

Divisions Affected – Eynsham ED

CABINET MEMBER FOR FINANCE

21 November 2023

Barnard Gate Farm, Oxfordshire OX29 6XE

Report by Executive Director Resources

RECOMMENDATION

The Cabinet Member is **RECOMMENDED** to:

- a) **Approve the purchase of Barnard Gate Farm, Oxfordshire OX29 6XE (“Barnard Gate Farm”), shown edged red on the plan in annex1, following receipt of a Blight Notice served on Oxfordshire County Council (OCC) in respect of the HIF2 Programme.**
- b) **Delegate authority to the Executive Director of Resources, in consultation with the Cabinet Member for Finance and Property, to negotiate and agree the costs of acquisition of Barnard Gate Farm and any associated compensation.**
- c) **Delegate authority to the Executive Director of Resources, in consultation with the Head of Legal and Deputy Monitoring Officer, to conclude the acquisition of Barnard Gate Farm and to deal with the payment of any associated compensation, and to complete all necessary legal documentation for the acquisition.**

Executive Summary

1. Following the issuing of the A40 HIF2 Smart Corridor (Hill Farm to Dukes Cut) Compulsory Purchase Order 2022 a blight notice was issued on 10th May 2022 by the owners of Barnard Gate Farm. The claim was confirmed as accepted by a letter dated 30th June 2022 with a deemed Notice to Treat date being 10th July 2022 obliging the Council to acquire the property.

2. An acquisition price has been agreed and related compensation sums that are confirmed by the Council due under the blight claim have in part been agreed and negotiations continuing with the owners of the property.

Background

3. On 20th July 2021 Cabinet resolved to approve officer recommendations for the formal adoption by the Council of the A40 HIF2 Smart Corridor as an approved scheme, which amongst other things included notifying Cabinet of the statutory blight regime that requires the Council to respond to claims for statutory blight pursuant to Part VI, Chapter II and Schedule 13 of the Town and Country Planning Act 1990 (as amended). It was resolved by Cabinet to give delegated authority on blight claims, assigning authority to the Director of Property, Investment and Facilities Management and the Director of Law and Governance to “agree appropriate terms in accordance with statutory provisions”. Decision 13(e) of the 20th July 2021 Cabinet decision, authorises the Director of Property, Investment and Facilities Management and the Director of Law and Governance to agree the terms of a claim, i.e., value and time of purchase after the blight notice has been accepted.
4. On 18th January 2022, following a further report to Cabinet, Cabinet resolved to authorise the Corporate Director Environment & Place in consultation with the Monitoring Officer to negotiate terms with interested parties for the purchase by agreement or payment of compensation in accordance with the Compensation Code in respect of any interests or rights in or over any land included in the CPO and, where appropriate, to agree terms for relocation.
5. A notice ('Blight Notice') was issued by the owners of Barnard Gate Farm on the 10th of May 2022 in response to the impact on their property from the proposed dual carriageway design following the issuing of the A40 HIF2 Smart Corridor (Hill Farm to Dukes Cut) Compulsory Purchase Order 2022.
6. After consideration by the Council's external solicitors, the Director of Transport and Infrastructure on 22nd June 2022, authorised the A40 Programme leadership to:
 - a. Instruct the Council's external solicitors to accept the owners claim ('Blight Claim').
 - b. Request the Director of Property and the Director of Law and Governance to agree appropriate terms within statutory provisions.
7. The Blight Claim was confirmed accepted by the Council by a letter dated 30th June 2022 with a deemed Notice to Treat (the Council willing to negotiate with the owners the purchase and to pay compensation) effective from 10th July 2022, creating a valuation as the date of 10th July 2022 for the compensation claim.
8. Since the acceptance of the Blight Claim the Compulsory Purchase Order (CPO) has been delayed and the Council's external solicitors have advised the

Council is therefore legally bound to acquire the property and pay compensation.

9. An acquisition price has been agreed and the terms of compensation are being negotiated.

Risk Management

10. Non completion would leave the acquisition in the hands of the courts with a less favourable outcome, additional costs, and significant reputation damage.

Staff Implications

11. There are no staff implications.

Equality & Inclusion Implications

12. There are no equality and inclusion implications.

Financial Implications

13. The acquisition price will be supported by independent valuation advice.

Comments checked by: Prem Salhan, Finance Business Partner
Prem.salhan@oxfordshire.gov.uk

Legal Implications

14. The Blight Notice was issued under section 150(1) of the Town and Country Planning Act 1990 ('Act') setting out Barnard Gate Farm is blighted land within paragraph 15 of Schedule 13 to the Act, that the owner's interest in Barnard Gate Farm qualified for protection under Chapter II in Part VI of the Act, and that the owners had made reasonable endeavours to sell the property.
15. In consequence the Blight Claim was confirmed accepted by the Council by a letter dated 30th June 2022 with a deemed effective date obliging OCC to acquire the property. Negotiations on price and purchase details only commence when the Blight Claim is accepted.
16. In accordance with the Town and Country Planning Act 1990, the Acquisition of Land Act 1981 and the Compulsory Purchase Act 1965 the effect of acceptance meant that the Council was authorised to compulsorily acquire the entirety of the owners' interest in Barnard Gate Farm (as registered with HMLR under Title Number ON162031), as if a Notice to Treat had been

served on 10th July 2022, and such notice creating a quasi-contract of sale, which becomes unconditional once compensation is agreed.

17. The Council's external compensation advisors (Gateley Hamer) have confirmed the owners are entitled to the market value of Barnard Gate Farm, disregarding the A40 Smart Corridor HIF 2 Infrastructure Scheme, together with any applicable loss payment(s) and/or disturbance compensation. Compensation being determined by way of negotiation between respective surveyors, with Barnard Gate Farm being acquired within 3 years from 10th July 2022. Should compensation not be agreed, the owners or the Council may refer the issue of compensation to the Upper Tribunal (Lands Chambers) for determination.

Comments checked by: Jayne Pringle, Head of Law and Legal Business Partner
– Contracts & Conveyancing
Jayne.pringle@oxfordshire.gov.uk

Sustainability Implications

18. There are no sustainability implications.

Vic Kurzeja, Director of Property Services
vic.kurzeja@Oxfordshire.gov.uk

Contact Officers: Greg Stacy, Senior Assets & Investment Officer
Greg.stacy@oxfordshire.gov.uk

15th November 2023

Annex 1

