

**REPORT AUDIT TRAIL****CONSULTATION**

*This is important as it shows that consultation has been undertaken in the preparation of the report and provides a quick reference point for specific comments, whilst the report will not be publishable if these areas have not been completed by the named persons below. **You must liaise with and receive sign off from the relevant Cabinet Member(s).***

<b>Name/Position</b>	<b>Portfolio/Ward/ Directorate</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
Councillor <b>Denise Lelliott</b>	Cabinet Member for <b>Jobs and the Local Economy</b>	12/10/23	13/10/23	Email confirming approval
<i>Paul Woodcock</i>	Assistant Chief Executive/ Strategic Director for <b>Regeneration and Environment</b>	12/10/23	Click here to enter a date.	
<i>Jayne Close,</i> Finance	Finance and Customer Services	12/10/23	17/10/23	6.2
<i>Lesley Tattersall,</i> Legal Services	Legal Services	12/10/23	12/10/23	7.1
<i>John Crutchley,</i> Human Resources	Assistant Chief Executive's Office	12/10/23	13/10/23	8.1
<i>Karen Middlebrook,</i> Procurement	Finance and Customer Services	12/10/23	13/10/23	6.1
<i>Steve Eling,</i> Equalities	Assistant Chief Executive's Office	12/10/23	13/10/23	
<i>Tim Hartley</i>	Asset Management	12/10/23	Click here to enter a date.	

<b>REPORT APPROVAL TRACKING</b>			
<b>Equalities</b> Your report will not be authorised for submission to Cabinet by your Strategic Director if you have not undertaken and included an initial equalities screening. All equalities analysis documents should be included as appendices	<b>Initial Screening completed and included with report</b>	YES	06/09/2023
	<b>Full Assessment completed and included with report</b>	YES	06/09/2023
<b>Carbon Impact Assessments</b> Carbon Impact Assessments are to be appended to the associated cabinet reports. Carbon Impact Assessments should be sent to <a href="mailto:climate@rotherham.gov.uk">climate@rotherham.gov.uk</a> for feedback prior to your report being sent to your Strategic Director for approval.	Carbon Impact Assessment completed and included with report.	YES	19/09/2023 CIA 143
<b>Background information</b> <b>MANDATORY:</b> Insert headings for a few main <b>public</b> documents you have used or referenced to write this report. This is a legal requirement. For Cabinet reports, <b>insert hyperlinks</b> . Do not list private documents.	Cabinet Meeting 28 <sup>th</sup> March 2022 (Minute 124) <a href="#">March 2022 Cabinet Minute 124 re CPO.pdf</a> Cabinet Meeting 23 <sup>rd</sup> January 2023 (Minute 105) <a href="#">Printed minutes Monday 23-Jan-2023 10.00 Cabinet.pdf (rotherham.gov.uk)</a> Officer Delegated Decision <a href="#">Officer Delegated Decision Report 30<sup>th</sup> March 2023</a> Officer Delegated Decision <a href="#">Officer Delegated Decision Report 25<sup>th</sup> July 2023</a>		
<b>Appendices</b> If appendices are essential to the understanding of the report, list titles here. Ensure that appendices have proper titles. List any appendices relevant to the decision being taken first with the Equality Analysis documents coming next and the Carbon Impact Assessment being listed as the last Appendix for all reports.	Appendix 1 Plan and Rights Schedule Appendix 2 Equalities Impact Screening Appendix 3 Equalities Impact Assessment Appendix 4 Carbon Impact Assessment		
<b>Cabinet Member Approval</b> You should retain an email confirming the Cabinet Member approval for your records. Strategic Directors should not authorise reports unless Cabinet Members have given sign off	YES/NO (delete as appropriate)	Click here to enter a date.	
<b>Report Authorised by Strategic Director</b>	YES/NO (delete as appropriate)	Click here to enter a date.	

