COMPULSORY PURCHASE ORDER: 1-3 LOWER HILLGATE, STOCKPORT

Report of the Corporate Director for Place Management & Regeneration

1. INTRODUCTION AND PURPOSE OF REPORT

1.1. This report seeks authority to proceed with the acquisition, if necessary by compulsory purchase, and subsequent disposal of 1-3 Lower Hillgate, Stockport, SK1 1LQ (the “Property”) subject to securing an indemnity agreement from a development partner to enable its redevelopment for residential purposes. 1-3 Lower Hillgate is shown edged red and marked “1” on the plan in Appendix 1. This will support the regeneration of the Market Place and Underbanks area.

2. BACKGROUND

2.1. In September 2014 the Executive, in considering the Report of the Corporate Director for Place Management & Regeneration ‘Market Place and Underbanks Regeneration Strategy and Investment Proposals’, agreed to give delegated authority to the Corporate Director for Corporate and Support Services and the Corporate Director for Place Management and Regeneration in consultation with the Executive Councillor (Corporate, Customer and Community Services) and Executive Councillor (Economic Development and Regeneration) to:

- progress with any necessary scheme and building design and, with the assistance of the Council’s Strategic Property Partner, proceed with the procurement of suitable contractors and partners to deliver the strategy;
- settle the final terms of any occupational leases for the proposed tenants of the units (to include rent free periods and assistance with the costs of fitting out as deemed necessary to secure the appropriate tenant mix);
- settle the final terms of any further acquisitions required to facilitate the strategy and, if acquisitions cannot be achieved by agreement, to authorise the making and service of a Compulsory Purchase Order;
- agree the further procurement of consultants as may be required to deliver the scheme; and,
- take any action needed to resolve any issues that may hinder the delivery of this strategy within the planned budget.

2.2. Since the original Executive decision, the Executive Councillors posts and the Directors posts have changed. The current equivalent posts are:

- Director for Place Management and Regeneration
- Deputy Chief Executive (Inheritor of Director of CSS delegations for property)
- The Executive Member for Economic Development and Regeneration
- The Leader (Inheritor of the defunct role of Executive Member for Corporate Customer and Community Services)
2.3. The Council’s Executive approved the use of prudential borrowing to finance an investment strategy of up to £7m for the Market Place & Underbanks in September 2014. The focus of this investment was to create an enhanced physical environment and create a vibrant retail, cultural and residential destination around the Market Place, Underbanks and Lower Hillgate area. The Executive Decision highlighted that the Council would take an active role with acquisition, redevelopment, refurbishment, letting and resale to attract independent retail and develop selected property for residential use.

2.4. Market Place and Underbanks is a key component to the Town Centre regeneration programme, offering a unique environment due to its medieval streets populated with characterful buildings and rich tapestry of history. This area provides Stockport with an offer that differentiates itself from other Town Centres, accommodating niche retail, apartments and burgeoning food and beverage offer. The regeneration of this area is therefore of high importance and has previously been the focus of key initiatives such as the Portas Pilot in 2012, which encouraged specialist shops and creative industries with the aim to re-establish the footfall and bustling communities that had once existed. Market Place and Underbanks has a uniqueness that can be further brought out and reinforced with residential development, supporting its reinvention.

2.5. Stockport Council has a clear ambition ‘Brownfield First’, which is to continue to support and promote an approach to development, which prioritises development of brownfield land, placing an increased emphasis on the importance on delivery. 1-3 Lower Hillgate closely aligns with this ambition and will see a derelict site brought back into use.

2.6. The required purchase of 1-3 Lower Hillgate is a result of the Council’s decision to bring forward regeneration in the Town Centre and ‘Brownfield First’ with targeted strategic interventions within the Market Place and Underbanks area. A key aim of this includes increasing the residential population within the Town Centre, which includes promoting residential developments within the Lower Hillgate area, which encompasses the Property.

2.7. The vitality of an area is often judged by its environment and level of voids: within Lower Hillgate there are several notable derelict properties such as 1-3 Lower Hillgate and Russell Morley House, alongside the demolished 6 Lower Hillgate. An image of 1-3 Lower Hillgate is available to view in Appendix 2. The Council is seeking to address the level of voids by virtue of the redevelopment of 1-3 Lower Hillgate and Russell Morely House. There is therefore a requirement to acquire, if necessary by CPO, the Property to ultimately improve the environmental and social wellbeing of the area. The Council has assessed whether there is another way in which it might achieve its aims including the use of statutory notices but that this is not appropriate in this instance.

2.8. The Council endeavours to persuade owners to sell or make improvements to their assets where there is a need for regeneration; however, this is not always successful and compulsory purchase powers may be required, as a last resort, to secure the redevelopment of the Property. In this case, the need to seek authorisation to acquire the Property and to use the Council's compulsory purchase powers (if required) has arisen due to the regeneration outcomes that can be achieved through redevelopment of the site for primarily residential use which can be achieved within a reasonable period if the Council and/or a developer partner takes control of the redevelopment.
2.9. Attempts have been made to acquire the site from the current owner since March 2014, but following prolonged negotiations no agreement has yet been reached.

2.10. There is a compelling case in the public interest for the purchase, making and confirmation of the Order to acquire the Property. Subject to the Council being unable to acquire the property by negotiations, the Order will enable the Council as a method of last resort and (upon confirmation of the Order) to exercise compulsory purchase powers to acquire the property for disposal to a competent purchaser(s) capable of bringing forward redevelopment for primarily residential use.

2.11. Whilst the Council resolution was obtained in January 2016, in respect to 1-3 Lower Hillgate, a fresh resolution is sought to ensure that the Council is fully aware, and bases its decision, on the most up to date information available in respect of the site.

3. **FINANCIAL IMPLICATIONS**

3.1 Having regard to the risks, and the need to put in place a financial basis for progressing with the compulsory purchase order, the Council’s Executive on 30 September 2014 committed £7m to the regeneration of Market Place and Underbanks area, which supported the acquisition of the White Lion hotel and 29-35 Little Underbank. In delivery of the strategic approach to the regeneration of the Market Place and Underbanks area, the Executive Decision authorised the use of Compulsory Purchase powers if acquisitions cannot be achieved by agreement.

3.2 Scheme proposals have been worked up with partners via an open market process and the indicative costings involved in acquisition and subsequent improvement of the properties have been appraised as viable and deliverable within the capital budget the Council has for the markets and underbanks scheme, even if the Council had to develop the proposals themselves. Therefore the Council is in possession of the necessary capital resources to acquire the Property to support the compulsory purchase process and subsequent improvement of the Property, and is committed to providing this funding at such time as the use of compulsory purchase powers are needed to be exercised. The intension is, however, to seek agreement from a third party to indemnify the Council against any and all costs arising from the compulsory purchase order and subsequent redevelopment.

4. **STATUTORY POWERS AND GUIDANCE**

4.1 S226(1)(a) of the Town and Country Planning Act 1990 enables a local authority to acquire land compulsorily, subject to confirmation by the Secretary of State, where it is necessary in order to acquire property to bring about social and environment improvement to the area, by bringing empty and derelict dwellings back into beneficial residential use.

4.2 The “Guidance on Compulsory Purchase Process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion” advises that an acquiring authority should only make a compulsory purchase order where there is a compelling case in the public interest to do so. The
Council is satisfied that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interests.

4.3 Nevertheless, the Council will continue to ensure that all reasonable attempts are made to acquire the Property by agreement in parallel with the compulsory purchase process. This approach of making the Order and, in parallel, conducting negotiations to acquire the Property by agreement is designed to facilitate delivery of the Property being improved, renovated and brought back into beneficial residential use at the earliest opportunity and is in accordance with the compulsory purchase guidance and best practice.

5. THE COUNCIL PURPOSE FOR ACQUIRING THE LAND

5.1 The intervention will support the vision outlined in the Market Place and Underbanks Master Plan (Urban Vision, 2015), which has no planning status. The site is located within the Lower Hillgate area, which has the highest void levels in Market Place and Underbanks. This central cluster of voids detracts from the surrounding area and risks further spiralling decline unless targeted interventions can be realised.

5.2 1-3 Lower Hillgate is a prominent example of this decline in the environmental and social wellbeing in the area due to the number of vacant properties. The property has remained vacant for several years, where, following poor maintenance, the property fell into disrepair and ultimately collapsed. The collapsed, partially cleared, building provides no benefit to the surrounding area and creates an adverse effect on the street and area. The impact of partially collapsed building is heightened due to its location in a conservation area, where it creates a 'gapped tooth' in what is a historic characterful urban grain.

5.3 The owner has recently submitted a planning application for redevelopment of the site comprising of 6 apartments. This has since been withdrawn on planning officer recommendation, due to an over development of the site. It remains unknown whether the existing owner will continue with the planning application and deliver the scheme within a reasonable period. The future of this site therefore remains in doubt and given its current condition and associated impacts, failed negotiations with the owner, existing developer interest and the benefit of the sites redevelopment the Council believes there is justification to pursue a CPO.

6. PROPOSALS

6.1 The Market Place and Underbanks Master Plan (Urban Vision, 2015) proposed interventions in these 'gaps sites' with a focus primarily on attracting residential use. Increasing the residential population would generate footfall both day and night and support the wider vision to enhance the food and beverage offer, which is predominantly located in the Market Place area. Whilst other uses have been considered for the site, a mix use development comprised of residential with active ground floor closely reflects the Market Place and Underbanks Master Plan (Urban Vision, 2015) vision ‘Repopulating the heart’ for Lower Hillgate.

6.2 1-3 Hillgate also falls within Hillgate Conservation Area. The key strategic policy issues in heritage/conservation terms affecting the properties are set out under
Core Strategy Policy CS8 (Safeguarding and Improving the Environment), and also under Development Management Policy SIE -3 (Protecting, Safeguarding and Enhancing the Environment) in section D Protecting the Historic Environment (p116-17 and 121-122).

6.3 The proposed development would broadly follow the principles of the former owners expired planning permission (DC/040058) granted in 2009. This application proposed the conversion of 1-3 Lower Hillgate into four self-contained apartments with retention of ground floor retail use, demolition of the two-storey building to the rear. Whilst the building remains in a partially collapsed state conversion is no longer possible, hence it is accepted that that demolition and rebuild is the most appropriate method of bringing 1-3 Lower Hillgate forward for development.

6.4 The Property will be a housing led development, which in the Town Centre is covered under Core Strategy Policies CS4 (Mix of Housing) and H3 (Affordable Housing). The properties score around 88 when assessed against the Council’s accessibility model, and in this location flatted development is preferred in accordance with CS2 (Housing Provision), Core Strategy policies CS3 (Mix of Housing) and CS4 (Distribution of Housing).

6.5 The Borough of Stockport is currently in a position of housing under-supply with less than 4 years of supply. In addition to the requirement for a five-year supply set out in the National Planning Policy Framework (NPPF) and the housing target in Core Strategy Policy CS2 there is a significant and urgent need to increase the delivery of housing on vacant brownfield sites in line with recent government guidance on the matter. The provision of housing in this area would help to deliver sustainable development in accordance with both the Core Strategy and the NPPF.

6.6 The NPPF focuses on Town Centres as important locations in the delivery of residential development and amongst other things in Paragraph 23 identifies that “residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites;”. In addition, the provision of housing in such locations can deliver highly sustainable development, which strongly reflects the ‘golden’ thread’ of sustainability which runs through the NPPF.

6.7 The proposed scheme provides a balanced approach to the redevelopment of the site and unlike the owners recent withdrawn planning application (DC/063779) will provide a density and form in keeping with the surrounding buildings. Owner occupation remains a key aspiration of the Council, which will lead to a more sustainable neighbourhood by creating a market for local services in its location i.e. the indoor Market and increased food and beverage offer in Market Place. By creating higher quality developments, the Council can establish a neighbourhood of choice to live and invest in. In effect, the developments alongside other housing schemes (e.g. White Lion and Dunville Brow) will create a housing market in Market Place and Underbanks attractive to home ownership and private rented sector where none or little currently exists.

7. NEGOTIATIONS
7.1 Council officers and more recently staff from another party have been in communication with the current landowner of 1-3 Lower Hillgate since 2014 and despite various offers no agreement has been reached that will facilitate development.

7.2 The Council will continue attempts to reach private treaty with the owners (or any person who has the legal capacity to either redevelop the Property to the required housing standards or otherwise to dispose of the Property by voluntary means). In the event that this does not prove possible, the Council will, if authorised to do so and as a last resort, rely on the use of compulsory purchase powers to bring the Property back into beneficial use for primarily housing accommodation.

7.3 Despite exhaustive enquiries and negotiations, and despite a planning application having been previously submitted and subsequently withdrawn, there has not yet been any person or persons whom have come forward with the necessary assurances and guarantees that the Property will be brought back into use (e.g. for residential use) within a reasonable timeframe and therefore it is considered that the use of compulsory purchase powers is seen as the last resort by which control over the future use of the Property can be controlled and is the reason for the Order having been made and submitted for confirmation.

8. SOCIAL, ECONOMIC AND ENVIRONMENTAL BENEFITS

8.1 Redevelopment of the property will significantly contribute to the economic, social and environmental well-being of Stockport Town Centre and wider region. The redevelopment of this key site will complement Stockport’s Investing in Growth programme, which includes a number of projects such as Markets and Underbanks, RedRock, Stockport Exchange, and Hopes Carr/Covent Garden.

8.2 The redevelopment of this site will ensure that residents can benefit from improved housing standards and energy efficiency measures, ensuring reduced fuel bills and environmental impact i.e. reduced greenhouse emissions. Given its town centre location residents are also likely to utilise public transport further reducing the environmental impact.

8.3 Secured by Design is the UK Police flagship initiative supporting the principles of "designing out crime" by use of effective crime prevention and security standards. Research shows that Secured by Design can reduce burglary and car crime by 50% and criminal damage by 25%. It supports one of the Government's key planning objectives - the creation of secure, quality places where people wish to live and work. All newly built areas, including the Property, will seek to secure the police "Secured by Design" accreditation. Creating a town centre residential population will also ensure greater natural surveillance.

8.4 The redevelopment of the Property will also serve as a catalyst for improvements to other properties in the Town Centre which are in need of refurbishment and will serve to stimulate further private investment in the town. An increased number of town centre residents will also support the growth of local businesses, generating footfall throughout the day and into the evening thus supporting the development of the leisure economy.

9. HUMAN RIGHTS STATEMENT
9.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way that is incompatible with the European Convention of Human Rights. Various convention rights are likely to be relevant to the Order, including -

- **Entitlement to a fair and public hearing** in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process.

- **Rights to respect for private and family life and home** (Convention Article 8). Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest.

- **Peaceful enjoyment of possessions** (First Protocol Article 1). This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.

- **Right to life**, in respect of which the likely health impacts of the proposals will need to be taken into account in evaluating the Scheme (Conversion Article 2).

9.2 The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

9.3 Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local planning authority. Any interference with a Convention right must be necessary and proportionate.

9.4 Council officers are of the view that in pursuing this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights, if there is any, is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the Scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the national compensation code.

10. CABINET CONCLUSIONS AND RECOMMENDATIONS

10.1 The redevelopment of the site is critical to the ongoing regeneration of Market Place and Underbanks, providing environmental, economic and social wellbeing to the area. If acquisition of the property is not achieved by private treaty the intention is for the Council making (execution) of the CPO within 6 months of the Council resolution. Subject to challenge, the redevelopment of the property could commence in 18-24 months from the Council resolution.

10.2 That the Cabinet considers the contents of this report and approves the following recommendations:

(i) Subject to securing an appropriate indemnity agreement as described at paragraph 3.2 above, that the Council makes a Compulsory Purchase Order under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 and other relevant
powers ("CPO") to secure the compulsory acquisition of the land shown edged red on the plan at Appendix 1 of this report to acquire all outstanding interests in the land [and to acquire and create new rights] which would facilitate and enable viable and deliverable development in connection with the creation of a residential led development in order to improve the Borough's environmental, economic and social wellbeing.

(ii) Delegates to the Corporate Director for Place Management & Regeneration to take all necessary actions to secure the making, confirmation and implementation of the CPO to:

- Agree terms with a third party to indemnify the Council against any and all costs arising from the compulsory purchase order and subsequent redevelopment.
- Make, if necessary, minor or technical amendments to the Compulsory Purchase Order.
- Modify and settle the draft Statement of Reasons, the Order Map and Order Schedule as necessary to finalise before submission.
- Request confirmation of the CPO with or without modifications.
- Approve agreements with landowners setting out the terms for withdrawal of objections to the CPOs, including where appropriate seeking exclusion of land from the CPO.
- Confirm the order, if he/she is satisfied that it is appropriate to do so and in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order.
- Approve any agreements in order to secure the withdrawal of their objection.
- Confirm the CPO should no objections be received and the Secretary of State confirms that the Council may do so.
- Agreeing to promote any modifications should this be expedient.
- Agreeing confirmation of the CPO with modifications if it appears expedient to do so.
- If the question of compensation is referred to the Upper Tribunal, to take all necessary steps in relation thereto.

(iii) Delegates to the Corporate Director for Place Management & Regeneration to take all and any necessary actions to approve the purchase price, advance payments and all other compensation payments payable in respect of land and buildings included in the CPO, and to authorise acquisitions by agreement where the use of compulsory purchase powers is in contemplation.

(iv) That upon acquisition, the land acquired under the Order be held for planning purposes and vested in the Investment and Development Account.

(v) That compensation for those with a compensatible interest will be paid in accordance with the law on compulsory purchase (or payments as are deemed reasonable in the circumstances) and the provision of property or services in lieu of compensation, in contemplation of the Order being made.
(vi) Authorise the Head of Legal and Democratic Services to do all things necessary or incidental to the implementation of the above resolutions

BACKGROUND PAPERS

There are none

Anyone wishing to inspect the above background papers or requiring further information should contact George Perrin on Tel: 0161-474-4510 or by email on george.perrin@stockport.gov.uk
APPENDIX 1
APPENDIX 2

1-3 Lower Hillgate