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Midland House – Acquisition Support

Purpose

- 1.1 To brief Cabinet on the proposed acquisition of Midland House by London & Continental Railways (LCR) in the context of the wider regeneration potential of the area around Derby rail station.
- 1.2 To seek approval for the Council to provide financial support, in the form of a capital loan, to LCR in this acquisition.
- 1.3 To set out the legal and financial implications of this proposal.

Recommendation(s)

- 2.1 To approve financial support to LCR in the form of an interest free capital loan of £500,000 payable in the 2024/25 financial year, subject to satisfactory assessment of subsidy control considerations, to be funded from un-ringfenced Right to Buy Capital Receipts.
- 2.2 To approve upon repayment that the £500,000 loan be returned to the un-ringfenced Right to Buy Reserve.
- 2.3 To delegate authority to the Strategic Director of Communities and Place, following consultation with the Section 151 Officer, the Cabinet Member for Regeneration, Decarbonisation, Strategic Planning and Transport, the Cabinet Member for Finance, Digital & Culture and the Cabinet Member for Adults, Health & Housing, to finalise all relevant financial and legal matters in relation to the proposed loan facility, and the loan added to the HRA part of the capital programme on completion.

Reason(s)

- 3.1 To facilitate a key strategic acquisition in the wider context of an emerging regeneration masterplan for the station area.
- 3.2 Following the publication of the Integrated Rail Plan for the North and Midlands, published in 2021, Derby station area now has HS2 East status and the regeneration potential of the station and its surroundings forms part of the HS2 Growth Strategy for the East Midlands.

Supporting information

Strategic Context

- 4.1 As a result of the Integrated Rail Plan for the North and Midlands giving 'HS2 East' status to Derby station, Derby is now the subject of dialogue with HS2 and the Department for Transport (DfT) in relation to the regeneration potential of the station and its immediate surroundings.

Mott Macdonald was appointed to undertake a study jointly commissioned by Homes England, the Department for Levelling Up, Housing and Communities (DLUHC) and DfT, into the housing and commercial development opportunities around proposed HS2 stations, including the 'HS2 East' stations in the Integrated Rail Plan. The study included consideration of both the immediate area around each station and also across the wider place, including neighbouring and nearby communities. The study has produced outline recommendations to Government about strategic opportunities available and potential interventions by central or local Government or the private sector, to overcome barriers to delivery.

- 4.2 Linked to the above activity, East Midlands Development Company (EM Dev Co) is tasked with overseeing the delivery of the HS2 Growth Strategy for the East Midlands, which includes an important Station Integration Planning workstream. The primary objective of this workstream will be to explore the specific growth potential of sites in the vicinity of the new HS2 station locations at Nottingham, Derby, East Midlands Parkway, and a reassessment of that potential at Toton & Chetwynd i.e., the capacity, scale and mix of uses.

- 4.3 In parallel, and initially through the Great British Railways bid process, the Council has been developing a dialogue with LCR, with a view to developing a regeneration masterplan and land assembly strategy for the area to the city side of the station.

LCR is a property and regeneration company, wholly owned by DfT, with a focus on land promotion to create new homes, regeneration and jobs. Their expertise is in land assembly, placemaking and commercial development to unlock complex regeneration opportunities, with a specific emphasis on rail station environments. LCR work in partnership with local authorities, Network Rail and Homes England and have funds available both for masterplanning costs and acquisition of key sites/assets.

An MOU is being progressed between the Council, LCR and Network Rail in relation to the proposed collaborative approach to the regeneration of the Derby station area.

- 4.4 It is now clear that the above workstreams are synergistic and need to converge. Discussions are now progressing around the commissioning of the masterplan through a partnership of LCR, the Council and EM Dev Co, with funding being provided by the HS2 Growth Strategy and LCR.

Regeneration Potential

- 5.1 The east side of Derby station, which was historically the site of the Locomotive Works (built in 1839/40), and of which the Roundhouse Campus site of Derby College retains some of the building structures including the oldest roundhouse in existence, and now successfully developed out as Pride Park. This area is home to many rail related businesses, including EMR, Resonate, Porterbrook, Loram and SNC Lavalin.
- 5.2 The west side of Derby rail station (city centre side) is in need of significant regeneration, presenting an underwhelming gateway into the city and a lack of a clearly defined route into the heart of the city centre. But this area does include some unique rail heritage buildings – including Midland House, Midland Hotel and the remaining Railway Cottages - which offer a fascinating environment around which redevelopment could take place. Regeneration of this area would contribute significantly to both the wider City Centre Ambition and the need for a more attractive and effective gateway experience into the city centre from the station.