<b>Report Authorised for publication by Chief Executive</b>	YES/NO (delete as appropriate)	<a href="#">Click here to enter a date.</a>

**Committee Name and Date of Committee Meeting**

Delegated Officer Decision – 24 October 2023

**Report Title**

Self-confirmation of the Compulsory Purchase Order (CPO) and demolition of 3-7 Corporation Street

**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

lucy.mitchell@rotherham.gov.uk

**Ward(s) Affected**

Boston Castle

**Report Summary**

An agreement to acquire the properties (numbers 3-5 and number 7 Corporation Street) has now been reached which in turn will see removal of the landowner's objection to the Compulsory Purchase Order (CPO) made by the Council in April 2023. This report is seeking authority to self-confirm the Compulsory Purchase Order with the Planning Inspectorate Casework Unit following acquisition of the properties that make up 3-7 Corporation Street and removal of their objection to the CPO. A legal agreement has also been prepared to remove an objection from BetFred (a neighbouring occupier to the rear on Bridgegate). The ability to self-confirm the CPO is dependent upon all objections being removed. The report is also seeking authority to demolish the unsafe, fire damaged structures that make up 3-7 Corporation Street as soon as possible following acquisition.

**Recommendations**

1. That the Assistant Director for Planning, Regeneration and Transport and Head of Legal Services initiate, take all steps and enter into all documentation on behalf of the Council in order to complete the CPO self-confirmation process for the property interests detailed in Appendix 1 following removal of all objections.

2. That the Assistant Director for Planning, Regeneration and Transport authorises the demolition of the fire-damaged structures that make up 3-7 Corporation Street, together with any neighbouring party wall repairs when the properties are in the Council's ownership.

### **List of Appendices Included**

- Appendix 1 Plan and Rights Schedule
- Appendix 2 Equalities Impact Screening
- Appendix 3 Equalities Impact Assessment
- Appendix 4 Carbon Impact Assessment

### **Background Papers**

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

Cabinet Meeting 23<sup>rd</sup> January 2023 (Minute 105) [Printed minutes Monday 23-Jan-2023 10.00 Cabinet.pdf \(rotherham.gov.uk\)](#)

Officer Delegated Decision [Officer Delegated Decision Report 30<sup>th</sup> March 2023](#)

Officer Delegated Decision [Officer Delegated Decision Report 25<sup>th</sup> July 2023](#)

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Cabinet – 28 March 2022

Cabinet – 23 January 2023

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Self-Confirmation of the Compulsory Purchase Order (CPO) and demolition of 3-7 Corporation Street**

### **1. Background**

- 1.1 Rotherham Metropolitan Borough Council is embarking on a significant regeneration opportunity after securing major public sector investment. The impact of this programme will bring benefits across the entire Borough of Rotherham.
- 1.2 The buildings at 3-7 Corporation Street have been continuously unused and derelict following incidents of fire damage in December 2005, April 2007, and July 2011. The poor appearance of the site detracts from the vitality of the Town; it is a disincentive to new investment and has a significant negative impact on nearby businesses and on the Conservation Area in which it is situated.
- 1.3 In January 2023, Cabinet approved the acquisition of the freehold and leasehold interests in 3-7 Corporation Street on terms that were to be agreed. Cabinet also approved 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 for the purposes of facilitating development, redevelopment, and improvement of the land.
- 1.4 In July 2023, following successful negotiations with the Executors of the late owner's Estate, an Officer Delegated Decision report (ODD) was approved to acquire the two properties that make up 3-7 Corporation Street.
- 1.5 Following acquisition of the properties and anticipated removal of all objections to the CPO, the Council will be able to self-confirm the Compulsory Purchase Order. The Council also intends to procure a contractor to demolish the unsafe structures on the site and undertake neighbouring party wall repairs as required, leaving a cleared site for future redevelopment. This report is seeking authority to progress both aspects.

### **2. Key Issues**

- 2.1 Government guidance relating to use of Compulsory Purchase powers mandates acquiring authorities to negotiate and agree terms of acquisition wherever possible. As stated in the July 2023 Delegated Officer Decision report, 'Acquisition of property at 3-7 Corporation Street', the Council has agreed terms to acquire numbers 3- 5 and 7 Corporation Street and the transaction is ready for completion.
- 2.2 A clause in the purchase contract requires the owner's solicitor to issue a statement to the Planning Inspectorate Casework Unit removing their client's objection to the CPO upon completion of the transaction.

- 2.3 Done Brothers trading as BetFred (located on Bridgegate) were the only other party to object to the CPO, predominantly raising concerns regarding the right of access and bin storage to the rear of their property. Heads of Terms to address their concerns and secure the removal of their objection have been agreed and a formal legal agreement has been drafted and shared with their solicitor for review and sign off. It is anticipated that the removal of their objection will happen prior to or simultaneously with completion of the acquisition of 3-7 Corporation Street.
- 2.4 When both objections have been removed, the Council will notify and liaise with the Planning Inspectorate Casework Unit to self-confirm the CPO, following the formal process and advised by the Council's appointed CPO solicitor and surveyor.
- 2.5 In order to complete the redevelopment of the site, rights of access, crane oversail, and party wall agreements will likely be required. For efficiency, the acquisition of these rights (a summary of which is detailed in Appendix 1) were included in the CPO. Specifically, Gateley Hamer, on the Council's behalf have negotiated heads of terms with McDonald's and Sunquest (located on Bridgegate). Agreements with these landowners, relating to the acquisition of the necessary rights, have been drafted and shared with owner's solicitors for review and final sign off.
- 2.6 The Council's CPO solicitor is in dialogue with the Planning Inspectorate Casework Unit regarding the progress made in relation to acquisition of the required properties and the anticipated timescale for removal of objections to the CPO.
- 2.7 Generally, Compulsory Purchase Orders are required to be confirmed by the Secretary of State. However, Section 14A (1) of the Acquisition of Land Act 1981 permits the Secretary of State (via the Planning Inspectorate) to serve notice on the Council (as the Acquiring Authority) authorising it to confirm the Order if they are satisfied that the following criteria apply:
- (a) the notice requirements in sections 11 and 12 of the 1981 Act have been complied with,
  - (b) no objection has been made in relation to the proposed confirmation or all objections have been withdrawn, and
  - (c) the Order is capable of being confirmed without modification.
- 2.8 Upon removal of the two objections it is considered that all three criteria will apply to the Order and the Council will therefore seek authority from the Secretary of State to self-confirm the Order. If this authority is forthcoming, then the Council can determine to confirm the Order. Once it chooses to do so, the Council is required to notify the Secretary of State as soon as reasonably practicable after the decision to confirm has been taken. Subject to the unlikely event of post-confirmation judicial review proceedings, the Order can then be implemented.
- 2.9 In terms of process should the Secretary of State be minded to grant authority to the Council to self-confirm the Order, then, in line with government guidance, the s.14A(1) notice will be issued. The Notice will:

- indicate that if the Council decides to confirm the Order, it should be endorsed as confirmed with the endorsement authenticated by a person having authority to do so, in the case of the Council an Authorised Signatory;
  - suggest a form of words for the endorsement;
  - refer to the statutory requirement to serve notice of confirmation under section 15 of the Compulsory Purchase Act 1981 act as amended by section 34 of the Neighbourhood Planning Act 2017; and
  - require that the relevant Secretary of State should be informed of the decision on the order as soon as possible with (where applicable) a copy of the endorsed Order.
- 2.10 If the Council chooses to confirm the Order, notification will then be given by the Council to the Secretary of State using Forms 9A and 11 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004. This is necessary to comply with the requirement in s.15 Acquisition of Land Act 1981 to notify the Secretary of State as soon as practicable after confirmation of the Order.
- 2.11 After the CPO is confirmed, the Council must provide a copy of the confirmation Order to all affected parties and affix a copy of it on site. Confirmation notices must also be published in the local newspapers, usually within six weeks of confirmation of the Order. The notice must also explain that a person aggrieved by the Order may apply to the High Court to challenge the validity of the CPO.
- 2.12 Once the Order has been confirmed which gives us the right to acquire the land and rights set out in the original CPO, it may still be necessary to formally vest these rights in the Council's name. Should this vesting be necessary, this will be the subject of a separate Delegated Officer Decision report.
- 2.13 Upon acquisition of the site and in anticipation of confirmation of the CPO, demolition of the existing fire damaged structures on site will take place at the earliest opportunity. Depending on the contractor's approach to the demolition, it may be necessary to obtain agreement, in the form of a licence, to access the site from neighbouring property owners. A Procurement Business Case to appoint a demolition contractor has been prepared and surveys have been undertaken. It is anticipated that demolition together with necessary party wall works will be completed by Summer 2024. Procurement of a developer is underway and running simultaneously with the demolition programme.

### **3. Options considered and recommended proposal**

- 3.1 Following agreement to acquire the properties thereby negating the need for a Public Inquiry, there are no alternative options to self-confirmation of the CPO. Acquisition by agreement and self-confirmation of the Compulsory Purchase Order is the most expedient and cost-effective method to achieve ownership of the site. This approach is mandated in Government CPO guidance.



3.2 Options for the properties on the site post-acquisition have been considered and there are 2 primary options that exist:

1. Council demolition of the existing properties upon acquisition to provide a cleared site to a developer:
2. Developer demolition of the properties prior to redevelopment of the site.

3.3 Option 1 (Council demolition of the existing properties upon acquisition) is recommended. This option offers a number of benefits:

- Removal of Health and Safety concerns associated with unsafe structures;
- Removal of the eye sore derelict structures that detract from the Town Centre Conservation Area and investment and regeneration in the adjacent Forge Island.
- The developer procured to redevelop the site will benefit from a cleared site.

#### **4. Consultation on proposal**

4.1 Affected parties have been consulted extensively throughout the CPO negotiation process. They have been made aware of the importance of the land to the wider regeneration of the town centre and how the site is currently impacting negatively on the area. Dialogue with neighbouring landowners regarding the rights required to facilitate the redevelopment has taken place to ensure that existing businesses in neighbouring properties are not detrimentally affected.

4.2 Wider external and internal communications on the Town Centre regeneration programme have taken place throughout the development of the funding plans and during the delivery of the programme via public events, online feedback, and internal meetings. The most recent example of public consultation was the Rotherham Show in September 2023.

#### **5. Timetable and Accountability for Implementing this Decision**

5.1 Dialogue is ongoing with the Planning Casework Unit regarding the removal of the CPO objections and the timescale associated with the Council's ability to self-confirm the CPO. It is anticipated that this will take place within three months of the transactions completing and the CPO should therefore be confirmed by February 2024.

<b>CPO</b>		
Acquisition of 3-7 Corporation Street	26 October 2023	Provisional date agreed with seller
Removal of Betfred objection to CPO	25 October 2023	Anticipated but not confirmed
Request to SoS to self confirm CPO	November 2023	

SoS authority to self confirm	January 2024	Estimated
Self confirmation of CPO	February 2024	Estimated
<b>Demolition of properties</b>		
Procurement business case signed off	October 2023	
Surveys and tender documentation preparation	October 2023	
Tender period	November/December 2023	
Tender evaluation	January 2024	
Tender award	28 <sup>th</sup> February 2024	
Demolition start	March 2024	
Demolition completion	June 2024	

**6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)**

6.1 There are no direct procurement implications associated with recommendation 1. In relation to recommendation 2 and the demolition activity, this must be procured in accordance with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

6.2 The cost of the CPO and subsequent demolitions will be met from the existing approved capital budget for this scheme.

**7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)**

7.1 The legalities associated with the proposed self-confirmation of the CPO have been extensively discussed with both the Council's external solicitors and with Legal Services and are detailed thoroughly in the body of this report, in particular in section 2. It is not, therefore, necessary to repeat these within this Legal Section of the report.

**8. Human Resources Advice and Implications**

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

**9. Implications for Children and Young People and Vulnerable Adults**

9.1 There are no direct implications arising from this report.

**10. Equalities and Human Rights Advice and Implications**

10.1 The implications arising from this report are considered in the Equality Impact Assessment (Appendix 3 to this report). The Council's Equalities team have considered this EIA and confirmed it to be appropriate.

## 11. Implications for CO2 Emissions and Climate Change

- 11.1 A Carbon Impact Assessment has been prepared (Appendix 4 to this report) and approved by the Climate Change team.

## 12. Implications for Partners

- 12.1. There are no implications anticipated from this acquisition.

## 13. Risks and Mitigation

- 13.1 Self-confirmation of the CPO enables the successful completion of the acquisition of the site bringing a derelict and potentially unsafe building into Council ownership. To mitigate the risks associated with this, the Council plan to secure the site and demolish the buildings as soon as possible after acquisition.
- 13.2 The value agreed to acquire the property reflects the removal of the CPO objections and the Council's ability to self-confirm the Compulsory Purchase Order, reflecting the significant cost and time savings associated. However, if objections are not withdrawn, there is the risk of the Council being unable to self-confirm and the case progressing to Inquiry. Therefore, the agreements prepared with Done Brothers (operating as BetFred) and the site owner include clauses that commit the parties to removing the objections as part of the property purchase and agreement of terms.

## 14. Accountable Officers

Lorna Vertigan, Head of RiDO

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	Click here to enter a date.
Head of Legal Services (Monitoring Officer)	Phil Horsfield	Click here to enter a date.

*Report Author:* **Error! Reference source not found.**

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