

Title: Supporting the continued development of Cabot Circus at Callowhill Court, Broadmead	
Ward: Central wards	Cabinet lead: Cllr Smith
Author: Jason Thorne	Job title: Senior Project Manager

Revenue Cost: £ Unknown at this point in time	Source of Revenue Funding: Bristol Alliance (BALP)
Capital Cost: £	Source of Capital Funding:
One off <input type="checkbox"/>	Saving <input type="checkbox"/>
Ongoing <input type="checkbox"/>	Income generation <input type="checkbox"/>
Finance narrative: Exercising CPO powers could lead to significant costs which include administrative costs, enforcement costs and those costs associated with compensations for the leasehold interests acquired. It is intended that these costs and compensations be met by the developer BALP, and this would be progressed through a development agreement. Indemnities for reimbursement must ensure the Council is not financially disadvantaged, including timing of payments, and those financial risks are fully mitigated, prior to any CPO process commencing.	
Finance Officer: Tian Ze Hao – Finance Business Partner	

Summary of issue / proposal: To provide in-principle agreement for the Council to use Compulsory Purchase Order (CPO) powers if necessary to enable the re-development of Callowhill Court in Broadmead.
<p>Summary of proposal & options appraisal:</p> <ul style="list-style-type: none"> • The Bristol Local Plan (Bristol Central Area Plan, adopted March 2015) allocates the Callowhill Court site for major mixed-use retail led development. There is a compelling case to bring forward the allocated site in planning terms and given the priority of the City Centre in the Council’s Corporate Strategy. • There is a planning application for Callowhill Court, which will be determined by a Development Control Committee. The outline application (ref: 16/06594/P) is for the for demolition of existing buildings and structures and the comprehensive mixed-use redevelopment of land at and adjoining Callowhill Court, Broadmead/The Horsefair comprising up to 102,480 sq m of mixed use retail, commercial, leisure and hospitality floorspace (Use Class A1, A2, A3, A4, A5, C1, D2), as well as providing up to 150 Use Class C3 residential units, car parking, access, landscaping, public realm works and other associated ancillary works. All matters reserved other than customer vehicular access and access for servicing. • Cabinet agreed the consolidation of the Council leases with BALP in March 2017. • The use of CPO powers provides the necessary certainty on site assembly timing and costs where there are multiple property interests involved, in this case occupational leases and sub leases. • CPO powers will only be exercised if it is not possible for BALP to negotiate and buy out all the relevant interests on agreed terms. The in-principle agreement from the authority to use CPO powers will be subject to a list of pre-conditions (to be developed, but to include a formal request being made by BALP that the Council makes a CPO, planning permission in place, development agreement in place and BALP to cover all related costs). • Cabinet to resolve to exercise CPO powers if all the pre-conditions had been met. Cabinet should only authorise a CPO where they are satisfied that BALP has undertaken sufficient negotiations with the leaseholders and tenants, and that it is satisfied that there remains a compelling case in the public interest for promoting the CPO. • The Council has previously used CPO powers to support major retail led regeneration, for example in the development of Cabot Circus, which opened in 2008.

- As part of the context to this development, it should be noted that The Mall, Cribbs Causeway expansion application is being considered by the Secretary of State's Public Inquiry in early September 2017. The Council has strongly objected to the proposed expansion of The Mall. The application proposals will significantly impact on shopper, retailer and investor confidence in the City Centre and act as a deterrent to investment. Part of the evidence the Council will submit to the Inquiry is to show that future demand can be met within the City Centre.

Recommendation(s) / steer sought:

- Cabinet to support the re-development of Callowhill Court in Broadmead as an important part of our City Centre strategy.
- Cabinet to agree, in-principle, for the Council to use Compulsory Purchase Order powers if necessary, to enable the development of Callowhill Court. The powers will be used if BALP are not able to agree to terms with the various leasehold interests that need to be acquired prior to re-development. The use of the powers will be subject to a list of preconditions (to be developed, but to include a formal request being made by BALP that the Council makes a CPO, planning permission in place, development agreement in place and BALP to cover all related costs) in accordance with the CPO legislative framework.
- If CPO is required and all pre-conditions have been met then the decision will be brought back to Cabinet for final resolution.

Context:

- The Bristol Local Plan (Bristol Central Area Plan, adopted March 2015) allocates the Callowhill Court site for major mixed-use retail led development and the City Centre is a priority within Council's Corporate Strategy, which states 'We must retain the primacy of the City Centre as the core retail and cultural heart of the West of England.' There is a planning application for the development of Callowhill Court, which will be determined by a Development Control Committee. Cabinet agreed the consolidation of the Council leases within the Callowhill Court area with BALP in March 2017.
- Pursuing an in-principle agreement to use CPO powers (under section 226(1) of the Town & Country Planning Act 1990) if necessary is seen as another very important step in aiding the future delivery of the regeneration of Broadmead.

City Outcome: The Broadmead redevelopment at Callowhill Court will help deliver the Council's Corporate Strategy, which states 'We must retain the primacy of the City Centre as the core retail and cultural heart of the West of England.' As identified above, it will enable the delivery of a major site allocated in the Bristol Local Plan.