Midland House

- 6.1 Midland House, Nelson Street is a 55,000 sq ft (net floor space) office complex built in 1872/1873 and was originally the headquarters of the Midland Railway. The freehold is currently in the ownership of DLUHC and the building is deemed surplus to requirements – clearly this represents a critical opportunity as an anchor element of any wider regeneration potential of the area. The site also includes a vacant car park of reasonable size, which could be redeveloped.
- 6.2 During 2022, the Council therefore facilitated the dialogue between LocatED (acting for DLUHC) and LCR and is keen to encourage and support the proposed negotiated off market transfer of the property to LCR. The risk otherwise is that this core asset, at the heart of any regeneration potential close to the station, could be acquired by a private investor, control of the asset lost and a low value redevelopment of the property being delivered, undermining the wider vision and potential for the area.

Proposed Approach

- 7.1 Co-commissioned by both LocatED and LCR, BNP Paribas Real Estate were appointed to undertake a Treasury compliant 'red book' valuation, which concluded a market value of the unoccupied building and associated land.

- 7.2 The proposed approach to the purchase of Midland House, based on the valuation, is as follows:
- Initial payment by LCR to LocatED on completion (funded by LCR, subject to LCR Board approval) – target within current 2022/23 financial year;
 - Deferred payment of balance of purchase price (£0.5M), payable by LCR to LocatED at an agreed date in the 2024/25 financial year;
 - Separate agreement for the Council to re-imburse LCR with £0.5M either on or before the date of the deferred payment to LocatED;
 - Payment of the £0.5M from the Council to LCR triggers the entering of an overage agreement between the Council and LCR and placement of a restriction on title in line with the overage.
- 7.3 The progress made in relation to these proposals, in the context of the wider city centre regeneration, will be monitored by the City Centre Programme Board (see below).

Public/stakeholder engagement

- 8.1 The Council is engaging with key relevant stakeholders, including EM Dev Co, given the context of the wider HS2 Growth Strategy, and the City Centre Programme Management Board has been briefed on both the wider station regeneration proposals and the potential Midland House acquisition. Participating organisations on this Board include Homes England, Environment Agency, Historic England, Marketing Derby, London & Continental Railways, Severn Trent, D2N2 LEP, Arts Council England and East Midlands Development Company.
- 8.2 In addition, the emerging regeneration masterplan for the station area will, of course be the subject of public consultation, as will any subsequent planning applications associated with Midland House and/or the wider area.

Other options

- 9.1 Not to support this acquisition – this option creates the risk of this core asset, at the heart of any regeneration potential close to the station, being acquired by a private investor, control of the asset lost and a low value redevelopment of the property being delivered, undermining the wider vision and potential for the area.

Financial and value for money issues

- 10.1 The proposed mechanism for the Council to provide this support to LCR is as follows:
- An offer of £0.5M interest free capital loan by the Council to LCR (as LCR is a public corporation, wholly owned by the Department for Transport, this is public sector to public sector support but is subject to an assessment of any potential subsidy control considerations);
 - The offer is subject to agreement of heads of terms, contract and formal Council Cabinet approval;
 - Trigger for repayment to the Council of its funding would be the arm's length sale by LCR on the open market of the Midland House site for redevelopment;
 - Payment to be made by LCR to the Council out the balance of sale proceeds received on such sale, subject to LCR first allocating proceeds to set off against its site assembly (including SDLT) and planning promotion costs (including indexation of such costs);
 - If an arm's length sale of Midland House has not been completed by 31 March 2028, then the value will be crystallised through a jointly instructed independent valuation in line with RICS global valuation standards (the red book). LCR will first reduce the market value of the property by its site assembly (including SDLT), holding, and planning promotion costs with repayment of the Council's £0.5M being made from the net balance (if available post deductions).
 - Security to the Council in relation to the £0.5M contribution, to prevent LCR from selling the property without re-imbursing the Council (subject to netting off costs first), is proposed through a restriction on title.
- 10.2 The proposed Council source of funds is the un-ringfenced right to buy receipts, which can be used to support regeneration projects within the local authority area. Regeneration projects include bringing into use land or buildings which are deemed to be 'vacant, unused, under-used or ineffectively used.'
- 10.3 The Council will incur legal costs to arrange the loan and secure subsidy control advice. These costs will be funded from within the Economic Growth revenue budget.
- 10.4 The Council will carry what is anticipated is a very low risk in relation to any net disposal receipts for the building (and associated land) not covering the Council's contribution. This is highly unlikely as the LCR contribution to the overall purchase price significantly outweighs that of the Council. In addition, the value of the asset is likely to be enhanced through the wider masterplanning exercise and any planning consents secured for the future development of Midland House and associated land.

Legal implications

11.1 Key legal considerations include:

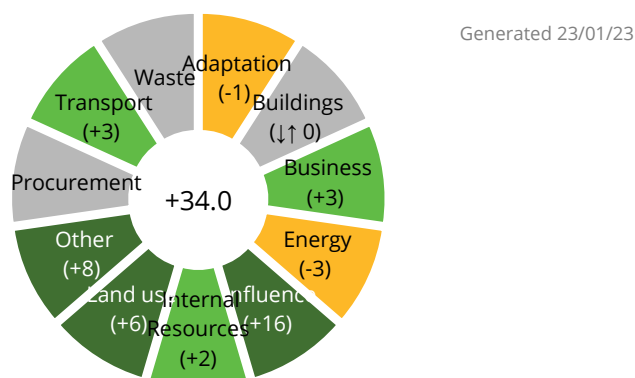
- The need to develop clear heads of terms between LCR and the Council in relation to the funding to be provided, and translation of these terms into a formal funding agreement;
- The need to mutually agree associated overage arrangements, to ensure the Council benefits from any increase in the overall asset value of Midland House;
- Subsidy control – this is anticipated to be very low risk (and we are seeking specific advice on this point) as:
 - this is support from one public authority to a public corporation, wholly owned by DfT;
 - the arrangement between the two organisations is co-operative in nature to achieve common objectives in the public interest;
 - LCR has a national mandate to help to deliver new homes, jobs and public value, and levelling up of the economy;
 - Legal challenge of the arrangement is unlikely as it is unlikely any third party would be prejudiced by one public sector body assisting another.
- Security for the Council in these arrangements is proposed to be through a restriction on title, to prevent LCR from selling the property without re-imbursing the Council (subject to netting off costs first).

11.2 The Local Authority Capital Finance and Accounting Regulations 2003 - part 4 (Capital Receipts) allows retained receipts to be used for affordable housing and for regeneration project purposes: “regeneration project” means any project for the carrying out of works or activities on any land where:

- (a) the land, or a building on the land, is vacant, unused, under-used, ineffectively used, contaminated or derelict; and
- (b) the works or activities are carried out in order to secure that the land or the building will be brought into effective use.

Climate implications

- 12.1 The Council's Climate Change Impact Assessment Tool demonstrates that this project will have significant positive impact in terms of both influence (we need to secure this asset in the wider regeneration context of the area) and land use (linked to already emerging developments including Castleward and Nightingale Quarter).



- 12.2 The HS2 Growth Strategy paves the way for major investment in both Derby rail station and the wider station area, which should encourage use of rail travel. City living is anticipated to be one of the prominent uses in the station area, providing homes close to the rail network and other public transport options.
- 12.3 The regeneration of the city centre is a crucial element of the City's climate change agenda. By facilitating a more diverse and resilient mix of uses in the city centre, including city living, retail, culture/leisure, workspace and learning, we can reduce the need for significant travel and encourage more sustainable behaviours through walking and cycling and greater use of public transport.
- 12.4 Individual scheme designs for the proposed development sites will, of course, incorporate latest best practice in application of sustainable materials and energy management.

Socio-Economic implications

- 13.1 The regeneration and repurposing of the city centre will ensure that it regains its status and role as a key driver of the city's economy and will create more employment, education and training opportunities for the citizens of Derby.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Emily Feenan – Director of Legal Services	25/01/2023
Finance	Alison Parkin – Director – Financial Services & Deputy S151 Officer	25/01/2023
Service Director(s)	David Fletcher – Director – City Development & Growth	25/01/2023
Report sponsor	Rachel North – Strategic Director – Communities & Place	24/01/2023
Other(s)		

Background papers:
List of appendices: