

Decision Pathway - Report

PURPOSE: Key decision

MEETING: Cabinet

DATE: 03 September 2019

TITLE	The proposed Compulsory Purchase of 16 Branwhite Close and the Gainsborough Public House, Lockleaze	
Ward(s)	<i>Lockleaze</i>	
Author: Miles Reynolds	Job title: Senior Property Development Surveyor	
Cabinet lead: Councillor Paul Smith	Executive Director lead: Colin Molton	
Proposal origin: <i>BCC Staff</i>		
Decision maker: Cabinet Member Decision forum: <i>Cabinet</i>		
Purpose of Report: 1. To seek authority for Bristol City Council to compulsory purchase the Gainsborough Public House site in Lockleaze and 16 Branwhite Close should negotiated acquisition fail, as identified red on plan at Appendix A (i).		
Evidence Base: Background and Need for the Compulsory Purchase Order The Gainsborough Public House Site ('GPH') is situated in the Lockleaze Regeneration area. It is located on Gainsborough Square which is the commercial centre of Lockleaze. The Council have been trying to acquire the GPH via negotiations for 18months. As can be seen from the photograph of the site at Appendix A (ii) it is in a prominent location and is in a poor state of repair, reducing the quality of Gainsborough Square's urban environment which has otherwise been successfully regenerated. In July 2019 the GPH was gutted by a serious fire. The GPH forms part of the 'Branwhite Development Site' as identified red on plan at Appendix A (iii). The Branwhite Development Site is a significant site in relation to several Bristol City Council ('BCC') Corporate Priorities and Strategies including the Emerging Local Plan (DRAFT 2019); Lockleaze and Gainsborough Square regeneration (Regeneration Strategy: Breathing New Life into Gainsborough Square BCC Urban Design Group (2014); and for a range of planning and place making reasons. The regeneration of Lockleaze will enhance the area for the local community and contribute to priorities across Bristol and the West of England including: housing provision; optimising land use; transport, accessibility, active design and supporting healthy lifestyles; economic sustainability of the area; social and community cohesion; and environmental quality. The investment required to support the long term regeneration of Lockleaze has been secured through a range of successful funding bids from various governmental sources, including Housing Infrastructure Fund (HIF); West of England Growth Fund; the Housing Revenue Account (HRA); MHCLG Estate Regeneration Fund; MHCLG Accelerated Construction Fund funding. The Redevelopment Proposals- 'The Scheme' It is proposed the Branwhite Development Site, which incorporates the GPH and 16 Branwhite Close, is brought forward for residential led development through BCC Housing Revenue Account (HRA) New Build Programme. A multi-disciplinary design team has been appointed to work up and submit a detailed planning application in early		

2020. The development will aim to maximise the delivery of new affordable housing in the form of social rent and shared ownership homes. It is envisaged the leading edge of the development onto Gainsborough Square will incorporate some retail units in accordance with planning policy requirements. The Branwhite Development Site will be funded through the HRA New Build Capital Programme approved by Cabinet in February 2019.

Acquiring the GPH and 16 Branwhite Close will enable a comprehensive and sustainable development to be delivered, with good pedestrian links to the retail and facilities and enhance the surrounding areas.

Efforts to Acquire GPH by Negotiation

BCC has offered to purchase the GPH, from the owner on a number of occasions. In March 2018 an offer was made and rejected by the owner. In September 2018 a revised offer was made and also rejected by the owner. BCC Officers have met the owner and will continue to offer constructive dialogue in an effort to purchase the property on the open market via negotiation. Offers by other parties are also understood to have been rejected by the owner of the GPH. The GPH remains unoccupied and in a worsening condition in an area of regeneration.

The GPH purchase costs will be met from either of the following: The Housing Infrastructure Fund, if the 'Unlocking Lockleaze Development' bid is successful or S106 income for the provision of affordable housing in Lockleaze Ward.

Officers consider that a CPO is justified to facilitate a residential led development which will promote and improve the economic and social well-being of the area. The power which is intended to be used is s226 Town and Country Planning Act 1990.

Efforts to Acquire 16 Branwhite Close by Negotiation

The owner(s) of 16 Branwhite Close have verbally accepted an offer made by BCC to purchase the property at open market value. If this deal is satisfactorily concluded then no CPO will be required for this property. If there is a failure to acquire by agreement a CPO will be required.

The CPO Statutory Powers and Structure of the Arrangements are set out at Appendix A (iv).

Cabinet Member / Officer Recommendations:

1. That Cabinet note the regeneration plans for Lockleaze and the efforts made to acquire by agreement the Gainsborough Public House and 16 Branwhite Close sites.
2. That Cabinet authorise, the Executive Director Growth and Regeneration in consultation with the Deputy Mayor for Finance Governance and Performance to make and progress CPO's under s 226 of the Town and Country Planning Act 1990 for the comprehensive redevelopment of the land shown edged red on the plan attached at Appendix A (i) – being the Gainsborough Public House, Gainsborough Square, Lockleaze and 16 Branwhite Close, Lockleaze ("the properties"), should negotiation fail.
3. That Cabinet authorise the Executive Director, Growth & Regeneration to take all steps and actions necessary (including defending any objections at a public inquiry) to negotiate and settle the payment of compensation so as to secure the acquisition of the properties for comprehensive redevelopment of the Branwhite Development Site.

Corporate Strategy alignment:

1. Fair and Inclusive: will contribute towards 'Make sure that 2,000 new homes - 800 affordable are built in Bristol each year by 2020'.
2. Well Connected : will contribute towards 'Reducing social and economic isolation and help connect people to people, people to jobs and people to opportunity'. Better walking routes will provide better opportunities for healthy activity and accessing services to people living north of the square. 29% of households in Lockleaze do not have a car or van; and there are high levels of cardiovascular disease and childhood obesity compared to the city as a whole (BCC Ward Profile 2017)

City Benefits:

1. Achieving the strategic comprehensive and coherent regeneration of Lockleaze, focussing on Gainsborough Square, as set out in strategy papers including the BCC Gainsborough Square Regeneration Strategy (Bristol City Council, 2014)
2. Contributions to an environment which promotes healthy lifestyles and enables better access to services.
3. The Lockleaze estate is undergoing a major long term programme of investment and re-development, which is aimed at upgrading the area as a place to live, work and relax, whilst contributing major housing investment to serve local people and city wide strategic requirements.
4. Bristol City Council's approach to the regeneration of this disadvantaged area is based on, in summary:
 - a. Achieving a comprehensive and coherent redevelopment through several complementary phases of development in a period from 2007 to 2025.
 - b. The complementary aims of:
 - i. Increased density of housing in the area to serve the needs of and attract a wider mix of residents;
 - ii. Enhance economic sustainability of the local centre on Gainsborough Square to support access to local services;
 - iii. Enhanced inclusivity of the area by improving housing mix;
 - iv. Improved accessibility through major transport investment;
 - v. Enhance quality of life through increased opportunities for community engagement;
 - vi. Enhanced health through increased active lifestyles, through integrating access to walking and cycling routes and access to open leisure spaces, in line with Sport England guidance.

Consultation Details:

1. The proposed redevelopments of Lockleaze have been widely consulted on and developed with active participation from the community. The Community Vision for Lockleaze (2009) was based on extensive consultation from 2007 onwards and refers specifically to the community's priority 'to promote the previous Gainsborough Public House Site as an active asset for the community'.
2. Local councillors have been consulted and are in support of the purchase of the GPH.

Background Documents:

Local Plan (DRAFT 2019) <https://www.bristol.gov.uk/planning-and-building-regulations/local-plan>

Revenue Cost	n/a	Source of Revenue Funding	n/a
Capital Cost	Up to £700,000 – subject to review.	Source of Capital Funding	Housing Revenue Account & external Housing Infrastructure Fund grant.
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice: The Compulsory Purchase Orders for Gainsborough Public House and 16 Branwhite Close are to facilitate the comprehensive regeneration of the area in line with Corporate priorities - if the ongoing negotiations fail to reach a satisfactory conclusion.

There is currently verbal acceptance on the purchase of the Branwhite property which would be funded by the Housing Revenue Account. The valuation of this site is currently being independently updated. The purchase of this property would be funded by the Lockleaze Housing Infrastructure Fund grant which has been received for site assembly and transport improvements to be completed by March 2022. If the CPOs progress there will be associated legal costs for the Council and it is anticipated that the overall cost of the whole process will be less than £700k.

Finance Business Partner: Wendy Welsh, Finance Manager, 14/8/2019

2. Legal Advice: The legal tests and process for acquiring the properties by CPO are comprehensively set out in the body of the report. When promoting the purchase of land by CPO the Council must be satisfied that the use of the powers must be for one or more of the purposes of the Council's social or environmental wellbeing purposes. S226(3) of the Town and Country Planning Act also allows the Council to acquire land that is required to facilitate or is incidental to the development of other land.

The Council must be satisfied that the exercise of the powers to acquire the land would be within its legal powers to acquire land – here being s 226(1)(a) and s 226(3)(a) of the Town and County Planning Act 1990 together with any powers to acquire new rights under s13 of the local Government (Miscellaneous Provisions)Act 1976. From the contents of this report the case has been made that these tests have been satisfied. It is recommended that if any CPO is made that the timing of its making is run in parallel with the timing of the planning application so that in the event of objections being received the Council can make the strongest case at any Public Inquiry by being able to demonstrate that planning permission has (or very shortly could be) granted for re-development.

In addition to meeting the tests for s226 of the Town and County Planning Act 1990 the following considerations must be taken into account by the decision maker;-

1. Human Rights

The Human Rights Act 1998 ("the Act") incorporated in UK domestic law the European Convention on Human Rights ("the Convention"). The Human Rights Act 1998 makes it lawful for a public body to act in contravention of the Act in certain specified circumstances.

The Convention includes provisions in the terms of the Articles the aim of which is to protect the rights of individual's (including companies). In this case the rights engaged are:-

Article 1 of the First Protocol: the right to peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to relevant national law.

Article 8 of the First Protocol: this protects the private and family life, home and correspondence. No public authority can interfere with these rights except in accordance with the law or where it is necessary in the interests of public security, the economic wellbeing of the country, for the prevention of disorder or crime or for the protection of health, morals or the rights or freedoms of others.

Article 6 of the First Protocol: the right to a fair hearing

Article 14 of the First Protocol: the enjoyment of freedoms in the Convention shall be secured without the discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion nor social origin, associated national minority, property, birth or other status.

In the case of each of the above articles (and the Convention in general) the Council must be conscious of the need to strike a balance between the right of the individual and the interests of the public.

In the light of the significant public benefit that would arise from the project being taken forward it is considered appropriate to make the Compulsory Purchase Order and seek CPO powers .It is not considered that any unlawful interference with an individuals rights will occur as the interference will be in accordance with the law and, where property interests are affected directly, the compulsory purchase compensation code will apply.

Representations will be possible before an Order can be confirmed. In addition objections will be heard if necessary by an Inspector appointed by the Secretary of State. Compensation will be available to parties whose interests whose interest in land is directly affected through the acquisition of land or new rights. Human rights will not be infringed as the Council and the Secretary of State will be following a process prescribed by law and from which a right to compensation arises if land is taken.

2. Equalities Duty

The public sector Equality duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to (i) eliminate discrimination harassment and victimisation (ii) advance equality of opportunity and (ii) foster good relations between persons who share a relevant protected characteristic and those who do not share it.

The Equalities Impact Assessment (as set out in Appendix E to this report) is designed to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the Assessment before taking the decision.

A decision can be made where there is a negative impact if it is clear it is necessary, if it is not possible to reduce or remove the negative impact by looking at alternatives and the means by which the aim of the decision is being implemented is both necessary and appropriate

Legal Team Leader: Joanne Mansfield, Legal Services 8th August 2019.

3. Implications on IT: There are no IT implications arising from this report.

IT Team Leader: Ian Gale 17/7/19

4. HR Advice: There are no HR implications evident

HR Partner: Celia Williams, HRBP, 17/7/19

EDM Sign-off	Colin Molton	17/07/19
Cabinet Member sign-off	Cllr Paul Smith	02/07/19
For Key Decisions - Mayor's Office sign-off	Mayor's Office	05/08/19

Appendix A – (i) CPO Land (ii) Site photo (iii) Branwhite Development Site (iii) CPO Statutory Powers and Structure of the Arrangements	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal Included as part of legal comment	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	NO
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO