

REPORT TO:		CABINET	
DATE:		12th October 2016	
PORTFOLIO:		Cllr Clare Cleary – Housing	
REPORT AUTHOR:		Helen McCue-Melling Regeneration & Property Manager.	
TITLE OF REPORT:		Phoenix Phase 1 D Proposal to Promote a Compulsory Purchase Order	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	No	If yes, date of publication:	

1. Purpose of Report

- 1.1 To outline progress with acquisitions and land assembly within the Phoenix Phase 1 D project area (previously known as 1B) and to seek a new resolution to promote a Compulsory Purchase Order ('CPO'). This is to update the Cabinet Resolution of 6th February 2008 that approved the promotion of a CPO for Project Phoenix Phase 1B (Commercial Properties).
- 1.2 To invite Cabinet to authorise a Compulsory Purchase Order for outstanding interests within or affecting the Phoenix Phase 1 D project area. The outstanding interests are those within or affecting the land shaded pink on the plan at Appendix 1. The Phoenix Phase 1 D project area is shown edged red on the plan at Appendix 2.
- 1.3 To delegate authority to the Head of Housing and Regeneration to agree detailed terms for the redevelopment and future disposal of land in the Council's ownership within the Phoenix Phase 1D Project Area. Such terms are to be in accordance with the existing Overarching Development Agreement for the development of land at West Accrington dated 22nd December 2009 ('ODA') as varied in accordance with 1.4 below.
- 1.4 To delegate authority to the Head of Housing and Regeneration to agree terms and enter into a variation of the ODA to include all areas of the Phoenix Phase 1D Project Area.

2. Recommendations

That Cabinet:

- 2.1 Having concluded that acquisition of the remaining interests will facilitate the carrying out of redevelopment of Phoenix Phase 1 D and that such development is likely to contribute to the achievement of one or more of the following objectives:

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

and

being satisfied that the interference with Human Rights is in the public interest and both necessary and proportionate in bringing about the improvements that will follow from any redevelopment or improvement

resolves to take all necessary steps to make a Compulsory Purchase Order using the most appropriate powers to facilitate the purchase of all necessary legal interests in or affecting the land identified in the area shaded pink on the plan attached to this report, at Appendix 1 ('the subject area') in order to secure the acquisition, land assembly and clearance of the subject area and to facilitate its development.

- 2.2 Authorises the disposal of all or any part of the Phoenix 1 D project area, shown edged red on the plan at Appendix 2, once acquired by the Council, and delegates the negotiation and agreement of the terms of the related building licence and of such disposals to the Head of Regeneration and Housing in Consultation with the Executive Director (Legal & Democratic Services).
- 2.3 Authorises and delegates authority to the Head of Housing and Regeneration to agree terms and enter into a variation of the ODA to include all areas of the Phoenix Phase 1D Project Area

3. Reasons for Recommendations and Background

- 3.1 The subject area adjoins land already acquired by the Council either by agreement or pursuant to a previous Compulsory Purchase Order as part of the adjoining phase of development. The subject area is within the final phase of the development known as Project Phoenix. This will see the continuation of the comprehensive regeneration of West Accrington following the principles of the West Accrington and Church Master Plan. The development and delivery of Project Phoenix has been undertaken in accordance with an overarching

development agreement between the Council and Keepmoat Limited and subsequent building licences for each phase of work.

- 3.2 The area was the subject of a Cabinet Approval dated 6th February 2008 where Cabinet resolved to take all necessary steps to make a CPO to facilitate the acquisition of properties and land in the subject area which at the time comprised 2 Savoy Street; 4 Savoy Street; Works Savoy Street; Works Newark Street; 103 & 105 Lower Antley Street Accrington.
- 3.3 Since then, a number of known interests have been acquired by agreement. However despite several years of negotiations with the owner of land to the south west of Newark Street, acquisition of the property by agreement has not been possible due to a considerable difference between the Councils' agent and the owner as to the value of the land and buildings. Part of the site is also unregistered title and in unknown ownership.
- 3.4 A CPO is seen as the last resort to bring in the remaining interests and unregistered title within a reasonable timescale to facilitate the regeneration plans.
- 3.5 The CPO will enable the Council to acquire and demolish the remaining structures so that Keepmoat can carry out Site Investigations (SI's) and produce a remediation strategy in accordance with the planning application.
- 3.6 Subject to compliance with all statutory requirements, disposal of the Phoenix 1 D Project Area will then occur following development in accordance with the ODA as varied and the building licence for this phase of work.
- 3.7 A relatively small area of land, being the sites of former 103 & 105 Lower Antley Street and area surrounding them forms part of Keepmoat's development proposals but was omitted from the ODA and therefore a variation to the ODA will be required to include these areas
- 3.8 The extent of the proposed CPO is shaded pink on the plan at Appendix 1 and the Council will seek to acquire all interests other than those already acquired. Preparations for the making and publication of the CPO will include the detailed referencing of each property within the subject area to ascertain all legal interests in the subject land.
- 3.9 It is believed that this phase of the comprehensive regeneration plan is likely to continue to contribute to the economic, social and environmental well-being of West Accrington meeting the following objectives:
 - Improving the image and perception of the area and Borough as a whole
 - Providing housing choice
 - Providing high quality, energy efficient, modern homes

