

# Chichester District Council

Cabinet

8 September 2020

Council

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## Tangmere Strategic Development Location – Chichester District Council (Tangmere) Compulsory Purchase Order 2020

### 1. Contacts

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### 2. Executive Summary

Council has previously considered this report at its meeting of 3 March 2020 at which time the recommendations set out below were agreed. However, shortly after that meeting, the COVID 19 pandemic resulted in the closure of all public buildings as the country was placed into Lockdown. The Council, taking a pragmatic approach and acting in line with Government guidance (both then and as time has passed), suspended progress in connection with the making of a compulsory purchase order. It is now, however, considered appropriate to re-commence this process and given the passage of time, seek updated resolutions from Cabinet and Council that take into account the matters within this report and the updated supporting documents referred to.

This report updates Cabinet on progress made with regard to the development of the Tangmere Strategic Development Location (“**TSDL**”) and outlines proposals for the comprehensive, residential-led development of the TSDL, referred to in this report as “**the Scheme**”<sup>1</sup>.

The purpose of the report is to enable consideration of the use of compulsory purchase powers and whether or not there is a compelling case in the public interest for doing so. On the basis of the analysis set out in this report, it is recommended that the Council makes a compulsory purchase order (“**Order**”) to facilitate the carrying out of the Scheme.

The extent of the interests and rights in land proposed to be acquired (“**Order Land**”)

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<sup>1</sup> Terms and definitions used in this Report are defined in the Table of Definitions set out in section 12

are set out in this report and a map of the Order Land is contained at Appendix B.

The report sets out the background to and need for the Scheme and information about the current ownership of the Order Land. It explains the relevant powers of the Council to acquire land compulsorily and the equivalent powers to acquire land and rights by agreement. It explains what the compulsory purchase process involves and where relevant makes reference to Government Guidance<sup>2</sup>.

The report sets out relevant factors for the Council's consideration in determining whether or not to exercise compulsory purchase powers, including the Scheme's adherence to planning policy, its financial viability and prospects for delivery. It also includes matters for consideration in relation to the Council's Public Sector Equality Duty and the implications for the Human Rights of third parties who might be affected by the Order. It addresses the overall case for whether or not there is a compelling public interest case in making the Order.

### **3. Recommendation**

**The Cabinet recommends to Council that, following consideration of this report:**

- (1) the Council authorises the use of Compulsory Purchase powers as set out in Section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily acquire the Order Land identified within Appendix B, and in particular that the Council makes the Order;**
- (2) the Director of Planning and the Environment be authorised, following consultation with the Cabinet Member for Planning Services, to:**
  - a. settle the final form and content of the Order and all associated documentation and take all action needed to pursue the Order and secure its confirmation;**
  - b. negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of objections or undertakings not to enforce the Order on specific terms including where appropriate removing land or rights from the Order or to request the modification of the Order by the Secretary of State;**
  - c. implement the Order powers following confirmation of the Order and so acquire title to and/or take possession of the Order Land; and**
- (3) Cabinet notes and approves the revised timetable identified in section 6 of the Report.**

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<sup>2</sup> Guidance on Compulsory Purchase process and The Criche Down Rules" – Ministry of Housing, Communities and Local Government (July 2019) and further guidance issued with regard to the impact of COVID 19 on the Compulsory Purchase process.

#### **4. Background: Planning Policy, the need for the Scheme and its benefits**

##### *Delivery of housing within the Local Plan area*

- 4.1 Policy 4 of the Local Plan makes provision for the Council to deliver 7,388 homes over the period 2012-2029 (equivalent to c.435 dwellings per annum ("dpa"). This housing target falls short of the Council's objectively assessed need ("OAN") as identified in the 'Review of Objectively Assessed Housing Need in light of 2012-based Subnational Population Projections' (August 2014) which identifies an OAN for 560-575 dpa in Chichester District. Paragraph 7.4 of the Local Plan sets out that part of this identified housing requirement for the District has been met in the South Downs National Park, which lies outside the Local Plan area, and that housing delivery in the National Park area of the District averaged around 70 dpa. Based on this assumption, the remaining OAN for the Local Plan area was estimated to be 505 dpa. The Local Plan was unable to meet the full OAN of 505 dpa due to key infrastructure constraints, including uncertainty about transport and wastewater treatment infrastructure provision. The target of c.435 dpa was based on the level of housing that could be realistically and sustainably delivered within the period, having regard to the identified constraints in the Local Plan area, the evidence base prepared to support the Local Plan and potential development capacity. It is therefore essential that, as a minimum, the Council meet the housing target identified in the Local Plan.
- 4.2 Of the 7,388 homes provided for in the Local Plan, 3,250 are to be provided at the Strategic Development Locations allocated at West of Chichester, Shopwyke, Westhampnett/North East Chichester and Tangmere. Delivery of housing on all of the Strategic Development Locations in the Local Plan (including the TSDL) is therefore essential to ensure that there is no shortfall in meeting the housing target set out in the Local Plan.
- 4.3 At 1,000 homes, the TSDL is the second largest allocation in the Local Plan and represents approximately 14% of the total housing need for Local Plan area for the period 2012-2029 and 31% of the total housing to be provided within the Strategic Development Locations. Development of the TSDL is therefore critical to delivery of the Council's housing target.
- 4.4 The East-West Corridor is the Council's main focus for new development in the Local Plan. The East-West Corridor has an emphasis on consolidating and enhancing the role of Chichester city as the District's main centre, whilst also developing the role of key settlements to its east and west, most notably Southbourne and Tangmere, to help to relieve pressure on the city and take advantage of access to jobs and services to the east and west of the District. It is proposed that the East-West Corridor (which includes the TSDL) will provide 6,156 homes during the Local Plan period.

##### *The importance of the TSDL*

- 4.5 The vision for the East-West Corridor proposes that the village of Tangmere will grow and develop its role as a 'settlement hub' by widening the range and improving the quality of public open space, leisure and community facilities for the local area. The vision seeks to significantly enhance the village's range of facilities

to the benefit of the local community through the development of new homes and workspace.

- 4.6 Paragraph 2.7 of the Local Plan notes that Tangmere hosts a number of local businesses and has some dispersed community facilities including shops and a medical centre, but that it currently lacks many of the amenities and services normally associated with a settlement of its size.
- 4.7 Policy 18 of the Local Plan allocates the TSDL for mixed development, comprising 1,000 homes, community facilities, open space and green infrastructure. The TSDL is the only housing allocation at Tangmere in the Local Plan.
- 4.8 The Scheme therefore plays a significant role in addressing the need for new housing across the Chichester Local Plan area and makes a significant contribution to the objectives of the Local Plan. In particular: delivering the vision for the East-West Corridor; assisting with the need to relieve pressure on Chichester city; addressing local needs for both market and affordable housing; and providing enhanced amenities and services for existing and future residents of Tangmere;
- 4.9 The fact that the Council's adopted Local Plan, even in the event of comprehensive delivery, does not in fact meet its full OAN (for the reasons set out in Paragraph 4.1 above) means it is imperative that each and every allocated site comes forward. In this regard the housing trajectory set out in the Local Plan in 2015 envisaged that delivery of homes at the TSDL would commence from 2019/2020 onwards. Failure to deliver homes on the site within the Plan period would mean a very significant shortfall in housing delivery.
- 4.10 The need for new development at Tangmere is further emphasised by the Council's proposals in the Emerging Local Plan (details of which are set out below) to increase the quantum of development at the TSDL from 1,000 to 1,300 homes.

#### *The Planning Policy Position*

- 4.11 The NPPF contains a presumption in favour of sustainable development.
- 4.12 The strategic objectives of the NPPF are to support economic growth, achieve a wide choice of high quality homes, widen opportunities for home ownership and create sustainable inclusive and mixed communities. The NPPF also supports the highest standards of architectural and urban design.
- 4.13 The TSDL is allocated for development in accordance with the Local Plan, which was examined against the relevant provisions of the NPPF (2012) and found to be sound. The Emerging Local Plan will be assessed against the most up to date version of the NPPF when submitted for examination. The development of the TSDL complies with the core principles of the NPPF and represents sustainable development in accordance with the prevailing national policy.
- 4.14 Paragraph 72 of the NPPF recognises that housing supply can sometimes be best achieved through planning for larger scale development, such as significant extensions to existing villages. The delivery of the Scheme will make a significant contribution to the housing supply for the Local Plan Area, as well as satisfying the NPPF's requirement for plans to deliver a sufficient supply of homes.

Residential development on the TSDL also has an important role to play in contributing to the development and vitality of Tangmere village centre, in accordance with paragraph 85 of the NPPF. The policy objectives of comprehensive development of the TSDL, including securing the necessary infrastructure, community facilities, services, and open space provision accord with the NPPF's principle of promoting healthy and safe communities and underpin the content of the Masterplan Document, which are being carried forward into the outline planning application.

- 4.15 The land is currently allocated within the Local Plan, and has been a site formally allocated for residential housing development since the adoption of the Local Plan in 2015. Previous to this the site was identified for residential development in 2010 within the Council's "Focus on Strategic Growth Options" consultation document. This document considered the potential options for significant growth within the District and accordingly formed part of the early stages of preparation for the formulation of the Local Plan.
- 4.16 Specific policy considerations can be summarised as follows
- Policy 2 (Development Strategy and Settlement Hierarchy) of the Local Plan identifies Tangmere as being capable of accommodating further sustainable growth to enhance and develop its role as a settlement hub.
  - Policy 4 (Housing Provision) states that strategic development locations are allocated in the Local Plan to accommodate 3,250 homes over the Local Plan period.
  - The TSDL is identified within Local Plan Policy 18 for the delivery of 1,000 homes and associated infrastructure including a school, open space and community facilities.
  - Policy 7 ('Masterplanning Strategic Development') confirms that development of the strategic locations identified in the Local Plan (including the TSDL) will be planned through a comprehensive masterplanning process, which will involve the active participation and input of all relevant stakeholders.
- 4.17 The Masterplan Document for the TSDL has been produced by Countryside Properties (UK) Ltd ("**Countryside**") (please refer to Section 4.35 below for further details on Countryside's role in respect of the TSDL) and endorsed by the Council as Local Planning Authority, in accordance with Policy 7, Policy 18 and emerging policies in the Emerging Local Plan. An outline planning application to be submitted by Countryside will seek permission for up to 1,300 homes and associated uses to reflect the proposed increase in the Emerging Local Plan, thus also ensuring the delivery of the 1,000 homes allocated in the current Local Plan. The outline planning application is being prepared to comply with all other relevant policy requirements within the Local Plan. The Scheme will realise the objectives of relevant policy as contained in the Local Plan.
- 4.18 The Local Plan is currently under review. The Council consulted on the Chichester Local Plan Review 2016 – 2035 Preferred Approach between December 2018 and February 2019. The Emerging Local Plan currently contains proposals for at least 12,350 dwellings during the period 2016 – 2035, equivalent to c.650 dpa. The Emerging Local Plan Preferred Approach also proposes to meet unmet housing need arising from that part of the District lying within the South Downs National Park. This comprises 41 dpa out of the total 650 dpa. At least 4,400 dwellings are proposed to come forward from strategic allocations, including the TSDL.

- 4.19 The Emerging Local Plan includes draft policies which are relevant to the TSDL. Draft Policy S3 (Development Strategy) includes Tangmere on a list of Strategic Development Locations to help achieve sustainable growth. Draft Policy AL14 (Land West of Tangmere) proposes to allocate land to the west of Tangmere for residential-led development of a minimum of 1,300 dwellings. Draft Policy S32 (Design Strategies for Major Development Sites) requires proposals for housing allocations and major development sites to be accompanied by a site-wide design strategy that includes a masterplan.
- 4.20 As above, the Masterplan Document for the TSDL has been produced by Countryside and endorsed by the Council, in accordance with draft Policy S32. The outline planning application will seek permission for up to 1,300 homes and associated uses in accordance with draft Policy AL14, and will have due regard to other detailed emerging policies as material considerations in the determination of the planning application, albeit that the Emerging Local Plan only carries limited weight at present. The Scheme would therefore realise the objectives of relevant policy as contained in the Emerging Local Plan.
- 4.21 The Tangmere Neighbourhood Plan was 'made' on 19 July 2016 and forms part of the development plan. The Neighbourhood Plan includes a concept statement for the development and is informing the master planning process. The vision of the Neighbourhood Plan is a "one village" concept to unite and integrate the existing Tangmere village with the new development. In line with Policy 2 (Strategic Housing Development) of the Neighbourhood Plan, this identifies the land as a Strategic Development Location and sets out the requirement for the provision of 1,000 new homes, new community facilities, a main village street, new open space and green infrastructure.
- 4.22 The Masterplan Document has been designed to comply with the requirements of the Neighbourhood Plan Policy 2 and also has regard to Policy 7 (Land to the West of Malcolm Road) given the Neighbourhood Plan's expectation that this land is considered as part of the TSDL masterplan. The Scheme will therefore realise the objectives of relevant policy as contained in the Neighbourhood Plan.

#### *Benefits of Scheme*

- 4.23 The Scheme will contribute to, and deliver extensive benefits in respect of, the economic, social and environmental wellbeing of the District. Taken as a whole, it will make a significant contribution to the Council's vision for its Local Plan Area and the Settlement Hubs within it (one of which is Tangmere). The Local Plan anticipates that the role of Settlement Hubs as key local centres is to provide a range of homes, workplaces, social and community facilities and the Scheme is a major contributor to those aspirations for Tangmere and its surrounding area.
- 4.24 In particular, as regards economic matters, the provision of the substantial new housing anticipated by the Scheme will not only create and support jobs in the construction sector but will also result in an increase in local population, bringing with it enterprise, labour, wealth and income all of which are necessary for economic prosperity. The resultant neighbourhood of approximately 2,800 residents (depending on the eventual outcome of the planning process) will

contribute to the viability and vitality of Tangmere village centre and nearby town centres.

- 4.25 In terms of social issues, the District currently has a clear need for additional housing and a requirement to diversify housing tenures within Tangmere. Delivery of the Scheme on the Order Land will contribute very significantly towards meeting housing targets, providing both market and affordable units. The development of balanced and mixed residential housing stock will retain and attract a wide diversity of population, ensuring a mixed, balanced and sustainable community. Provision of infrastructure associated with the residential development, including the school, open space and community facilities, will also make a material contribution to social wellbeing and a sense of community. Part of the Council's Local Plan vision is to promote and provide sustainable communities served by appropriate infrastructure and facilities and the Scheme makes a significant contribution to that vision for Tangmere.
- 4.26 In terms of environmental wellbeing, the Scheme offers the opportunity for on-site habitat creation in accordance with the Local Plan. Wastewater from the Scheme will drain via the Tangmere Waste Water Treatment works, which discharges into the Aldingbourne Rife, avoiding discharge into Chichester Harbour and the attendant environmental issues associated with it.
- 4.27 Further, the Scheme's delivery of modern, energy efficient homes in a well-planned development which incorporates open-space and sustainable drainage solutions will represent an environmental benefit. Such strategic development of land which has been identified for development through the Council's Local Plan process will also reduce pressure for development on other, less suitable sites.
- 4.28 Finally, the expansion of Tangmere, to include new housing and the provision of a range of community infrastructure will improve and enhance the sustainability of Tangmere as a Settlement Hub, reducing the need for residents to travel further afield for those facilities and services and providing the opportunity for the provision of substantially improved local public transport services and cycle connectivity to Chichester and other surrounding settlements.

*Progress in delivering the Scheme to date*

- 4.29 The Council has sought to encourage delivery of comprehensive development of the TSDL over a number of years, but no material progress has been made.
- 4.30 Throughout the formulation of the Local Plan (from its earliest stages in 2010 and thereafter), the Council was assured by the landowners and site promoters of the Order Land that there was a commitment to jointly deliver the residential development and the requisite infrastructure in a coordinated way, initially through the production of a masterplan and then a single subsequent outline planning application. However, no material progress was made prior to the adoption of the Local Plan in 2015, and since that date – unlike other strategic development locations allocated in the Local Plan which have been progressed, or are progressing – there has again been no material progress in terms of comprehensive delivery of the TSDL.

- 4.31 In this regard, the Council is aware that landowners have not been able to agree mutually acceptable commercial terms, which has proved a major barrier to development coming forward.
- 4.32 As a consequence, to date the only proposals to bring forward development at the TSDL by any of the existing landowners, have comprised suggestions that development be brought forward on individual land ownerships, on a piecemeal basis. For the reasons set out in this Report, such proposals are not acceptable, and would not be consistent with the Council's objectives. The Council believes that there are no credible alternatives to compulsory purchase to achieve delivery of the Scheme in accordance with the Local Plan.
- 4.33 Despite discussions between the Council and the landowners having commenced as early as 2010, when proposals for the development of what is now the TSDL were first considered, landowners and site promoters have not been able to work together to deliver development. Indeed, no meaningful proposals have been progressed, despite numerous assurances that a masterplan was in preparation and that all landowners were committed to progressing the TSDL in a policy compliant fashion.
- 4.34 The Council has, on various occasions (but until recently, without any such response being received), requested to be advised of any collaboration agreement or timeframe for bringing forward the entire TSDL for delivery of housing and infrastructure in accordance with the Local Plan. In early August 2020, the Council received a letter from the representative of the Heaver family land interests stating that all principal landowners had recently concluded an MoU (which is understood to refer to a Memorandum of Understanding, although only the phrase "MoU" is used in the correspondence). At the same time, the solicitor for the Heaver family land interests sent a letter making the same assertion to the solicitor for Countryside. The MoU referred to is expressed to *"make provision for agreeing detailed arrangements for formulating a Joint Strategy"* and it is stated that this will include *"the provision of a masterplan, land equalisation agreements and a procurement and delivery strategy to ensure timely delivery of infrastructure."* A copy of the MoU referred to has been requested from the legal and property representatives of the Heaver family land interests and the other landowners within the TSDL, but as at 26<sup>th</sup> August 2020, no copy of the MoU has been provided from any party. Without having had sight of the content of the MoU:-
- (a) the Council cannot be confident that there has been substantive change in the progress of the landowners in bringing forward meaningful proposals for the development of the TSDL to date; and
  - (b) even if it can be meaningfully implemented, the MoU would clearly require a significant period of commercial negotiation by the landowners and subsequent negotiation and completion of legal agreements for the collaboration between the parties (including land equalisation, procurement and delivery of infrastructure) for bringing forward the TDSL, as well as the preparation, submission and approval of an alternative masterplan, planning application and Environmental Statement.

