



**Author/Lead Officer of Report:** Matt Hayman,  
Principal Development Officer, City Regeneration  
Division

**Tel:** 35130

**Report of:** Laraine Manley, Executive Director Place

**Report to:** Cabinet

**Date of Decision:** 21<sup>st</sup> March 2018

**Subject:** Proposed Sheffield City Council (West Bar Square Regeneration) Compulsory Purchase Order

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input checked="" type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Cabinet Member for Business and Investment		
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing Scrutiny and Policy Development Committee		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 133		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<p><i>“The (<b>report/appendix</b>) is not for publication because it contains exempt information under Paragraph (<b>insert relevant paragraph number</b>) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>		

**Purpose of Report:**

To seek authority to make a Compulsory Purchase Order (CPO) to acquire interests in the land in Sheffield City Centre bounded by West Bar, Corporation Street and Bridge Street to enable the demolition of existing buildings and clearance of the land and the construction and erection of new buildings and structures to provide a comprehensive mixed use development comprising offices, residential units, hotels, shops and retail units, professional services, restaurants, cafes, drinking establishments, hot food outlets and takeaways and leisure and assembly units and associated new public squares, car parking accommodation, highway works and infrastructure, landscaping and public realm works.

**Recommendations:**

- i. That authority be given to the Council to make a Compulsory Purchase Order ("CPO") under the powers conferred by Section 226 (1) (a) of the Town and Country Planning Act 1990 to acquire all land interests, other than those of the Council and those held by or on behalf of the Crown, as described in the Schedule of Interests (the "Order Schedule"), attached at Appendix A, at West Bar Square and as shown on the Order Map, attached at Appendix B, with title 'Sheffield City Council (West Bar Square Regeneration) Compulsory Purchase Order 2018' (the "Order Land").
- ii. That authority be given to the Executive Director Place in consultation with the Director of Legal and Governance and Executive Director of Resources to agree and enter into all necessary legal documentation with Urbo (West Bar) Limited (the "Developer")
- iii. That the Director of Legal & Governance be authorised to make the CPO for the Order Land, to take all necessary procedural steps prior to and after the making of the CPO, to enable the CPO to be submitted to the Secretary of State for confirmation including:
  - a) Finalising the attached draft Statement of Reasons, at Appendix C;
  - b) Finalising the Order Schedule, at Appendix A;
  - c) Serving notices of the making of the CPO on all persons entitled to such notice and placing all necessary notices in the press and on/around the Order Land;
  - d) To submit the CPO to the Secretary of State for confirmation as soon as possible following making of the CPO; and
  - e) To self-confirm the CPO if authorised to do by the Secretary of State.
- iv. That the Director of Legal & Governance be authorised to sign and serve any notices or documents necessary to give effect to these recommendations and to take all the other actions necessary to give effect to these recommendations.
- v. As soon as the CPO is confirmed by the Secretary of State to advertise the confirmation of the CPO and serve all necessary notices of the confirmation and once the CPO becomes operative, the Director of Legal & Governance in consultation with the Executive Director of Resources be authorised to execute General Vesting Declarations under the Compulsory Purchase (Vesting Declarations) Act 1981, at the earliest opportunity and to thereafter serve all necessary documents and notices of the vesting of the Order Land in the Council.
- vi. That the Executive Director Place, in consultation with the Director of Legal & Governance and the Executive Director of Resources be authorised to manage the compulsory purchase process at least in accordance with the terms of the Development Agreement and in accordance with all statutory requirements and to otherwise promote or supporting the promotion of confirmation of the CPO including the preparation of and giving of evidence

at any public inquiry.

- vii. That Cabinet confirms that such parts of the Order Land and other adjoining land owned by the Council as is required to facilitate and enable the Scheme, that is not currently held for planning purposes, is appropriated for planning purposes and from the date of such confirmation that the Order Land and such other adjoining land is held for planning purposes and without prejudice to any other statutory status (from time to time) of any part of that land as public highway.
- viii. That, if necessary, the Council, and those deriving title from it, be authorised to use its powers pursuant to Section 203 of the Housing and Planning Act 2016 in order to override any rights or covenants in the Order Land and in any other land owned by the Council adjoining the Order Land which would otherwise impede the delivery of the Scheme.
- ix. That the Director of Legal Services, in consultation with the Executive Director Place be authorised to prevent extinguishment of, grant and/or re-grant private rights of statutory undertakers and the Combined Crown and Family Courts in or over the Order Land as he/she deems necessary to secure confirmation of the CPO by:
  - (a) making a Direction under section 236 of the Town & Country Planning Act 1990; and/or
  - (b) entering into an agreement with affected parties, with or without the Developer, as is appropriate.
- x. That the Executive Director Place, in consultation with the Director of Legal Services be authorised, as he/she deems appropriate and necessary to facilitate and enable the Scheme to be carried out, to;
  - (a) support an application for a Stopping Up Order of public highways and footways within and adjacent to the Order Land including support for and giving of evidence at any public inquiry; and
  - (b) to enter into an agreement or grant licence or authority in its capacity as owner and/or the relevant highway authority for the creation of new highway and footways in and adjacent to the Order Land.

**Background Papers:**

Previous Cabinet Reports - 23<sup>rd</sup> October 2002; 12<sup>th</sup> May 2004; 21<sup>st</sup> September 2005; 12<sup>th</sup> July 2006 and 24<sup>th</sup> August 2011  
Previous 'CLOSED' Leader Report – 6<sup>th</sup> February 2015

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Paul Schofield
		Legal: David Sellars
		Equalities: Annemarie Johnston
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>EMT member who approved submission:</b>	Laraine Manley
3	<b>Cabinet Member consulted:</b>	Cllr Mazher Iqbal
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> Matt Hayman	<b>Job Title:</b> Principal Development Officer
	<b>Date:</b> 27 <sup>th</sup> February 2018	

## 1. STRUCTURE OF REPORT AND BACKGROUND

- 1.1 This Report sets out summary details of relevant background, the case for intervention, the proposed Scheme, the case for compulsory purchase including analysis of risk, legal and other considerations in support of recommendations made and outlined. Further detail of relevant background, the proposed Scheme and the case of compulsory purchase is set out in the draft Statement of Reasons, attached at Appendix C.
- 1.2 West Bar Square (land bounded by West Bar, Bridge Street and Corporation Street) is a long standing strategic redevelopment site which aims to extend the City Centre to the riverside area taking advantage of the completion of the northern section of the Inner Relief Road (IRR). It will deliver a new city centre neighbourhood with a mix of office, residential, hotel, retail and leisure uses built around high quality public realm including two new public squares, new pedestrian routes to/from the City Centre, Kelham, Riverside and Burngreave/Woodside and associated car parking provision (the "Scheme") which is more fully described in the draft Statement of Reasons.
- 1.3 The site of the Scheme (the "Site") is in fragmented ownership and the street pattern no longer reflects walking and cycling desire lines. Over a period of time, interests in the Site have been assembled by private treaty with the majority of the Site now under the control of the Council and its development partner, the Developer.. A number of third party ownerships remain in the site which hinder the comprehensive redevelopment of the Site. A succession of related documents produced by the Council, dating back to 2002, have established that only a comprehensive approach to site acquisition, planning and construction will bring about successful transformational change that accords with the strategic policy aims and objectives of the Council.
- 1.4 The regeneration framework for this area, which includes the Order Land, was originally approved by Cabinet in October 2002 as part of the case submitted to the Department for Transport for funds to build the northern section of the IRR and has been endorsed by subsequent reports to Cabinet as attempts to bring forward redevelopment and land assembly of the Site has progressed.
- 1.5 In May 2004 Cabinet approved the production of a development brief for the area that principally comprises the Site, which guided a two stage process to select a development partner. In September 2005 Cabinet endorsed the appointment of developer Castlemore (West Bar) Limited ("Castlemore") and in support of the comprehensive approach Cabinet adopted the West Bar Interim Planning Guidance (IPG) in July 2006. In May 2007 the Council entered into a Development Agreement with Castlemore and this developer was granted planning consent for a mixed use development in April 2008.

- 1.6 Castlemore commenced site acquisitions but in February 2009 went into administration. Shortly after the Council and Castlemore's administrators Price Waterhouse Cooper (PWC) were approached by developer, Urbo Regeneration Limited (URL). URL is a company established by Arnold Laver & Company Limited and Bolsterstone PLC. URL controlled companies already owned land within the Site. URL wanted to explore the potential of acquiring the Castlemore properties and delivering the project as the Council's development partner, subject to the transfer of the Development Agreement from Castlemore to URL.
- 1.7 In August 2011, Cabinet authorised the transfer and principle terms of a variation of the Development Agreement from Castlemore to URL. Cabinet also reconfirmed the principle that the Council will be prepared to use compulsory purchase powers to deliver a comprehensive redevelopment scheme on land that includes the Site. The terms of the variation were agreed and approved by a Leader Decision in February 2015. URL agreed the terms of a deal with PWC and the major creditor Lloyds TSB to acquire the Castlemore properties and the transfer of the Development Agreement in March 2015. Discussions between the parties took a number of years to conclude, as part of the wider administration of Castlemore's affairs and the need to secure various approvals, particularly from Castlemore's main creditor. During this period, URL undertook the design of a revised masterplan for the Site to respond to the change in market conditions.
- 1.8 As part of the Council's discussions with URL it was decided to exclude the building used as a residential storage warehouse by Armadillo Storage from the Scheme. This unit is a parcel of land on the southern side of West Bar, separated from the Order Land, and it was jointly agreed that the comprehensive redevelopment would be more coherent if it concentrated to the north of West Bar. The decision to omit this parcel from the Scheme also reflected improvements that had been made to this unit in the intervening period - bringing it back into beneficial use. In April 2005 ahead of SCC appointing a development partner the Council confirmed in writing that it would exclude 81 – 85 West Bar Sheffield (former Moseley Arms) from the proposed redevelopment site boundary owing to the conversion of the building to offices by a local company which was in keeping with SCC objectives of 'assisting with the expansion of the legal and professional quarter'.
- 1.9 In 2016, URL completed a joint venture agreement to deliver the Scheme with Peveril Securities, as part of the Bowmer & Kirkland Group. This formed the Developer company and injected further funds into the development including for site assembly. URL's interests in the West Bar Development Agreement was assigned to the Developer on 22 June 2016. Consequently, all URL controlled land interests in the Site required for the Scheme are under the control of the Developer and available to carry out the Scheme, under the terms of the Development Agreement.