- Providing environmental improvements
 - Retaining households that have moved in to the new housing completed on earlier phases and;
 - Attracting new, economically active households
- 3.10 Keepmoat are coming to the end of the current development on Phoenix Phase 2 and possession of the site will be required if the remaining objectives of the West Accrington Master Plan, and specifically those mentioned above, are to be met in a timely manner. Use of an appropriate CPO is now deemed to be the last resort to do this. Keepmoat continue to be of the opinion that the exclusion of the subject area from development proposals would have a detrimental effect on the adjoining development by leaving undeveloped or non-residential uses in an area in which the objective is to improve the residential environment.
- 3.11 Due to previous uses of the site as railway sidings, garages, bus depot, scrap yards and the like there is a high risk contamination of the site. As such the development will address these environmental issues which could be a risk to health and safety of those living in close proximity.
- 3.12 The CPO process is fair and reasonable and includes a statutory objection and inquiry procedure together with a statutory framework for compensation, with disputed compensation claims settled by the Lands Tribunal. Critically, when making a CPO the Council must consider the human rights of those affected in accordance with the Human Rights Act 1998.

4. Alternative Options considered and Reasons for Rejection

- 4.1 Whilst negotiations will continue, even if a CPO is approved, they have proven unsuccessful thus far and there is no indication that a settlement by agreement is imminent. As such a CPO is viewed as essential if this area is to be developed in a reasonable time frame.
- 4.2 The option to exclude this part of the site should be discounted as, by developing this area in a way that is more sympathetic to the adjoining development, the Council will avoid the detrimental effects of leaving non- residential uses in an area in which the objectives are to improve the residential environment and removal of likely contamination.

5. Consultations

- 5.1 In bringing the West Accrington Master plan together and subsequent delivery of previous development phases there has been considerable consultation with a wide range of stakeholders including local residents, businesses, West

Accrington Residents Association, the Leader of the Council, portfolio holder, ward members and the Regeneration & Housing Panel.

6. Implications

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>The Council has set aside sufficient funds from the transitional funding award to acquire the remaining interests within the subject area including unregistered interests.</p> <p>The value of the site will be determined in accordance with the ODA and upon agreement of a business appraisal that will set out development costs once site investigations are completed.</p>
<p>Legal and human rights implications</p>	<ul style="list-style-type: none"> • Powers used to acquire the land compulsorily is contained in section 226(1) (a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981. The Council, in making its decision, will need to conclude that the acquisition will facilitate the carrying out of the development and that this is likely to contribute to one or more of the following: <ul style="list-style-type: none"> a) the promotion or improvement of the economic well-being of the area b) the promotion or improvement of the social well-being of the area c) the promotion or improvement of the environmental well-being of the area. • The Council has previously entered into an overarching development agreement with Keepmoat Limited to develop sites identified therein for housing development. The proposed variation extends the subject area of the ODA to include a small site including previously demolished houses. The ODA is then supplemented by individual building licences for each

development phase and any land value is determined before entering into the Building Licence.

- The Council also needs to consider the principles of Human Rights:

a) The Human Rights Act 1998 incorporated the European Convention on Human Rights. The convention includes provision in the form of articles, the aim of which is to protect the rights of the individual. Article 1 of the First Protocol provides for the peaceful enjoyment of possessions (including property) and that no-one shall be deprived of possessions except in the public interest and as provided by law.

b) The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to a fair balance which has to be struck between the competing interests of the individual and of the community as a whole.

c) The compulsory purchase process includes a statutory objection and inquiry procedure. The statutory procedure also provides for payment of compensation where certain interests in the affected land have been lost or where businesses are disturbed.

d) The report suggests that improvements to the subject land through development to provide further modern housing as part of the objective to provide a balanced housing market in accordance with the West Accrington Masterplan and an environment sympathetic to the adjoining housing development could be considered necessary, proportionate and justified and in the public interest.

