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**Key Decision: Forward Plan ref 0308**

**Cabinet – 12 February 2007**

**Joint Report of the Directors of Urban Environment and Law and Property**

**Crown Centre Stourbridge: Compulsory Purchase Powers**

**Purpose of Report**

1. To consider the use compulsory purchase powers to acquire the leasehold interests and any other rights within the Crown Centre and Bell Street multi-storey car park Stourbridge and to authorise the acquisition of property and rights by agreement.

**Background**

2. The Council is the freeholder of the Crown Centre and the Bell Street car park. In order to fund the development of the Centre in 1984 the Council agreed to grant a lease (the Headlease) of the shopping centre to the original developer for a term expiring in 2082 (with an option to extend) at a peppercorn rent. The Council simultaneously leased the whole centre back on a sublease also expiring in 2082. Therefore, the Council is responsible for letting and managing the centre but has to pay a rent to the head lessee based on the income received.
3. The centre has struggled to keep the retail units occupied over the years due to the fact that Crown Centre is outside the prime shopping area of High Street. Since the closure of the Safeway supermarket in 2005 footfall within the centre has decreased dramatically and retailers are finding it difficult to continue trading from the site. The former Safeway unit is too small for modern supermarket formats and is poorly situated at the back of the development. The multi-storey car park in Bell Street is connected to the centre by aerial bridge links and provides shoppers with short-term parking for this part of the town. This multi-storey car park has been identified as suffering from serious structural problems. Emergency measures have been taken to ensure structural safety but this has only extended the life of the car park by two years from now.
4. In order to reconfigure and refurbish the Crown Centre to make it attractive to a large foodstore operator and make the Centre viable again and also to enable replacement car parking for shoppers and visitors to be provided, it is necessary to have a comprehensive scheme covering both sites, as shown on the plan at Appendix 1

## **Consultation**

5. As part of the preparation of any Compulsory Purchase Order there will be public notices and advertisements and anyone interested will be able to make objections or representations to Government Office for the West Midlands. Any new scheme for redevelopment will require planning permission which will allow the public and persons affected to comment or object in the usual way

## **Need for Compulsory Purchase**

6. It is anticipated that the Council will secure a development partner to undertake the actual development. To enable refurbishment of the Crown Centre and rebuilding of the car park it will be necessary to obtain possession of the parts that have been let or otherwise occupied by anyone other than the Council. Any developer partner will rely on the use of the Council's compulsory purchase powers to guarantee the site assembly into one ownership. Negotiations will take place with all affected owners and occupiers as soon as approval is granted under this report with a view to acquiring all necessary interests by agreement. However, CPO powers are needed as a last resort if the negotiations fail to secure the whole of the site within the timescale required to ensure delivery of the project.

## **Finance**

7. The passing of a resolution to use CPO powers does not in itself commit the Council to acquire premises or proceed to make the actual order. It is, however, a statutory event which permits the service on the Council of Blight Notices by owners of qualifying premises. If a Blight Notice is upheld then the Council will be forced to acquire the premises in advance of the scheme and the lack of funds is not a valid reason to refuse to accept a Blight Notice. Before making a resolution the Council will need to have a source of funding to cover any Blight Notices which may be expected. However, such risk is considered small in this case as very few properties within the proposed order fulfil the requirements for service of a Blight Notice and in order to progress quickly it is advisable to make a resolution now. If the project is abandoned in the future then any existing resolution to use compulsory purchase powers can be withdrawn to stop any further Blight Notices being served. An indemnity agreement will be required from a developer partner to reimburse the Council for all the costs associated with the site assembly and Compulsory Purchase Order. This may leave the Council with a contingent liability but such risk should be small if proper guarantees are negotiated with any funder or development partner.

## **Law**

8. Section 226 (1) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 gives a local planning authority power to acquire compulsorily any land or acquire new rights in their area if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land, and if they think that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of their area.

9. Section 227 of the 1990 Act also confers specific but widely drawn powers on a local planning authority to purchase by agreement any land which is required for development or other planning purposes, as defined by section 226.
10. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 provides for the creation of new rights to facilitate development or the acquisition of existing rights.
11. The Human Rights Act 1998 implements the European Convention on Human Rights where Article 1 of the First Protocol states:

**“Article 1 Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

It has been shown in various decided cases that UK compulsory purchase law is compatible with human rights legislation provided that the correct procedures are followed. The right of an individual to peaceful enjoyment of his possessions under that Article is a qualified, rather than an absolute, right and it involves a balancing exercise between the public interest and the individual's right whereby any interference with the individual's right must be necessary and proportionate.

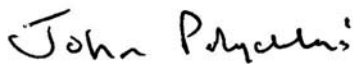
**Equality Impact**

12. There will be no impact on equal opportunities or diversity as a result of the passing of the resolution to use CPO powers. The lower ground floor of the Bell Street car park is let for use as a skateboard park, but, due to the structural problems this use would have to cease within the same timescale in any event. There will be no other specific effect on children and young persons as a result of the proposed project.

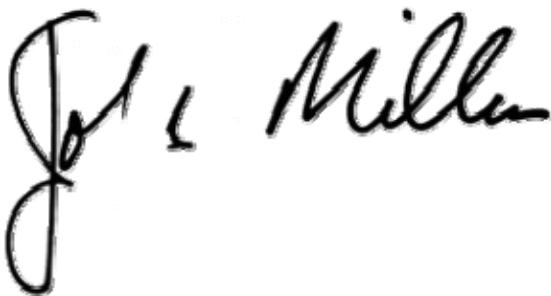
**Recommendation**

13. It is recommended that:-
  1. Subject to securing a suitable financial indemnity from a development partner to cover any costs incurred, the Council makes a Compulsory Purchase Order(s) under Section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land shown on the Plan attached, or the acquisition of new rights, for the purpose of securing mixed use development including, retail, office, residential, leisure, and car parking.

2. The Director of Law and Property, in consultation with the Cabinet Member for Economic Regeneration, be authorised to: -
  - (i) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order(s) including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
  - (ii) acquire interests in land and new rights within the compulsory purchase order(s) either by agreements or compulsorily; and
  - (iii) approve agreements with land owners setting out the terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land or new rights from the Order and/or making arrangements for relocation of occupiers.
3. That the Director of Law and Property be authorised to negotiate and complete any undertakings with developers regarding costs and any required development agreement(s) prior to the making of any Order(s).
4. That the Director of Law and Property be authorised to negotiate terms for the sale of the Bell Street car park as part of any comprehensive redevelopment of the site and for the transfer of any land acquired under the Order or already in the ownership of the Council to a development partner to allow the scheme to proceed.
5. That the Council be recommended to include any Capital expenditure associated with an Order in the Capital Programme.



**John Polychronakis**  
**Director of Law and Property**

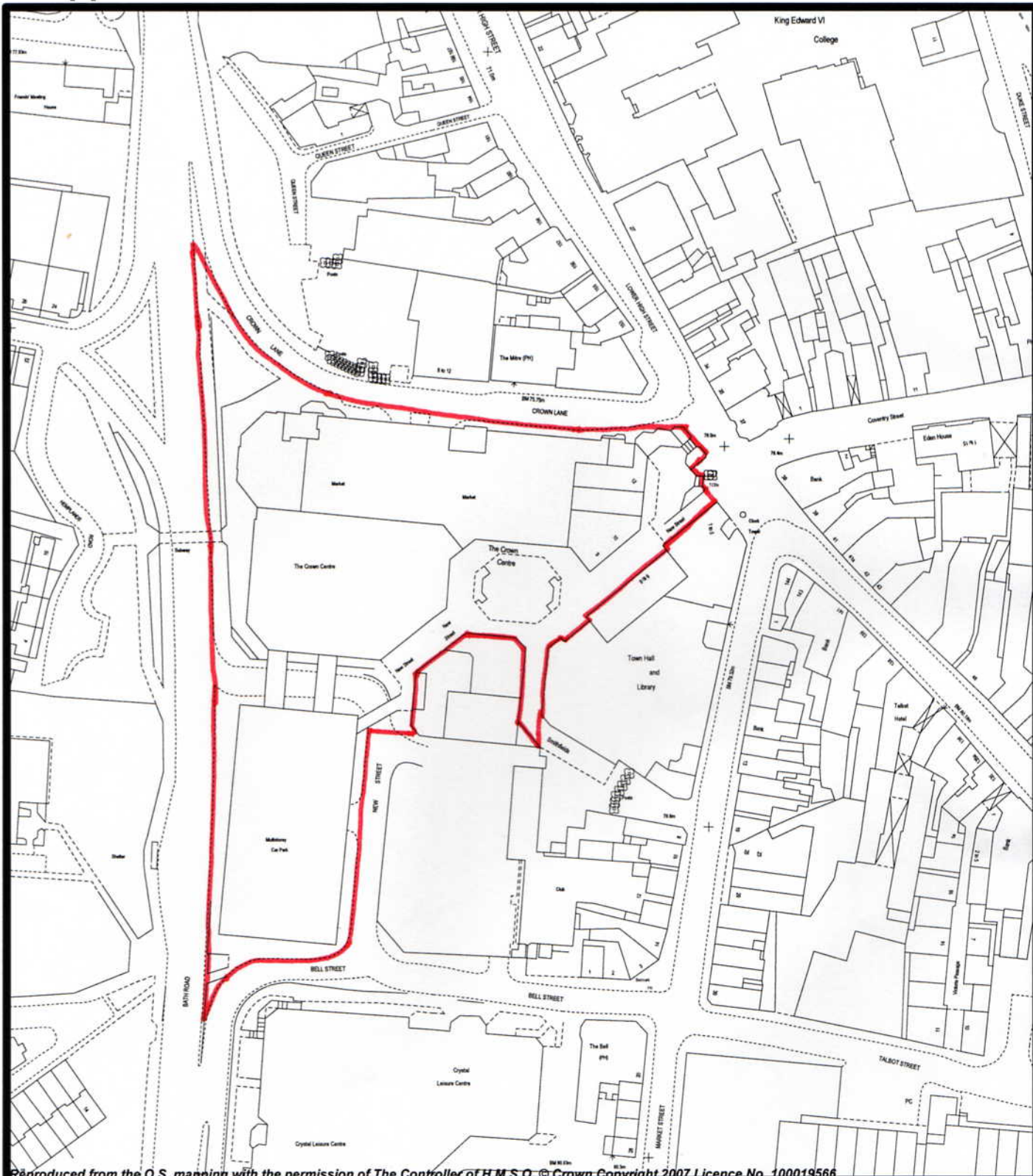


**John Millar**  
**Director of Urban Environment**

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#### **List of Background Papers**

# Appendix 1



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TITLE:

## Draft CPO Plan

**Crown Centre and Bell Street Car Park  
Stourbridge**

CREATED BY:

**Ivan Kite MRICS**



SCALE:

1 : 1500

DATE:

12-JAN-2007

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