

10.00am, Thursday, 28 June 2018

## Proposed Compulsory Purchase Orders - Pennywell Town Centre

Item number	8.13
Report number	
Executive/routine	Executive
Wards	4 (Forth)
Council Commitments	<a href="#">1 and 2</a>

### Executive Summary

This report seeks Council approval to exercise compulsory purchase powers in relation to three residential and eight commercial properties at Pennywell Road and Pennywell Court, Edinburgh. These properties form part of the Pennywell Town Centre regeneration which is central to the success of the wider award winning 21st Century Homes Pennywell and Muirhouse regeneration which is well underway.

Planning Permission in Principle for the whole site was secured in June 2017 alongside detailed planning permission for the first phase of works. On [30 May 2018](#) the Planning Committee agreed to use compulsory purchase orders for the three residential and eight commercial properties.

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 with the first phase of demolition and construction well underway.

The regeneration of this area will deliver an additional 13 retail units and 148 flats, 96 of which have been designed to help meet the needs of older people and a high quality civic square.

The Council continues to have constructive dialogue with the owners and leaseholders of the properties to be acquired. The Compulsory Purchase Order (CPO) is required to ensure that the Council meet their contractual obligation to have vacant possession in line with the agreed programme.

The project is being undertaken in a phased manner to allow retail provision to be present throughout the redevelopment.

## Proposed Compulsory Purchase Orders - Pennywell Town Centre

### 1. Recommendations

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- 1.1 It is recommended that Council notes the decision of the Planning Committee on [30 May 2018](#) regarding this matter and accordingly:
- 1.1.1 Agrees to make 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 make 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 Approves the draft CPO at appendix 1 of this report; 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

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- 2.1 Pennywell/Muirhouse is one of Scotland's largest, most significant, award winning, housing led regeneration projects. The transformation of this area is proving hugely successful with the opening of the new Craigmyle Community High School in 2010, the Pennywell All Care Centre at the end of 2017 and the construction of over 900 new homes, retail and high quality public realm well underway.
- 2.2 The Central Area Masterplan for Pennywell/Muirhouse received Planning Permission in Principle on 16 August 2012 (Planning reference 12/00996/PPP).
- 2.3 Ongoing consultation as part of the regeneration programme highlights 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 2.
- 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 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.
  - 2.7 The new Town Centre is designed to meet the needs of the existing and emerging community, bringing physical, social and economic benefits to an area currently undergoing extensive regeneration aimed at reducing inequality.
  - 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). Detailed Planning Permission for Phases 2 and 3 was secured on 13 December 2017. A map at appendix 3 shows the numbering of proposed buildings and timescales.
  - 2.9 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.
  - 2.10 On [30 May 2018, Planning Committee](#):
    - 2.10.1 Agreed to pursue a CPO for the homes at 41/6 Pennywell Road, 47/9 Pennywell Road and 47/10 Pennywell Road and instructed the Head of Legal, Risk and Compliance to commence proceedings;
    - 2.10.2 Agreed 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 instructed the Head of Legal, Risk and Compliance to commence proceedings;
    - 2.10.3 Noted 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
    - 2.10.4 Noted that the Council will continue to seek a negotiated purchase of the homes and leases in parallel with the CPO process.

### **3. Main report**

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- 3.1 CPO action requires to be commenced now to ensure that titles to three residential and eight commercial properties can be timeously acquired to ensure the contractual programme for the redevelopment of this area is not delayed. The CPO will only be implemented if by the project deadlines, negotiations have not reached amicable agreement.

- 3.2 Since late 2016, the Council has undertaken continued and constructive dialogue with the owners of the properties to be acquired. CPO action is required now to ensure that titles to 41/6 Pennywell Road, 47/9 Pennywell Road and 47/10 Pennywell Road are acquired by the project deadlines set out in appendix 3.
- 3.3 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.
- 3.4 There are eight leases which require termination outwith their current terms. These are:

#### **Phase 2**

- |       |                       |                               |
|-------|-----------------------|-------------------------------|
| 3.4.1 | 59 Pennywell Road     | Sara Zarar, Ali's Pizza       |
| 3.4.2 | 61 Pennywell Road     | Paulo Crolla t/a Gerry's Cafe |
| 3.4.3 | 55a-57 Pennywell Road | Lloyds Pharmacy Ltd           |
| 3.4.4 | 53a Pennywell Road    | Whitecross Dental Care Ltd    |

#### **Phase 3**

- |       |                    |  |
|-------|--------------------|--|
| 3.4.5 | 39 Pennywell Road  | Colin Lai, New Suen Moon Take Away     |
| 3.4.6 | 45a Pennywell Road | Greggs plc                             |
| 3.4.7 | 47a Pennywell Road | Ladbrokes Betting and Gaming Ltd       |
| 3.4.8 | 9 Pennywell Court  | Tendayi Chengeta t/a EH4 Hair & Beauty |
- 3.5 It is anticipated that the contractor will require vacant possession of the retail units outlined at 3.4.1 – 3.4.4 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 that have chosen to relocate into Phase 1 from Pennywell Road to do so.
- 3.6 It is anticipated that the retail units at 3.4.5 – 3.4.8 will be required in 2020 or 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.
- 3.7 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.

## **4. Measures of success**

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- 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, retail and public realm, creating a new mixed tenure community where people choose to live, work and play.

## 5. Financial impact

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- 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](#) with an overall project budget of £25.997 million agreed to deliver the regeneration of the Town Centre.
- 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

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- 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 and therefore to the success of the wider regeneration of the area.
- 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, 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**

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- 7.1 There are no adverse equality issues arising from this report. The purchase of homes previously owned by the Council and the termination of eight leases 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 placemaking objectives of the wider regeneration of the area.

## **8. Sustainability impact**

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- 8.1 Compulsory purchase of the current flats and commercial leases 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

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- 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 to discuss the acquisition of their properties within the project 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 where 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

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- 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](#)
- 10.4 [Proposed Compulsory Purchase Orders – Pennywell Town Centre, Planning Committee, 30 May 2018](#)

### **Paul Lawrence**

Executive Director, Place

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## 11. Appendices

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Appendix 1 – Draft CPO

Appendix 2 – Site plan

Appendix 3 – Indicative Programme

## Appendix 1 – Draft CPO

### THE CITY OF EDINBURGH COUNCIL

#### THE TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

AND

#### THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) (SCOTLAND) ACT 1947

THE CITY OF EDINBURGH COUNCIL (hereinafter referred to as "the acquiring authority") in exercise of the powers conferred on them by Section 189(1)(a) and (b) of the Town & Country Planning (Scotland) Act 1997 and The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 hereby make the following compulsory purchase order:-

- (1) This Order may be cited as The City of Edinburgh Council (Pennywell Town Centre) Compulsory Purchase Order 201[8].
- (2) Subject to the provisions of this Order, the acquiring authority in the interests of achieving the proper planning of the area are hereby authorised to purchase compulsorily for the purpose of securing the carrying out of redevelopment of the Muirhouse Shopping Centre and the construction of the new mixed use development comprising the Pennywell Town Centre, the land which is described in the Schedule hereto and which is delineated in red and coloured pink and marked Plots 1, 2 and 3 on the plan 1 and delineated in red and coloured blue and marked Plots 1,2,3,4, 5, 6, 7 and 8 on the plan 2 signed and sealed with reference to this Order and which plans are respectively marked "Plan 1 referred to in The City of Edinburgh Council (Pennywell Town Centre) Compulsory Purchase Order 201[8]" and "Plan 2 referred to in the City of Edinburgh Council (Pennywell Town Centre) Compulsory Purchase Order 201[8].

Given under the seal of the said The City of Edinburgh Council and signed for them and on their behalf by

and duly authorised Proper Officer at

on the

This is the Schedule referred to in the foregoing  
The City of Edinburgh Council (Pennywell Town Centre)  
Compulsory Purchase Order 201[8].

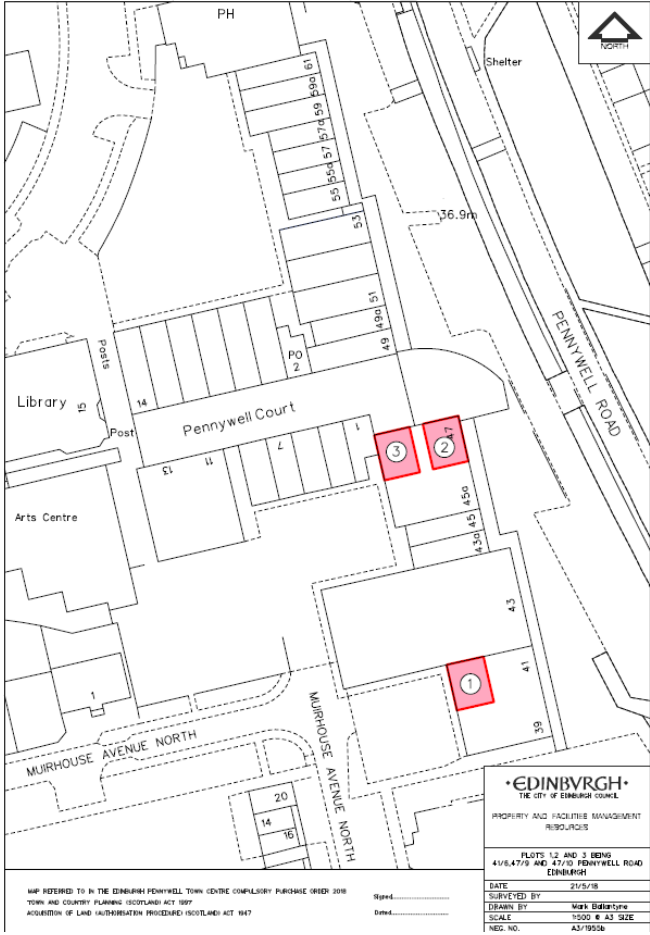
## SCHEDULE

(1) All and Whole the 3 plots of land at Pennywell Road Edinburgh including the whole rights pertaining to each interest whether common or exclusive and as shown partly delineated in red and coloured pink and marked Plots 1,2 and 3 on the Plan 1 signed and sealed with reference to this Order and the eight plots of land at Pennywell Road, Edinburgh and Pennywell Court, Edinburgh including the whole rights pertaining to each interest whether common or exclusive and marked Plots 1,2,3,4,5,6,7and 8 delineated in red and marked blue on the Plan 2 signed and sealed with reference to this Order and referred to as Plans 1 and 2 in the City of Edinburgh Council (Pennywell Town Centre) Compulsory Purchase Order 201[8]

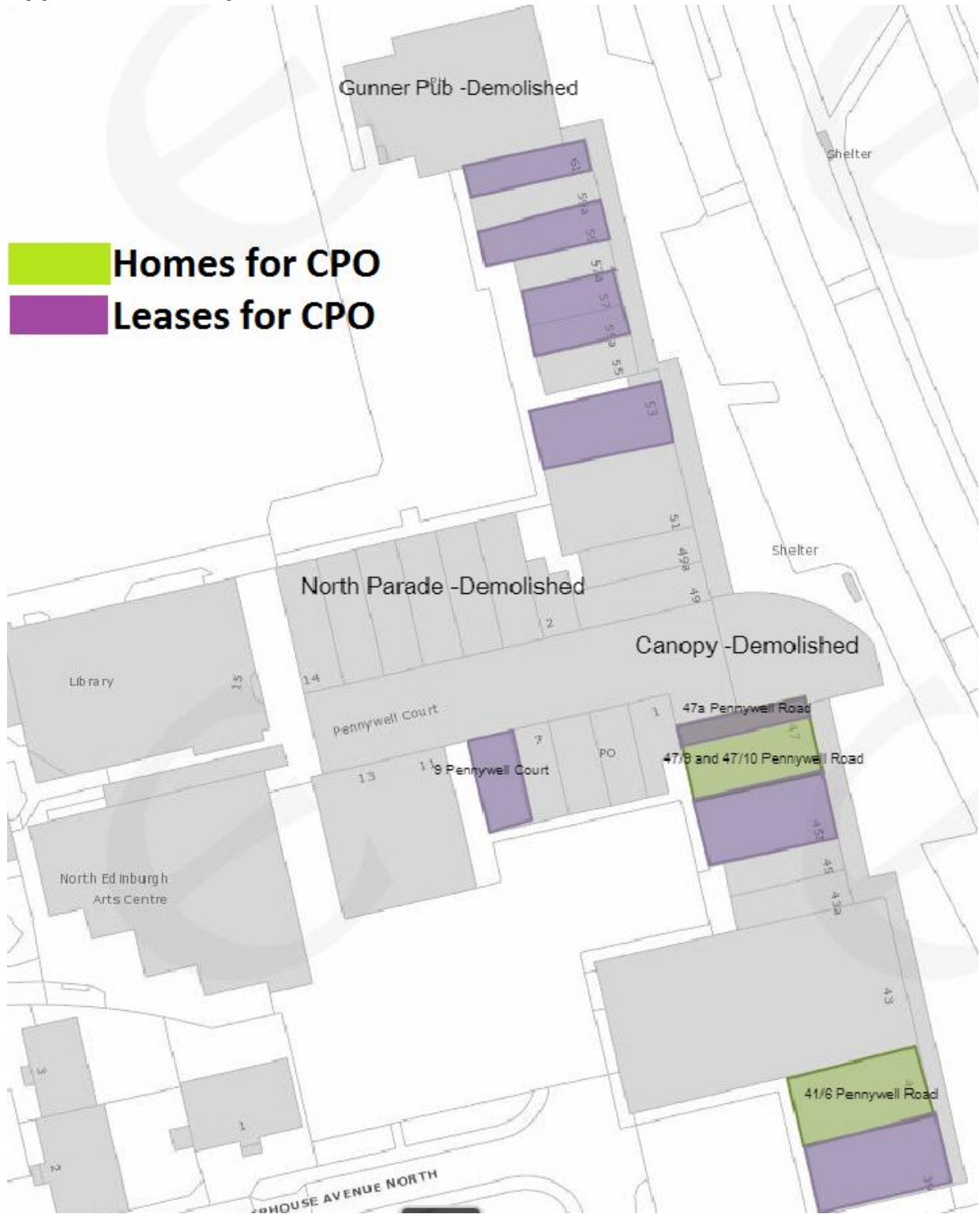
PLOT	DESCRIPTION	OWNER OR REPUTED OWNER	LESSEES OR REPUTED LESSEES AND OCCUPIERS (OTHER THAN TENANTS FOR A MONTH OR LESS PERIOD THAN A MONTH)
Plan1 - 1	41/6 Pennywell Road, EH4 4QR being part of cadastral unit MID164127 forming the northwest dwelling house on the second floor above the ground floor, under title number MID 170810	Azeez Adeyemi Ibitayo Abiodun Adesanya (otherwise known as Azeez Adeyemi Ibi-Tayo Abioudun Adesanya	
Plan 1 -2	47/10 Pennywell Road, EH4 4QR being part of cadastral unit MID164127 forming	Mohammed Salahuddin & Hosnaeara Begum	

	the northwest dwelling house on the third floor above the ground floor, under the title number MID170625		
Plan 1 - 3	47/9 Pennywell Road, EH4 4QR being part of cadastral unit MID159168 forming the northeast most house on the third floor above the ground floor under the title number MID159168	Wojciech Szczupakowski otherwise known as Wojceich Szczupakowski & Magdalena Kozlowska or Szczupakowska	
Plan 2 -1	39 Pennywell Road, EH4	The City of Edinburgh Council	Colin Lai, t/a New Suen Moon Take Away [PRIVATE ADDRESS REDACTED]
Plan 2 -2	45a Pennywell Road, EH4	The City of Edinburgh Council	Greggs plc, Fernwood House, Clayton Road, Jesmond, Newcastle Upon Tyne, NE2 1TL
Plan 2 - 3	47a Pennywell Road, EH4	The City of Edinburgh Council	Ladbrokes Betting and Gaming Ltd Imperial House, Imperial Drive, Rayners lane, Harrow, Middlesex, HA2 7JW
Plan 2 - 4	53a Pennywell Road, EH4	The City of Edinburgh Council	Whitecross Dental Care Ltd Europa House, Europa Trading Estate,

			Stoneclough Road, Kearsley, Manchester, M26 1GG
Plan 2 - 5	55a-57 Pennywell Road, EH4	The City of Edinburgh Council	Lloyds Pharmacy Ltd Sapphire Court, Walsgrove Triangle, Coventry, CV2 2TX
Plan 2 - 6	59 Pennywell Road, EH4	The City of Edinburgh Council	Sara Zarar, t/a Ali's Pizza [PRIVATE ADDRESS REDACTED]
Plan 2 - 7	61 Pennywell Road, EH4	The City of Edinburgh Council	Paulo Crolla t/a Gerry's Café Formerly of [PRIVATE ADDRESS REDACTED] Now of [PRIVATE ADDRESS REDACTED]
Plan 2 -8	9 Pennywell Court, EH4	The City of Edinburgh Council	Tendayi Chengeta, t/a EH4 Hair & Beauty [PRIVATE ADDRESS REDACTED]



**Appendix 2 – Site plan**



## Appendix 3 - 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