Accordingly, it is not considered that the reference to the MoU represents a reason for not progressing with the proposed Order and as at the date of this Report, the Council is not satisfied that the landowners are willing and able to work together to deliver the comprehensive development of the TSDL within any acceptable timeframe. In this regard, as noted above, the Council's housing trajectory as contained in the Local Plan anticipated delivery of dwellings at the TSDL from 2019/20 onwards. In view of this position, the Council considers the TSDL to be a stalled development site.

- 4.35 As a result of the lack of progress made by the existing landowners (and referenced in sections 4.29 to 4.34 above), the Council has sought to make use of compulsory purchase powers available to it and explored appointing a development partner to progress the development of the TSDL. The Council conducted a competitive tender process to select such a development partner in 2018 and subsequently entered into a Development Agreement with Countryside Properties (UK) Limited ("**Countryside**") on 5<sup>th</sup> February 2019. Accordingly, Countryside has been appointed to bring forward and facilitate the residential-led development of the TSDL.
- 4.36 The land required to deliver the residential-led development of the TSDL has been identified and is referred to in this Report as "**The Order Land**". The Order Land comprises all the land required for the Scheme in order to maintain its viability, affordability and deliverability. Ownership of the entirety of the Order Land is necessary to enable the Scheme to proceed.
- 4.37 In accordance with a strategy agreed with the Council, Countryside has sought to acquire the various interests in the Order Land by agreement and will continue to do so in parallel with any Order made by the Council.
- 4.38 Countryside has contacted landowners and interested parties within the Order Land to acquire interests by private treaty agreement, or to reach an agreement which establishes the basis on which a future transaction will be undertaken. As at the date of this Report, no agreement has been reached with owners of the Order Land for the voluntary acquisition of any of their land interests.
- 4.39 The Order Land comprises an area of approximately 76 hectares, located to the west of the village of Tangmere, West Sussex, south of the A27. The land is shown coloured pink on the draft Order Map.
- 4.40 The Order Land is predominately used for agricultural purposes, and is separated into fields.
- 4.41 The Order Land does not include any areas designated for nature conservation, Sites of Special Scientific Interest, Special Areas of Conservation or Special Protection Areas. No part of the Order Land comprises an Area of Outstanding Natural Beauty or Local Landscape Area, and the land does not include any World Heritage Site, Registered Battlefield, Listed Buildings or Registered Parks or Gardens.
- 4.42 The Schedule to the Order (attached as Appendix C) identifies those parties understood to have an interest in the Order Land. The Schedule has been prepared based on information gathered through inspection of Land Registry title documents,

site inspections and enquiries, and the responses to notices issued under sections 172-179 of the Housing and Planning Act 2016.

## **5. Outcomes to be Achieved: Use of Compulsory Purchase Powers**

- 5.1 The purpose being sought by the Council in considering making the CPO under the powers conferred by Section 226(1)(a) of the 1990 Act is to facilitate strategic housing delivery and associated development on the TSDL and, in conjunction with its development partner, to use the Order Land to bring forward the Scheme delivering the economic, social and environmental well-being benefits set out in this report.
- 5.2 The Scheme will comprise a residential-led, mixed use development comprising up to 1,300 homes, an expanded village centre (comprising units suited to A1, A2, A3, A4, A5 and B1(a) uses<sup>3</sup>), community facilities, education facilities, open space and green infrastructure. Although not yet finalised, the maximum quantum of development proposed as part of the Scheme is:-
- Units suits to A1, A2, A3, A4, A5 and B1(a) uses – up to 1,000 sqm;
  - C3 (residential) – up to 1,300 dwellings;
  - D1 (education) – 2.89 ha primary school plus early years provision; and
  - D2 (assembly and leisure) – approximately 1,100 sqm

It is proposed to deliver 30% of the new homes in the form of affordable housing, in accordance with the Local Plan.

## **6. Proposal for Order and its Justification**

- 6.1 This Report sets out the background to and need for the Scheme, as well as the basis on which it is considered that the compulsory purchase of the Order Land is justified, it being considered that there is a compelling case in the public interest to do so. A Statement of Reasons has been prepared for the Order in accordance with the Guidance and a copy of this is provided at Appendix F.
- 6.2 Under Section 226(1)(a) of the 1990 Act, a local authority may be authorised to acquire compulsorily any land within its area, if it considers that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. The power under section 226(1)(a) is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals within its Local Plan or where strong planning justifications for the use of the power exist.
- 6.3 A local authority must not exercise the power under section 226(1)(a) of the 1990 Act unless it considers that the development, re-development or improvement is likely to contribute to the achievement of one or more of the following objectives:
- (a) the promotion or improvement of the economic well-being of its area;

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<sup>3</sup> A new Planning Use Classes Order comes into force on 1<sup>st</sup> September 2020 and therefore the use classes (but not the nature and/or scale of the proposed development) will require updating.

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

*Need for Order to ensure Scheme delivery*

- 6.4 Policy 7 (Masterplanning Strategic Development) of the adopted Local Plan emphasises the need for the strategic development locations to come forward comprehensively, stating that:

“Development of the strategic locations identified in the Local Plan will be planned through a comprehensive masterplanning process. Preparation of masterplans will involve the active participation and input of all relevant stakeholders, including the Council, landowners, developers, the local community, service providers and other interested parties. Masterplans will be developed in consultation with the Council prior to the submission of a planning application.”

Supporting paragraph 7.33 of Policy 7 also states that:

“The strategic development locations will be planned and designed to a high standard as sustainable mixed communities, well integrated with existing settlements and neighbourhoods. The strategic developments also offer opportunities to expand and enhance local infrastructure and facilities for the wider Plan area. To achieve these objectives, development will be planned in a coordinated way through a comprehensive masterplanning process...”

