

Committee Name and Date of Committee Meeting

Cabinet – 23 January 2023

Report Title

Approval of the use of a Compulsory Purchase Order (CPO) to acquire 3 – 7 Corporation Street, Rotherham Town Centre

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

Lucy Mitchell, Major Projects Officer

lucy.mitchell@rotherham.gov.uk

Maria Smith, Regeneration and Development Project Manager

maria.smith@rotherham.gov.uk

Ward(s) Affected

Boston Castle

Report Summary

This report seeks approval for a Compulsory Purchase Order (CPO) for the acquisition of 3-7 Corporation Street, Rotherham (the Order Land), comprising two derelict, fire damaged buildings, formerly a nightclub/bar and a restaurant. The present owners have proven to be unwilling or unable to bring forward the Order Land's redevelopment and negotiations to acquire by agreement have been unsuccessful. The making of a Compulsory Purchase Order is considered to be the only realistic alternative to bring the site into beneficial economic use.

Recommendations

1. That Cabinet approve the acquisition of 3-7 Corporation Street on terms to be agreed and approve the making of a Compulsory Purchase Order (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of land and rights within the area edged red on the plan in Appendix 1 for the purposes of facilitating development, redevelopment, and improvement of the Order Land.
2. That Cabinet authorises the Assistant Director of Regeneration, Planning and Transport, in consultation with the Cabinet Member for Jobs and the Local

Economy and the Head of Legal Services, to affect the making, confirmation, and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the Order Land including, but not limited to, the procedural steps in section 3.8 of this report.

List of Appendices Included

- Appendix 1 Land Order Location Plan
- Appendix 2 Full Business Case – 3-7 Corporation Street (exempt)
- Appendix 3 Equalities Assessment
- Appendix 4 Climate Impact Assessment

Background Papers

DLUHC Compulsory Purchase and Compensation: Guide 1 – Procedure (December 2021)

DLUHC Compulsory purchase and compensation: Guide 2 – Compensation to Business Owners and Occupiers (December 2021)

Cabinet Meeting 28th March 2022 (Minute 124) [March 2022 Cabinet Minute 124 re CPO.pdf](#)

[Cabinet and Commissioner's Decision Making Meeting 26th June 2017 \(item 9\)](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

An exemption is sought for Appendix 2 under Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972, as this report contains details of all confidential negotiations to date and financial information relating to the purchase.

It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information because all such negotiations and financial information should remain confidential between the parties.

Approval of the use of a Compulsory Purchase Order (CPO) to acquire 3 – 7 Corporation Street, Rotherham Town Centre

1. Background

- 1.1 The buildings at 3-7 Corporation Street (the Order Land) have been continuously unused and derelict following fire damage in 2007.
- 1.2 Corporation Street is in a prominent position in Rotherham Town Centre. It is a significant route between the Bus Station and the Town Centre, leading to the Minster, the High Street and Forge Island (currently under development). The poor appearance of the site detracts from the appearance and vitality of the town, it is a disincentive to new investment and has a significant negative impact on the Conservation Area within which it is located, and on nearby businesses.
- 1.3 Despite approaches from the Council, the owner is unable or unwilling to bring the Order Land forward for redevelopment and it has become clear that the Council will need to rely on Compulsory Purchase (CPO) powers to bring a development to fruition.
- 1.4 Attempts to assemble the necessary site by agreement are continuing, but timescales relating to the funding and the prior non-cooperation of the landowner (see paragraph 3.4 below) mean that it is necessary to run the compulsory purchase process and continue negotiations with the affected landowner in parallel.
- 1.5 The site is capable of accommodating a residential-led, mixed-use development, comprising of apartments with commercial space on the ground floor. The Council has formulated a scheme to redevelop the site and approved a Full Business Case, with documentation submitted to the Department for Levelling Up, Housing and Communities in June 2022.
- 1.6 Cabinet in March 2022 approved the acquisition of the freehold and leasehold interests in a number of properties to aid regeneration, including 3-7 Corporation Street. A Resolution in Principle to investigate use of Compulsory Purchase Powers should acquisition by negotiation not be successful was also granted, subject to a further report to seek formal resolution from Cabinet to exercise the Council's Compulsory Purchase powers.
- 1.7 This report is seeking Cabinet resolution to use the Council's Compulsory Purchase powers.

2. Key Issues

- 2.1 To benefit from the wider regeneration taking place across the Town Centre and provide a 'joined-up' approach to the wider objectives of the Town Centre Masterplan, it is essential that redevelopment of this site progresses. The Council's willingness and ability to acquire the site, through CPO if necessary, and facilitate redevelopment is essential.

- 2.2 A Compulsory Purchase Order should only be made where there is a compelling case in the public interest. In order to pursue a CPO, the Council needs to demonstrate:
1. A clear intention for the use of the land it is intending to acquire.
 2. That all the necessary resources are likely to be available to achieve that end within a reasonable timescale.
- 2.3 In practice this means:
- A scheme that will achieve public benefit.
 - A scheme that is deliverable; and that there is a clear route to the appointment of a developer or direct delivery by the Council.
 - The full funding of the scheme must be secured either via grant funding and/or commitment of Council to support delivery.
 - There must be no planning barriers to the scheme.
- 2.4 It is considered that these conditions will be met following grant of planning consent and there is therefore a high level of confidence that use of compulsory purchase powers is justified.
- 2.5 Redevelopment of this site will address important regeneration objectives and support the economy; environment and the well-being of Rotherham communities as follows:
- a) Remove eyesore/dereliction:**
The project will address the existing issues of dereliction on this site and introduce an active, high-quality streetscape which will build on the leisure-focused regeneration at the nearby Forge Island. The project offers the opportunity to create a significantly more attractive gateway into the town centre whilst maintaining the existing historic views of the Minster.
- b) Provide housing and repopulate the town centre:**
The residential market in the Town Centre is currently limited. Whilst Corporation Street is not currently a residential destination, the emphasis of the Town Centre Masterplan and more recent Town Investment Plan was on repopulating Rotherham Town Centre and this scheme will support this process.
- c) Improve environment for local businesses and support other developments:**
The nearby development of Forge Island is a vital catalyst project for Rotherham Town Centre. Proposals focus on a new leisure destination featuring a cinema, restaurants, and a hotel. Funding has been secured along with planning permission and work is now underway on site. The Leisure and Cultural Quarter will continue across the river to include the Corporation Street sites which will provide leisure and residential uses on a smaller scale, catering for independent providers and contributing to greater vitality in the Town Centre.

- 2.6 Upon acquisition, the Council intend to select and work with a private sector developer to bring about delivery as outlined in the Full Business Case (Appendix 2). The Council has secured funding to address the viability gap (Town Deal and Levelling Up Funding). The specific nature of the arrangement to secure a developer partner is being considered and developed alongside the Council's procurement team.
- 2.7 A full planning application is underway with a decision anticipated early 2023. Securing consent will ensure there are no planning barriers to the delivery of the scheme and will provide a degree of confidence for a developer to come on board. Rotherham Sites and Policies Document Policy SP24 'Rotherham Town Centre Regeneration' indicates that for this site, the Council will encourage the development of retail floorspace at ground floor level with residential uses above.
- 2.8 Attempts to assemble the necessary land by agreement are continuing, but timescales relating to the funding and the prior non-cooperation of the landowner (see paragraph 3.3 below) mean that it is necessary to run the compulsory purchase process and continue negotiations with the affected landowner in parallel.
- 2.9 The Council has a scheme that meets the key components outlined in paragraph 2.2 and has worked closely with external advisers to bring the scheme to this stage. Following the failure of the owner to bring forward a prior planned scheme, surveyors were appointed to continue negotiations with the owner and prepare desk-based information about the Order Land. Architects, engineers and cost managers were then appointed to develop build plans for the Order Land site, working closely with the planning team to ensure adherence to Local Plan policy and Conservation Area requirements.
- 2.10 As described above, there has been continued negotiation with the landowner. The wider land referencing exercise has identified individuals who may be affected by issues such as rights and access over the Order Land and rights of light. Appointed external specialists are in the process of contacting all these parties as part of this exercise. The Council, as acquiring authority, is committed to working with those affected, and will continue to work with leaseholders, and occupiers as the CPO progresses. Owners/affected parties will be compensated in line with the compulsory purchase compensation code.

3. Options considered and recommended proposal

- 3.1 Various options have been considered to bring forward the redevelopment of this site and to avoid a Compulsory Purchase Order being required:
- Option1 – Do nothing.
 - Option 2 – Support the landowner through grant funding to bring forward a scheme.
 - Option 3 – Acquire by negotiation, demolish and redevelop.

- Option 4 – Acquire by CPO, demolish and redevelop.

3.2 **Option 1: Do nothing**

- The site is not redeveloped and falls into further disrepair.
- This would detract from the Conservation Area and the value of the proposed Rotherham Town Centre Leisure & Culture Quarter regeneration.
- The buildings will remain in the current state of disrepair and detract from adjacent regeneration investment.

This option is not recommended as it is considered highly unlikely the existing owner will bring forward redevelopment, and the concern that the site is having a negative impact on the vitality of the Town Centre will not be addressed.

3.3 **Option 2: Support the owner through grant funding to bring forward a scheme of redevelopment:**

- Previously, plans were brought forward by the site owner for a hotel and permission was granted conditionally in 2019.
- The plans comprised demolition of the existing buildings and erection of 69 room hotel with associated ground floor restaurant /bar and meeting rooms, and a standalone ground floor retail unit.
- Planning permission has now expired and there have been no credible attempts to progress the plans with the owner recently advising that the scheme is not financially viable.

This option is not recommended. Attempts to engage with the landowner and bring schemes forward have been unsuccessful and there is no realistic prospect of coming to agreement in the foreseeable future. It is considered the Council needs to secure control of the site to deliver a scheme, otherwise it will not be possible to achieve economic growth and priorities to drive regeneration across the town.

3.4 **Option 3: Acquire by negotiation, demolish and develop**

- Numerous attempts have been made to negotiate with the owner and agree a purchase price.
- A wide gulf between the landowner's expectations on price and realistic values for the properties has meant agreement cannot be reached.

Whilst moving forward to promote any CPO scheme, in accordance with the government guidelines, the acquiring authority must always continue to and use all reasonable endeavours to negotiate a purchase by agreement. The Council has continued this approach but negotiations with the owner have not been successful to date. Dialogue and negotiations with the landowner and their representatives will continue as the CPO progresses.

3.5 **Option 4: Acquire by CPO, demolish, and develop**

- Acquire the site, demolish the derelict buildings and work with a private sector developer or self-develop.

- Facilitate redevelopment of the site to provide a mixed-use residential scheme with ground floor commercial units.
- This option best delivers against the following outcomes:
 - Enhanced Town Centre Conservation Area
 - Town centre diversification
 - Provision of new homes
 - Increased Council Tax income
 - New customer base to support town centre businesses

3.6 This option provides greatest certainty that the site will be redeveloped and achieve regeneration objectives for the town centre, supporting the economy, environment and the well-being of Rotherham communities and is therefore recommended.

3.7 Option 4 is considered to provide the Council with the best opportunity to bring the land into public ownership to progress the scheme to development and it is therefore recommended that:

1. Cabinet approves the acquisition of 3-7 Corporation Street on terms to be agreed and approve the making of a Compulsory Purchase Order (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of land and rights within the area edged red on the plan in Appendix 1 for the purposes of facilitating development, redevelopment and improvement of the Order Land.
2. Cabinet authorises the Assistant Director of Regeneration, Planning and Transport, in consultation with the Cabinet Member for Jobs and the Local Economy and the Head of Legal Services, to effect the making, confirmation, and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the Order Land including, but not limited to, the following procedural steps.

3.8 Procedural steps to be taken to effect the making, confirmation and implementation of the CPO are detailed below.

- finalising a Statement of Reasons setting out the Council's reasons for making the CPO;
- making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making;
- acquiring all interests within the Order Land as may be necessary to facilitate the Scheme, either by agreement or compulsorily, including entering into negotiations with any third parties for the acquisition of their land interests; the payment of compensation and dealing with any blight notices served in connection with the CPO;
- approving agreements with landowners or statutory undertakers as applicable, setting out the terms for withdrawal of any objections to the CPO, including where appropriate seeking exclusion of land from the CPO;

- make any necessary additions, deletions, or amendments to the Order Land and to seek any requisite modifications to the CPO Order and any CPO maps (if required.)
- the preparation and presentation of the Council's case at any Public Inquiry which may be necessary.
- seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981) (the 1981 Act);
- In the event the order is confirmed, publication and service of notices of confirmation of the CPO and thereafter to execute and serve any general vesting declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area, including, if required, High Court Enforcement Officer notices;
- Instructing all steps in any legal proceedings related to the Order including referral and conduct of disputes, relating to compulsory purchase compensation, to the Upper Tribunal (Lands Chamber) and/or the courts and any appeals.

4. Consultation on proposal

- 4.1 Extensive public consultation took place in the development of the Town Centre Masterplan, highlighting key sites in the town centre such as the Order Land. Workshops, briefing sessions and 1 to 1's were held to ascertain the views of Members, Town Centre stakeholders, and communities.
- 4.2 A strategic engagement plan formed a key part of the Town Investment Plan (TIP); MyTown portal was used to initially engage the wider community in understanding the town's needs. As the TIP was progressed, a more targeted approach was developed, enabling the public to comment directly on proposals via a Virtual Exhibition (in line with Covid 19 restrictions). The presence of the platform was promoted through social media and Council newsletters.
- 4.3 The Town Deal Board has been consulted on the project and is supportive of the approach being taken.
- 4.4 Events such as the Rotherham Show have also provided a platform for sharing plans and obtaining feedback from communities regarding Town Centre developments. This feedback suggests local residents are keen to see the site redeveloped given the longstanding eyesore in such a prominent location in the town centre.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The Council with support from external advisors will be responsible for continued negotiations with the landowner for purchase by agreement. If an agreement can be reached and the acquisition completed, it will negate the need to progress the Compulsory Purchase Order.

- 5.2 Programme Milestones:
Target dates for successful land acquisition and site redevelopment.

Land Acquisition	
Cabinet Approval for CPO Powers	January 2023
Make CPO	February 2023
Planning Permission Determination	February 2023
CPO Review process starts (incl. potential objections)	March 2023
Procurement of Developer commences	March 2023
Land acquired	October 2023
Developer appointment	July 2024
Detailed design	July 2024
Start on site	January 2025
Completion	March 2026

Planning is progressing in parallel to the CPO preparation and it is envisaged the planning decision will be made prior to the order being made.

6. Financial and Procurement Advice and Implications

- 6.1 Funding for the project is covered by Towns Fund. The funding is approved in the Council's Capital Programme. In addition, professional fees are being supported by the Gainshare revenue stream. As outlined above, solicitors, surveyors, architects, project/cost managers have been appointed by the Council to prepare designs, develop the business case and cost the project. As outlined in the Business Case, the majority funding is provided by a developer with the Town's Fund to support the viability gap to ensure the progress of the scheme. Subject to a developer being found, the Council will review the project and consider potential for direct delivery.
- 6.2 There are no procurement implications associated with the commencement of the CPO process. The development works that will be required to take place, must be structured in a manner that is in compliance with the Public Contracts Regulations 2015 ("as amended") and the Council's own Financial and Procurement Procedure Rules.

7. Legal Advice and Implications

- 7.1 Section 226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises local authorities to compulsorily purchase land if the authority thinks that the acquisition will facilitate the development, redevelopment or improvement of land, or acquisition is required in order to achieve the proper planning of an area.
- 7.2 Before a CPO can be implemented, the acquiring authority will have to justify it to the Secretary of State.

The local authority must be able to demonstrate, in respect of the CPO, that:

- It is authorised by statute to purchase land compulsorily for a particular purpose and the CPO is necessary to achieve this purpose.
- There is a compelling case in the public interest that sufficiently justifies interfering with the rights of those with an interest in the land affected. In this case that the scheme will improve the economic, social or environmental wellbeing of the area.
- Adequate resources are (likely to be) available to implement both the CPO and the CPO scheme, within a reasonable time frame. (This would include any financial contributions from other bodies, including the private sector.)
- There is a reasonable prospect of the CPO scheme going ahead. For example, the scheme is unlikely to be blocked by the programming of any infrastructure or remedial work that may be required or the need for planning permission or other consent or licence.
- There is no alternative site or alternative means of bringing about the objective of the CPO.
- The CPO is a measure of last resort and that negotiations for acquisition by agreement have been pursued but have proved fruitless.

7.3 Legal Services, in conjunction with external advisers, will continue to monitor the progress of the CPO to ensure compliance with legislation and that the Council is on track to achieve a successful acquisition via CPO powers.

7.4 Section 9D of the Local Government Act 2000 requires that all functions of a local authority are the responsibility of the executive unless otherwise specified in regulations. The discharge of functions in relation to regeneration and in particular the making of a Compulsory Purchase Order are not specified within regulations as to not be functions of the executive. Therefore this is an executive power to be exercised by the Cabinet.

8. Human Resources Advice and Implications

8.1 There are no human resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no such implications arising from this report

10. Equalities and Human Rights Advice and Implications

10.1 Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states that a public authority must, in the exercise of its functions have due regard to the need to:

- 1) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act.
- 2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- 3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Council is confident that there is a compelling case in the public interest which is required to remove private property. Any decision at Public Inquiry, should one be required, will judge the public interest versus the owner's private property rights. As every effort has been made previously to engage the owner to bring the Order Land forward for development, it is now apparent that there is justification to bring a CPO to the table at this stage.

10.2 For an Initial Equalities Impact Screening please see attached Appendix 3.

11. Implications for CO2 Emissions and Climate Change

11.1 During the CPO stage of the Corporation Street scheme, there will be very little impact on carbon emissions. There may be a small amount of increased activity on site from visiting Council staff and contactors involved in negotiations and survey work, however, this impact will be minimal. Where possible, survey/negotiation work will be desk-based. As noted, at this stage in the scheme there will be no works on site and no development. However, as the scheme proceeds there will be detailed Carbon Impact Assessments at key stages such as the demolition of the current derelict buildings and the new development.

11.2 For full Carbon Impact Assessment please see attached Appendix 4.

12. Implications for Partners

12.1 The scheme will have a positive impact on the local area and the other developments that are part of the town deal, providing opportunities for developers and for local people.

12.2 If the site cannot be acquired (via negotiation or CPO) this could negatively impact on the wider Town Masterplan implementation and could result in losing the funding allocated to this scheme.

13. Risks and Mitigation

13.1 The main risks to the successful land acquisition:

1. Land acquisition costs higher than budgeted for
2. Developer partner procurement not concluded (CPO impact)

13.2 Landowner acquisition costs higher than budgeted for

Risk: Costs decided by Public Inquiry are higher than we have budgeted for. **Mitigation:** Surveyors and solicitors have been appointed at an early stage to provide 'worst-case' scenarios and ensure all potential compensation costs are covered.

13.3 Developer partner procurement not concluded (CPO impact)

Risk: Developer partner procurement is not concluded/terms are not agreed and the requirements of the CPO mean that RMBC are obliged to deliver the scheme directly. **Mitigation:** RMBC will deliver the scheme directly which will be achievable within the timeframe but lead to a greater capital cost and long-term involvement in the letting or sale of the project.

14. Accountable Officers

Simon Moss Assistant Director, Planning, Regeneration and Transport
Tim O'Connell, Head of RiDO

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	09/01/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	05/01/23
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	23/12/22

*Report Author: Lucy Mitchell, Major Projects Officer
lucy.mitchell@rotherham.gov.uk*

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