

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 10 May 2022

TITLE	The proposed Compulsory Purchase of 16 Branwhite Close and the Gainsborough Public House, Lockleaze		
Ward(s)	Lockleaze		
Author: Miles Reynolds	Job title: Property Development Manager		
Cabinet lead: Councillor Tom Renhard, Cabinet Member Housing Delivery and Homes	Executive Director lead: Stephen Peacock, Executive Director Growth and Regeneration		
Proposal origin: BCC Staff			
Decision maker: Cabinet Member Decision forum: Cabinet			
Purpose of Report:			
<ol style="list-style-type: none"> To update Cabinet on progress with the Branwhite / Gainsborough Square development scheme and seek an updated approval following Cabinet approval 3 September 2019 for Bristol City Council to compulsory purchase the Gainsborough Public House site in Lockleaze and 16 Branwhite Close (as identified red on plan at Appendix A (i)) should a negotiated acquisition not be agreed. 			
Evidence Base:			
<ol style="list-style-type: none"> 3 September 2019 Cabinet gave approval for the CPO of the Gainsborough Public House and 16 Branwhite Close Lockleaze. Due to the of the age of the approval (2 years and 7 months), legal advice is that an updated Cabinet approval should be obtained. 			
Background and Need for the Compulsory Purchase Order			
<ol style="list-style-type: none"> 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 2 years. 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, 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'

5. The Branwhite Development Site received full planning consent 3 November 2021, and incorporates the GPH and 16 Branwhite Close, it is being brought forward for a residential led development through BCC Housing Revenue Account (HRA) New Build Programme. 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. The Branwhite Development Site will be funded through the HRA New Build Capital Programme approved by Cabinet in February 2019.
6. 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

7. 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.
8. JLL property consultants are engaged to progress the CPO negotiations and following recent discussions with the owner they are still unwilling to consider a sale. 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 The Housing Infrastructure Fund. Officers consider that a CPO is justified to facilitate a residential led development which both promotes and improves 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

7. The owner(s) of 16 Branwhite Close have verbally accepted an offer made by BCC to purchase the property at open market value. This acceptance was on the basis that the member of the family occupying the property would be rehoused. A number of HRA properties have been offered and all have been refused. In the event a 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.
8. The CPO Statutory Powers and Structure of the Arrangements are set out at Appendix A (iv).

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Note the regeneration plans for Lockleaze and the efforts made to acquire by agreement the Gainsborough Public House and 16 Branwhite Close sites.
2. Authorise the Executive Director Growth and Regeneration in consultation with the Deputy Mayor for Finance Governance and performance, in the event that it does not prove possible to acquire the Gainsborough Public House and 16 Branwhite Close (the properties) by negotiated agreement, to:
 - i. make and progress CPO's under s226(1)(a) of the Town and Country Planning Act 1990 for the properties – shown edged red on the plan attached at Appendix A; and
 - ii. take all steps necessary to progress the CPO's and to secure their confirmation to include defending any objections at a public inquiry.
3. Note the Director of Legal Democratic Service will where relevant negotiate and settle the payment of compensation within the approved budget envelope 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. 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.

City Benefits:

1. The development is being delivered within one of the most deprived communities in the City.
2. The project will deliver affordable homes.

Consultation Details:

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'.

Local councillors have been consulted and are in support of the proposals outlined in this report.

Background Documents: Cabinet report 3 Sept 2019 - [190822 The proposed Compulsory Purchase of 16 Branwhite Close and the Gainsborough Public House Loc.pdf \(bristol.gov.uk\)](#)

Revenue Cost	£	Source of Revenue Funding	
Capital Cost	£ up to £700,000 subject to review.	Source of Capital Funding	Housing Infrastructure Fund
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. 1. Finance Advice:**

The request for Compulsory Purchase Orders for Gainsborough Public House and 16 Branwhite Close was previously made to cabinet in September 2019 to facilitate the comprehensive regeneration of the area in line with Corporate priorities - if the ongoing negotiations fail to reach a satisfactory conclusion. The request in this report remains the same.

The estimated acquisition cost including fees would be circa of £0.6m, if the CPO's progress there will be associated legal and compensation cost for the Council. The full cost of these acquisitions will be funded by the Lockleaze Housing Infrastructure Fund (HIF) grant.

Finance Business Partner: Aisha Babu - Finance Manager 22 March 2022

2. Legal Advice:

The background and details of the scheme and the attempts that have been made to acquire the GPH and 16 Branwhite by agreement are set out in the report. Acquisition of land using CPO powers should be an option of last resort and in deciding to exercise CPO powers the Council must be satisfied that the exercise of the powers to acquire the land would be within its legal powers.

Under s 226(1)(a) and s 226(1)(b) of the Town and County Planning Act 1990 the Council has the power to acquire land by CPO if the acquisition will facilitate the development re-development or improvement of the land or if it is required in order to achieve the proper planning of the area in which the land is situated. Under s226 (1A) of the 1990 Act a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to any one of the following objects:-

- (a) promotion or improvement of the economic well-being of their area
- (b) the promotion or improvement of the social well-being or their area
- (c) the promotion or improvement of the environmental well- being of their area

From the content of this report the case has been made that the acquisition of these two sites are necessary to facilitate the re-development and improvement of the area and that the objects outlined in s 226(1A) have been met.

In addition to meeting the requirements for the exercise of compulsory purchase of powers under 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 to acquire the land required to implement the scheme.

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 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

Under s149 of the Equality Act 2010 the decision maker is required to consider the need to promote equality for persons

with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation) 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, Team Leader, Legal 2 March 2022

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

IT Team Leader: Gavin Arbuckle, Head of Service Improvement and Performance, 18 January 2022

4. HR Advice: No HR implications

HR Partner: James Brereton (HR Business Partner), 18 January 2022

HDB Sign-off	Stephen Peacock, Executive Director Growth and Regeneration	20 January 2022
Cabinet Member sign-off	Cllr Renhard, Cabinet Member Housing Delivery and Homes	7 February 2022
For Key Decisions - Mayor's Office sign-off	Mayor's Office	7 March 2022

Appendix A – (i) CPO Land (ii) Site photo (iii) Branwhite Development Site (iv) CPO Statutory Powers and Structure of the Arrangement	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	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	No
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO