preparation of a detailed masterplan and design code can be carried through to marketing of the land and subsequent delivery of development in a coordinated phased manner.
- 3.8 In the interests of clarity it is recommended that a GVD is made dealing with all plots within the CPO as detailed within the below schedule and CPO plan attached as **Appendix B**. Should Cabinet approve the execution of the GVD it will be necessary to serve notice upon all affected parties having an interest in the CPO land giving 3 months notice of the intent to make the GVD and then a clear 28 days notice of the making of the GVD. A draft of the GVD is provided as **Appendix C**.
- 3.9 Cabinet should be cognisant of the fact that upon making the GVD and following the requisite 28 day notice period good title is acquired and interests in the relevant land are simply converted into rights to compensation for anyone with an interest in the land concerned. Following making of the GVD officers will continue to work towards agreeing the compensation amount via negotiation with those affected parties with an interest in the land but in the event agreement cannot be reached either the owner of the interest or the Council can refer the matter to the Upper Tribunal (Lands Chamber) who would determine the compensation amounts payable. Given the nature of the interests being acquired it is not expected that significant sums of compensation would become payable with the expected costs to the Council and Welsh Government (WG) as its partner landowner identified within **Appendix D**. [This information is](#) considered

exempt from publication by virtue of paragraphs 13 and 14 of part 4 and paragraph 21 of part 5 of schedule 12A of the Local Government Act 1972 as it is considered that in all the circumstances of the case the public interest in maintaining these exemptions outweighs the public interest in disclosing the information, because the information is likely to reveal the identity of individuals and relates to the business and financial affairs of the Council and other persons. The information is also considered exempt from publication pursuant to paragraph 16 of part 4 of schedule 12A of the Local Government Act 1972 as it is considered the information is legal professional privileged.

- 3.10 It is important to recognise that all of the steps involved in the compulsory acquisition of the legal interests in the land concerned are considered to be an interference with an individual's human rights to their property. Guidance states that a Compulsory Purchase Order, and by implication a GVD, should only be made where there is a compelling case in the public interest. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights. Various convention rights are likely to be relevant to the GVD as set out below.
- 3.11 A balanced view has to be taken between the intentions of the Council and the concerns of those whose interest in land it is proposed to disturb. There must be clear evidence that the public benefit will outweigh the private interference.

Article 1 of the First Protocol states as follows:-

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

Article 8 of the First Protocol states as follows:-

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

- 3.12 In considering the First Protocol Article 1 the Courts have held that whilst individuals are entitled to the peaceful enjoyment of their property and possessions, the State can deprive and control the use of them where its actions are in accordance with law, necessary and legitimate, in the general interest and proportionate. Therefore, in reaching its decision, Members should take account of the provisions of the 1998 Act.

Cabinet needs to consider the extent to which the decision may impact upon the Human Rights of the landowners of the proposed CPO land and to balance these against the overall benefits to the community, which the proposed regeneration will bring.

- 3.13 Cabinet will need to be satisfied that interference with the rights under Article 1 and 8 of the First Protocol to the European Convention on Human Rights is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of the individual and the public interest.
- 3.14 The balancing exercise required under the First Protocol to the European Convention on Human Rights was given due regard when Cabinet authorisation was provided in July 2021 to make, advertise, notify and progress confirmation of the CPO to acquire land, and to authorise the advertisement of the proposed appropriation of Council owned land to planning purposes to support the Porthcawl Waterfront Regeneration Scheme, in respect of which the provisions of s203 of the Housing and Planning Act 2016 were engaged (which converts third party interests into compensable interests). These matters were given further attention when Cabinet authorised the appropriation of land at Griffin Park and Sandy Bay. Whilst the appropriation process was separate to the CPO, it is a statutory function of the Council that has been deployed in an interlinked and integrated manner to the CPO, as together the CPO land combined with the appropriation land and other land owned by the Council and WG make up the PWRS.
- 3.15 In light of the balancing exercise already completed in connection with the First Protocol to the European Convention on Human Rights, coupled with the progress that has been made to satisfy all affected parties and allow for all objections to be withdrawn since the original July 2021 Cabinet resolution to progress the CPO, having regard to the potential of the development proposals and the CPO enabling it, to deliver significant regeneration benefits and improvements to the social, economic and environmental well-being of the area, it is considered that the potential for some degree of interference with Article 8 and Protocol 1 is necessary in the interests of well-being of the area, it is in the general public interest and is deemed proportionate to those legitimate aims. Any interests acquired will carry a right to compensation and the opportunity to a fair and impartial hearing in that regard. Furthermore, it is noteworthy that when considering whether or not to confirm the CPO the Planning Inspector concluded as follows:

The confirmation of the Order to allow compulsory purchase of the identified land would facilitate the carrying out of development, re-development or improvement on or in relation to the land. It would achieve the promotion or improvement of the economic, social and environmental well-being of the area. The proposals and funding which are in place demonstrate that the regeneration scheme would be deliverable. I find, therefore, that there are compelling reasons in the public interest for the powers sought. In this light, my recommendation is that the Order be confirmed.

- 3.16 In light of the above it is considered that all relevant matters regarding the CPO have been given due regard and consideration as part of ongoing decision making by both Cabinet and Welsh Ministers via their confirmation of the CPO. As such, the making of the GVD primarily represents a further procedural step that will ensure the CPO as confirmed takes effect and the Council's objectives to use its positive planning powers to facilitate land assembly are realised. The financial implications arising from the making of the GVD are outlined in further detail within the financial implications section of this report.

4. Equality implications (including Socio-economic Duty and Welsh Language)

- 4.1 An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh Language. It is therefore not necessary to carry out a full EIA on this policy or proposal.
- 4.2 For the avoidance of doubt, whilst following the making of the GVD and following the requisite 28 day notice period good title is acquired and interests in the relevant land are simply converted into rights to compensation for anyone with an interest in the land concerned, it will not directly result in any material change to the physical state of the land. Any future decisions in connection with the disposal of the site and associated development will be brought before Cabinet for consideration in due course. Any future planning application will be subject to determination by the Council's Development Control Committee. Further EIAs will be required and carried out at these stages.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

- 5.1 This report and proposed regeneration across the PWRA assists in the achievement of the following corporate well-being objectives under the Well-being of Future Generations (Wales) Act 2015:-
- A County Borough where we protect our most vulnerable – Supporting people facing homelessness to find a place to live
 - A County Borough with fair work, skilled, high-quality jobs and thriving towns –
Improving our town centres, making them safer and more attractive · Attracting investment and supporting new and existing local businesses.
 - A County Borough where we help people meet their potential – Providing safe, supportive schools with high quality teaching and expanding Welsh medium education opportunities ·
 - A County Borough that is responding to the climate and nature emergency – Moving towards net zero carbon and improving the energy efficiency of our buildings and services. Improving flood defences and schemes to reduce flooding of our homes and businesses

- A County Borough where people feel valued, heard and part of their community –
· Improving the way we engage with local people, including young people, listening to their views and acting on them ·
- A County Borough where we support people to live healthy and happy lives –
Improving active travel routes and facilities so people can walk and cycle, offering attractive leisure and cultural activities and improving children’s play facilities and opportunities ·

5.2 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working has been considered and there are no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report. A summary assessment has been outlined below.

- Long term - The Porthcawl Waterfront Regeneration is a strategic development scheme which has the potential to add vibrancy to the locality through the provision of new housing, leisure and tourism opportunities, as well as retail and commercial developments; set within appropriate open space, parking and public realm.
- Prevention – the current Waterfront sites are largely unoccupied and under-utilised and detract from the attractiveness of the area.
- Integration – the Waterfront development will integrate with and access the existing town centre, sea front and leisure developments.
- Collaboration – the Council will continue to collaborate with residents, visitors and end users of this project to ensure successful and sustainable development and outcomes.
- Involvement – ongoing engagement with the community will continue to be an important facet of this project.

