
Cabinet Member for Jobs, Regeneration and Climate Change

15 April 2026

Name of Cabinet Member:

Cabinet Member for Jobs, Regeneration and Climate Change – Councillor J O’Boyle

Director approving submission of the report:

Director of Property Services and Development

Ward(s) affected:

St. Michael’s

Title: City Centre South – Appropriation of land for Planning purposes and use of Section 203 of the Housing and Planning Act 2016 (Coventry Market)

Is this a key decision?

No

Executive summary:

City Centre South (CCS) will deliver transformational improvements to Coventry city centre through the creation of a new residential led community providing new homes, jobs, commercial and leisure opportunities and high-quality public spaces.

As part of the process for supporting scheme delivery, the Council has taken previous decisions to ensure that necessary legal processes are implemented so that the scheme can be delivered and the benefits to Coventry’s communities maximised. This has included implementing a Compulsory Purchase Order (CPO) to acquire land and rights where needed and approving the appropriation of land needed for the development for planning purposes, in consequence of which Section 203 of the Housing and Planning Act 2016 would apply and enable certain third-party rights over the land to be overridden when development takes place.

The most recent decision to appropriate land was taken in March 2024. Now that the Council has taken back ownership of Coventry Market (in November 2024), this report sets out recommendations to appropriate the Coventry Market land for planning purposes and enable any third-party rights to be overridden where necessary to support the delivery of the CCS scheme.

Recommendations:

The Cabinet Member for Jobs, Regeneration and Climate Change is recommended to:

- 1) Resolve to appropriate for planning purposes the land owned by the Council comprised in Coventry City Market as shown on the plan at Appendix 1 to this report pursuant to section 122 Local Government Act 1972 in order to facilitate the City Centre South scheme.
- 2) Authorise the Director of Property Services and Development, following consultation with the Director of Law, Governance and Safer Communities, the Director of Finance and Resources, and the Cabinet Member for Jobs, Regeneration and Climate Change, to consider, and as appropriate settle, any claims for compensation under s204 Housing and Planning Act 2016 in respect of any rights, interests or restrictions which are overridden and/or to reach agreement for the release of any such rights etc. by any affected third parties.
- 3) Authorise the Director of Property Services and Development, following consultation with the Director of Law, Governance and Safer Communities, the Director of Finance and Resources, 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: Land at Coventry Market within the Council's freehold ownership proposed for appropriation for planning purposes

Background papers:

N/A

Other useful documents

Report to Cabinet 11th January 2022 "City Centre South Land Acquisition and Compulsory Purchase Order"

Report to Cabinet 12th March 2024 "City Centre South – Appropriation of land for Planning purposes and use of Section 203 of the Housing and Planning Act 2016"

Report to Cabinet Member for Jobs, Regeneration and Climate Change 18th December 2025 "Supporting Coventry Market and its Traders"

Has it or will it be considered by Scrutiny?

No

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

No

Will this report go to Council?

No

Report Title: City Centre South – Appropriation of land for Planning purposes and use of Section 203 of the Housing and Planning Act 2016 (Coventry Market)

1. Context (or background)

- 1.1 City Centre South (CCS) is the Council's flagship regeneration scheme for the city and will deliver a comprehensive range of benefits, including thousands of new residents living in the city centre in high quality new homes, the creation of hundreds of new jobs and the delivery of fantastic new shops, leisure spaces, landscaping and public spaces throughout a significant part of the city centre. This is being achieved through the redevelopment of 6.5 hectares of poor-quality existing brownfield land through a public / private development partnership between the Council and Shearer Property Regen Ltd (SPRL).
- 1.2 Coventry Market is located on Rover Road and is adjacent to the CCS scheme. The Compulsory Purchase Order (CPO), which was confirmed in 2023, provided for the creation and acquisition of new rights over the Market. The Council has been working for a number of years to seek to ensure that any negative impacts arising from the scheme on the Market are minimised and that the Market can benefit from the investment and new residents who will live within the surrounding area. This has included: working with the developer to ensure that when the CCS scheme was being designed any impacts on the Market and traders were minimised as far as possible; securing that the Market could remain open and trading during the demolition works, construction and delivery of the scheme; that appropriate servicing arrangements were put in place so that the traders could continue to service their businesses without major disruption; and to ensure that any negative impacts from the hoardings were minimised wherever possible.
- 1.3 The Council has previously taken decisions (Cabinet on 12th March 2024) relating to the appropriation of land and the overriding of third-party rights as a necessary step in ensuring the CCS scheme can be delivered. These decisions were taken when Coventry Market was not in the full ownership of the Council. Now that Coventry Market is in the Council's full ownership and because some of the CCS scheme works may interfere with rights associated with some of the market traders' tenancy arrangements with the Council, or other third party rights, appropriation is necessary to ensure the Council is meeting its obligations to the developer regarding the preparation of land for scheme delivery.
- 1.4 Appropriating the land and the application of s203 of the Housing and Planning Act 2016 (H&PA 2016) allows for the infringement of any third-party rights and the payment of compensation relating to any diminution of property value. The Council has taken expert advice from its land assembly advisors, Deloitte, and its legal advisors, Pinsent Masons, and it is not anticipated that any significant compensation events in respect of impacts on land values are likely to materialise. The Council has worked extensively, and will continue working, with the developer and the stallholders to mitigate any potential impact. As a separate matter, the Council has put additional discretionary support measures in place for market traders (rent reductions and Business Rates relief as per the Cabinet Member Decisions on 18 December 2025).

1.5 As set out above, appropriating the land is a necessary legal process to enable the smooth delivery of the transformational, £450m investment in the city centre and the Council and developer will continue to work with the market traders to ensure any impacts are minimised.

2. Options considered and recommended proposal

2.1 Option 1. To not approve the appropriation of the land comprised in the Market identified in Appendix 1 for planning purposes (not recommended)

2.2 The appropriation of the Market land is proposed to help enable the CCS scheme's delivery as required. Not doing so could potentially hinder the delivery of the scheme. This option is therefore not recommended.

2.3 Option 2. To approve the Recommendations set out above (recommended)

2.4 To the extent any private rights, interests or restrictions on use of land comprised in the Market are interfered with or breached as a consequence of the development of the CCS scheme (including by the exercise of new rights over the Market), appropriate mechanisms for overriding those rights and compensating those affected would be available as described below.

2.5 Given the complexity of the title to the CCS redevelopment site, which has been assembled by the Council over a number of years from a number of different parties and is surrounded by built development, it is possible that there may be third party rights and interests which burden the Market land, in addition to any within the market traders' tenancy agreements, which could potentially restrict works needed for the CCS Scheme. The types of third-party rights which could potentially be affected by the overall CCS redevelopment include rights of access and rights of way, potential unknown rights reserved in ancient deeds, rights to air and light (including prescriptive rights) which benefit other land and any restrictive covenants on the use of the land. Potential adverse private rights which were capable of being identified in relation to whole CCS scheme site were listed in Table 2 in the Schedule to the CCS CPO.

2.6 As explained below, subject to satisfaction of certain other conditions, private rights may be overridden in the case of land which is already in the Council's ownership which has been appropriated "for planning purposes".

2.7 The following paragraphs set out the powers available to the Council for the 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 for affected third parties.

2.8. Meaning of planning purposes

2.9. The expression "planning purposes" is defined in s246(1) of the Town & Country Planning Act (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.

2.10. 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.

2.11 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 CCS scheme proceeding have been set out in previous reports and the Statement of Case for the CPO and are summarised above. It is clear that the Council has power to acquire land for the scheme compulsorily (under s226) or by agreement (under s227) as evidenced by the confirmed CPO.

2.12 Power to appropriate land for planning purposes – section 122 Local Government Act (LGA) 1972

2.13 The land proposed for appropriation for planning purposes shown on Appendix 1 has, since at least the time of the second World War, always been in the Council's freehold ownership. However, for a significant period of time, up until November 2024, the land was subject to a long lease to the owners of the adjacent Lower Precinct shopping centre.

2.14 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.

2.15 In respect of the first of the above requirements, the Council must give specific consideration to the question of whether the Market land proposed for appropriation (as shown in Appendix 1) 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 public interest for the CCS scheme and the exercise of the new rights as opposed to the current uses of the land, that condition would be satisfied.

2.16 In respect of the second requirement 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 1 for planning purposes by agreement under s227 of the T&CPA 1990 in order to facilitate the CCS scheme. Both requirements of s122 are considered to be satisfied with

respect to the Council's interests in that part of the site shown on the plan at Appendix 1.

- 2.17 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 below.
- 2.18 Power to override easements and other rights – section 203 Housing and Planning Act (H&PA) 2016
- 2.19 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 include:
- 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.
- 2.20 The first category above would include any easements and other rights which burden the Market land and benefit other land. The second category would include restrictive covenants.
- 2.21 In the case of a site of the size and complexity of that needed for the CCS scheme which has been in various ownerships and developed over a number of years, it is possible that such third-party rights may exist, including rights relating to the Market, albeit certain rights, e.g. ancient rights and covenants, may now be unenforceable.
- 2.22 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.
- 2.23 The application of section 203 is dependent on satisfaction of certain conditions. The four conditions for the application of s203 as they apply to the Council in the present case are, in summary:

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

Subject land: one of the ways in which this condition can be met is if the building or maintenance works and/or the use that causes the interference/breach are undertaken on land that at any time on or after 13 July 2016 has been appropriated by the Council for planning purposes.

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.

Purpose of 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.

- 2.24 Provided the four criteria for the application of s203 are met, it is irrelevant who carries out the development.
- 2.25 Consequently, if the Council resolves to appropriate the Market land for planning purposes all the conditions for the application of s203 will be satisfied:
- a) planning consent – planning permission for the CCS scheme (including works to the Market) has been granted;
 - b) subject land – the development would be undertaken on land appropriated for planning purposes by the Council after 13 July 2016;
 - c) compulsory purchase enabling power – the Council has the power to acquire land compulsorily for the scheme including new rights (under s226 T&CPA 1990 and s13 Local Government (Miscellaneous Provisions) Act 1976); and
 - d) purpose of appropriation – it is clear that the CCS scheme development is related to the purposes for which land for that scheme is proposed to be appropriated as recommended in this report.

3. Results of consultation undertaken

- 3.1 The CCS scheme has been the subject of a number of different public consultation processes throughout its evolution, including, most recently as part of securing the necessary Planning and Listed Building Consents required for the scheme to be implemented.
- 3.2 There has been, and will be, further engagement in relation to the CCS scheme refinements as part of the evolution of the scheme in planning terms, including the reserved matters applications.
- 3.3 There is ongoing dialogue with market traders in relation to Market operations and the carrying out of the CCS Scheme.

4. Timetable for implementing this decision

- 4.1 If the Recommendations that are the subject of this report are approved, then they will be implemented straightaway.

5. Comments from Director of Finance and Resources and Director of Law, Governance and Safer Communities

5.1 Financial Implications

- 5.2 Land that is appropriated could give rise to claims for compensation if a person suffers a loss in terms of a reduction in the value of their land as a result of the process set out above. Any compensation due is calculated on the same basis as compensation payable under sections 7 and 10 the Compulsory Purchase Act 1965 (for injurious affection) and an allowance for these costs has been built into the Land Acquisitions budget of the existing WMCA capital grant.
- 5.3 The element of this grant associated with Land Acquisitions is capped at £28m. This spend was added to the Capital programme following appointment of Shearer Property Group as developer in 2016 and to date, the Council has acquired assets to the value of £15.9m by way of negotiation and private treaty, funded by this grant.
- 5.3 However, as set out above, it is not anticipated that any significant compensation events are likely to materialise because any significant compensation events in respect of impacts on land values are unlikely to materialise and the Council has worked extensively, and will continue working, with the developer and the stallholders to mitigate any impact. Therefore Deloitte, the Council's advisors view the existing budget, built into the £28m grant, as more than sufficient.