## **2. REGENERATION CASE**

- 2.1 The case of intervention is outlined in full in the draft Statement of Reasons and summarised below.
- 2.2 The completion of the IRR in 2007 resulted in significant reduction in traffic on West Bar and, as outlined in the original IRR Regeneration Framework (2002), created an opportunity to physically reconnect West Bar Square back to the core of the City Centre. West Bar Square benefits from a highly prominent frontage onto the IRR (Corporation Street) which serves as the main arterial route around the City Centre. The redevelopment of the Site will build on a very significant amount of both public and private investment in the Riverside area over the past decade. The adjoining Riverside Exchange development was one of the first large private apartment schemes in the City Centre and also comprises a substantial Government office campus and headquarters of law firm Irwin Mitchell. To the north east on the opposite site of the IRR, Kelham Island has transformed from a declining industrial area to a thriving residential and creative community.
- 2.3 To the south is the Cathedral Quarter. This was traditionally the main office location in Sheffield with a variety of professional firms housed in a mix of Georgian, Victorian and 1960's buildings. With the increasing trend of consolidation and expansion of legal firms in particular, there has been a large amount of relocation from the Quarter into large footplate offices such as Riverside Exchange.
- 2.4 In support of the expansion of the City Centre to West Bar Square the Council invested (with Sheffield City Region and European Funds) in the Grey to Green project to reduce severance through the creation of new public realm from redundant highway, improved pedestrian routes and sustainable urban drainage along West Bar.
- 2.5 To the south east is Castlegate, which was Sheffield's historic heart but has suffered from a loss of much of its traditional economic and social function as large scale retail and civic uses have relocated to the core of the City Centre. However, over the next five to ten years the area will be focus of major regeneration. The Castlegate area already houses the largest number of hotels in the City Centre and a proposed second phase of Grey to Green will reclaim further areas of redundant highway to transform the environment, reduce severance of the canal basin from the City Centre and improve pedestrian routes along the river to/from West Bar Square.
- 2.6 The current semi-derelict condition of the West Bar Square site creates a physical and psychological barrier between the northern neighbourhoods (Kelham, Burngreave and Woodside) and the City Centre. The Site is in a pivotal position to connect the new Riverside business and residential districts to the core of the City Centre whilst meeting the identified need for further and improved office and residential provision.

- 2.7 It is estimated that there are currently less than 150 people employed on the Site. Based on a 5 year-year construction period it is expected that redevelopment of the Site will support on average between 460-580 temporary construction jobs a year. Once completed it is estimated the Scheme could be home to up to 850 residents with the proposed commercial floor space supporting approximately 3660 full time jobs.
- 2.8 The Scheme responds directly to the original Development Brief (2004) adopted by the Council and the West Bar Interim Planning Guidance (IPG)(2006) which are material considerations. It is therefore expected to deliver a substantial provision of large scale employment floor space alongside a mix of other uses, the final blend of which will otherwise be market led and reflect demand and requirement for provision. The Site is important as a key strategic project in the Riverside Business District. A plan of the Riverside Business District is attached at Appendix D. The policy background against which the Scheme has been and is being promoted as a strategic project for the Council is also set out in Development Plan documents including the Council's emerging new Local Plan. The requirements of the Development Agreement similarly respond to the requirements of Development Brief and West Bar IPG. This is further summarised in the draft Statement of Reasons.

### **3. THE PROPOSAL**

#### **3.1 Approach to bringing forward the Scheme**

- 3.1.1 The Developer and the Council have been working together to bring forward the Site for redevelopment, which has included the private treaty negotiation and acquisition of remaining third party land interests, including interests held by/on behalf of the Crown, land referencing, securing planning permission, the preparation of an application for Stopping Up of highways.

#### **3.2 Land ownership and private treaty negotiations/acquisitions**

- 3.2.1 The majority of land interests required to deliver the Scheme are now under the control of the Council and the Developer. The land interest relationship between the Developer and the Council is controlled by the Development Agreement.
- 3.2.2 The Council owns a number of land interests in the Order Land and other land in and above the public highways surrounding the Site. Some but not all of that land is currently held for planning purposes. Authority is sought to appropriate for planning purposes the balance of land required for the Scheme. Authority is also sought so that the Council, or those deriving title from it, may rely on its statutory powers in section 203 of the Housing and Planning Act 2016 to interfere with any third party interests and restrictions on that land for the purposes of the Scheme. Some parts of the Council's land are in current use and will continue to

be in operation on a temporary basis pending the comprehensive redevelopment of the Site. As such, Council officers are mindful and have considered the need to terminate and where appropriate relocate existing interests in its land within the Site. For example, Council officers are satisfied that alternative arrangements can be found for the Council services currently operating in 33 Love Street in a timescale that enables the Scheme to come forward. The Council also has a historic joint venture agreement with Village Developments dating back to May 2000 (in relation to Plots 12, 14, 15, 20 and 22 on the draft Order Map on the corner of West Bar and Corporation Street) to use this area in combination for car parking. This use continues in place at this time but has always been contemplated as a temporary purpose. These Plots occupy a gateway to the Scheme and this joint agreement arrangement will therefore come to end as a consequence of the redevelopment. The Council is satisfied that it requires the compulsory acquisition of the third party interests in this part of the Site in order to ensure that such interests can be terminated to facilitate the carrying out of the Scheme.

- 3.2.3 The Developer has and continues to lead in negotiations to acquire the outstanding third party land interests required to deliver the Scheme from identifiable land owners and offers have been made to such parties. The Order Land currently includes three third-party-occupied commercial premises but mostly the Order Land comprises underused or vacant sites and surface level car parking. Through briefings with the Developer, Council officers are fully aware and supportive of the attempts that have taken place. More recently Council officers have also directly been advised by specialist advisors, BNP Paribas, who have led these negotiations. Council officers are satisfied that reasonable steps have been taken and offers made on justifiable terms for the acquisition of those outstanding known owner interests. Council officers have also reviewed information provided by the Developer to relevant remaining land owners as to available relocation opportunities in the area.
- 3.2.4 Extensive referencing work has been undertaken to ascertain ownership and interests in the Order Land required to deliver the Scheme, including searches of the public highway immediately adjoining the Site (see Section 4 below). There are plots within the Order Land where ownership is unknown, some of which occupy locations central to the development proposals and which could inhibit development of the Scheme. The acquisition of these interests via the CPO will overcome this impediment. The Order Land includes the footways around the Site, much of which is not registered to an owner and in which the paper title owner is not known. Notices have been placed on and around the Site seeking details of any owners.
- 3.2.5 The Site at its southern end encircles (on three sides) the Combined Crown and Family Courts (the Courts). Land owned by the Council surrounding the Courts within the Order Land required for the Scheme includes a long leasehold interest in favour of the Crown and which is understood to meet the definition of "Crown Land" (for the purposes of section 293 of the Town and Country Planning Act 1990). As a general

rule, the Council is not able to acquire the Crown's interest in Crown Land by compulsory purchase and no exceptions apply in this case. In addition to the Crown's interest, there are other third party interests (which are not held by or on behalf of the Crown) in this Crown Land. These third party interests are proposed to be included in the CPO. Pursuant to section 226(2A) of the Town and Country Planning Act 1990, the Secretary of State must not authorise the acquisition of any such third party interest in Crown Land unless with the consent of the appropriate Crown body.

3.2.6 The Developer is in discussion with agents for the Crown and the Crown's appropriate body has confirmed that it is agreeable in principle to the acquisition of its interest in the Order Land subject to reaching agreement on terms. Authority is sought to delegate to Council officers the final decision on timing of the making of the Order having regard to status of progress on terms with the Crown and the securing of consent from the Crown's appropriate body as to the inclusion in the Order of third party interests in the Crown land. Confirmation from the Crown's appropriate body will be provided to the Secretary of State upon submission of the CPO for confirmation as evidence that the Crown consents to such acquisition and to the confirmation of the Order.

3.2.7 The Order Land and existing public highways within and surrounding the Site that are required to deliver or that may be affected by the delivery of the Scheme contain apparatus, structures and street furniture owned and operated by statutory undertakers, including that of the Council as local highway authority. By virtue of section 236 of the Town and Country Planning Act 1990, these interests will not be extinguished by the making and subsequent vesting of the Order Land by the Council under a CPO or as a consequence of holding land for planning purposes. [The Developer and its advisors are in discussion with the various statutory undertakers, principally as part of proposals for Stopping Up of highways within the site (see below).] Authority is sought to enable the Council to issue a direction or enter into agreements with these parties as it is deemed appropriate to facilitate the confirmation of a CPO.

### 3.3 Planning Permission

3.3.1 In the summer of 2015, the Developer undertook extensive public consultation on proposals for a comprehensive scheme at West Bar Square. Following positive feedback the Developer submitted a planning application in June 2016.

3.3.2 On 14<sup>th</sup> February 2017 outline planning consent was granted (16/02518/OUT) to the Developer for a mixed use development at West Bar Square (the "Planning Permission"). The approved scheme is a mixed-use development of up to 140,000m<sup>2</sup> and comprises a blend of uses which can comprise of:

- Up to 85,000m<sup>2</sup> of office space
  - Up to 50,000m<sup>2</sup> or 525 units of residential
  - Up to 20,000m<sup>2</sup> or 500 bed spaces of hotel use
  - Up to 5,000m<sup>2</sup> of combined retail and leisure uses
  - Up to 25,000m<sup>2</sup> or 700 car parking spaces
  - Provision of high quality public realm including new pedestrian routes and two new squares
- 3.3.3 An illustrative layout and design of the Scheme is attached at Appendix E.
- 3.3.4 The final layout, design, external appearance, landscaping and access (save for principal access points that have been approved) of the Scheme are to be approved as reserved matters and otherwise controlled by planning conditions which include a requirement to deliver a minimum of 50% of the development as office space and more generally set the limit of built development with reference to a number of parameter plans as well requiring compliance with design and place making principles that have been secured as part of a Design and Access Statement. Council officers will also approve final design as part of an approval process under the Development Agreement for which it is guided by the requirements of the Development Brief and West Bar IPG.
- 3.3.5 In approving the Planning Permission, the Council has satisfied itself that the approved Scheme meets the regeneration objectives of the original Development Brief and the West Bar IPG which comprised material considerations in the consideration of the planning application.
- 3.3.6 Council officers are satisfied that a comprehensive, and not piecemeal, development of the Site remains the most appropriate approach to ensuring that the objectives and purposes of the Council are met.
- 3.4 Proposed Highways Order
- 3.4.1 In order for the Scheme to be carried out in accordance with the Planning Permission or otherwise, it will be necessary to stop-up a number of areas of public highway within the Site and some element of footways adjoining and surrounding the Site.
- 3.4.2 In parallel with the proposed CPO, the Developer is making an application to the Secretary of State under Section 247 of the 1990 Act for the stopping up of public highways that are necessary to enable development of the Scheme that accords with the parameters approved under the Planning Permission and meets the limitations imposed under planning conditions. Fuller details are set out in the draft Statement of Reasons.
- 3.4.3 Council officers are aware of the content of a draft Stopping Up Order plan prepared by the Developer and believe that it correctly identifies all of the public highways that will be need to be stopped up to enable the

Scheme to be carried out under the parameters permitted under the Planning Permission. The draft Stopping Up Order Application Plan is attached at Appendix F. Authority is sought for the Council to support the application of the Stopping Up Order and to assist the Developer's promotion of an Order at Public Inquiry, if necessary and as appropriate.

