

Planning Committee

2.00pm, Wednesday, 30 May 2018

Proposed Compulsory Purchase Orders - Pennywell Town Centre

Item number	7.1
Report number	
Executive/routine	Executive
Wards	4 (Forth)
Council Commitments	1 and 2

Executive Summary

This report seeks approval to serve a Compulsory Purchase Order (CPO) in respect of three homes at 41/6 Pennywell Road, 47/9 Pennywell Road and 47/10 Pennywell Road.

Approval is also sought to serve a CPO in respect of the commercial leases at 61 Pennywell Road, 59 Pennywell Road, 55a-57 Pennywell Road, 53a Pennywell Road, 39 Pennywell Road, 45a Pennywell Road, 47a Pennywell Road and 9 Pennywell Court.

The purchase of these homes and leases by the Council is required to enable the next phases of the Pennywell/Muirhouse Civic Centre redevelopment, as approved by Council on 27 October 2016. Full planning permission has been obtained and a contractor appointed to deliver the works on a phased programme.

This project is central to the wider award winning 21st Century Homes Pennywell / Muirhouse regeneration project where over 700 new homes are being built by the Council in partnership with Urban Union. It will support growth of the local economy and enable all the residents of the local community to enjoy a higher quality of life.

Proposed Compulsory Purchase Orders - Pennywell Town Centre

1. Recommendations

- 1.1 It is recommended that committee;
 - 1.1.1 Agrees to pursue a CPO for the homes at 41/6 Pennywell Road, 47/9 Pennywell Road and 47/10 Pennywell Road and instructs the Head of Legal, Risk and Compliance to commence proceedings;
 - 1.1.2 Agrees to pursue a CPO for the commercial leases at 61 Pennywell Road, 59 Pennywell Road, 55a-57 Pennywell Road, 53a Pennywell Road, 39 Pennywell Road, 45a Pennywell Road, 47a Pennywell Road and, 9 Pennywell Court and instructs the Head of Legal, Risk and Compliance to commence proceedings;
 - 1.1.3 Notes that it is intended to submit a draft Compulsory Purchase Order to the next available meeting of the City of Edinburgh Council for authority to exercise compulsory purchase powers; and
 - 1.1.4 Notes that the Council will continue to seek a negotiated purchase of the homes and leases in parallel with the CPO process.

2. Background

- 2.1 The Central Area Masterplan for Pennywell/Muirhouse received Planning Permission in Principle on 16 August 2012 (Planning reference 12/00996/PPP).
- 2.2 The Central Area Masterplan set out the general principles for the Civic Centre in the context of the surrounding homes and the NHS led Partnership Centre. At the time of master planning, the architects were limited in their scope due to the current Muirhouse shopping centre, which is a dominant feature, being in private ownership. The majority of this structure was therefore retained on the plan, in its current form.
- 2.3 Ongoing consultation as part of the regeneration programme highlighted a strong local desire for more extensive redevelopment in order to create a 'civic heart' that can meet the needs of the community both now and in the future. The purchase of the Muirhouse Shopping Centre by the Council in 2014 provided an opportunity to review the scope of potential redevelopment in line with the overall aims and objectives of the regeneration programme.

- 2.4 On 27 October 2016 Council agreed to the delivery of a new civic centre for Pennywell/Muirhouse. This included the demolition of 48 existing flatted properties (five of which were privately owned) and 25 commercial units. A map of the existing layout is included at appendix 1.
- 2.5 A contract is in place with Willmott Dixon Ltd through the national Scape framework, to carry out the redevelopment of the shopping centre and surrounding area.
- 2.6 In addition to funding agreed by Council, the town centre project has been supported by Scottish Government Regeneration Capital Grant Funding. The project represents an additional investment of over £20million in the area.
- 2.7 The first phase of demolition and construction is underway. The finished project will include high quality public realm, 13 retail units and 148 flats, 96 of which have been designed to help meet the needs of older people.
- 2.8 Planning permission in principle for the whole site was secured in June 2017 alongside detailed planning permission for the first phase of works to the civic square, 12 flats and three retail units (Block 2). A map at appendix 2 shows the numbering of proposed buildings.
- 2.9 Detailed planning permission was granted for phases 2 and 3 (blocks one and three) of the project in December 2017. A phased demolition and construction programme is in place, to complete by spring 2022 which allows for the re-housing, buy backs and a commercial relocation strategy to retain retail while the regeneration is ongoing.
- 2.10 Phased demolition of the shopping centre commenced in October 2017. Good progress has been made and the first phase of new homes and retail is expected to be ready for occupancy by early 2019.

3. Main report

- 3.1 Since late 2016, the Council has undertaken continued and constructive dialogue with the owners of all five privately owned residential properties, two of which have been purchased to date. These properties are ex-Council, sold under the former Right to Buy entitlement.
- 3.2 The Council will continue to engage with the three remaining privately-owned flats at 41/6 Pennywell Road, 47/9 Pennywell Road and 47/10 Pennywell Road with a view to purchasing these properties to allow for the redevelopment to take place within the timescales outlined within appendix 2.
- 3.3 Negotiations with all three home owners have, to date, been positive and it is hoped that amicable agreements can be reached in all three cases. However it is important that the Council acquires title to all properties in line with timeframes outlined within appendix 2 to allow redevelopment to take place within the contractual programme.

- 3.4 CPO action requires to be commenced now to ensure that titles to the three properties can be timeously acquired to ensure the contractual programme is not delayed. The CPO will only be implemented, in respect of any of the three properties, if the property has not been able to be acquired by agreement by the project deadlines set out at appendix 2.
- 3.5 The Council has also, since late 2016, been in dialogue with leaseholders currently occupying retail units in the centre with a view to managing the redevelopment sensitively so that retail provision is retained throughout the project.
- 3.6 There are eight leases which require termination outwith their current terms. These are:

Phase 2

- 3.6.1 59 Pennywell Road Sara Zarar, Ali's Pizza
- 3.6.2 61 Pennywell Road Paulo Crolla t/a Gerry's Cafe
- 3.6.3 55a-57 Pennywell Road Lloyds Pharmacy Ltd
- 3.6.4 53a Pennywell Road Whitecross Dental Care Ltd

Phase 3

- 3.6.5 39 Pennywell Road Colin Lai, New Suen Moon Take Away
- 3.6.6 45a Pennywell Road Greggs plc
- 3.6.7 47a Pennywell Road Ladbrokes Betting and Gaming Ltd
- 3.6.8 9 Pennywell Court Tendayi Chengeta t/a EH4 Hair & Beauty

- 3.7 It is anticipated that the contractor will require vacant possession of the retail units outlined at 3.6.1 – 3.6.4 by early 2019 to allow for phase 2 demolition to commence. Phase 2 demolition will commence on completion of phase 1 redevelopment to allow for retailers which have chosen to relocate into phase 1 from Pennywell Road to do so.
- 3.8 It is anticipated that the retail units at 3.6.5 – 3.6.8 will be required in 2020 on completion of phase 2, this will permit some retailers from phase 3 to relocate into phase 2 allowing for demolition of the final phase 3 to commence.
- 3.9 It is important that the Council achieves vacant possession in line with timeframes outlined above to allow redevelopment to take place within the contractual programme. Negotiations to date have been positive with all commercial tenants whose leases are affected, it is hoped that amicable agreements can be reached in all eight cases.
- 3.10 CPO action requires to be commenced now to enable vacant possession of these properties to be timeously acquired and to ensure the contractual programme is not delayed. The CPO will only be implemented if by the project deadlines negotiations have not enabled amicable agreements to have been reached.

4. Measures of success

- 4.1 The CPO process is progressed in line with relevant legislation to allow the construction of new homes, retail, and public realm.
- 4.2 Success will be measured through the provision of high quality and sustainable new homes and public realm, creating a new mixed tenure community where people choose to live, work and play.

5. Financial impact

- 5.1 An allowance has been made in the project budget on the basis of available valuations, to calculate the purchase prices.
- 5.2 A further allowance has been made in the project budget for costs associated with relocating tenants and compensating where lease will be terminated early as a result of the development.
- 5.3 These costs were previously approved by Council in the report dated 27 October 2016.
- 5.4 The costs relating to the CPO process itself such as preparation and promotion of the orders will be met from existing Housing Revenue Account budgets.

6. Risk, policy, compliance and governance impact

- 6.1 The Procedure for making and where appropriate confirming most CPOs is contained in The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (the "1947 Act"). Specific Acts of parliament provide the Council with powers to acquire land by CPO in specific circumstances.
- 6.2 Acquiring title by CPO is a complex process, with the 1947 Act putting mechanisms in place to ensure an objecting affected party has a right to be heard and that all affected parties are fairly compensated.
- 6.3 Where a CPO is not objected to it may be confirmed by Scottish Ministers within months, however if it is objected to it may take significantly longer.
- 6.4 If negotiations were to fail in respect of any of these properties without a CPO being commenced now there is a significant risk to delivery of the programme.
- 6.5 The Council has CPO powers to enable delivery of this redevelopment project in terms of Section 189 (1) of the Town and Country Planning (Scotland) Act 1997. Section 189 (1) allows a local authority, on being authorised by Scottish Ministers, the power to acquire compulsorily any land in their area which is;
 - 6.5.1 suitable for and is required in order to secure the carrying out of development, redevelopment or improvement; and

- 6.5.2 required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated
- 6.6 If approved by Planning Committee, a draft CPO will be prepared. The draft CPO and this report will be referred to full Council for approval. If approved, the order will be advertised with an opportunity for any objections to be made. If objections cannot be resolved, Scottish Ministers will appoint a Reporter and arrange for a Hearing or Inquiry in respect of the CPO. Subject to the ministers' satisfaction the order will be confirmed, modified or rejected.
- 6.7 If the CPO is confirmed by Scottish Ministers it will be for the Council to determine whether it is necessary to implement it.

7. Equalities impact

- 7.1 There are no adverse equality issues arising from this report. The purchase of homes previously owned by the Council will allow the completion of a major regeneration project. The CPO process is designed to ensure that individuals rights are protected, the Council is fully engaging with this.
- 7.2 Appropriate support, such as translation services, will be provided to property owners and leaseholders as required.
- 7.3 Construction of 148 new affordable homes will improve the housing opportunities in the area for those on low to moderate incomes.
- 7.4 The 96 homes in phase 3 include wheelchair and amenity flats to meet tenants' changing needs. This phase will include lifts to maximise accessibility.
- 7.5 The houses will be highly insulated and energy efficient meaning they require less energy to heat and therefore reducing living costs for tenants.
- 7.6 The construction of a new civic square is expected to deliver significant benefits in terms of social cohesion and the place making objectives of the wider regeneration of the area.

8. Sustainability impact

- 8.1 Compulsory purchase of the current flats and retail will allow for the development of new energy efficient homes and retail around a new well designed civic square.
- 8.2 Homes will be built to high standards of energy efficiency and sustainability and will help to reduce fuel poverty.

9. Consultation and engagement

- 9.1 Regular engagement continues to take place with homeowners and leaseholders to ensure they are kept informed of progress and timescales of the regeneration project.
- 9.2 The Council opened negotiations with the homeowners in late 2016 regarding the acquisition of their properties within the timescales and on mutually agreeable terms.
- 9.3 The Council has continued to provide the Commercial Tenants with regular updates regarding the redevelopment, progress with planning applications and any associated site works. Throughout this process the Estate Officers have worked to reduce disruption where Tenants' businesses have been affected by site activity.
- 9.4 The redevelopment works have been structured in three phases to minimise disruption to the commercial tenants' businesses and to retain an element of retail for the local residents throughout the build period.
- 9.5 The Council has updated the commercial tenants when timescales have been proposed and set for each stage of the demolition. Where tenants will be affected and leases need to be altered or terminated early, the Council opened negotiations with the Tenants as early as possible with the aim of reaching an agreement acceptable for both parties by way of a relocation were possible or compensation.
- 9.6 The ward Councillors, local community and other stakeholders are consulted on the development of plans for the regeneration of the area through regular meetings and public events.

10. Background reading/external references

- 10.1 [Pennywell-Muirhouse Civic Centre Redevelopment, report to Council, 27 October 2016](#)
- 10.2 [Pennywell Muirhouse Masterplan, Report to Development Management Sub Committee, 13 December 2017](#)
- 10.3 [Pennywell Muirhouse Masterplan, Report to Development Management Sub Committee, 14 June 2017](#)

Paul Lawrence

Executive Director, Place

Contact: Elaine Scott, Housing Services Manager

E-mail: elaine.scott@edinburgh.gov.uk | Tel: 0131 529 2277

11. Appendices

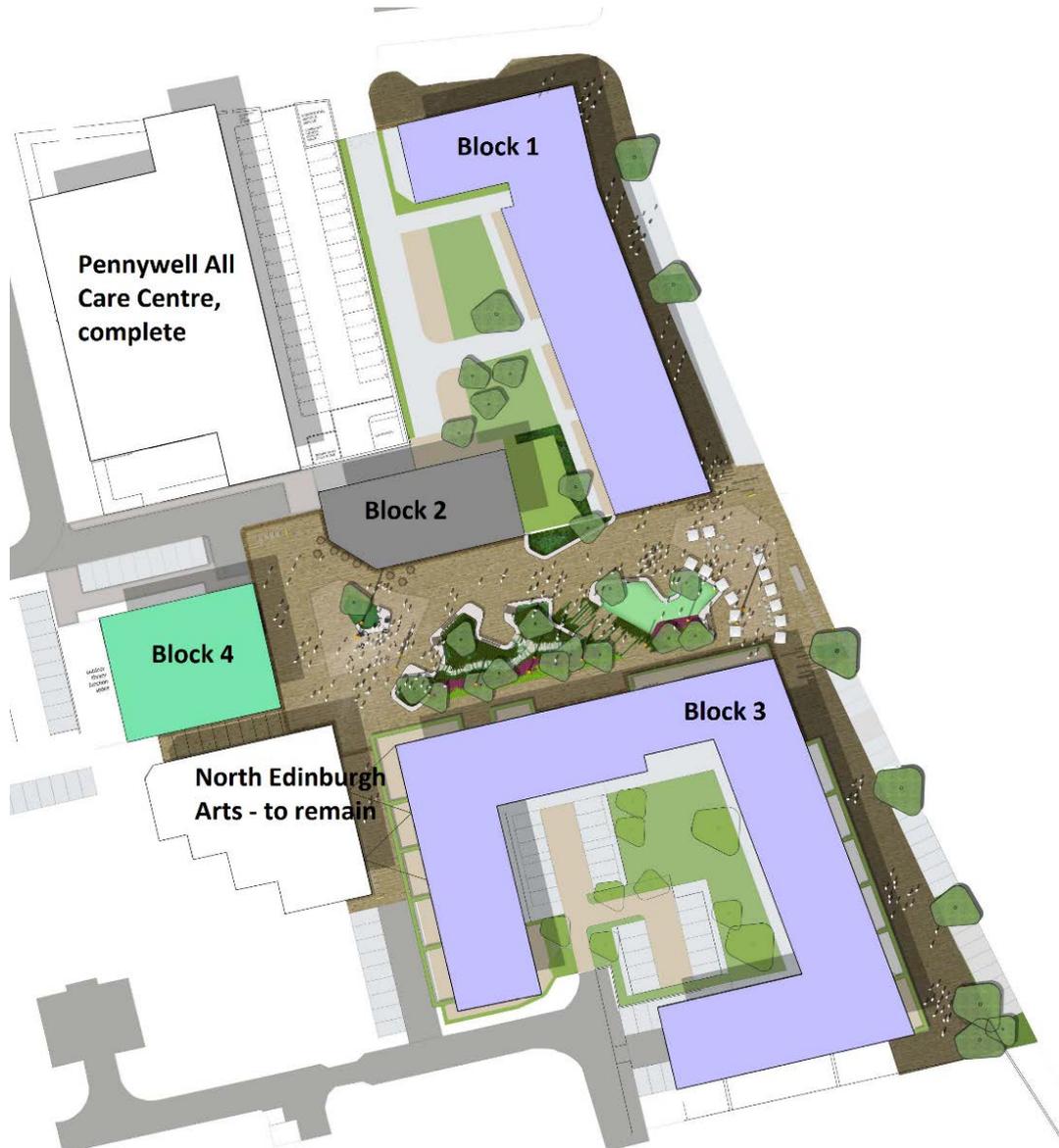
Appendix 1 – Existing Layout

Appendix 2 – Proposed layout with development timescales

Appendix 1 - Existing layout



Appendix 2 - Proposed Site Layout



Indicative Programme

Phase 1

Block 2 – Demolition commenced October 2017

Phase 2

Block 1 – Start date estimated Spring 2019, or on completion of Phase 1

Phase 3

Block 3 – Start date estimated 2020, or on completion of Phase 2

Block 4 – Design development underway