
A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet

11th January 2022

Name of Cabinet Member:

Cabinet Member for Jobs, Regeneration and Climate Change - Councillor J O'Boyle

Director(s) Approving Submission of the report:

Director of Property Services and Development

Ward(s) affected:

St. Michael's

Title:

City Centre South Land Acquisition and Compulsory Purchase Order

Is this a key decision?

Yes - the proposals involve financial implications in excess of £1m per annum

Executive Summary:

The City Centre South scheme (the Scheme) will deliver transformational improvements to Coventry city centre through new homes, jobs, commercial and leisure opportunities and high quality public spaces. In January 2017, Council and Cabinet took the key decisions to appoint SPG as preferred development partner, to accept £98.8m of grant funding from the WMCA and to approve, in principle, the use of compulsory purchase powers to deliver the Scheme.

This report, therefore, seeks formal approval to make the necessary Compulsory Purchase Order (CPO) further to these previous decisions. It should be noted that the Council's preference is to acquire the land and rights necessary for the delivery of the Scheme by negotiation rather than CPO and negotiations with landowners will, therefore, continue in parallel with the CPO process.

Accordingly, the design of the Scheme also aims to minimise the extent of third party land required. The Council is the freeholder of the vast majority of the site, however, there is still a significant amount of the land required for the Scheme that is subject to leases or other interests granted to third parties. The Council requires ownership and control of these property interests in order for the City Centre South scheme to be delivered.

Recommendations:

Cabinet is recommended to:

- 1) Resolve to make a Compulsory Purchase Order (CPO) pursuant to powers under Section 226(1)(a) Town and Country Planning Act 1990 and Section 13 Local Government (Miscellaneous Provisions) Act 1976), in accordance with the procedures in the Acquisition of Land Act 1981, for the acquisition of interests in the land coloured pink and for the creation and acquisition of new rights over the land coloured blue on the draft CPO map attached at Appendix 1 to the report (the proposed Order Land) in order to facilitate the delivery of the City Centre South Scheme (the Scheme).
- 2) Resolve to appropriate for planning purposes the land owned by the Council within the proposed redevelopment site shown on the plan at Appendix 9 pursuant to section 122 Local Government Act 1972 in order to facilitate the Scheme.
- 3) Authorise the Director of Property Services and Development, following consultation with the Director of Law and Governance, the Chief Operating Officer and the Cabinet Member for Jobs, Regeneration and Climate Change,:
 - a) To continue to negotiate terms to seek to acquire all the necessary interests and rights in the Order Land by agreement alongside progressing the CPO;
 - (b) To take all necessary steps to secure the making, confirmation and implementation of the CPO including in relation to making continued satisfactory progress in regards the funding of the Scheme, the publication and service of all notices and the promotion of the Council's case at any public inquiry, including but not limited to the steps in (c) to (m) below;
 - (c) To make any necessary amendments to the draft CPO Map (within the boundaries of the pink and the blue land on Appendix 1) and/or draft schedules to the CPO so as to include and describe all interests in the land and new rights required to facilitate the carrying out of the Scheme;
 - (d) To finalise and seal the CPO Map and the Order and finalise the draft Statement of Reasons, certificates and other supporting documents, to publicise the making of the CPO and to submit the CPO (with supporting documents) to the Secretary of State for confirmation and thereafter to produce (and where appropriate publish and/or serve) all other documents required in connection with the CPO;
 - (e) To acquire interests and new rights in the Order Land either by agreement or compulsorily (including pursuant to any blight notices as appropriate) including conduct of negotiations, making provision for the payment of compensation and, where appropriate, provision for temporary and/or permanent relocation of affected parties and/or for cases of exceptional hardship;
 - (f) To negotiate, agree terms and enter into other agreements with interested parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the CPO and/or undertakings not to enforce the CPO on specified terms, including where appropriate seeking the exclusion of land or rights from the CPO, making provision for the payment of compensation and/or for relocation;
 - (g) To authorise entry onto land to undertake surveys under s172 Housing and Planning Act 2016 and/or other relevant powers;

- (h) In the event that the CPO is confirmed by the Secretary of State (or the Council is authorised by the Secretary of State to confirm the CPO), to advertise and give notice of confirmation and thereafter to take all steps to implement the CPO and to secure possession of the Order Land including execution of General Vesting Declarations and/or service of Notices to Treat and Notices of Entry in respect of interests and rights in the Order Land and, where necessary, the appointment of High Court Enforcement Officers;
 - (i) To settle claims for compensation under s204 Housing and Planning Act 2016 in respect of rights, interests or restrictions which are overridden and/or to reach agreement for the release of any such rights etc. by affected third parties;
 - (j) To take all steps in relation to any legal proceedings relating to the CPO including defending or settling claims referred to the Lands Tribunal (Lands Chamber of the Upper Tribunal) and/or applications made to the courts and any appeals;
 - (k) To retain and/or appoint external professional advisers and consultants to assist in facilitating the promotion, confirmation and implementation of the CPO, the settlement of compensation and any other claims or disputes;
 - (l) To place statutory advertisements as required by section 122(2A) Local Government Act 1972 and section 233(4) Town and Country Planning Act 1990 of the Council's intention to appropriate for planning purposes and thereafter to dispose of the open space land in the Council's freehold ownership shown on the plan at Appendix 11 to the report; and
 - (m) To consider any objections received in response to the statutory advertisements referred to in paragraph (l) above and to decide whether any such land should be appropriated for planning purposes and disposed of to facilitate the Scheme; and
 - (n) At the appropriate time, subject to (m) above, to complete disposal of land within the redevelopment site to the developer, pursuant to power under section 233 Town and Country Planning Act 1990, in accordance with the terms of the development agreement.
- 4) Delegate authority to the Director of Transportation and Highways to:
- (a) Make an application under s.247 of the Town and Country Planning Act 1990 to stop up areas of highway necessary to implement the proposals; and
 - (b) If required to facilitate the delivery of the Scheme, to take all necessary steps to commence the process of closure of Barracks Way and Market Way Car Parks and their removal from the Off-Street Parking Places Order 2005
- 5) Resolve, where necessary in the absence of agreement, to exercise powers under ss 271 and 272 Town and Country Planning Act 1990 in relation to the extinguishment of rights of statutory undertakers and electronic communications code network operators.
- 6) Resolve, where necessary, to request the Secretary of State to exercise powers under s251 Town and Country Planning Act 1990 (in accordance with regulation 15 of the Town and Country Planning Regulations 1992) to authorise the extinguishment of any public rights of way over land to be acquired or appropriated for the purposes of the Scheme.

- 7) Delegate authority to the Director of Property Services and Development, following consultation with the Director of Law and Governance, the Chief Operating Officer and the Cabinet Member for Jobs, Regeneration and Climate Change, to take all necessary, incidental or ancillary steps for the carrying into effect any of the recommendations set out in this report.

List of Appendices included:

- Appendix 1: Draft CPO map showing land and rights proposed to be acquired
- Appendix 2: Plan showing proposed parameters of the Scheme
- Appendix 3: Equalities Impact Assessment
- Appendix 4: Draft Statement of Reasons
- Appendix 5: Draft Schedule of Interests
- Appendix 6: Delivery Approach Report
- Appendix 7: Draft CPO
- Appendix 8: Draft Highways Order Land
- Appendix 9: Land within the Council's freehold ownership proposed for appropriation for planning purposes excluding open space land
- Appendix 10: Open space land within the redevelopment site proposed for inclusion within the Order Land in respect of which a certificate under section 19 Acquisition of Land Act 1981 is to be sought
- Appendix 11: Open space land within the redevelopment site in respect of which public notice of intention to appropriate for planning purposes and/or dispose is proposed to be given
- Appendix 12: Open space proposed to be provided within the Scheme
- Appendix 13: Site Assembly Strategy - Information for Businesses

Background papers:

None

Other useful documents:

- Report to Cabinet and Council 24th January 2017 "City Centre South Development"
- Report to Cabinet 28th November 2017 and Council 5th December 2017 "City Centre South – Early Acquisition of Aviva Long Leasehold Property Interests"
- Report to Planning Committee 22nd April 2021 "City Centre South"

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Title: City Centre South Land Acquisition and Compulsory Purchase Order

1. Context (or background)

- 1.1 The Scheme to redevelop the City Centre South (CCS) site (the Scheme) is the Council's key regeneration priority for the city centre. Supported by the Council's planning and regeneration policies, the Scheme will transform this part of the city centre through comprehensive redevelopment and improvement.
- 1.2 Shearer Property Group (SPG) were appointed by the Council in 2017 to take forward development proposals for the site. Alongside this, £98.8m of grant funding from the West Midlands Combined Authority (WMCA) was secured by the Council to fund land acquisition, enabling works, demolition and other key development costs necessary to bring forward the Scheme. Since then, and through a period of unparalleled change and disruption on both the high street and the wider economy, the Council and SPG have been working together to bring forward proposals for a deliverable, residential led, mixed use city centre development scheme. This resulted in Planning Committee resolving to grant consent for the Scheme in April 2021.
- 1.3 The Scheme will deliver a range of transformational benefits for the people of Coventry. At least 1,100 new homes will result in sustainable city centre living for our communities (as well as taking pressure off the need to develop in other areas). These homes will be accompanied by high quality retail, health, workspace and leisure facilities, as well as significantly improved public realm. It will create many hundreds of full-time jobs (as well as construction related jobs and apprenticeship opportunities for local people). The Scheme will also deliver a wide range of benefits but they will only be realised if the Scheme is able to be brought forward in a timely and efficient way. Key to this is gaining control and ownership of all the property interests in the area of land coloured pink on the draft CPO map at Appendix 1 (which is where physical development will occur) as well as the creation and acquisition of the necessary "new rights" to enable the Scheme to come forward (such as oversailing rights for cranes or where structural interfaces are required) in respect of the area of land coloured blue on Appendix 1. The proposed parameters of the Scheme are shown on Appendix 2.
- 1.4 Whilst the Council is the freeholder of virtually all the land where the Scheme will be brought forward, a significant part of this freehold ownership is unregistered and there is also a strip of land along the north east boundary of the pink land whose ownership is unknown. In addition, there are numerous leasehold and other property interests relating to third parties which are used as shops, food and drink establishments, offices and for other business and community uses. In terms of businesses and retailers, the Council has been working for a number of years to seek to agree with tenants the necessary lease agreements that will allow the Council, as landlord, to serve notice on these tenants at the appropriate time to end their tenancies. Whilst significant progress has been made, given the number of interests within the boundary of a scheme of this size, there are a number of interests (c.35) whose occupational lease interest expires after the date the Council requires possession of the site (January 2023) or those who have a long leasehold interest in properties within the site (c. 18 interests). The draft schedule of interests which the Council believes would need to be the subject of a CPO is attached at Appendix 5 and this will be confirmed and finalised before the CPO is made. Supported by our CPO advisors, Deloitte, the Council is, and will continue to, negotiate with these owners and occupiers and seek to acquire their interests by agreement where possible, in line with Government Guidance (see paras 1.12 to 1.15 below). A Site Assembly Strategy - Information for Businesses – is also in place (see Appendix 13) for affected occupiers. This includes, for businesses looking to relocate (either permanently or temporarily), commitments that:

- the Council and partners will keep an updated record of available units and will help those affected businesses that wish to relocate to do so as and when possible.
 - for businesses interested in relocating to the new centre once complete, there is the possibility of relocating to the new City Centre South scheme on market terms at the time. The offer of accommodation in the Scheme will be dependent on a variety of factors, including the planned retail mix within the development. Other available Council properties will also be looked at for relocation needs.
 - when relocation back into the new City Centre South scheme is not possible, or business owners do not wish to take space in the new scheme, they will be helped to relocate to alternative nearby premises.
- 1.5 The Council will continue to use reasonable efforts to acquire all business and property interests by agreement and will use a range of approaches, including early acquisitions, options and conditional contracts. In order to assist businesses and traders who are required to vacate as a result of the scheme, the Council has instructed local property agents Holt Commercial Ltd to maintain a schedule of retail premises available to let in the local area. Depending on the circumstances a range of potential agreements are being explored with affected occupiers, for example:
- a purchase price to enable the business to vacate at an agreed time without relocation
 - an early acquisition so that the business can relocate immediately to allow a lease to be surrendered
 - an option to relocate back into the new development in future on market terms
 - an arrangement where there is an extended notice period before the property is acquired
 - an acquisition conditional on confirmation of the CPO and/or other matters.
- 1.6 The costs associated with gaining control and ownership of the land and property interests necessary to deliver the Scheme are currently being met through a capped grant from the WMCA. Notwithstanding this, the Development Agreement (DA) between the Council and SPG places an obligation on SPG to secure a private sector funding and delivery partner for the Scheme who will indemnify or meet all the costs associated with land assembly and a CPO (including all compensation costs associated with Rights to Light and Highways Orders) to the extent that those costs exceed the relevant WMCA grant. This requirement forms part of what is known within the DA as the “Funding Security Condition”.
- 1.7 Since entering into the DA with the Council in March 2019, SPG has been progressing the steps to partner with a private sector funder and delivery partner to take forward scheme development and to provide this indemnity in relation to the potential costs of the CPO and other compensation matters. The DA anticipated that the Council would make a CPO only once this Funding Security Condition has been met but allowed for the ability for the Council to progress a CPO in advance of the discharge of the Funding Security Condition if it chose to do so. Other conditions include the grant of Planning Permission (which SPG will need to confirm is satisfactory), SPG having entered into a conditional funding agreement with an approved funder, a viability assessment having been undertaken and the Council having considered any additional financial requests from the developer.
- 1.8 Over the first half of 2020, SPG advised the Council that feedback received from prospective funding partners included concerns regarding the time and cost associated with land assembly. This uncertainty was cited as being one of the key reasons why investors were reluctant to commit resources when delivery of the Scheme could still be a number of years off. A number of initiatives and principles were discussed between

SPG and the Council, to help inform an approach to securing a funding partner. This included adopting a parameter plan based planning approach, so as to allow flexibility for an incoming partner (or partners) to optimise the detailed design in response to their specific requirements and prevailing economic conditions. A further key component was for the Council to commit to accelerating the land assembly process to provide funding partner confidence. This would assist in demonstrating the Council's commitment and proactive approach to facilitating the development.

- 1.9 On this basis, the Council has advanced the preliminary stages of the CPO in parallel to SPG running a competitive process to secure a private sector funding and delivery partner. As matters currently stand, three prospective partners have been shortlisted by SPG, with a preferred party anticipated to be selected during Q1 2022. In order to maintain momentum, it is therefore recommended that the relevant approvals for the making of the CPO are sought at this point in the process and the CPO subsequently made so as to move this key regeneration project significantly forward.
- 1.10 With the resolution to grant Planning Consent having been secured, the making of a CPO is the key next step as it will support the securing of the private sector funding and delivery partner and it will demonstrate the Council's commitment to the removal of a key impediment to the delivery of the Scheme, namely the ability to secure the remaining land interests and rights required for the scheme. Making the CPO in advance of SPG securing a partner means that the Council would potentially be liable for any associated costs beyond the capped WMCA grant. It is important to note that the financial risk to the Council is largely mitigated as the costs and compensation associated with land assembly and CPO are currently estimated by our advisors Deloitte to be appropriately within the budget available (as set out in the Private element of this report). Furthermore, any obligation to pay compensation does not generally arise from the making of the CPO, rather the implementation of it (i.e. the taking possession of the property after service of statutory notices under the CPO), although the Council must be prepared to meet these costs. The exception to this is the service of "blight notices", which can be served by certain owners if they meet certain criteria (such as their Rateable Value being less than £36,000; having been in occupation for six months; and with over three years on the lease outstanding). The estimated potential exposure to Blight Notices has been set out by Deloitte and is contained in the Private element of this report (this amount would be covered by the WMCA Grant).
- 1.11 Whilst it is anticipated that a funding partner will be in place (and therefore the Funding Security Condition met and the indemnity to the Council in place) by the time the CPO is confirmed or earlier, if this is not the case then the Council would have the option to subsequently exercise its CPO powers and take on the full liability for all site assembly costs and compensation at that point – the Council would intend to effectively take on the role of master developer, as expanded upon below.
- 1.12 Government Guidance
- 1.13 In promoting a compulsory purchase order, acquiring authorities should have regard to government guidance and in particular "*Guidance on Compulsory Purchase process and the Crichel Down Rules*" published by MHCLG in July 2019 ("the Guidance").
- 1.14 Paragraph 12 of the Guidance sets out the overarching requirement for all CPOs: that there must be a compelling case in the public interest for making the order. It states that the acquiring authority must be sure that the purposes for which a CPO is made justify interfering with the human rights of those with an interest in the land affected. Paragraph 2 of the Guidance makes clear that acquiring authorities will be expected to demonstrate that they have taken reasonable steps to acquire the land and new rights included in a

CPO by agreement. Whilst the Guidance states that compulsory purchase is intended as a last resort to secure the assembly of land needed to implement projects, it also acknowledges that valuable time can be lost if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process. Dependent on when the land is required, the Guidance notes that it may often be sensible for local authorities to plan a compulsory purchase timetable and initiate formal procedures, in parallel with conducting negotiations.

- 1.15 Section 1 of Tier 2 of the Guidance considers CPOs made under s226 of the Town and Country Planning Act 1990 and paragraph 106 of that Section identifies that the factors that the Secretary of State will take into account in deciding whether to confirm a CPO made under this section can be expected to include:
- *whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework.*
 - *the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area.*
 - *whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness or any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.*
 - *the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and / or the statutory planning position.*

- 1.16 The draft Statement of Reasons, as attached at Appendix 4, sets out why and how the Council believes these factors have been addressed and why the making of the CPO should be authorised as summarised in this report. The draft Statement of Reasons set out in Appendix 4 should be read in full, alongside the other appendices to this report.

2. Options considered and recommended proposal

2.1 Option 1. Do nothing

- 2.1.1 The Council could decide to not proceed with the making of the CPO and the associated decisions that are the subject of this report. Doing so would mean that the CCS scheme would not proceed. This is contrary to the Council's well-established corporate objectives and planning policies for the city and is, therefore, not recommended. As set out earlier, the Council has previously taken (in January 2017), the "in principle" decision to exercise its CPO powers to bring forward the Scheme. Therefore, in terms of timing, i.e. when to proceed to make the CPO, there are two main options, as set out below.

- 2.2 Option 2. To wait until the Funding Security Condition is satisfied and make the CPO once the relevant indemnity regarding land assembly costs is met
- 2.2.1 If the Council were to not proceed with the making of the CPO at this point then this could create a significant impediment to the delivery of the Scheme. All city centre schemes such as CCS are challenging to bring forward and, in the current economic climate, funders and development partners want to see as much of the preparatory stages prior to development either delivered or de-risked. The Council's commercial advisors, Deloitte, has advised that having a clear route through to the securing of the necessary property interests (via compulsory purchase in the absence of agreement with all affected owners) will help provide assurance to a funder/delivery partner that the Scheme can come forward in a timely manner and, therefore, taking forward a CPO is a key step in being able to secure the necessary partner. This is evidenced by the level of interest SPG has received from prospective funding and delivery partners, who are aware of the efforts the Council is making to assemble the site. Clearly, whilst the Council could try and continue to negotiate to acquire all necessary interests in the absence of a CPO, nothing would compel any third party to sell their interest to the Council and no certainty that all the necessary land and new rights could be assembled in a timely manner.
- 2.2.2 As noted, the Government Guidance acknowledges that it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to plan a CPO timetable as a contingency measure and initiate formal procedures. This will help to make the seriousness of the authority's intentions clear from the outset, which in turn may encourage those whose land is affected to enter more readily into meaningful negotiations and prevent any potential "ransom" situations arising. This part of the Guidance acknowledges the challenge for acquiring authorities that in order to be able to demonstrate a route map to viability a funding partner is required but, often, a funding partner will only enter into the scheme once a CPO process has been sufficiently progressed.
- 2.2.3 Clearly, if the Funding Security Condition is met, that would maximise the ability for the Scheme to proceed as quickly as possible and this is the preferred position. However, a further reason to not wait until the Funding Security Condition is met before making the CPO relates to timing. The Council, as landlord to a significant number of tenants within the Scheme area, has been working and engaging with these business to try and secure the necessary agreements via negotiation that would allow for the vacant possession date of January 2023 to be met, in line with the CPO process. Furthermore, given the length of time the regeneration plans for CCS have formed such a critical part of the Council's regeneration plans for the city centre, further delay would create more uncertainty in relation to wider business investment in the city, given the importance the CCS Scheme has for the city. There would also be no guarantee that a comprehensive scheme could come forward in the absence of a CPO. The way the property interests are located would not allow for a sufficiently significant development scheme to come forward in the absence of the acquisition of all interests to achieve a transformation of this part of the city centre. Whilst it might be possible for land to be acquired that could enable some small scale development to occur, this would not bring forward the transformational change required and would not be as envisaged in the WMCA grant agreement which relates to a comprehensive scheme.
- 2.2.4 In the event that the Funding Security Condition is not met by SPG and any further funder/development partner, the Council itself would intend to progress the Scheme as its own master developer, procuring sub-development partners as set out below.

2.2.5 Given the Council's overall vision and planning, regeneration and growth objectives for the city and its economic development and well-being ambitions for its residents, not facilitating the Scheme through the making of a CPO at this point in time would run contrary to the Council's objectives for the city centre. For these reasons, this option 2 is not recommended.

2.3 Option 3. To agree to the making of a CPO now to support the delivery of the Scheme

2.3.1 Given the advice from our commercial advisors Deloitte that delay in making the CPO is likely to make the Scheme less attractive to potential funders, the alignment with the relevant Government Guidance and the clarity it will provide to businesses and investors in relation to the Council's commitment to realising positive improvement for the wider city centre, it is recommended that the option to authorise the making of the CPO and then subsequently make the CPO is agreed. If this option is approved, it will help to provide the best possible opportunity for the Scheme to come forward and to help meet the Council's economic development, regeneration and well-being objectives for Coventry. The draft Statement of Reasons, included as Appendix 4, sets out the rationale and detailed justification for the making of the CPO and should be read in conjunction with this report, alongside the other appendices.

2.3.2 The making of the CPO provides the opportunity for the key benefits for Coventry as set out in section 2.4 below to be delivered as part of the Scheme:

2.4 Key benefits for the city

2.4.1 **Regeneration:** The Scheme is at the heart of the city's regeneration ambitions. CCS will transform almost seven hectares of the city centre making it work for the way people want to use and enjoy city centres today. With over a thousand new homes the scheme will help to create a new community in the city centre alongside all the benefits that brings. Recent investment in the public realm has shown how spaces can be transformed with high quality materials, water features and art. These important factors will also be at the heart of CCS and we expect lots of new jobs to be created. The Scheme will also fit with our wider ambitions for the Friargate area of the city which is only five minutes' walk away.

2.4.2 The Scheme will also play an important role in delivering a key objective for the city, namely the provision of a range of housing options which will help to create thriving, vibrant and diverse communities. This includes the retention of graduates and the role they play in attracting high value businesses. A young talented pool of labour is one of the most important considerations for businesses when deciding to relocate. CCS will play an important role if Coventry is to achieve its wider economic goals. With a significantly improved city centre, Coventry can expect to retain more graduates and attract more high value businesses – helping to close the City's productivity gap.

2.4.3 **Financial:** It is anticipated that the Scheme will provide significant increases in Council Tax revenue and business rates growth, as well as potentially New Homes Bonus, once development is completed.

2.4.4 **New homes:** The Scheme has the potential to provide at least 1100 new homes in the city centre. As well as making a positive contribution to local housing supply, the new homes built on existing brownfield land will help make the city centre a location of choice for new and existing residents of Coventry.

- 2.4.5 **Enhancing the city's reputation and offer:** Alongside the Friargate scheme and the works to transform the rail station, the making of the CPO and then delivery of the Scheme will help to provide market confidence that Coventry should be a destination of choice for business investment.
- 2.4.6 The Scheme will support the diversification of the city centre's residential, retail, leisure and community offer to attract increased footfall throughout the daytime and into the evening, supporting the viability of businesses within City Centre South and the wider city centre.
- 2.4.7 **Health and well-being:** The Scheme will deliver a larger area of public realm of a higher quality, providing a significant amount of public open space for residents and visitors to socialise, relax and dwell, supporting improved health and wellbeing. There will also be significant improvements to the permeability and legibility of this key city centre location through enhancing the historically important north-south connectivity along Hertford Street and Market Way, as well as creating new east-west connectivity which will improve the community's use of this part of the city.
- 2.4.8 **Environmental:** The Scheme will bring underutilised land in a city centre location back into productive use, maximising the use of brownfield land in a way which will enhance the quality of the built environment to the benefit of existing and new residents in Coventry.
- 2.4.9 The Scheme will also realise large improvements to the quality of the built environment, through the removal of poor quality buildings and the replacement of the current public realm with new, high quality public spaces as well as an enhanced setting for the Grade II listed Coventry Market, making the building more prominent at ground floor level and enabling its architectural and communal values to be experienced in a more open manner.
- 2.4.10 The Scheme will also encourage sustainable modes of travel by removing surplus car parking capacity in the city centre and there is the potential for biodiversity net gain, through the creation of new planting, green and brown roofs at detailed design stage.

2.5 Planning Policy

- 2.5.1 The Scheme is supported by national, regional and local policy and guidance and a resolution to grant Planning Permission was achieved in April 2021. The National Planning Policy Framework (NPPF) includes a number of policies which support developments of this nature, including:
- Paragraph 60 of the NPPF highlights the importance of significantly boosting the supply of homes and the supply of land coming forward accordingly;
 - Paragraph 81 states that planning decisions should help create the conditions in which businesses can invest, expand and adapt; significant weight should be placed on the need to support economic growth and productivity;
 - Paragraph 86 states that planning decisions should support the role that town centres play at the heart of their communities and take a positive approach to their growth and adaptation, including the promotion of their vitality and viability, allowing them to diversify in a way that can respond to rapid changes in the retail and leisure industries, allowing for a suitable mix of uses, including housing;
 - Paragraph 92 requires planning decisions to aim to achieve healthy, inclusive and safe places, which promote social interaction, including mixed-use developments. Places should be safe and accessible, with clear and legible pedestrian routes and high-quality public spaces.

- 2.5.2 The report to planning committee in relation to the resolution to grant planning permission contains a more detailed summary of the planning considerations of the Scheme. This is included in the “Background Papers” section of this report.
- 2.5.3 The Development Plan for Coventry consists of the Local Plan and City Centre Area Action Plan 2017 (CCAAP) which were both adopted in December 2017. These set out the development strategy for Coventry city centre and state that the city centre will continue to be developed and regenerated to ensure it is a truly world class city centre, leading in design, sustainability and culture. The CCAAP promotes the regeneration of the southern part of the Primary Shopping Area, which comprises City Centre South. In accordance with the Development Plan (particularly Policies D1, R2, CC1, CC11 and CC19 regarding redevelopment), the delivery of City Centre South will facilitate the regeneration of the city centre, delivering new housing as part of a sustainable mixed-use neighbourhood, supporting Coventry’s economic vitality. Whilst the consented Scheme that forms the basis of the CPO provides for a greater level of residential development than that originally envisaged by the planning policy framework, the proposed mix of uses aligns with the realities of contemporary city centre regeneration priorities.

2.6 Delivery and funding

- 2.6.1 As set out above, in considering whether or not to confirm the CPO, the Secretary of State can be expected to consider (amongst other things) the potential financial viability of the Scheme being considered and whether there is a reasonable prospect of delivery. To date, it has been anticipated that the Scheme would be delivered by SPG and its funder / delivery partner in accordance with the DA. The DA places obligations on SPG to secure this private sector funding and delivery partner with the expectation that the funder would then provide the necessary finance to cover the costs of getting to a start on site (what is called an “Unconditional Date” in the DA). These costs will include preparing detailed scheme design plans, reserved matters planning applications, the procurement of a main contractor to build the Scheme and indemnifying the Council regarding land assembly costs above the relevant capped WMCA grant figure. As set out above, SPG’s process of selecting a funding and delivery partner, which is capable of meeting these obligations, is ongoing. SPG is, however, making good progress in this regard, with three prospective partners having been shortlisted. Information regarding these potential partners’ track record; funding resources; and specific scheme proposals, including design, programme and financial viability information, has been shared with the Council. The information shared to date means that the Council remains confident that this process will bring forward a funding and delivery partner who can demonstrate a clear route map to deliverability (please see appendix 6 for more information).
- 2.6.2 It is currently anticipated that a preferred funder and delivery partner will be identified during the first quarter of 2022 and further information on the anticipated process is contained in the Private element of this report.
- 2.6.3 If the proposed partner is unacceptable to the Council because such a partner seeks additional financial commitments from the Council or they are not able to fund and deliver the Scheme required by the terms of the DA then it is possible the DA could be terminated. In this event, it remains the Council’s intention to continue to bring forward the Scheme. In such circumstances, the Council would effectively assume the role of the ‘master developer’ of the Scheme and take responsibility for overseeing the completion of land assembly, utilising the WMCA grant (subject to the WMCA’s approval) to deliver enabling and infrastructure works and then, ultimately, release enabled development platforms / plots to third party developers to deliver a scheme that is aligned with the existing planning permission. This is an approach that is being used successfully by other local authorities, such as Sheffield City Council’s “Heart of the City II” scheme. This

scheme is delivering significant mixed-use redevelopment of Sheffield City Centre, with the Council having taken responsibility for enabling the site and subsequently delivering multiple phases, either directly or with private sector investment.

2.6.4 Further information regarding potential alternative delivery arrangements are set out in the Private element of this report.

2.6.5 The principle of a local authority taking responsibility for the early delivery phases of an urban centre scheme if required is an increasingly established one. The Council has an established track record of delivering major works and developments and overseeing the delivery of high-quality public realm works around the city centre.

2.7 Highways Order

2.7.1 There are three areas of publicly maintained adopted highway within the boundary of the Scheme and these will need to be stopped up before the Scheme can be fully implemented. These areas are shown at Appendix 8. Applications to allow these areas of highway to be stopped up to facilitate delivery of the Scheme will be made pursuant to section 247 of the 1990 Act. It is intended that any objections to these applications would be heard at a conjoined public inquiry with any objections to the making of the Order.

2.8 Open Space

2.8.1 Section 19 of the Acquisition of Land Act 1981 defines “open space” as any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground”. It is similarly defined for the purpose of Local Government Act 1972 and the Town and Country Planning Act 1972 which are also relevant here.

2.8.2 The land required for the Scheme includes four areas that potentially fall within the statutory definition of “open space” as set out below:

	Description	Current area	Proposed area
Area 1	Top of Hertford Street	1,518m ²	1,537m ²
Area 2	Shelton Square	1,438m ²	1721m ²
Area 3	Area near to Beauchamp House	220m ²	-
Area 4	Bull Yard/ Bottom of Hertford Street	1280m ²	1285m ²
Total		4456m ²	4543m, the title to which is part registered and part unregistered.

2.8.3 The children’s playground by Bull Yard also sits within the planning application boundary for the Scheme, however, it will not be redeveloped, will continue in its present use and will be retained by the Council.

2.8.4 All the areas of land listed in the table are understood to be in the freehold ownership of the Council. However, the title to some of the land is unregistered, and there is a potential possibility that some third-party land interests may exist in parts of the open space land, though there is no evidence that is the case.

- 2.8.5 The area of existing open space at the top of Hertford Street (Area 1) is 1,518 square metres in area and located to the northern end of the site. The area is currently hard landscaped and used for access between Hertford St and Broadgate Square as well as to surrounding retail properties. Following implementation of the scheme, this area of open space will increase to approximately 1,537 square metres and will be re-paved to provide an area of high-quality public realm.
- 2.8.6 Shelton Square (Area 2) is mostly enclosed to the south by a two-storey block, which wraps around to adjoin the entrance to City Arcade. The Square serves as a link between Bull Yard, City Arcade, Market Way and the eastern entrances of Coventry Market. The square is predominantly hard landscaped with some areas of soft landscaping and public seating. The existing open space area is 1,438 square metres. The land is required for the scheme for the construction of new blocks C and E. A new public square is proposed to be provided to the west of the existing Shelton Square area and will be approximately 1,721 square metres. The new space will be an area of high-quality public realm. The open space area near to Beauchamp House (Area 3) is located adjacent to the residential car park entrance for the property. The size of the existing area is 220 square metres and is currently covered by grass. The area is required in order to create a new servicing route into the proposed scheme from the south, linking with the existing junction off Greyfriars Road.
- 2.8.7 The existing open space at Bull Yard (Area 4) takes the form of a square which currently provides an entrance into the southern part of the existing retail core. The eastern side is open to the junction of Hertford and New Union Streets. The square provides pedestrian links between Hertford Street, Warwick Row and Shelton Square and provides access to surrounding retail units. The area is hard landscaped and its current size being 1,280 square metres. The area is required by the scheme to provide space for new improved retail and residential space and also to improve the entrance to the southern part of the proposed scheme. There will be a new area of high-quality public realm provided within this space which will be approximately 1,285 square metres.
- 2.8.8 The total area of potential “open space” within the Order Land is 4,456 sqm. The total area of land within the Scheme that will be re-provided as open space is 4,543 sqm. The total area of open space to be re-provided within the Scheme therefore exceeds that being acquired pursuant to the Order and will be equally advantageous as the land taken. The open space to be re-provided is shown on Appendix 12.
- 2.8.9 To the extent that there are any interests in the open space land affected by the redevelopment which are not already owned by the Council, those interests may be included within the CPO and, if so, an application will be made at the same time as the submission of the Order for a certificate pursuant to section 19(1)(a) of the 1981 Act. The extent of this land is shown on Appendix 10.
- 2.8.10 To the extent that interests in the open space land affected by the redevelopment are in the ownership of the Council (the extent of which is shown, so far as understood, on the plan at Appendix 11), then it is proposed that the Director of Property Services and Development and the Director of Law and Governance, following consultation with the Chief Operating Officer and the Cabinet Member for Jobs, Regeneration and Climate Change be given delegated authority to give notice by advertisement of the Council’s intention to appropriate for planning purposes and thereafter dispose of the open space land shown on this plan and thereafter to consider any objections received before deciding whether or not this land should be appropriated for planning purposes and / or disposed of in order to facilitate the Scheme.

2.9 Statutory Undertaker and Electronic Code Operator Interests

2.9.1 The statutory undertakers and electronic communications code network operators who have operational land and / or apparatus within the site have been identified and have been contacted in relation to the effect of the Scheme and prospective CPO in terms of the proposed acquisition of land and/or diversion of statutory undertaker and electronic code operator apparatus by agreement. To the extent that agreements are not reached by the time the CPO is made, then these statutory undertaker and electronic code operator interests will need to be included in the CPO and, if there are objections which cannot be resolved, the acquisition of those interests compulsorily certified by the appropriate minister. Where necessary in the absence of agreement, approval is sought to exercise powers under ss 271 and 272 Town and Country Planning Act 1990 in relation to the extinguishment of rights of statutory undertakers and electronic communications code network operators. However, it is hoped and anticipated that agreement and appropriate protections will be reached in due course.

2.10 Listed Building Consents

2.10.1 Alongside the grant of planning permission, Listed Building Consent (ref LB/2020/2857) was granted on 24 June 2021 for the removal of the bridge link between the roof top car park of the Market and the roof top parking over the existing retail units on Market Way together with associated reinstatement works to the roof top car park surface and balustrade, the removal of the existing Market basement ramp from Rover Road and associated infilling and reinstatement works, works to the retaining wall to the north-east of the Market, the removal of the existing pedestrian ramp into the Market off of Rover Road, the creation of a new Market basement ramp from Queen Victoria Road and associated works to the Market basement.

2.10.2 Listed Building Consent (ref LB/2020/2860) was also granted on 24 June 2021 for the removal and relocation of the Grade II listed William Mitchell Mural from the front elevation to a new location to be agreed in writing with the local planning authority in consultation with Historic England.

2.11 Traffic Regulation Orders

2.11.1 Traffic regulation orders may be required in due course. The details of any necessary traffic regulation orders will be agreed with the local highway authority following reserved matters approval has been obtained in relation to access for the Scheme.

2.12 Private third party rights, interests and restrictive covenants

2.12.1 To the extent any rights to light, or other private rights, interests or restrictions on use of land, are interfered with or breached as a consequence of the development of the Scheme, appropriate mechanisms for overriding those rights and compensating those affected would be available as described below.

2.12.2 Given the complexity of the title to the redevelopment site, which has been assembled by the Council over the years from a number of different parties and is surrounded by built development, it is possible that there are third party rights and interests which burden the site and which could restrict its development for the Scheme. The types of third party rights potentially affected by the proposed redevelopment include rights of access and rights of way, potential unknown rights reserved in ancient deeds, rights to air and light (including prescriptive rights) and any restrictive covenants which may benefit neighbouring land. Those potential adverse private rights which have been identified are listed in Table 2 in the draft Schedule to the CPO (Appendix 5), although the extent to

which any individual rights will be affected by the Scheme and / or remain enforceable cannot be ascertained at this stage.

- 2.12.3 As explained below, subject to satisfaction of certain other conditions, private rights may be overridden in the case of (a) land which is acquired compulsorily or by agreement for the purposes of the Scheme; and (b) land which is already in the Council's ownership which has been appropriated "for planning purposes".
- 2.12.4 It is intended that all the land interests with the redevelopment site will either be acquired by agreement or compulsorily under planning powers (if not currently owned by the Council) or appropriated for planning purposes (if currently in the Council's ownership).
- 2.12.5 As explained below, there are special requirements which must be complied with in respect of any proposed appropriation or disposal of open space land before any decision on this land can be reached.
- 2.12.6 The following paragraphs 2.13 to 2.16 set out the powers available to the Council for the acquisition and appropriation of land for planning purposes together with the consequential powers to override existing third party rights and restrictions over such land and the availability of compensation to affected parties.

2.13 Power to acquire land for planning purposes

- 2.13.1 The expression "planning purposes" is defined in s246(1) of the T&CPA 1990 as including land which has either been acquired under s226 or s227 of the T&CPA 1990, or has been appropriated for purposes for which land could be acquired under those sections.
- 2.13.2 The Council has power to acquire land under s226 (compulsorily) or s227 (by agreement):
- if the authority thinks that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land, or
 - which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- 2.13.3 Where land is proposed to be acquired to facilitate development, redevelopment or improvement in line with the above, the authority must also think that that the development etc. is likely to contribute to the promotion or improvement of the economic, social and/or environmental well-being of its area. The considerable well-being benefits of the scheme proceeding are referred to above and set out in further detail in the Statement of Reasons. It is clear that the Council has power to acquire land by agreement for the scheme under s227 of the T&CPA 1990.

2.14 Power to appropriate land for planning purposes

- 2.14.1 The land in the Council's ownership within the redevelopment site predominantly comprises tired and out-dated buildings that are in use for retail, food and drink and other commercial purposes, together with a small number of community uses, car parking and public roads and walkways and open space. It also includes, a ramp connecting the grade two listed Coventry Market roof top car park with the Market Way car park and a grade two listed mural. The land shown on Appendix 9 which is proposed for appropriation includes all the land in the Council's ownership which is to be redeveloped with the exception of the open space land (which is referred to below). It includes the

subsoil of the public highway land within the land shown on Appendix 9 only to the extent that it is proposed that the highway be stopped up.

- 2.14.2 The land proposed for appropriation for planning purposes shown on Appendix 9 was acquired by the Council from various parties over a number of years dating back to 1898, but with the majority of the land having been acquired by the Council in the 1930s and 1960s. As noted, much of the land is unregistered (including that acquired in the 1930s) and there are some unknown interests. So far as can be ascertained, the various parcels of land were originally acquired for a range of statutory purposes including general land holding powers, street works and redevelopment. The statutory powers under which all the land is currently held cannot be fully identified. However, none of the land is known to be held for housing, school or other purposes to which special or additional powers of appropriation would apply. (As noted, the open space land to which special provisions apply is excluded from the land shown on Appendix 9, as are areas of land which will continue to form part of the public highway.)
- 2.14.3 In so far as any of the land shown on the plan at Appendix 9 is still held by the Council for planning purposes, the effect of the appropriation decision recommended in this report would be to re-affirm the appropriation for planning purposes in respect of the current redevelopment proposals. Practice and case law indicate that there is nothing to prevent a local authority "re-appropriating" its land for a different planning purpose. It is considered that the general power of appropriation under s122 LGA 1972 applies to the Council land within the redevelopment site shown on Appendix 9.
- 2.14.4 In relation to the power to appropriate land under s122 of the LGA 1972 there are two basic statutory requirements:
- the land is no longer required for the purpose for which it is held immediately before the appropriation; and
 - the Council would (in principle) have power to acquire land by agreement for the "new" purpose.
- 2.14.5 In respect of the first of the above requirements, the Council must give specific consideration to the question of whether the land proposed for appropriation (as shown in Appendix 9) continues to be required for its existing purposes and in doing so, it must consider the comparative needs in the public interest for the existing use and the proposed new use. If the Council is satisfied that there is a greater need in the local public interest for the scheme as opposed to the current uses of the land that condition would be satisfied.
- 2.14.6 In respect of the second requirement, as explained above, it is clear that the Council would (if it did not already own the land) have power to acquire the land shown in Appendix 9 for planning purposes by agreement under s227 of the T&CPA 1990 in order to facilitate the Scheme. Both requirements are considered to be satisfied with respect to the Council's interests in that part of the site shown on the plan at Appendix 9.
- 2.14.7 In addition to the specific requirements of section 122, case law indicates that where third parties are known to have rights which may be affected by the appropriation, a local authority should not use its powers unless it has good reason to believe that the interference with their rights is necessary. The Human Rights implications of the proposals are referred to in section 6.4 below.

2.15 Power to override easements and other rights

2.15.1 Section 203 of the H&PA 2016 authorises development even if it involves infringing certain third-party rights, subject to payment of compensation. The kinds of rights that can be overridden under s203 comprise:

- a “relevant right or interest” i.e. “any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support)”; and
- a restriction as to the user of land arising by virtue of a contract.

2.15.2 The first category above would include easements and other rights which burden the development site and benefit other land. The second category would include restrictive covenants.

2.15.3 In the case of a site of the size and complexity of that needed for the scheme which has been in various ownerships and developed over a number of years it is possible that such third party rights may exist, albeit that there may be doubts as to the enforceability of certain ancient rights and covenants.

2.15.4 Certain third-party rights cannot be overridden under s203, in particular “protected rights” of statutory undertakers and electronic communication code operators. In addition, rights and interests which benefit the Crown and its land, or rights enjoyed by the public, could not be overridden under s203.

2.15.5 The application of section 203 is dependent on satisfaction of certain conditions. (The amendments made to the conditions by the Environment Act 2021 are not relevant for present purposes and are not referred to below.)

2.15.6 The four conditions for the application of s203 as they apply to the Council are, in summary:

2.15.7 Planning permission: there must be planning permission for the building or maintenance works and/or the use that causes the interference with or breach of the third-party rights.

2.15.8 Subject land: the building or maintenance works and/or the use that causes the infringement/breach must be undertaken on land that at any time:

- before 13 July 2016 was acquired or has been appropriated by the Council for planning purposes (as defined in s246 T&CPA 1990);
- on or after 13 July 2016 has been:
 - appropriated by the Council for planning purposes or
 - acquired by the Council for a purpose for which a power to acquire land compulsorily exists.

2.15.9 Compulsory acquisition: The Council could (in theory) have acquired the land compulsorily for the purposes of the building or maintenance work and/or use. The explanatory notes to the H&PA 2016 refer to this requirement as involving the need for the authority to have an appropriate compulsory purchase enabling power.

2.15.10 Purpose of acquisition or appropriation: the purpose of the building or maintenance work and/or use must be related to the purpose for which the land was acquired or appropriated.

2.15.11 Provided the four criteria for the application of s203 are met, it is irrelevant who carries out the development.

2.15.12 Consequently, if land needed for the scheme is acquired under planning powers and the Council resolves to appropriate the land already in its ownership for planning purposes all the conditions for the application of s203 will be satisfied:

- a) planning permission – planning permission for the scheme will be available before development is carried out;
- b) subject land – the development would be undertaken on land acquired by the Council after 13 July 2016 or appropriated by it for planning purposes;
- c) compulsory purchase enabling power – the Council would, at least in theory, have power to acquire land compulsorily for the scheme (under s226 T&CPA 1990); and
- d) purpose of acquisition or appropriation – it is clear that the scheme development is related to the purposes for which land for that scheme is proposed to be acquired or appropriated as recommended in this report.

2.16 Compensation for affected third parties

2.16.1 Where s203 applies, when development is carried out, any person who suffers loss in terms of a reduction in the value of their land on account of an infringement of their rights would be entitled to claim statutory compensation under s204 of the H&PA 2016 from the person who carries out the development. If the developer does not pay the compensation, the Council must do so, but has a statutory right to recover any payment from the developer.

2.16.2 Compensation under s204 is calculated on the same basis as compensation payable under s7 and s10 of the Compulsory Purchase Act 1965. It is generally based on the reduction in the value of the claimant's land (rather than any "ransom value") and is sometimes calculated on a "before and after" assessment of what their land was worth before and after the infringement.

2.16.3 At this stage it is not possible to assess whether any valid claims under s204 will be made or the extent of any liability for compensation, but a reasonable allowance has been included within the overall budget to cover this potential liability.

2.17 Appropriation of Open Space Land Held by the Council

2.17.1 In relation to land identified as potential open space (Appendix 11), the requirements of s122(2A) of the LGA 1972 and s233(4) T&CPA 1990 apply. Those provisions require notice to be given of any intended appropriation or disposal of open space land in two consecutive weeks of a local newspaper and any objections must be considered before any decision is reached. It is proposed that officers be given delegated authority to advertise the Council's intention to appropriate the open space land it owns within the redevelopment site for planning purposes and to dispose of it and to consider any objections before deciding whether or not to appropriate and dispose of this land.

2.18 Next steps

2.18.1 If Cabinet resolves to make a CPO, it is anticipated that all the necessary preparatory work will have been completed and the CPO will be made and submitted to the Secretary of State during the first quarter of 2022. If objections are made to the CPO, and these are not resolved by agreement, a public inquiry will be held and it is anticipated that this would be held later in 2022. During this time, as well as continuing to negotiate with all relevant land interests in the Scheme to seek to acquire by negotiation, the Council will continue to work with SPG and any potential funding and delivery partner to take forward the preferred delivery approach outlined above, whilst also ensuring that the necessary groundwork is put in place to enable the alternative delivery approach of the Council being master developer if required.

3. **Results of consultation undertaken**

3.1 Ahead of the Scheme's Planning Application submission, SPG carried out a public consultation exercise between June – July 2020 which focused on understanding the community's and stakeholders' views on the vision and themes of the proposed scheme. Due to the COVID-19 pandemic and related restrictions, the consultation was primarily digital, with paper copies of information sent where requested. Eight webinars were held for stakeholders and local people

3.2 The consultation was promoted in local press via adverts and press releases, through the Council and SPG's websites and social media and through direct messaging to stakeholders and local groups.

3.3 A total of 2,700 people visited the consultation webpage and 281 online feedback forms were completed with additional feedback received via the Freepost address provided.

3.4 From the feedback received, 62% of people strongly agreed or agreed with the City Centre South vision. Respondents were keen to see the indoor market and the post war masterplan protected. There was clear support for green and open space and a desire for support for cultural and minority groups as part of the plan. 88% of respondents either strongly agreed or agreed that they would like to see improved pedestrian links and public spaces in this part of the city centre. 66% indicated that they liked the use of materials and outline design principles shown in the images provided. There was also support for the community uses. Throughout the feedback there was a clear desire to see something different or special added to ensure Coventry has a USP that celebrates its thriving art scene and heritage. This feedback has informed the development of the Scheme and will continue to inform final detailed designs going forwards.

4. **Timetable for implementing this decision**

4.1 Subject to Cabinet approval and the finalisation of the necessary documentation, it is anticipated that the CPO order making will occur in the first quarter of 2022. It is anticipated that a CPO Inquiry (if needed) would take place later in 2022 and, if confirmed, that vacant possession would occur in early 2023.

5. **Comments from Director of Finance and Director of Law and Governance**

5.1 **Financial implications**

5.1.1 Details of the financial implications of this transaction are contained within the private element of this report.

5.2 Legal implications

Legal Power for CPO

- 5.2.1 The making of a CPO is an executive function by virtue of section 9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Pursuant to section 9E(2) of the Local Government Act 2000, the Cabinet may also arrange for the discharge of an executive function by an officer of the authority. Furthermore, the making of a CPO must follow the statutory process set down in the Acquisition of Land Act 1981 (as amended).
- 5.2.2 Subject to authorisation by the Secretary of State, Local Authorities have power under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire compulsorily land in their area to facilitate the carrying out of development, re-development or improvement on or in relation to the land, provided that the authority thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives: the promotion or improvement of the economic well-being of their area; the promotion or improvement of the environmental well-being of its area; the promotion or improvement of the social well-being of its area.
- 5.2.3 The enabling power in Section 226(1) (a) of the Town and Country Planning Act 1990, and in respect of new rights, Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 is being used in resolving to make a CPO. The City Council as Acquiring Authority believes the Scheme will improve the economic, social and environmental well-being of the area (see above in this report and Appendix 4 for details). Accordingly, the Acquiring Authority believes that there is a compelling case in the public interest to make a compulsory purchase order which outweighs the loss of the third-party landholdings. The implications as regards human rights and consideration of the Public Sector Equality Duty are addressed under separate headings below.
- 5.2.4 In considering whether to make a CPO, the rights of the property owners affected have been considered and the impact on third-party land required minimised as far as reasonably practicable.
- 5.2.5 Compensation will be payable in accordance with the Compulsory Purchase Compensation Code.
- 5.2.6 In respect of land which is acquired by the Council by agreement for the purposes of the Scheme, the Council has power under section 227 of the Town and Country Planning Act 1990 for equivalent purposes to those referred to above in connection with section 226 of the 1990 Act and subject to the same proviso regarding well-being objectives.
- 5.2.7 Other relevant statutory provisions, including ss 203 and 204 of the Housing and Planning Act (authorising certain private third party rights to be overridden) and the powers to appropriate land for planning purposes, are referred to in the body of this report.
- 5.2.8 Officers must ensure that any processing of personal data in connection with the CPO complies with the provisions of the Data Protection Act 2018.
- 5.2.9 All legal documents to be entered into in connection with the subject matter of this report will be approved in advance by Legal Services on behalf of the Director of Law and Governance.

6. Other implications

Any other specific implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

6.1.1 The delivery of the proposal outlined in this report will help deliver a range of housing, economic development, regeneration and wellbeing objectives that will help to realise the Council's strategic ambitions for a more vibrant and economically prosperous city.

6.2 How is risk being managed?

6.2.1 Due diligence and process: The Council is being supported by an expert professional team to support the land assembly and CPO process for CCS. This includes: Land Referencing Services (LRS), who are undertaking the necessary land referencing work to ensure a fully accurate position regarding property ownership; Deloitte, who are undertaking the role of CPO surveyors and are negotiating with key strategic property owners to secure their interest through negotiation; and Pinsent Masons, who are providing expert legal advice on all aspects of the CPO process.

6.2.2 Land assembly costs: as set out above, if SPG are not able to secure a partner to meet the Funding Security Condition in the DA then the Council will be responsible for meeting all the costs of land assembly and associated with a CPO. The Council's advisors, Deloitte, estimate that the current costs of securing the necessary property interests can be funded by the WMCA grant, with an adequate buffer in place against any unanticipated costs. If this budget proves to be insufficient then further funding will be required or the Council may need to terminate or amend the CPO process or not exercise the CPO powers and vest/take possession of the land interests pursuant to a confirmed CPO.

6.2.3 WMCA assurance: the Council is engaging regularly with the WMCA to ensure they are kept updated as to the direction of travel in relation to all elements of this Scheme and to ensure that the Council is aligned with the WMCA's Assurance Framework process.

6.3 What is the impact on the organisation?

6.3.1 The impact to the organisation will be primarily on officers within the Property and Development, Finance and Legal Services divisions who will be responsible for undertaking the due diligence and negotiations to conclude the necessary legal documentation and prepare for a CPO Inquiry.

6.4 Equality Impact Assessment (EIA)

6.4.1 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and
- advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.

6.4.2 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and
- encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

6.4.3 An EqIA has been prepared and is attached at Appendix 3 for Members' consideration, to assist them in discharging the public sector equality duty under section 149 (an Equalities and Communication Survey was also sent to businesses in the Scheme area during Summer 2021). Points of particular note in relation to specific Protected Characteristics are that:

- Age 0-18: Some 16-18 year-olds who work in businesses in the red line area maybe impacted by the CPO process but the Scheme will offer new jobs and training opportunities, including for those aged 16-18 years.
- Age 19-64: Most of the business occupiers or their staff who may be affected by a CPO are within this age range and there is the potential for these individuals to be negatively impacted due to business loss or relocation. The EqIA sets out the actions to mitigate any potential negative impact.
- Age 65+: The Scheme area currently has a poor-quality environment, restricted pedestrian flow and poor signage which has a negative impact on older people. The Scheme will include positive accessibility principles to benefit this particular age group.
- Disability: The new scheme will have a positive impact on disabled people by offering tactile paving at crossing points, sloped pavements for wheelchair and mobility scooter accessibility, at grade access and an uncluttered public realm.
- Gender reassignment; Marriage and Civil Partnership; and Religion and Belief: no specific impacts on these groups.
- Pregnancy and maternity: a positive impact has been identified due to accessibility improvements the Scheme can deliver.
- Race: None of the businesses contacted via the Equalities and Communication Survey indicated that they provide goods or services to a specific background but as part of the Survey, we have established those businesses that require communication in an additional language.
- Sex: The scheme will open up the area, improve lighting and improve community safety.
- Sexual orientation: One of the affected businesses has customers predominantly from the LGBTQ+ community. We will work with the business and other representatives of this community to ensure that their requirements for a safe space to socialise are met.

6.4.4 The EqIA will be kept under review and updated as the Scheme progresses to assist in all future decision making.

6.4.5 Human Rights

- 6.4.6 Section 6 of the Human Rights Act 1998 prohibits a public authority from acting in a way which is incompatible with the rights and fundamental freedoms set out in specified provisions of the European Convention on Human Rights ("Convention Rights").
- 6.4.7 Convention Rights likely to be engaged in the process of considering, making, confirming and implementing a compulsory purchase order include those under Article 6 (right to a fair and public hearing to determine a person's civil rights), Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life including a person's home – please note that no homes will be acquired through the CPO). In addition, in effect, Article 14 prohibits discrimination, on any grounds, in the way public authorities secure enjoyment of the rights protected by the European Convention on Human Rights.
- 6.4.8 Any interference with a Convention Right must be necessary and proportionate. Compulsory purchase and overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the objectives of the CPO.
- 6.4.9 As set out in this report, third parties whose rights may be infringed by the CPO or extinguished under by s236 Town and Country Planning 1990 or overridden by s203 of the Housing and Planning Act 2016 include owners and tenants, including occupational tenants, of the CCS site and owners of neighbouring properties with the benefit of rights over the site. No residential properties are proposed to be acquired or otherwise affected by the redevelopment.
- 6.4.10 It is considered that the principles of case law and the CPO Guidance in relation to the need to demonstrate a compelling case in the public interest to justify compulsory purchase satisfy the requirements of proportionality and fair balance in relation to interference with human rights. For the reasons set out in this report (and in the draft Statement of Reasons) it is considered that there is a compelling case for the making and confirmation of a CPO to facilitate the Scheme.

6.5 **Implications for (or impact on) climate change and the environment**

- 6.5.1 The overall development will be in accordance with the Council's planning policies for sustainable development.

6.6 **Implications for partner organisations?**

- 6.6.1 There are no implications for any partner organisations.

Report author(s):

Adam Hunt
Strategic Lead Property and Development

Service:

Property Services and Development

Tel and email contact:

Tel: 02476 831812

Email: Adam.Hunt@coventry.gov.uk

Enquiries should be directed to the above person(s).

Contributor/approver name	Title	Service	Date doc sent out	Date response received or approved
Contributors:				
Aimee Proctor	Programme Manager - Finance	Finance	09/11/21	26/11/21
Faye Griffiths	Engagement Manager	Property and Development	18/11/21	23/11/21
Rob Back	Strategic Lead - Planning	Planning	09/11/21	23/11/21
Oluremi Aremu	Major Projects Lead Lawyer	Law and Governance	09/11/21	18/11/21
Michelle Salmon	Governance Services Officer	Law and Governance	26/11/21	02/12/21
Names of approvers for submission: (Officers and Members)				
Julie Newman	Director of Law and Governance	-	26/11/21	01/12/21
Colin Knight	Director of Transportation and Highways	-	11/11/21	11/11/21
Barry Hastie	Chief Operating Officer	-	26/11/21	06/12/21
Richard Moon	Director of Property Services and Development	-	26/11/21	29/11/21
Councillor J O'Boyle	Cabinet Member for Jobs, Regeneration and Climate Change	-	02/12/21	06/12/21

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