5.4 Legal Implications

- 5.5 The Council has power under section 122 of the Local Government Act 1972 (LGA 1972) to appropriate land belonging to the Council that is no longer required for the purpose for which it was held immediately before the appropriation (section 122(1)), provided that the new purpose is one for which the Council would be authorised to acquire land by agreement.
- 5.6 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.
- 5.7 Other relevant statutory provisions, including ss 203 and 204 of the H&PA 2016 (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.
- 5.8 The Council must act in accordance with the rights under the European Convention on Human Rights, and this includes Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (right to respect for private life, family and home). The Council must strike a fair balance between the public interest and the individual's rights and consider whether the interference is "proportionate". In view of the factors described in this report it is considered that it is necessary to appropriate the land for planning purposes and that there is a compelling case in the public interest to support the decision to do so.

5.9 Appropriation of the land in Appendix 1 will help the Council to undertake the CCS scheme works relating to the Market, notwithstanding any interference with the rights of third parties affected by the development, subject to any entitlements to compensation.

6. Other implications

6.1 How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

6.2 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.

6.3 How is risk being managed?

6.4 The Council is being supported by an expert professional team to support the land assembly, CPO and Appropriation processes for CCS. This includes: Deloitte, who are undertaking and advising on a range of land assembly, CPO and appropriation matters; and Pinsent Masons, who are providing expert legal advice on all aspects of this process.

6.5 What is the impact on the organisation?

N/A/

6.6 Equalities / EIA?

6.6.1 The Council has a public sector equality duty under section 149 of the Equality Act 2010 to have due regard to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

6.6.2 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;
- 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

6.6.3 An EqlA in relation to the land assembly and CPO elements of the Scheme was prepared and considered by Cabinet on 11th January 2022 and updated in March 2022. Equalities impacts were reviewed again at the time of grant of planning permission PL/2023/0002218/RVC (December 2023). The EqlA is an iterative and live document and is reviewed on a regular basis. No new impacts to those set out above have been identified.

Human Rights

6.6.4 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").

6.6.5 Convention Rights likely to be engaged as a result of the appropriation of land pursuant to section 122 of the Local Government Act 1972 and the resulting application of section 203 and 204 of the H&PA 2016 include those under, Article 1 of the First Protocol (right to peaceful enjoyment of possessions), Article 14 which prohibits discrimination, on any grounds, in the way public authorities secure enjoyment of the rights protected by the European Convention on Human Rights, and Article 6 (right to a fair and public hearing to determine a person's civil rights). Article 8 (right to respect for private and family life including a person's home) is unlikely to be engaged given the nature of the land concerned, which does not include any residential property. In respect of Article 6, the availability of judicial review and to refer matters of compensation to the Upper Tribunal, Lands Chamber are considered to provide adequate safeguards.

6.6.6 Any interference with a Convention Right under Article 1 of the First Protocol (or Article 8) must be necessary and proportionate. Overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the Council's objectives. As set out in this report, third parties whose rights may be overridden by s203 of the H&PA 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.

6.7 Implications for (or impact on) climate change and the environment?

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

6.8 Implications for partner organisations?

There are implications for the Council's development partner for the Scheme, SPRL, that will result from the Decisions that are the subject of this report.

Report author:

Adam Hunt
Strategic Lead – Property and Development

Service Area:

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

Contributor/approver name	Title	Service Area	Date doc sent out	Date response received or approved
Contributors:				
Suzanne Bennett	Governance Services Officer	Law, Governance and Safer Communities	25/03/26	25/03/26
Names of approvers for submission: (officers and members)				
Aimee Proctor	Finance Manager	Finance and Resources	25/03/26	31/03/26
Oluremi Aremu	Head of Legal Services and Procurement	Law and Governance	25/03/26	26/03/26
Richard Moon	Director of Property Services and Development	-	25/03/26	26/03/26
Councillor J O'Boyle	Cabinet Member for Jobs, Regeneration and Climate Change	-	31/03/26	01/04/26

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