- 3.4.4 In addition, there may be need for temporary and/or permanent traffic regulation orders to be promoted as a consequence of the construction and/or operation of the Scheme and which may be secured by the Council as local highway authority or may be a requirement of the proposed Stopping Up Order.
- 3.4.5 Statutory undertakers enjoy the benefit of statutory rights for the laying and keeping of apparatus in public highways due to be stopped up. The Developer is in discussions with affected statutory undertakers to agree to the extinguishment and/or diversion of this apparatus by agreement with those statutory undertakers. Authority is sought to enter into agreements with such parties with or without the Developer, as necessary and as is appropriate, to facilitate the confirmation of the CPO (noting that securing the Stopping Up Order is a potential impediment to delivery of the Scheme and a relevant consideration to confirmation of the CPO). Two existing public highways within the Site are to be retained and are not proposed to be stopped up. One such highway provides access to an electricity substation owned by Yorkshire Electricity Distribution Limited ("YEDL") and within which are laid electricity cables. This and the other public highway to be retained also provide access and egress to the Courts and for its patrons, principally by vehicle. These accesses will continue to be made available.
- 3.4.6 In the absence of a registered owner in land comprising public highway around YEDL's substation, YEDL is presumed to be the owner or potential owner of the subsoil of a section of that highway (part of Workhouse Lane) fronting the substation (Plot 4). To the extent that YEDL is the owner in the land and can demonstrate that it is used for its undertaking, it is entitled to object to its own Minister to the acquisition of its land by compulsion where it considers that such acquisition would cause serious detriment to its undertaking with or without replacement. Council officers are satisfied that no serious detriment will be caused to YEDL whose access to the substation is taken via Spring Street. In any event Spring Street and this section of Workhouse Lane are not proposed to be stopped up as part of the stopping up order that will be promoted alongside the CPO, and are instead expected to be retained for vehicular and pedestrian access/egress. Any further or subsequent stopping up or variation to this arrangement would be subject to its own separate application for an order to stop up, for which an opportunity to make representations would be available to YEDL. Council officers are aware that the Developer is liaising with representatives for YEDL on the proposed application for stopping up that will be promoted in parallel with the CPO.
- 3.4.7 If required and as is appropriate, officers will support the Developer with

evidence presented in writing, at Public Inquiry or hearing in support of the Stopping Up Order to demonstrate to the Secretary of State that full consideration has been given to the need to minimise disruption to statutory undertakers, the Courts and occupiers and businesses affected (not subject to CPO) near to and surrounding the Scheme and that measures exist to ensure that pedestrian and vehicle movement and safety can be made acceptable.

#### **4. PROPOSED COMPULSORY PURCHASE ORDER**

4.1 Based on the current status of private treaty negotiations (outlined above in Section 3), for the comprehensive scheme to be delivered, outstanding land in the Order Land need to be acquired, as detailed in draft Order Schedule attached at Appendix A.

4.2 The Council and the Developer are supported by specialist land referencing agents to ascertain ownership and interests in all land within Site. This included obtaining title information from the Land Registry and site visits/enquiries. The Council informed all known interests by letter on 25<sup>th</sup> May 2017 of the intention to serve Section 16 Notices. Section 16 notices can be served prior to making the CPO to requisition ownership information from all parties likely to be affected. The notices were subsequently served on all parties and notices were posted on site. Follow-up letters were served to chase responses to requisitions. Notices have also been placed on Site in locations of unknown ownership. Final searches of the Land Registry have been carried out again by the specialist referencers to ensure that the information set out in the Order Schedule remains up to date prior to making the CPO and will be kept under review.

4.3 The referencing exercise confirmed that in addition to land controlled by the Council and the Developer there are 7 other principal ownerships that need to be acquired to enable the Scheme to come forward. Fuller details are set out in the Statement of Reasons.

4.4 The Government's Guidance on CPO recommends that promoting 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. Specialist property agents BNP Paribas are advising as to negotiations with the outstanding land owner interests. Negotiations, principally led by the Developer with support from the specialist agent, have and continue to be undertaken in the period leading up to this Report, with a view to acquiring interests by agreement, where possible. Council officers are aware of the detail of discussions that have taken place and offers that have been made to these parties.

4.5 No residential occupiers will be displaced or are affected by these

negotiations. Council officers are satisfied that details of suitable alternative premises have been made known to the remaining commercial landowners as part of these negotiations. One of the properties owned by SCC (33 Love Street) is occupied informally by SCC and NHS Sheffield Health and Social Care Trust (SHSCT) as a staff base for social workers/assessors and a learning disabilities centre. Officers in Adult Services and SHSCT are seeking alternative arrangements for both staff and service users.

- 4.6 Whilst these negotiations will continue it is necessary to progress the CPO alongside the negotiations in order to ensure acquisitions will take place so that the Scheme can be delivered.
- 4.7 It is proposed to make a CPO under section 226(1)(a) of the Town & Country Planning Act 1990 (as amended).
- 4.8 The Council can make a CPO under section 226(1)(a) "if the authority thinks that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land" and under section 226(1A) for the reasons set out in section 226 (1)(a) it thinks that "the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of (three) objects.
- 4.9 For the purposes of this CPO the Council thinks that pursuant to section 226 (1A)(a) all three objects are relevant and that the Scheme will contribute to the economic, social and environmental well-being of its area.
- 4.10 The Government's CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Council officers consider there is a case for intervention and a compelling case (outlined above in sections 2 and 3) in the public interest for the making of the CPO because of the important regeneration benefits that the redevelopment of the Site will deliver to the Riverside Business District and surrounding areas and the significant contribution to the promotion of the economic, social and environmental well-being of the area (see also Section 5 below).
- 4.11 The Order Land has been identified having regard to the extent of land interests required to ensure the comprehensive delivery of the Scheme, as outlined in this Report and the draft Statement of Reasons.
- 4.12 The land interests required are detailed in the draft Order Schedule and shown on the draft Order Map, attached at Appendices A and B. These will remain in draft pending the making of a CPO and may be updated to reflect changes in ownership prior to making the CPO. A final version of the Order Map and Order Schedule as well as the CPO and Statement of Reasons will be available to Cabinet once made. All documents will be available for inspection by the public once the CPO has been made.

## **5. HOW DOES THIS DECISION CONTRIBUTE?**

5.1 The full explanation of the perceived benefits that the Scheme will address in terms of well-being is detailed in the draft Statement of Reasons in Section 7, attached at Appendix C, an overview of which is as follows:

### **5.2 Economic**

5.2.1 The Council considers that there is a need and demand for large floor-plate employment space in the City Centre and West Bar Square is an important site that can accommodate this provision and contribute to the City's competitiveness to retain and attract investment and jobs. It is expected that the development will deliver commercial employment floor space supporting around 3,660 full time jobs and provision for up to 850 new residents.

5.2.2 In due course, the development will generate Council Tax and business rate receipts for the Council's revenue budget. The annual impact is uncertain at this stage as the development will be a progressive long term development delivered in phases over 5-10 years. This represents a further indirect economic benefit to the public through the Council's wider services.

### **5.3 Environmental**

5.3.1 The Scheme will deliver considerable environmental improvements delivering higher energy efficient buildings, high quality public realm and landscaping with new pedestrian and cycle routes to/from the City Centre, Kelham Island and Woodside/Burngreave.

### **5.4 Social**

5.4.1 The Scheme will deliver improvements to social well-being with a high quality development with new public spaces and active ground floor leisure uses for people to meet and congregate, high quality housing and offices.

## **6. CONSULTATION**

6.1 The principle of comprehensive redevelopment at West Bar Square has been the subject of numerous public consultations with positive feedback including the West Bar IPG (2006), previous developer Castlemore's planning application (2006), City Centre Masterplan (2008 and Draft 2013) and community consultation was undertaken as part of the promotion of the Developer's planning application (2015) for the Planning Permission.

6.2 The CPO once made will be advertised both nationally and locally in the press, notices will be placed on site and all the CPO documentation will

be made available for inspection at Howden House and the Town Hall.

6.3 The Developer has met regularly with Council officers and its advisors.

6.4 Representations can be made in the context of any public inquiry that the Secretary of State decides to hold in connection with this CPO.

## **7. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

### **7.1 Equality of Opportunity Implications**

7.1.1 Acquiring authorities are bound by the Public Sector Equality Duty under section 149 of the Equality Act 2010. As such, in exercising compulsory purchase and related powers, the Council must have regard to the effect of any different impacts on groups with protected characteristics.

7.1.2 Overall there are no significant differential, positive or negative impacts from this proposal. There is a short term negative impact on adults with learning disabilities and businesses currently located in the area, but long term the redevelopment of the site should be of positive benefit for all local people.

7.1.3 The closure of 33 Love Street and the introduction of new arrangements for the various learning disability service customers and staff may have a short term negative impact due to the change and adjustment customers may need to go through. However, council officers will ensure there is sufficient time for reviews and detailed discussions with customers about future options ahead of the closure to facilitate the move to new arrangements. This will be the subject of a secondary EIA carried out by the People portfolio.

7.1.4 Other commercial occupiers/businesses currently located in this area will need to relocate, but support will be provided by specialist property agents who will propose alternative premises.

7.1.5 The long term positive economic and social impacts should benefit all local people due to the creation of a significant number of new jobs, new high quality public spaces and new pedestrian and cycle routes to/from the city centre.

### **7.2 Financial and Commercial Implications**

7.2.1 Under the Development Agreement, the Developer is responsible for paying the Council's Project Management and Legal costs. The Developer has also fully indemnified the Council in respect of all costs and expenses incurred by the Council in connection the CPO including purchase costs and the payment of all proper CPO compensation. Costs will be invoiced to the Developer on at least a quarterly basis to minimise the Councils exposure to loss.

7.2.2 The Council holds a freehold or other interest in a proportion of the site.

The Development Agreement provides for the Developer to acquire this at market value at the time that it is drawn down.

- 7.2.3 The terms of the Development Agreement are underwritten/guaranteed by Arnold Laver & Company Limited. In 2016, a joint venture agreement was entered into by URL to deliver the Scheme with Peveril Securities, as part of the Bowmer & Kirkland Group. This formed the Developer company and injected further funds into the development including for site assembly.
- 7.2.4 The cost of the development is expected to be funded by the Developer via a mixture of debt/bank financing and from receipts generated by the Developer from the letting and disposal of elements of the Scheme.
- 7.2.5 Specialist agents BNP Paribas have been appointed to the Council and the Developer and are advising as to financial performance of the Scheme and the anticipated and actual market interest in the Scheme. Knight Frank is also advising the Developer on the status of market interest as part of marketing the site for redevelopment.
- 7.2.6 Council officers have reviewed financial appraisals detailing all Scheme costs required to deliver the Scheme, including details of finance models.
- 7.2.7 Council officers are aware from discussions that have and are taking place with the Developer that there has been and is expected to be market requirement for the Scheme from parties with substantial covenant strength and that there have been expressions of interest. One of main hurdles to reaching contract for any requirement is the current uncertainty that exists on completing all landownership required to deliver the Scheme. The CPO is expected to address that uncertainty.
- 7.2.8 Council officers are satisfied that based on the information available and specialist advice provided by BNP Paribas, that if the CPO is confirmed, there is sufficient expectation of continued market requirement and interest in the Scheme and that the Scheme is financially viable and capable of being delivered.
- 7.3 Legal Implications
- 7.3.1 For reasons set out in the above sections of this Report and more fully explained in the draft Statement of Reasons, it is the view of the Director of Legal & Governance and Monitoring Officer that the CPO of the Order Land is required in order to deliver the comprehensive development at West Bar Square and is likely to achieve the promotion and improvement of the economic, environmental and social well-being of the population of Sheffield.
- 7.3.2 The Director of Legal and Governance and Monitoring Officer confirms that under Section 226 of the Town & Country Planning Act 1990 the

Council can make a CPO to acquire the land required for the Scheme.

- 7.3.3 The Government's CPO Guidance states that the acquiring authority is expected to demonstrate that reasonable steps have been taken to acquire all of the land and rights included in the CPO by agreement. At the same time, this Guidance recognises the role of CPO in order to secure assembly of the land needed for projects in a timely manner and that the CPO process will make the seriousness of the authority's intentions clear and may encourage those whose land is affected to enter more readily into meaningful negotiations. The Director of Legal and Governance is cognisant of the efforts that have been made by the Developer, Council officers and their advisors in seeking to acquire the outstanding interests and confirms that under Section 227 of the Town & Country Planning Act 1990 the Council may still acquire the land by agreement and should continue to do so, where possible. In practice, the outstanding interests may be acquired by the Developer, to avoid land interests passing through the Council unnecessarily. The arrangements for control of the land required for the Scheme is otherwise controlled and addressed under the Development Agreement. The land interests of the Developer are also included in the Order Land to ensure that any minor interests in this land can be extinguished and to provide the Council with control of all of the Order Land, should it be necessary.
- 7.3.4 It is the view of the Director of Legal and Governance that the transfer of land to the Developer under the terms of the Development Agreement conforms with best value principles set out under Section 233 of the Town & Country Planning Act 1990.
- 7.3.5 The Government's CPO Guidance states that compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider, amongst other things, keeping any delay to a minimum by completing the statutory process as quickly as possible. In recognition of this advice, the recommendation is for the Council to seek confirmation of the CPO from the Secretary of State as soon as possible after it is made and published.
- 7.3.6 For the reasons summarised in this Report, the Director of Legal Services is satisfied that the recommendations in the Government's CPO Guidance is being complied with where appropriate to the circumstances.

#### 7.4 Environmental Sustainability

- 7.4.1 The redevelopment of the Site will bring back into beneficial use brownfield land that is currently vacant or underutilised. The majority of the Site was and in part is still occupied by a collection of industrial uses and areas that have been demolished and cleared, are currently used for open air car parking on hard standing or are vacant.

- 7.4.2 Proposed new commercial development as part of the Scheme will be highly accessible to the people of Sheffield and will be within walking distance of sustainable modes of transport including Sheffield Train Station. The significant proposed improvements to pedestrian public realm will make a positive contribution to connectivity through the Riverside Business District to and from the City Centre and beyond to the surrounding neighbourhoods.
- 7.4.3 The residential element of the Scheme will be highly sustainable because of the proximity of new homes to the City Centre, the Riverside Business District and sustainable modes of transport.

## 7.5 Human Rights

7.5.1 The Government's CPO Guidance states that when making a CPO, acquiring authorities should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected.

7.5.2 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The specific rights protected by the Convention include, amongst others:

- The right of everyone to the peaceful enjoyment of their possessions, which can only be impinged upon in the public interest and subject to relevant national and international laws;
- The right to a fair and public hearing for those affected by the Scheme; and
- The right to a private and family life, home and correspondence, which again can only be impinged upon in accordance with law and where such encroachment is necessary in the interest of national security, public safety or the economic well-being of the country.

7.5.3 The above rights would be engaged by the use of a CPO to acquire land for the Scheme. However, the European Court has recognised that "regard must be had to the fair balance that has to be struck between competing interests of the individual and the community as a whole". Any interference with the convention right must be necessary and proportionate.

7.5.4 In light of the significant public benefit which would arise from the comprehensive development of West Bar Square site and that the known landowners/occupiers have been contacted regarding the Scheme and will, should their land be compulsorily acquired, qualify for compensation under the Compensation Code, the Director of Legal Services has concluded that there is a compelling case in the public interest to make the CPO.

- 7.5.5 Officers do not regard the proposed CPO as constituting any unlawful interference with the individual's rights under the Convention, including in particular any property rights.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

### **8.1 Do Nothing**

The above option has been considered but is rejected in the knowledge that the ongoing fragmentation of ownership materially risks the development of the site as a comprehensive development and is likely to lead to piecemeal development of singular plots of varying sizes all of which are constrained by the existing street pattern. This approach would not deliver the key objectives of large scale comprehensive redevelopment in accordance with the policy objectives for the area including the level of job creation, public realm improvements and integrated development that will foster the creation of a new mixed-use neighbourhood as part of the Riverside Business District and bring about the substantial public benefits and well-being improvements for the area.

### **8.2 Acquire the necessary land without a CPO**

Whilst the Council and the Developer are continuing to working to negotiate voluntary acquisition of all the Order Land this option is deemed uncertain with no defined timeframe and continues to materially risk the realisation of the Scheme.

## **9. REASONS FOR RECOMMENDATIONS**

- 9.1 The making by the Council of a CPO to acquire the Order Land required for the Scheme is available under section 226 (1)(a) of the 1990 Town and Country Planning Act, and would be justified in consequence of a compelling case in the public interest for the acquisition of the Order Land to enable the delivery of the West Bar Square regeneration development.
- 9.2 Where the Council proposes to make a CPO under these statutory provisions, the Council must be satisfied that the development is likely to contribute to the achievement of one or more of the following objects, namely the promotion or improvement of the economic, social or environmental well-being of their area.
- 9.3 It is considered that there is a compelling case in the public interest to justify the Council using its compulsory purchase powers to acquire the Order Land because of the important regeneration benefits that the Scheme will deliver to the City Centre and nearby neighbourhoods as part of facilitating the regeneration of a large area of underutilised land, the details of which are outlined in this Report.
- 9.4 If the Order Land is not acquired there is little prospect that comprehensive redevelopment at West Bar Square will take place and

the anticipated regeneration benefits will not be realised.

9.5 For these reasons, it is suggested that Cabinet adopt the recommendations contained in this Report.

## 10. RECOMMENDATIONS

- i. That authority be given to the Council to make a Compulsory Purchase Order under the powers conferred by Section 226 (1) (a) of the Town and Country Planning Act 1990 to acquire all land interests, other than those of the Council and those held by or on behalf of the Crown, as described in the Order Schedule, attached at Appendix A, at West Bar Square and as shown on the Order Map attached at Appendix B with title 'Sheffield City Council (West Bar Square Regeneration) Compulsory Purchase Order 2018' (the "Order Land").
- ii. That authority be given to the Executive Director Place in consultation with the Director of Legal and Governance and Executive Director of Resources to agree and enter into all necessary legal documentation with Urbo (West Bar) Limited (the Developer)
- iii. That the Director of Legal & Governance be authorised to make the CPO for the Order Land, to take all necessary procedural steps prior to and after the making of the CPO, to enable the CPO to be submitted to the Secretary of State for confirmation including:
  - a) Finalising the attached draft Statement of Reasons, at Appendix C;
  - b) Finalising the Order Schedule, at Appendix A;
  - c) Serving notices of the making of the CPO on all persons entitled to such notice and placing all necessary notices in the press and on/around the Order Land;
  - d) To submit the CPO to the Secretary of State for confirmation as soon as possible following making of the CPO; and
  - e) To self-confirm the CPO if authorised to do by the Secretary of State.
- iv. That the Director of Legal & Governance be authorised to sign and serve any notices or documents necessary to give effect to these recommendations and to take all the other actions necessary to give effect to these recommendations.
- v. As soon as the CPO is confirmed by the Secretary of State to advertise the confirmation of the CPO and serve all necessary notices of the confirmation and once the CPO becomes operative, the Director of Legal & Governance in consultation with the Executive Director of Resources be authorised to execute General Vesting Declarations under the Compulsory Purchase

(Vesting Declarations) Act 1981, at the earliest opportunity and to thereafter serve all necessary documents and notices of the vesting of the Order Land in the Council.

- vi. That the Executive Director Place, in consultation with the Director of Legal & Governance and the Executive Director of Resources be authorised to manage the compulsory purchase process at least in accordance with the terms of the Development Agreement and in accordance with all statutory requirements and to otherwise promote or supporting the promotion of confirmation of the CPO including the preparation of and giving of evidence at any public inquiry.
- vii. That Cabinet confirms that such parts of the Order Land and other adjoining land owned by the Council as is required to facilitate and enable the Scheme, that is not currently held for planning purposes, is appropriated for planning purposes and from the date of such confirmation that the Order Land and such other adjoining land is held for planning purposes and without prejudice to any other statutory status (from time to time) of any part of that land as public highway.
- viii. That, if necessary, the Council, and those deriving title from it, be authorised to use its powers pursuant to Section 203 of the Housing and Planning Act 2016 in order to override any rights or covenants in the Order Land and in any other land owned by the Council adjoining the Order Land which would otherwise impede the delivery of the Scheme.
- ix. That the Director of Legal Services, in consultation with the Executive Director Place be authorised to prevent extinguishment of, grant and/or re-grant private rights of statutory undertakers and the Combined Crown and Family Courts in or over the Order Land as he/she deems necessary to secure confirmation of the CPO by:
  - (a) making a Direction under section 236 of the Town & Country Planning Act 1990; and/or
  - (b) entering into an agreement with affected parties, with or without the Developer, as is appropriate.
- x. That the Executive Director Place, in consultation with the Director of Legal Services be authorised, as he/she deems appropriate and necessary to facilitate and enable the Scheme to be carried out, to;
  - (a) support an application for a Stopping Up Order of public highways and footways within and adjacent to the Order Land including support for and giving of evidence at any public inquiry; and

(b) to enter into an agreement or grant licence or authority in its capacity as owner and/or the relevant highway authority for the creation of new highway and footways in and adjacent to the Order Land.

- Appendix A Draft Order Schedule
- Appendix B Draft Order Map
- Appendix C Draft Statement of Reasons
- Appendix D City Context and Riverside Business District Plans
- Appendix E West Bar Square Masterplan and CGI (Based on planning consent 16/02518/OUT)
- Appendix F Draft Stopping Up Order Application Plan