

APPENDIX 4 – CPO GUIDANCE AND CPO POWERS

STOCKPORT EXCHANGE – IN PRINCIPLE USE OF COMPULSORY PURCHASE POWERS IN RESPECT OF 72/74 WELLINGTON ROAD SOUTH, STOCKPORT

1. CPO GUIDANCE

- 1.1 The Guidance on Compulsory Purchase Process and the Criche Down Rules published by the Ministry of Housing Communities and Local Government (“CPO Guidance”) confirms that, depending on when land is required, it is sensible for an acquiring authority to:
 - plan a compulsory purchase as a contingency measure; and
 - initiate formal procedures.
- 1.2 The CPO Guidance expressly recognises that such steps “...help to make the seriousness of the authority’s intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations”.
- 1.3 The CPO Guidance requires acquiring authorities to attempt to acquire land by agreement before embarking on the CPO process. As explained in section 5 of the Report, the Council has been endeavouring to reach agreement for the acquisition of the Site with the Landowner for over a period of over 7 years and should therefore be able to demonstrate that this requirement has been complied with.
- 1.4 This Report seeks Members support for a resolution in principle for the use of compulsory purchase powers to compulsorily acquire the Site to facilitate the delivery of Phases 6 and 7 of the Scheme, and thus the Scheme as a whole, should all reasonable attempts to acquire the interests in the Site fail. As the CPO Guidance makes clear, use of compulsory purchase powers is intended as a 'last resort'.
- 1.5 As set out in this Report, a further detailed report, to include the proposed Statement of Reasons for the CPO, would be prepared for Members setting out the justification for the making of the CPO if it proves necessary to make it.

2. USE OF CPO POWERS

- 2.1. In order to compulsorily acquire land, the Council must have a relevant statutory power that authorises such acquisition. In addition, the Council must use the most specific and appropriate power available to it. In the case of a CPO in connection with the Scheme it has been decided that the Council's planning powers under section 226 of the TCPA are the most appropriate, as this planning and regeneration project would facilitate development and make a major positive contribution to the economic, social and environmental well-

being of the Council's area. At the time of making the CPO it would need to be ensured that the Scheme meets with the requirements of this statutory power.

- 2.2. Detailed advice to acquiring authorities on the use of compulsory purchase powers is set out in the CPO Guidance. The CPO Guidance provides helpful information on the matters which the Secretary of State will take into account when considering whether or not to confirm a CPO, so should be fully considered by Members in relation to the 'in principle' use of its compulsory purchase powers and later with reference to the making and implementing of the CPO that may be considered in future. These matters as they relate to the Scheme and the Site are considered below.
- 2.3. The CPO Guidance states that in considering whether or not to confirm a CPO, the Secretary of State will have regard to the extent to which the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and National Planning Policy Framework ("NPPF").
- 2.4. In the context of the above, the Council is satisfied that use of the Council's powers of compulsory purchase is justified and that the purpose for which the Site is being acquired fits in with the adopted planning framework for the area. In this case, the purpose for which the Site is being acquired by the Council is for a planning purpose in pursuance of the Scheme, a planning and regeneration project.
- 2.5. In addition, the NPPF sets out the Government's policies on planning and how these are expected to be applied. The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are three dimensions to sustainable development: economic, social, and environmental.
- 2.6. The CPO Guidance also states that the Council must demonstrate a 'compelling case in the public interest', and that the public benefits that will arise from the purpose for which the Site is to be acquired (i.e. in furtherance of the Scheme) outweigh the impact on those affected. The Council must demonstrate both the need for the Scheme and the need to acquire the land included in the CPO i.e. the Site for the Scheme.
- 2.7. On the basis of the CPO Guidance, officers are of the view that a compelling case in the public interest can be demonstrated.
- 2.8. Part of the justification for obtaining confirmation of a CPO would involve demonstrating that compulsory acquisition powers are necessary because the Site cannot be acquired by agreement. Compulsory purchase is seen as a last resort (although the CPO Guidance acknowledges it can be progressed in parallel with negotiation) and an acquiring authority must be able to show that it has made genuine attempts to acquire the land by negotiation. As explained earlier in this Report, the Council has made significant efforts to acquire the Site by voluntary agreement. These efforts will continue and further details on land acquisition will be reported to Cabinet at the time of seeking authority to make a CPO.

2.9. The Council will also demonstrate that there are no other impediments to proceeding with the Scheme on the Site.