Health Outcome summary: No direct implications from the CPO. The eventual development will help create a greater sense of health and wellbeing through improved access to shopping, leisure, services and associated new employment opportunities.

Sustainability Outcome summary: No direct implications from the CPO. The development is a sustainable location in the City Centre, accessible by a range of transport modes, including public transport.

Equalities Outcome summary: No direct implications at this stage given that this is an in-principle agreement. The eventual development will help to create a more inclusive City Centre, as identified in the Corporate Strategy.

Impact / Involvement of partners:

- BALP is the key partner in this process and the Council has currently planned to continue liaising with them with the expectation BALP will engage with their existing tenants of future potential changes including the prospect of a CPO. The Council will need to be sensitive about the impact on some of those tenants as if CPO powers are exercised their business premises will be affected.
- There are no current plans to engage with local authority partners or the West of England Combined Authority on the potential use of a CPO.
- BALP have briefed the West of England Metro Mayor on their development plans for Callowhill Court.

Eversheds acting on behalf of BALP have provided the following comments:

- BALP have started to assemble the interests needed for the development, including rationalising

the head leases across the site and acquiring long leasehold interests. BALP are hopeful that they will be able to reach agreement with the vast majority (if not all) of the parties (including long leasehold and occupational tenants), to enable the redevelopment to proceed. However, in the event that it appears to BALP that this is not going to be achievable, BALP would formally request the Council to promote a CPO to provide some certainty regarding their land assembly exercise, and provide the relevant information at that stage.

- Whilst BALP are yet to make a formal request for a CPO, and propose to pursue further discussions with the leaseholders and tenants before doing so, they require the comfort provided by the decision sought in this report to provide some certainty regarding their land assembly exercise.

Consultation carried out: BALP, Place Leadership Team, Strategic Leadership Team, Mayor, Cllr Paul Smith, Legal, Property, Finance, Strategic Planning, Communications, Equalities, Sustainability.

Legal Issues: 1) The exercise of CPO powers would be on the basis that the developer (BALP) have not been able to agree terms with the remaining leasehold interests that need to be acquired to enable the development to progress. The exercise of CPO powers could lead to objections from the interests seeking to be acquired that will need to be determined. There will also be significant costs associated with compensation for the interests acquired. However it is intended that all of the costs for the CPO and compensation will be met by BALP and the Council's exposure to these costs will be protected by the completion of a costs indemnity and back to back development agreement with BALP.

2) The acquisition by CPO will engage human rights under the European Convention of Human Rights and the Human Rights Act 1998 – specifically Article * of Part 1 on the Convention (right to respect for private and family life) and Article 1 of the First Protocol – protection of property; detailed advice will be provided in relation to these matters in the event that officers return with a further report seeking authorisation to make the CPO.

Legal Officer: *Joanne Mansfield*

DLT sign-off	SLT sign-off	Cabinet Member sign-off
07/06/17	26/06/17	19/07/17

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	YES
Appendix C – Risk assessment	YES
Appendix D – Equalities screening / impact assessment of proposal	YES

The CPO area, leaseholders and tenants

The CPO area is identified by the red line in the enclosed plan.

The CPO area includes two long leasehold interests including 10 units (these are highlighted in green on the plan). BALP will continue negotiations with these interests, and (as is usual) it is hoped that an agreement will be reached over compensation. Those parties may then, if they wish, use that compensation to acquire investment interests in other property and claim roll-over relief in terms of any capital gains liability that arises.

In terms of the occupational tenants, there are potentially in the worst case scenario, up to 72 units affected, 8 of which are presently vacant. Of the occupied units, 68 are retail units; 3 are catering; and 1 is a residential tenancy.

Negotiations with tenants will continue up to and (if exercised) alongside any CPO process, and it is usual for the vast majority of tenants to agree deals to relocate - either back into the new development, or to other units in the city. BALP's agents would, if requested by the tenant in question, provide details of suitable available units in the city to assist with finding alternative premises.

Most parties will reach agreement. For those who do not, they would any event be entitled to compensation under the CPO Compensation Code, which ensures that affected parties are not left out of pocket. Those whose interests are acquired would be entitled to the market value of their interests, together with relocation costs. Tenants and leaseholders would appoint their own agents, and their reasonable fees, together with legal fees associated with the conveyancing, would be payable by BALP (either directly or through an indemnity agreement entered into with the Council).

Details of consultation carried out - internal and external

Internal

Place Leadership Team, Strategic Leadership Team, Mayor, Cllr Paul Smith, Legal, Property, Finance, Strategic Planning, Communications, Equalities, Sustainability

External

BALP

BALP have briefed the West of England Metro Mayor regarding on their development plans for Callowhill Court

Risk Assessment

FIGURE 1							
The risks associated with the implementation of the (subject) decision :							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	Uncertainty for current Callowhill Court leaseholders and tenants	H	H	Tenants already aware of the development proposals, as they have received planning application notification and the site is allocated in the Bristol Central Area Plan. BCC/BALP to have clear communications plan.	H	M	BCC/BALP
2	Council's financial costs will not be met	H	L	Indemnity and development agreement to be in place as a pre-condition to the Council using its CPO powers. BALP have indicated that they are in agreement with BCC's pre-conditions concerning the Council's costs in relation to the CPO.	L	L	BCC/BALP

FIGURE 2							
The risks associated with <u>not</u> implementing the (subject) decision:							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	Not realising potential raised in the Bristol Central Area Plan and Corporate Strategy, and therefore not securing significant investment in new city centre development - retail, leisure, homes and associated new jobs	H	M	Report highlights strategic context and importance of the in-principle agreement	H	L	BCC



Bristol City Council Equality Impact Relevance Check

This tool will identify the equalities relevance of a proposal, and establish whether a full Equality Impact Assessment will be required. Please read the guidance prior to completing this relevance check.

What is the proposal?	
Name of proposal	Supporting the continued development of Cabot Circus at Callowhill Court, Broadmead
Please outline the proposal.	<ul style="list-style-type: none"> Supporting the re-development of Callowhill Court in Broadmead is an important part of our City Centre strategy. The Bristol Local Plan (Bristol Central Area Plan, adopted March 2015) plan allocates the Callowhill Court site for major mixed-use retail led development and the City Centre is a priority within Council's Corporate Strategy, which states 'We must retain the primacy of the City Centre as the core retail and cultural heart of the West of England.' There is a planning application for the development of Callowhill Court, which will be determined by a Development Control Committee. Cabinet agreed the consolidation of the Council leases within the Callowhill Court area with the Bristol Alliance (BALP) in March 2017. Pursuing an in-principle agreement to use CPO powers (under section 226(1) of the Town & Country Planning Act 1990) if necessary is seen as another very important step in aiding the future delivery of the regeneration of Broadmead. Cabinet to provide an in-principle agreement for the Council to use its CPO powers if necessary to enable the development of Callowhill Court. The powers will be used if BALP are not able to agree to terms with the various leasehold interests that need to be acquired prior to re-development.

	<ul style="list-style-type: none"> • The in-principle agreement from the authority to use its CPO powers will be subject to a list of pre-conditions (to be developed, but to include a formal request being made by BALP that the Council makes a CPO, planning permission in place, development agreement in place and BALP to cover all related costs). • Cabinet to make final resolution to use CPO powers if all the pre-conditions have been met.
What savings will this proposal achieve?	<p>N/A.</p> <p>Will create additional income for the Council through additional Business Rates and Council Tax created by the final uses (business space and homes).</p>
Name of Lead Officer	Jason Thorne

<p>Could your proposal impact citizens with protected characteristics? (This includes service users and the wider community)</p>	
Please outline where there may be significant opportunities or positive impacts, and for whom.	
The eventual development will help to create a more inclusive City Centre, as identified in the Corporate Strategy.	
Please outline where there may be significant negative impacts, and for whom.	
<p>The CPO area includes two long leasehold interests including 10 units. BALP will continue negotiations with these interests, and (as is usual) it is hoped that an agreement will be reached over compensation. Those parties may then, if they wish, use that compensation to acquire investment interests in other property and claim roll-over relief in terms of any capital gains liability that arises.</p> <p>In terms of the occupational tenants, there are potentially in the worst case scenario, up to 72 units affected, 8 of which are presently vacant. Of the occupied units, 68 are retail units; 3 are catering; and 1 is a residential tenancy.</p> <p>Negotiations with tenants will continue up to and (if exercised) alongside any CPO process, and it is usual for the vast majority of tenants to agree deals to relocate - either back into the new development, or to other units in the city. BALP's agents would, if requested by the tenant in question, provide details of suitable available units in the city to assist with finding alternative premises.</p>	

Most parties will reach agreement. For those who do not, they would any event be entitled to compensation under the CPO Compensation Code, which ensures that affected parties are not left out of pocket. Those whose interests are acquired would be entitled to the market value of their interests, together with relocation costs. Tenants and leaseholders would appoint their own agents, and their reasonable fees, together with legal fees associated with the conveyancing, would be payable by BALP (either directly or through an indemnity agreement entered into with the Council).

Could your proposal impact staff with protected characteristics?

(i.e. reduction in posts, changes to working hours or locations, changes in pay)

Please outline where there may be significant opportunities or positive impacts, and for whom.

NA

Please outline where there may be negative impacts, and for whom.

N/A

Is a full Equality Impact Assessment required?

Does the proposal have the potential to impact on people with protected characteristics in the following ways:

- access to or participation in a service,
- levels of representation in our workforce, or
- reducing quality of life (i.e. health, education, standard of living) ?

Please indicate yes or no. If the answer is yes then a full impact assessment must be carried out. If the answer is no, please provide a justification.

Unfortunately, BALP are not able to provide information on the demographics of the businesses and residents. These demographics should be available in order to do a thorough EqIA. At this moment in time, I am satisfied that BALP will do all they can to assist those businesses and residents who may be impacted by the proposed development and any future CPO. Cherene Whitfield 12 July 2017

Service Director sign-off and date:



13/07/17