<p>Assessment of risk</p>	<p>The risk is that we do not have a confirmed Compulsory Purchase Order and it is unlikely the Council will acquire the remaining interests by agreement. As such, the development plans will need to be amended to exclude these sites. Leaving the non-residential uses insitu will be detrimental to the overall area and objectives described in para 3.9</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>No implications identified</p>

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

- 7.1 Previous Cabinet Report dated 6th February 2008 -
http://www.hyndburnbc.gov.uk/downloads/CPO_Commercial_Properties.pdf
http://www.hyndburnbc.gov.uk/downloads/CPO_Commercial_Properties_Appendix_1_.pdf
- 7.2 ODA Report to Cabinet dated 25th November 2009 -
http://www.hyndburnbc.gov.uk/downloads/Item_9_-_ODAWestAccwithKeepmoat.pdf

Date: 10 October 2016

Appendix 1

(c) Crown copyright and database rights 2016.
Ordnance Survey LA 100022321

Title: Land Adjacent Savoy Street Accrington



Produced using GGP. (C) Crown Copyright reserved.

Scale: 1:1000

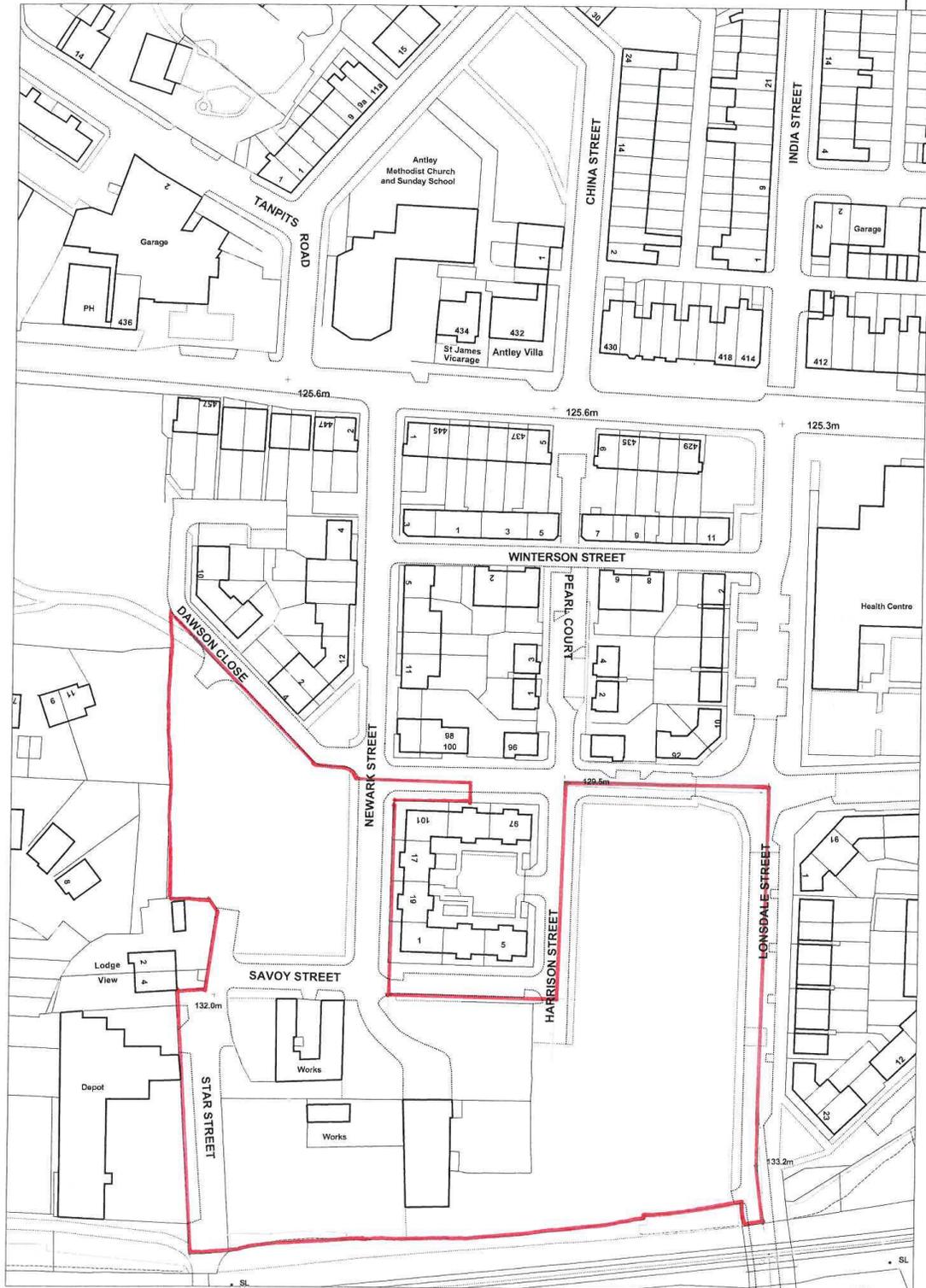
NOT TO SCALE

Date: 28 September 2016

Appendix 2

(c) Crown copyright and database rights 2016.
Ordnance Survey LA 100022321

Title:



Produced using GGP. (C) Crown Copyright reserved.

Scale: 1:1250

NOT TO SCALE