- 6.5 Policy 18 (Tangmere Strategic Development Location) confirms that development will be masterplanned in accordance with Policy 7.
- 6.6 The TSDL is allocated for development in the Local Plan and is a proposed allocation in the Emerging Local Plan. The Neighbourhood Plan provides a set of development principles for the TSDL that have informed the Masterplan Document. Between them, these documents identify various infrastructure requirements that the TSDL is expected to deliver, both on- and off-site, including:
- On-site primary school provision;
  - New or expanded community facilities (possibly including a new village centre) providing local convenience shopping (referred to as the ‘Village Main Street’ in the Neighbourhood Plan);
  - Small-scale business uses;
  - Green links to the South Downs National Park and Chichester City;
  - Primary road access from the slip-road roundabout at the A27/A285 junction to the west of Tangmere providing a link with Tangmere Road (referred to as the ‘North-South Link Road’ in the Neighbourhood Plan);
  - Provision for improved more direct and frequent bus services between Tangmere and Chichester city, and improved and additional cycle routes linking Tangmere with Chichester city, Shopwyke and Westhampnett;
  - Provision for the expansion or relocation of the Tangmere Military Aviation Museum; and
  - New public open space including a Community Orchard / Garden / Allotment and a new Public Park comprising sufficient space to include a children’s play area, recreational area, sports pitches and an outdoor sports pavilion.

- 6.7 It is imperative that development comes forward comprehensively in order to provide certainty over delivery of the infrastructure requirements for the planned residential development, and to guarantee that such infrastructure be delivered in a cohesive and co-ordinated manner. Comprehensive development is also necessary if best and most efficient use is to be made of the TSDL, and delivery of residential development maximised.
- 6.8 Piecemeal development would be prejudicial to the proper future development of the TSDL, and would not accord with the policies in the adopted Local Plan. Concerns in this regard include the following:
- Highways and Access: There is a need to ensure a coordinated and connected approach to the delivery of the North-South Link Road, which, by its nature, will need to traverse land controlled by all three current principal landowners. Piecemeal development may result in the delivery of sections of road in different manners, or not at all. A co-ordinated approach is fundamental to the delivery of the Scheme given the lack of potential vehicular connection points into the existing village and the constrained nature of Malcolm Road;
  - Public Transport: A comprehensive approach to development is required to enable the proper integration of public transport opportunities into the TSDL, in particular enabling the extension of existing bus services into the site in a practical and commercial manner;
  - Public Open Space: Comprehensive development is also required to ensure adequate provision of open space, education and community facilities across the site as a whole. The Neighbourhood Plan requires parts of the TSDL to be provided as open space (including sports pitches and allotments, which includes the relocation of existing allotments onto the TSDL to facilitate the expansion of the Tangmere Military Aviation Museum) and the failure to deliver these is a significant risk to the comprehensive delivery of the TSDL;
  - Services: Capacity of incoming services to serve the wider Scheme and not just individual developed parcels is required, this would be at risk were there delivery on a piecemeal basis by different developers;
  - Sustainable Drainage Systems (“SuDS”): the provision of SuDS drainage may not be delivered appropriately in the event of piecemeal development. Any independently delivered drainage strategy in the absence of a comprehensive drainage strategy may result in a higher proportion of the TSDL being required for retention basins and subsequent inefficient use of land, which would, in addition to conflict with the Local Plan, not align with the relevant requirements of the NPPF;
  - EIA: A comprehensive outline application for the Scheme will require an Environmental Impact Assessment (EIA) as the project meets the spatial criteria within Schedule 2 10 (b) of the Town and Country Planning (EIA) Regulations, 2017 (as amended). Given the degree of functional interdependence required due to the TSDL’s allocation, if the site were to come forward via piecemeal development, a separate EIA could be required for each individual parcel / planning application, to guard against ‘salami-slicing’. In this circumstance any planning applications for individual parcels that were not accompanied by an Environmental Statement would be subject to further delays to allow for an EIA to be undertaken;
  - Transport Assessment: Similar to the EIA process, if the development were to come forward via separate piecemeal applications, the Transport Assessments for each application would need to assess the cumulative

impact of the development as a whole, and the prospect of these coming forward under a single agreed methodology is unlikely.

- 6.9 A piecemeal approach could render some parcels unviable, resulting in the risk that the TSDL fails to come forward in its entirety and fails to provide the necessary infrastructure required. By taking a piecemeal approach, it is highly unlikely the TSDL would deliver the 1,000 homes identified in the Local Plan, or the increased requirements of the Emerging Local Plan (when adopted).

#### *Scheme Delivery and Viability*

- 6.10 As set out at section 4.35 above, through a competitive tender process, Countryside was selected as the Council's development partner to bring forward and facilitate the residential-led development of the TSDL. Under the terms of the Development Agreement entered into between the Council and Countryside, Countryside have agreed to underwrite the Council's professional and other legal and administrative costs associated with pursuing a Compulsory Purchase Order, capped at £300,000.
- 6.11 Countryside is a major housebuilding and urban regeneration company with over 60 years' experience. The company has a track record in delivering large scale residential led schemes in London and the South East, the Midlands and the North West of England. This has included several garden village developments providing between 1,000 and 3,600 residential units, including where compulsory purchase powers have been exercised to bring forward and deliver schemes.
- 6.12 In the year 1<sup>st</sup> October 2018 to 30<sup>th</sup> September 2019 Countryside completed on a total of 5,733 homes comprising a mix of private, affordable and PRS (Private Rented Sector).
- 6.13 Countryside, as the main trading entity of Countryside Properties PLC ("CPPLC") can call on its parent company for further lending support if necessary. In February 2016, CPPLC raised £130 million of new capital as part of its initial public offering and secured a Group revolving credit facility of £300 million, which is available until May 2023. As at 30 September 2019, the net assets of CPPLC were £899.1 million and for the financial year ended 30 September 2019, CPPLC delivered adjusted revenue of £1,422.8 million and adjusted operating profit of £234.4 million.
- 6.14 Therefore, Countryside's strong financial position provides the company with the flexibility necessary for implementing compulsory purchase order projects such as the Scheme.
- 6.15 Officers are satisfied that Countryside has sufficient resources and can obtain sufficient funding for both acquiring the Order Land and implementing the Scheme, both presently and during the compulsory acquisition process. Countryside have confirmed that, notwithstanding the COVID 19 pandemic, the financial information within this report remains accurate and that from their perspective, the Scheme is and remains viable.
- 6.16 A development agreement between the Council and Countryside was completed on 5<sup>th</sup> February 2019 and a supplemental agreement varying the development agreement in order to reflect the latest Order Map was entered into on 3<sup>rd</sup> April 2020. The development agreement provides an indemnity for the Council's costs of

bringing and making the Order, the acquisition of the land and the payment of compensation, together with securing planning permission and implementing the Scheme within an agreed programme. It also requires Countryside to prepare an outline planning application for the delivery of the TSDL, which is currently being prepared.

- 6.17 Officers have considered the financial viability of the Scheme and the Council has obtained external, independent viability advice from a firm of leading real estate practitioners in order to satisfy itself that the Scheme is and remains viable. Officers have obtained updated valuation advice as at 14<sup>th</sup> July 2020. It was considered prudent to re-visit the viability advice provided before the COVID 19 pandemic occurred, given the global impact and potentially far-reaching economic effects of it. Although the COVID 19 pandemic has increased uncertainty, the market value and viability advice remains the same as previously obtained and therefore it is not considered that the assessment of the Scheme's viability has materially changed. Officers have reviewed all viability advice and are satisfied that the Scheme is financially viable.

#### *Planning Position and Timetable*

- 6.18 Planning permission has not yet been granted in respect of the Scheme. As outlined further below, Countryside anticipate submitting an application for outline planning permission in respect of the Scheme, in October 2020. The outline planning application will seek permission for up to 1,300 homes and associated uses as required by Policy 7 and Policy 18 of the Local Plan, thus ensuring the delivery of the 1,000 homes allocated in the current Local Plan. The Emerging Local Plan proposes to allocate the site for 1,300 homes, and the outline application will seek permission for this number of homes in accordance with draft Policy AL14 and draft Policy S32. It is anticipated that the application will be compliant with planning policy at both a national and local level and therefore at this stage, there is no reason to believe that planning permission will not be forthcoming.
- 6.19 A Planning Performance Agreement was signed between the Council and Countryside on 15<sup>th</sup> May 2019. This provides for the provision of pre-application advice, masterplanning preparation and the timely consideration of an outline planning application for the Scheme.
- 6.20 Pre-application intrusive and non-intrusive surveying works over the extent of the TSDL were undertaken by Countryside during Spring and Summer 2019.
- 6.21 Following the Council's endorsement of the Masterplan Document in January 2020 and the making of the CPO, it is anticipated that the outline planning application for the Scheme will be submitted in October 2020, with the intention to target a resolution in March 2021.
- 6.22 Once the CPO has been confirmed, the Council will take possession of the entirety of the Order Land within 6 months. Once the Order Land has been transferred to Countryside, the S.106 agreement will be completed with outline planning permission to follow.
- 6.23 Following the grant of outline planning permission, the Scheme will be built in phases, each requiring a reserved matters consent application. The first reserved

matters application(s) will likely relate to the key strategic infrastructure required for the Scheme, including the north-south link road, principal areas of public open space and strategic landscaping.

6.24 The site preparation works associated with the development of the Scheme will be phased, with initial works anticipated to commence in 2023. This enables infrastructure and construction to commence in 2023. It is expected that the first homes would be completed and available for occupation within 12 – 18 months of starting on site.

6.25 Work undertaken to inform Members' assessment has included:-

- (a) an updated viability assessment of the site and a further update as at 14<sup>th</sup> July 2020;
- (b) a review of the Equalities Impact Assessment required for the CPO and a further Equalities Impact Assessment Addendum (to consider the impact of COVID 19 and any specific considerations now applying to the making of the CPO). The Equalities Impact Assessment and the Addendum to it are attached to this report as Appendix D and the Director for Planning and Environment's consideration of the Public Sector Equality Duty is attached to this report as Appendix E); and
- (c) the land referencing exercise (which originally took place in January 2018, was refreshed in February 2020 and has now been further updated) (Appendix C).

The completion of this work reinforces the Council's position in seeking to make the Order. The anticipated timescale is set out below, but this is necessarily provisional to some degree.

Table 1 Revised timetable:

<b>Project</b>	<b>Previous completion date (refers to end of relevant calendar month)</b>	<b>Revised completion date (refers to end of relevant calendar month)</b>
Signing of development agreement with Countryside	October 2018	February 2019
Masterplan completed	April 2019	January 2020
Council resolution to make the CPO	March 2020	September 2020
Planning application submitted	April 2020	October 2020
CPO inquiry to start	October 2020	April 2021
Resolution to grant planning permission	September 2020	March 2021
CPO Secretary of State decision on CPO	April 2021	October 2021
Vacant possession secured	August 2021	February 2022
Start on site	August 2022	February 2023

- 6.26 As the Council's appointed development partner and the party responsible for bringing forward development of the TSDL, Countryside have agreed in principle that the revised timetable can be met. The CPO project will continue to be managed at Countryside by the Project Manager, and by a Principal Planning Policy Officer within the Planning Policy team at the Council, with ongoing assistance from Davitt Jones Bould and Citicentric.

## **7. Alternatives Considered**

- 7.1 The alternative to the use of compulsory purchase powers is that comprehensive development of the TSDL is brought forward by the consortium of landowners and developers. To date, the only proposals to bring forward development of the TSDL by the existing landowners have comprised suggestions that development be brought forward on the basis of their own individual land ownerships, on a piecemeal basis. As already stated, these proposals are not acceptable as they do not comply with adopted development plan policy and would not provide certainty for the cohesive and coordinated delivery of the requisite infrastructure. By taking a piecemeal approach, it is highly unlikely that the TSDL would deliver the 1,000 homes and associated infrastructure identified in the Local Plan, or the requirements of the Local Plan Review.
- 7.2 Accordingly, having regard to the matters set out in this Report, officers believe there is a compelling case in the public interest that justifies the proposed compulsory acquisition of the Order Land.

## **8. Resource and Legal Implications**

### *Finance implications:*

- 8.1 There are significant financial implications arising from making the Order. The Council's development partner has agreed to reimburse the Council's professional and other legal and administrative costs associated with pursuing a CPO, although these are capped as part of the development agreement.

While the decision to proceed (or not) with a CPO is and remains solely that of the Council, the Council should be aware of any financial implications should it decide not to progress with the CPO at this stage. If the Council decides not to progress a CPO in a situation where Countryside (its development partner) considers it appropriate and lawful to do so, then the Council will be obliged to meet the reasonable and proper planning, valuation and legal costs incurred by Countryside to date. These costs are subject to change as Countryside continue to prepare a planning application and Officers will be able to provide a verbal update on the latest position at the meeting.

### *Resource implications:*

- 8.2 The process will continue to be managed internally, requiring use of existing staff resources within the Planning Policy and Legal teams, and external Legal teams.

### *Legal implications:*

- 8.3 There is a risk that affected landowners will challenge the decision of the Council to 'make' the Order. Following the date of the decision, parties will have 21 days within which to lodge an objection. If objections are received, it will be necessary to hold a public inquiry into the Order, conducted by an independent government-appointed Inspector.
- 8.4 It is anticipated that objections to the Order will be received, however officers, along with the Council's external advisors, and a Barrister (QC) appointed to represent the Council, consider that the Council are in a robust position to defend any such challenge through an inquiry.
- 8.5 Following the Public Inquiry, and the confirmation of the Order by the Secretary of the State, the Council must publicise the decision in local newspapers as soon as possible. The validity of the CPO is capable of being challenged through a judicial review within six weeks of the first newspaper notice.

### *Human Rights*

- 8.6 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (the "Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 8.7 In resolving to make the Order the Council needs to consider the rights of property owners under the Convention against the wider public interest, and in particular those rights under the following provisions.
- 8.7.1 Article 1 of the First Protocol to the Convention - This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws
  - 8.7.2 Article 8 - This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.
- 8.8 The European Court of Human Rights has recognised that "regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local planning authority. Any interference with a Convention right must be necessary and proportionate.
- 8.9 The Order Land is in agricultural use and does not include any residential properties (with the exception of occupiers who have extended gardens by encroachment into Plot 6 and Plot 13 within the Order Land). Accordingly, no Article 8 rights will be infringed by the making of the Order. There is no suggestion that the Scheme will result in the extinguishment of any commercial enterprise and the owners of the Order Land have themselves indicated an aspiration to bring the Order land forward for development. Agreement on compensation will be settled once the Order is confirmed and in accordance with the applicable code for compensation.

8.10 In light of the significant public benefits which would arise from the implementation of the Scheme as set out within this Report, and having regard to the extent of the interference with parties' rights, officers have concluded that it would be appropriate to make the Order. Officers do not regard the Order as constituting any unlawful interference with individual property rights.

*Public Sector Equality Duty:*

8.11 The Council has a duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, to advance equality of opportunities and foster good relations. The decision to make the Order is one that this duty applies to.

8.12 External consultants have been commissioned to advise the Council on compliance with their duties under the Equality Act 2010 in the context of a CPO and prepared an Equalities Impact Assessment ("**EqIA**") in respect of the Scheme and proposed Order. Since commissioning the EqIA, progress in making the Order has been impacted by the COVID 19 pandemic. Mindful of the need for the PSED to take into account the unique impacts of the COVID 19 pandemic, the Council commissioned an addendum to the EqIA, issued July 2020 ("**EqIA Addendum**"). A copy of the EqIA and EqIA Addendum are attached to this report as Appendix D and Appendix D(i). The EqIA and EqIA Addendum contain a number of recommendations and an action plan. Officers have had regard to these and the Council has put in place measures to implement the recommendations and actions that can be addressed prior to the making of the Order and will continue to do so following the making of the Order. Further, the Council notes that a number of the recommendations and actions relate to impacts yet to arise and the Council is mindful of the requirement to address these recommendations and actions as they do so.

8.13 The Council's assessment of the potential impacts of the Scheme indicate that the proposals have the potential to deliver multiple beneficial impacts for the local community, including those with protected characteristics in the local area, including:

- the delivery of a range of housing within Tangmere to address local need:
  - The quality of the new homes provided will have a range of positive impacts on equality, including accessibility and adaptability, which may be of significant benefit for those with disabilities, or the elderly.
  - Tangmere currently has a relatively high proportion of social housing, and development of the site will provide a diverse range of tenures including market and affordable housing, potentially providing low cost or shared ownership options, to create mixed and balanced communities.
  - The new homes will utilise sustainable design and construction techniques and be more energy efficient, which will benefit residents by reducing their energy usage.
- Delivering improvements to local infrastructure including local convenience shopping, and enhanced social, community, recreation, primary education and healthcare facilities, which will be of benefit to all residents in providing better accessibility to infrastructure.
- Providing enhanced open space and green infrastructure will link Tangmere to Chichester city, nearby developments and the South Downs National Park,

which will allow residents easy access to open space for health and wellbeing benefits.

- Integration with the existing village of Tangmere, in order to achieve the aspirations of the Neighbourhood Plan, to achieve their 'one village' vision. This will benefit new and existing residents by achieving a well-integrated and holistic development.

- 8.14 The Director of Planning and the Environment has considered the results of the EqIA, the EqIA Addendum and the Council's Public Sector Equality Duty and taken advice from the Council's legal advisers and is satisfied that in making the recommendations in this report, that the Council has given due regard to its obligations in this regard, a copy of that statement is attached to this report as Appendix E.
- 8.15 With regards to removing or minimising disadvantages suffered by those with protected characteristics, the Council will provide copies of the Cabinet and Council reports in different formats if required. The Council will publish all the Order documents on its website to make them as accessible and available as early as possible. It will also provide hard copies of the Order documents for those without access to the internet.
- 8.16 The Council has extended the statutory timescales for responding to requests for information or raising objections to the making of the Order by a period of two weeks and will provide electronic and/or hard copies of order documents as required. To that end, the Council has adopted the recommendations from the EqIA Addendum to ensure that impacts from the COVID 19 pandemic are mitigated.
- 8.17 As the process continues, should there be a need for a Public Inquiry, when choosing a venue the Council will have regard to those with disabilities and will consider what other steps it can take in respect of eliminating or minimising discrimination for those with protected characteristics.

## **9. Consultation**

- 9.1 The Council's Legal service team, external advisors including the Council's appointed external solicitor, Countryside and their appointed solicitor, and the appointed barrister have been consulted extensively on this matter.
- 9.2 The landowners and developers have been kept aware of the Council's intentions to pursue the CPO process, and have been given opportunities to bring forward the comprehensive development of the TSDL outside of the CPO process. Countryside also continues to engage with the landowners and developers to acquire the land via a negotiated process. Separately, Countryside and the Council have approached the residents of Saxon Meadows concerning the Order and the re-grant of rights over land. Negotiations will continue in parallel with the CPO process.

## **10. Community Impact and Corporate Risks**

- 10.1 As set out in this Report the acquisition of the TSDL for development is fundamental to the delivery of the objectives and policies of the adopted, and emerging development plans. Development of the TSDL has the capacity to create a significant number of new homes of different tenures, as well as sport and leisure

opportunities, a new school and community/retail facilities. There are considerable benefits of the scheme for the local community.

- 10.2 There may be a negative impact if the TSDL is not delivered in line with the Local Plan strategy.
- 10.3 There are potential strategic risks arising from the CPO process to deliver the TSDL, including challenges to the CPO decision, and potentially negative publicity for the Council. However, these have been weighed against the reputational risks to the Council of being perceived as failing to deliver the housing identified in the adopted Local Plan, as well as risks to the Council in being able to demonstrate a robust five year housing land supply.

## 11. Other Implications

<b>Are there any implications for the following?</b>		
	Yes	No
<b>Crime and Disorder</b> The proposals in the masterplan and planning application should ensure that at the very least there is no negative impact on the potential for crime and disorder and that there should be a positive impact in reducing the potential for crime and disorder.	X	
<b>Climate Change and Biodiversity</b> Any masterplan or planning application should ensure that at the very least there should be no negative impact for climate change and that there should be a positive impact by including mitigation or adaption measures. Any application should seek to minimise the impacts on and provide net gains for biodiversity.	X	
<b>Human Rights and Equality Impact</b> Considered and set out at section 8 of this Report. The EqIA and EqIA Addendum is attached at Appendix D and officer assessment of compliance at Appendix E.	X	
<b>Safeguarding and Early Help</b>		X
<b>General Data Protection Regulations (GDPR)</b>		X
<b>Health and Wellbeing</b> Proposed development at the TSDL is predicted to deliver multiple beneficial impacts for the local community, including for their health and wellbeing. The quality of the new homes, including their adaptability and accessibility, will positively impact the community, particularly those with disabilities and the elderly. Additionally, development would deliver positive impacts through improvements to local infrastructure including community and healthcare facilities, as well as the provision of enhanced open space and green infrastructure.	X	
<b>Other (please specify)</b>		X

## 12. Terms used

The following terms are used in this Report:

1981 Act	Acquisition of Land Act 1981.
1990 Act	Town and Country Planning Act 1990.

Countryside	Countryside Properties (UK) Limited of Countryside House, The Drive, Brentwood, Essex, CM13 3AT.
District	The administrative area of the Council.
Emerging Local Plan	Chichester Local Plan Review 2016-2035 – Preferred Approach (December 2018).
EqlA	An Equalities Impact Assessment, prepared by Mott MacDonald and dated 7 <sup>th</sup> February 2020.
EqlA Addendum	An addendum to the EqlA prepared by Mott MacDonald and dated July 2020.
Local Plan	The Chichester District Council Local Plan “Chichester Local Plan: Key Policies 2014-2029”, adopted by the Council on 14 July 2015.
Masterplan Document	The masterplan prepared by Countryside and submitted to and validated by the Council on 15 November 2019 (ref: 19/02836/MAS).
Neighbourhood Plan	The Tangmere Parish Council Neighbourhood Plan 2014-2029, “made” by the Council on 19 July 2016.
NPPF	The National Planning Policy Framework (February 2019)
NPPF (2012)	The National Planning Policy Framework (March 2012).
OAN	The objectively assessed housing need for the Council’s administrative area
Order	Chichester District Council (Tangmere) Compulsory Purchase Order 2020.
Order Land	Land identified within the schedule to the Order which refers to the Order Map.

Order Map	The map accompanying the Order which identifies the Order Land.
Schedule	The schedule to the Order
Scheme	The development of the TSDL to deliver at least 1,000 homes (consistent with the figure identified in the Local Plan) and up to 1,300 homes (consistent with the figure identified in the Emerging Local Plan), associated infrastructure, school, open space and community facilities. Further detail is set out in Section 5.2 of this Report.
Secretary of State	Secretary of State for Housing, Communities and Local Government.
TSDL	The Tangmere Strategic Development Location as identified within the Chichester Local Plan: Key Policies 2014 – 2029 and shown edged red on Appendix A.

### 13. Appendices

Appendix A: Red line plan of Tangmere SDL

Appendix B: Proposed Order Map

Appendix C: Land referencing schedule (Part II – EXEMPT)

Appendix D: Equalities Impact Assessment

Appendix D(i): Equalities Impact Assessment Covid-19 Addendum

Appendix E: Statement as to compliance with Public Sector Equality Duty

Appendix F: Statement of Reasons

Appendix G: Valuation Assessment (Part II – EXEMPT)

Appendix G(i): Valuation Assessment Update (Part II – EXEMPT)

### 14. Background Papers

Cabinet Report Tangmere Strategic Development Location –  
Chichester District Council (Tangmere) Compulsory Purchase Order 2020 (3 March 2020)

Tangmere Strategic Development Location – Selection of a Development Partner –  
Cabinet Report (September 2018)

Delivery of the Tangmere Strategic Development Location – Cabinet Report (July 2017)

Delivery of the Tangmere Strategic Development Location – Cabinet Report (June 2016)