

# Cabinet



Date of meeting:	10 August 2021
Title of Report:	<b>Compulsory Purchase Order Resolution for the Regeneration of Colin Campbell Court, Plymouth</b>
Lead Member:	Councillor Patrick Nicholson (Deputy Leader)
Lead Strategic Director:	Anthony Payne (Strategic Director for Place)
Author:	Matt Ward (Head of Strategic Development Projects)
Contact Email:	matt.ward@plymouth.gov.uk
Your Reference:	Colin Campbell Court
Key Decision:	No
Confidentiality:	Part I - Official

## Purpose of Report

This report seeks approval to make a Compulsory Purchase Order (CPO), if necessary, as part of the regeneration of Colin Campbell Court (CCC).

## Recommendations

It is recommended that Cabinet:

- Subject to sufficient funding being identified, makes a Compulsory Purchase Order pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990 in respect of the Order Land as shown outlined in red on the plan at Appendix I.
- Delegates to the Service Director for Economic Development and the Assistant Head of Legal Services the power to effect the making, confirmation and implementation of the CPO and to take all necessary steps to give effect to the CPO in respect of the Order Land including, but not limited to, the following procedural steps:
  1. finalise a Statement of Reasons to properly reflect the Council's position regarding the proposed CPO so as to properly present the Council's case;
  2. making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making;
  3. acquire for planning purposes all interests in land and new rights within the Order Land as may be necessary to facilitate the Scheme, either by agreement or compulsorily, including entering into negotiations with any third parties for the acquisition of their land interests and/or for new rights over their land (as appropriate), the payment of compensation and dealing with any blight notices served in connection with the CPO;
  4. approve agreements with land owners or statutory undertakers as applicable, setting out the terms for withdrawal of any objections to the CPO, including where appropriate seeking exclusion of land or new rights from the CPO;
  5. make any additions, deletions or amendments to the plan at Appendix I and to seek any requisite modifications to the CPO Order and any CPO maps;

6. seek confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981) (the 1981 Act), including the preparation and presentation of the Council's case at any public inquiry which may be necessary;
  7. publication and service of notices of confirmation of the CPO and thereafter to execute and serve any general vesting declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area;
  8. referral and conduct of disputes, relating to compulsory purchase compensation, at the Upper Tribunal (Lands Chamber).
- Delegates authority to the Strategic Director for Place and the Service Director for Finance to approve the financial terms of the compensation arising as a result of the CPO.
  - Authorises in accordance with section 122 of the Local Government Act 1972, the appropriation of land owned by the Council within the Order Land, to planning purposes pursuant to section 203 of the Housing and Planning Act 2016, so development may proceed without obstruction in respect of any claimed third-party rights.

### **Alternative options considered and rejected**

It is considered that there is no alternative option to CPO that would guarantee delivery of the regeneration in a timely manner, should the situation arise where the required interests cannot be acquired or varied by agreement. Although every effort will be made to achieve a negotiated outcome, the redevelopment cannot proceed unless the option of making a CPO is available in the event that it is needed.

### **Relevance to the Corporate Plan and/or the Plymouth Plan**

The regeneration of CCC and the delivery of the new health hub will contribute to a number of the Council's corporate priorities, including:

- A vibrant economy, developing quality jobs and skills;
- Offer a wide range of homes; and
- Reduced health inequalities.

The project will improve the quality and accessibility of health services and will provide new employment and training opportunities.

### **Implications for the Medium Term Financial Plan and Resource Implications:**

The costs associated with the CPO, including any compensation or relocation expenses could be met from various sources, as set out in the Part II report.

### **Carbon Footprint (Environmental) Implications:**

It is intended that the new health hub would be a zero carbon development. This will be achieved through a combination of measures, including building orientation to maximise solar gain, excellent insulation and renewable energy sources.

### **Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:**

The team responsible for the delivery of the health hub maintains a separate risk register for the project, as set out in the Part II report.

The health hub will help to address the health inequalities which exist in the city centre and nearby areas, by improving access to good quality healthcare for local residents.

An Equality Impact Assessment has been completed – see Appendix 5.

## Appendices

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
1	Proposed location for the new health hub at Colin Campbell Court							
2	Plan			x				
3a	Plan			x				
3b	Plan			x				
4	Briefing report			x				
5	Equalities Impact Assessment							

## Background papers:

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7

## Sign off:

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Originating Senior Leadership Team member: Anthony Payne (Strategic Director for Place)											
Please confirm the Strategic Director(s) has agreed the report? Yes											
Date agreed: 30/07/2021											
Cabinet Member approval: Approved verbally by Councillor Patrick Nicholson (Deputy Leader)											
Date approved: 27/07/2021											

## Background

The Council has been working with a number of health providers and is proposing to deliver a new health hub (the Scheme), which would form the first phase of the redevelopment of CCC. In order to deliver the project, some of the existing car park would be redeveloped and a number of the existing commercial properties will also need to be demolished.

Over recent years the Council has acquired a number of long leasehold interests at CCC. However, in order to deliver the new health hub further leasehold interests may need to be acquired and other property interests varied. The Council has already had a number of discussions with all of the properties in the area which would be affected and intends to agree terms with all of the affected parties through a process of negotiation. However, in the event that these negotiations are unsuccessful, the Council would seek to acquire or vary the interests necessary through the use of its compulsory purchase powers.

## Reasons for Decision

Colin Campbell Court has been identified as a key strategic regeneration opportunity. The 2016 City Centre Masterplan identified the redevelopment of the site as a “major intervention” and the Plymouth and South West Devon Joint Local Plan (JLP, adopted in 2019) notes that “the site offers significant potential to improve the West End” and “offers an important opportunity to improve the environment and the arrival to the city from the west and its relationship to Western Approach”.

The Scheme is expected to have a number of significant benefits for the city. These include:

- Provision of better healthcare;
- Reduction of inequalities in healthcare provision;
- More people working in and visiting the city centre, helping to support city centre businesses, particularly in the West End;
- Creation of new permanent skilled jobs and construction jobs;
- Improvements to the quality of the built form in this part of the city, by replacing a number of run-down premises with a new, high quality building;
- Zero carbon building will help to set better environmental standards;
- The possible provision of new homes above the health hub; and
- A major catalyst for further phases of regeneration at Colin Campbell Court and other local sites.

The regeneration of CCC and the delivery of the new health hub will contribute to a number of the Council’s corporate priorities, including:

- A vibrant economy, developing quality jobs and skills;
- Offer a wide range of homes; and
- Reduced health inequalities.

The project will improve the quality and accessibility of health services and will provide new employment and training opportunities.

The main benefit of the use of compulsory purchase powers is the certainty of being able to obtain vacant possession to a planned programme. This is vital in order give the Council confidence that the Scheme will be delivered. This is because, once the CPO is confirmed and the legal challenge period has passed, the CPO can be implemented and a date for vacant possession fixed in accordance with the project programme, which can immediately follow or coincide with the programme for construction.

## **Planning**

Land at Colin Campbell Court (CCC) is allocated for development in the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (JLP). Specifically, Policy PLY7 of the JLP allocates the land for “high-quality residential led mixed use development which will transform the western approach to the City Centre and establish a new residential community”.

The Council (as the acquiring authority) will need to demonstrate the Scheme is unlikely to be blocked by any physical or legal impediments to implementation – for example, works requiring planning consent. The Secretary of State will not confirm a CPO until he/she is satisfied that a planning permission has been granted. Where planning permission has yet to be granted, the acquiring authority should demonstrate to the confirming minister that there are no obvious reasons why it might be withheld. The Order Land does not have any significant planning constraints such as Conservation Area status, Listed Buildings, Scheduled Ancient Monument or environmental designations which would prevent public realm and highway improvement works. Formal discussions with the Local Planning Authority have been taking place to fully understand the planning material considerations and requirements of the Scheme.

## **Efforts to Acquire by Agreement**

The Government’s “Guidance on Compulsory purchase process and The Crichel Down Rules” (Ministry for Housing Communities and Local Government CPO Guidance July 2019) (the “CPO Guidance”) at paragraph 17 states that acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.

Part of the justification for obtaining confirmation of a CPO would involve demonstrating that compulsory purchase powers are necessary because the land required cannot be acquired by agreement. Compulsory purchase is seen as a last resort and the acquiring authority must be able to show that it has made genuine attempts to acquire the land by negotiation. The Council has made significant efforts to acquire all interests by voluntary agreement and this can be thoroughly evidenced. The Guidance expects that the Council will be required to continue those efforts and detailed evidence of those further efforts should be available prior to the making of a CPO.

The CPO will include all occupiers and all interests that are included within the Order Land (identified on the map at Appendix I) (to the extent that these have not been acquired by the Council), as well as those that have any interest over that land including adjoining owners. All owners and occupiers will be written to as part of the land referencing process that precedes the making of the CPO, and all relevant names and addresses will be included in the final CPO.

## **Appropriation**

Construction of the Health Hub will potentially interfere with various rights benefitting owners adjoining or in close proximity to the Order Land. Section 203 of the Housing and Planning Act 2016 provides the powers that will enable the Council to override any claim for an injunction in respect of rights and covenants adversely interfered with as a result of the construction of the Health Hub. On this basis the Council intends to appropriate all those parts of the Order Land which are currently owned by the Council for planning purposes in order to allow the Health Hub to come forward, without the risk of an injunction from third party landowners. In effect, these are converted into a right of compensation. The acquisition of land pursuant to the CPO will be for planning purposes, thereby similarly overriding any infringed rights.

## **Funding**

Revenue funding for the initial feasibility and planning application phases of the project has already been secured and a business case will be submitted for the external capital funding required.

## **Legal**

The compulsory purchase process is governed by law, principally the Acquisition of Land Act 1981. There is a public and lawful process which must be followed by the Council to secure the Secretary of State's confirmation of the CPO.

Under section 226(1)(a) of the Town and Country Planning Act 1990 the Council has the power, on being authorised to do so by the Secretary of State, to acquire compulsorily any land in their area if it thinks the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. The Council must not exercise the power under section 226(1)(a) unless it thinks the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area; (c) the promotion or improvement of the environmental well-being of their area.

The Secretary of State will only confirm the CPO if he/she is satisfied there is a compelling case in the public interest to do so.

The Council has been in contact and initiated discussions with those whose land and interests are required, and is seeking to acquire the land and interests by agreement. These efforts to acquire the land and interests by agreement will continue. However, without the use of compulsory purchase powers it may not be possible to acquire all of the required land and interests within a reasonable timeframe.

Those who wish to object to the CPO may do so and are entitled to request a public inquiry be held to consider the case for, and the objections to, the CPO. Those whose land and interests are acquired will be entitled to compensation calculated on the basis of legislation and related case law.

The preparation of a CPO and related documents is a technical and complex area carrying a risk of challenge. The Council will retain experienced legal advice throughout the process.

## **Human Rights**

Consideration must also be given to the interference of rights protected by the Human Rights Act 1998, including Article 8 (respect for private and family life and home) and Article 1 (the right to peaceful enjoyment of property) of the European Convention on Human Rights. A decision to make a CPO must strike a fair balance between the public interest associated with the regeneration of the land and interference with private rights.

The Council considers that there is a compelling case in the public interest for the exercise of the Council's CPO powers and that, as a result, any interference with the private rights of those affected as a result of the CPO would be lawful, justified and proportionate.

## **Equalities and Diversity**

The public sector equality duty under section 149 of the Equality Act 2010 requires the Council to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other

conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not share it.

Officers have taken this into account in the assessment of the CPO and Cabinet must be mindful of this duty when considering the recommendations in this Report.

The delivery of the Scheme will help to address the health inequalities which exist in the city centre and nearby areas, by improving access to good quality healthcare for local residents.

The CPO by assisting with implementation of the Scheme will have a positive impact on equalities in general. To ensure that this is the case an Equalities Impact Assessment has been prepared specifically with regards to making the CPO. The assessment has been appended to this report at Appendix 5. No potential equalities impacts have been identified at this stage, but monitoring will be required.