6. Climate Change Implications

6.1 Taking action to support decarbonisation is critically important in order to protect and sustain the environment over the long term. The making of the GVD will facilitate the delivery of regeneration of a previously developed site within existing settlement boundaries represents an inherently sustainable form of development which results in reduced carbon emissions compared to the development of out of settlement greenfield land. Furthermore, the making of the GVD will provide the necessary clean title to allow for the planned coastal defence revetment works to be delivered across the Coney Beach frontage of Sandy Bay, thereby safeguarding the development and surrounding land from future flood risks, although as above that will also be brought back before Cabinet before any works are carried out.

7. Safeguarding and Corporate Parent Implications

7.1 There are no Safeguarding and Corporate Parent Implications arising from this report.

8. Financial Implications

- 8.1 Upon making the GVD and following the requisite 28 day notice period good title is acquired without investigation and interests in the relevant land are converted into rights to compensation for anyone with an interest in the land concerned. Following making of the GVD officers will continue to work towards agreeing the compensation amounts via negotiation with those parties with interest in the land but in the event agreement cannot be reached the Upper Tribunal (Lands Chamber) would determine the compensation amounts payable if a claim is made. Given the nature of the interests being acquired it is not expected that significant sums of compensation would become payable with the expected costs to the Council and WG as its partner landowner identified within **Appendix D**. This information is considered exempt from publication by virtue of paragraphs 13 and 14 of part 4 and paragraph 21 of part 5 of schedule 12A of the Local Government Act 1972. It is considered that in all the circumstances of the case the public interest in maintaining these exemptions outweighs the public interest in disclosing the information, because the information is likely to reveal the identity of individuals and relates to the business and financial affairs of the Council and other persons. The information is also considered exempt from publication pursuant to paragraph 16 of part 4 of schedule 12A of the Local Government Act 1972 as it is considered the information is legal professional privileged. Whilst exempt from publication it can be confirmed that the sums of compensation outlined within **Appendix D** have been verified by externally appointed RICS Valuation Consultants.
- 8.2 Whilst the timescales for compensation becoming payable cannot be precisely determined (as this depends on whether agreement can be reached with the parties post GVD or whether a claim to the Upper Tribunal (Lands Chamber) is made), any such claim must be made within 6 years of vesting of the land under the GVD), there is an existing capital allocation in place for the PWRS with sufficient funds available to fund the expected costs plus a contingency. This existing allocation has been used to fund the acquisition of rights achieved via negotiation to date and it is proposed to continue to deploy an element of the allocated monies for these purposes.
- 8.3 Whilst compensation will become payable at a future date it is important to recognise that the CPO process and any resultant compensation costs will be offset via expected receipts from future disposals. The CPO process is a necessary precursory step to allow such disposals to take place and comprehensive development to be achieved across the PWRS.

9. Recommendations

- 9.1 It is recommended that Cabinet: -
- Authorise the Corporate Director - Communities in consultation with the Monitoring Officer to take all steps to implement the CPO including, as applicable, to execute the GVD in the form as shown at **Appendix C** (subject to such amendments as the Corporate Director - Communities may authorise) and/or to serve Notices of Entry in respect of interests and rights in the CPO land;
 - Authorise the Corporate Director – Communities in consultation with the Monitoring Officer to negotiate, agree terms and enter into agreements with affected parties, making provision for the payment of compensation that result

from the making of the GVD for the purposes of enabling the comprehensive development of the PWRS;

- In parallel to the making of the GVD, authorise the Corporate Director - Communities in consultation with the Monitoring Officer and Section 151 Officer to continue to engage in negotiation with affected parties to achieve voluntary acquisition prior to the GVD taking effect and to amend the GVD as appropriate should voluntary acquisition be achieved prior to it being executed;
- Authorise the Corporate Director – Communities in consultation with the Monitoring Officer to take all steps in relation to any legal proceedings relating to the CPO including defending or settling claims referred to the Upper Tribunal and/or applications to the courts and any appeals;
- Note that any future decisions in connection with the disposal of the site and associated development will be reported back to Cabinet for approval and that any future planning application will be subject to determination by the Council's Development Control Committee.

Background documents

None