



**Title:**

**41-43 Canal Street, South Wigston:  
Compulsory Purchase Order (CPO)**

**Author(s):**

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Regeneration)**

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**1. Introduction**

- 1.1. 41-43 Canal Street, South Wigston has been abandoned by its registered owners for at least fifteen years and the building has fallen into a state of disrepair over this time. It has been widely reported that the property is an environmental blight to the local area and the state of the building has attracted negative media attention.

The Council has taken all steps possible to trace the owners in order to encourage them to bring the property back in repair but no information has been forthcoming to enable Officers to ascertain their current whereabouts. The Council has also attempted to bring forward solutions to bring the building back into beneficial use but these have ultimately been unsuccessful, due principally to funding issues.

- 1.2. The matter was last considered by full Council on the 6 December 2016 where it was resolved that:
- (i) a Compulsory Purchase Order under section 17 and Part XVII of the Housing Act 1985, and the Acquisition of Land Act 1981, for the acquisition of 41-43 Canal Street, South Wigston be made; and
  - (ii) that the Director of Services, in conjunction with the Chair of Policy, Finance and Development Committee and the Chief Financial Officer be granted delegated authority to do anything necessary to give effect to the above.
- 1.3. At the date of the full Council report the actual methodology for disposing of the property and bringing it back into use had not been determined. This report sets out the next steps for the Council to take in order to acquire the building using powers of compulsory purchase and enable it to be brought back into beneficial use by a private developer.

**2. Recommendation(s)**

It is recommended that Members:

- 2.1. Note that Officers are well advanced with the process of making a Compulsory Purchase Order (CPO) under section 17 and Part XVII of the Housing Act 1985 and the Acquisition of Land Act 1981 and that this will be submitted in early 2018 at the latest.
- 2.2. Note that if the CPO is granted to the Council it will acquire the property by General Vesting Declaration.
- 2.3. Agree that the Council will appoint an auctioneer in order to manage the sale of the property by public auction as soon as is practicable after the Council's acquisition.

- 2.4. Note that the sale will include a covenant for the new owner(s) to bring the property back into beneficial use as housing within a period of three years from the date of transfer.

### **3. Information**

- 3.1. Members considered a report on 6 December 2016 relating to the process of obtaining the Compulsory Purchase Order and the risks and issues involved in obtaining powers of compulsory purchase.
- 3.2. Once powers of compulsory purchase have been granted, there are two ways in which they can be enacted, by the use of a Notice to Treat (NTT) or by General Vesting Declaration (GVD). The key difference between the two is that under a NTT the ownership of the property is only transferred to the acquiring authority once the compensation is settled, which can take a considerable period of time. Under a GVD ownership is transferred once the relevant notices have been enacted, which can be as quick as three months after the granting of compulsory purchase powers. In this instance the use of a GVD enables the Council to acquire the property and sell it as soon as is practicable after the transfer. This is important as a sale as close as possible to the date of acquisition will establish market value and therefore the level of the main head of a compensation claim resulting from the compulsory acquisition.
- 3.3. Of the principal methods of sale, auction represents the most open process to establish market value. Auctions are considered to be the most transparent of the disposal methods and provided that the property has been adequately marketed with a reputable auctioneer, should give the best representation of market value on the day of the sale. An auction sale as close as possible to the acquisition date should provide the best evidence to demonstrate the market value of property which, in this instance, will be the primary head of compensation claim.
- 3.4. In the report to Council of the 6 December 2016 it was proposed that the sale of the property would take place unfettered, in that there would be no conditions attached to the sale. In reference to demonstrating market value for compensation purposes an unconditional sale would be the best evidence of value. However, the powers granted under the Housing Act 1985 are for the purposes of providing housing. S18(1) of the Act requires that any property acquired under these powers and subsequently sold should have conditions attached to the sale so that the new owner will undertake the necessary works to make the building suitable for use as housing. In addition as part of the consideration of the CPO, the Inspector needs to be satisfied that the purposes for which the CPO is required will be satisfied within 10 years from the granting of CPO powers. It is therefore necessary to include a covenant requiring the new owner to bring the property back into beneficial use as housing within a defined timeframe.
- 3.5. The inclusion of a covenant requiring the new owner to bring the property back into use within a specified timeframe is a risk and could be considered a limiting factor on market value. However, it has been determined by external valuers that the best and most valuable use of this property would be for housing purposes. In addition the building will be marketed with the benefit of an existing planning consent (valid until 28/9/18) for conversion to twelve flats and in terms of saleability there have been other very successful conversion schemes on Canal Street. The building will be marketed and sold with a covenant for housing purposes only but as this is considered the most valuable use, the covenant in itself should not impact upon the market value of the property. A period of three years, when bearing in mind that planning permission has already been granted, does not seem unreasonable for the new owner

to bring forward a development. With money tied up in the property it is anticipated that the new owner would push the development forward as soon as possible to release this capital. There does not appear to be any adverse case law where a Claimant has challenged an auction sale with similar restrictive covenants as having had a negative impact on price paid and therefore compensation. A fettered sale with the covenants proposed should be noted as a risk but it is anticipated that the risk is low.

- 3.6. If the property is sold at auction and a development is not brought forward within the prescribed timeframe then there is an advantage that the Council would be dealing with a known owner. In these circumstances the Council can take appropriate action to enforce the covenant and in addition work with the owner to manage the condition of the building prior to it being brought back into use as housing.
- 3.7. It is to be noted that the cost of the auction are likely to fall on the Council and will be funded from the available capital budget. The level of fees and whether any costs will be recoverable from the purchaser will be a matter for further discussion with the auctioneer, once appointed. Auction costs are normally based upon an upfront fee and a percentage of the sale price. The auctioneer will be procured under the Council's contract procedure rules.
- 3.8. As the owners are currently untraceable the proceeds from the auction will be held in escrow for a period of twelve years. Should either of the two owners or their legal successors in title come forward during this time then the appropriate share of the market value will be paid as compensation for the compulsory acquisition of their interest.
- 3.9. Should the property fail to sell at auction then the value of the property could be considered to be zero. The Council will remain the owners of the property and be responsible for its stewardship. There will be a revenue cost, for which there is currently no budget, to actively manage this building and there could be potential negative criticism for the building's condition during the period of the Council's ownership. The Council would need to establish reasons why the property did not sell and seek to rectify these which could involve a capital cost. However, as there is no expectation on price it is anticipated that the property will sell at auction on the day.
- 3.10. If they come forward after sale, the owners will be entitled to compensation which will include the market value of the property, which is anticipated to be established by public auction and in addition their legal and professional fees. It is not considered that the owners will be entitled to compensation for disturbance as they are not currently in occupation of the premises but they will be entitled to a Basic Loss Payment of 7.5% of the market value subject to a maximum payment of £75,000.

#### **Background Documents:**

Report entitled '41-43 Canal Street, South Wigston' to Council on 06 December 2016

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<b>Implications   41-43 Canal Street, South Wigston: Compulsory Purchase Order (CPO)</b>	
<b>Finance</b>  <b>Chris Raymakers</b> (Head of Finance and Revenue and Benefits)	<p>The main financial issues are detailed in the body of the report.</p> <p>One of the key risks noted is the possibility and cost of the matter been referred to a Public Inquiry. As the owners are absent and there is unlikely to be any local opposition to the proposed CPO an inquiry seems remote. However, as the cost of an inquiry is likely to be high this potential risk should be noted.</p> <p>A capital budget of £350,000 within the 17-18 Capital Programme is available to complete the CPO, acquisition, disposal and settlement of any compensation claim. The sale price at auction should be reserved by the Council in escrow for a period of 12 years. If it is not claimed during this time then the money will revert to the Council.</p> <p>Whilst capital budget is available it should be noted that there is no revenue funding attributable to the project and so should the property fail to sell at auction then there will be a revenue cost to the Council for the building's ongoing maintenance.</p>
<b>Legal</b>  <b>Dave Gill</b> (Deputy Monitoring Officer)	<p>The legal implications are detailed in the body of the report. All CPO documentation will be checked by North-West Leicestershire District Council's Legal Team and by caseworker at Planning Casework Unit prior to submission.</p>
<b>Corporate Risk(s) (CR)</b>  <b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<p><input checked="" type="checkbox"/> <b>Reputation Damage (CR4)</b></p> <p>The report details a methodology to enable the building to be brought back into use. Should the developer not bring the building back into use within a reasonable timeframe then there is a likelihood that the Council will be criticised.</p> <p><input checked="" type="checkbox"/> <b>Effective Utilisation of Assets/Buildings (CR5)</b></p> <p>The aims of the acquisition are to bring the building back into beneficial use. Risks around this are identified in the body of the report.</p> <p><input checked="" type="checkbox"/> <b>Economy/Regeneration (CR9)</b></p> <p>The aim of the proposal is to bring a long term empty property back into economic use.</p>
<b>Corporate Priorities (CP)</b>  <b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<p><input checked="" type="checkbox"/> <b>Balanced Economic Development (CP3)</b></p> <p>The redevelopment of the building will provide regeneration in one of the most deprived areas of the Borough.</p> <p><input checked="" type="checkbox"/> <b>Green &amp; Safe Places (CP4)</b></p> <p>The building represents both an environmental and health and safety hazard. The proposals in the report will bring the property back into beneficial use and it will</p>

	no longer represent a hazard.
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>"A Strong Borough Together" (Vision)</b> The proposals will bring a long standing blighted building back into use supporting regeneration in one of the most deprived areas in the Borough.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<input checked="" type="checkbox"/> <b>Innovation (V4)</b> Whilst not a new concept the delivery of the proposal will be the first within the Borough and success will enable the Council to bring forward other long standing vacant and blighted properties forward for redevelopment.
	<input checked="" type="checkbox"/> <b>Customer Focus (V5)</b> Residents have complained about the condition of and detrimental environmental impact that this building is having on the local area. The proposal demonstrates a positive response to resident concern.
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	None noted. An Initial EA was completed for Council report on the 6 Dec 16: a full EA assessment was not required.
<b>Adrian Thorpe</b> (Head of Planning, Development and Regeneration)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>