

Summary Sheet

Council Report

Cabinet and Commissioner's Decision Making Meeting – 26 June 2017

Title

Acquisition of 3-7 Corporation Street, Rotherham

Is this a Key Decision and has it been included on the Forward Plan?

This report is a Key Decision and is included in the Forward Plan.

Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director, Regeneration and Environment

Report Author

Mike Shires, Development Manager
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Ward(s) Affected

Boston Castle

Executive Summary

This report seeks approval to continue to negotiate the purchase of 3-7 Corporation Street, Rotherham however in the event terms cannot be agreed, approval is sought to consider the compulsory acquisition of the properties.

For a Compulsory Purchase Order (CPO) to be successful then the Council must successfully resolve a number of key criteria, which are:-

- There needs to be a properly defined development area and scheme for the site, which must enhance the economic, environmental or social wellbeing of the area.
- There needs to be a clear planning justification for the scheme.
- The scheme needs to be financially viable.
- The scheme needs to be commercially deliverable.

The average timescale for obtaining a site by CPO is 12-18 months from the approval by Cabinet to proceed.

Recommendations

1. That in accordance with the emerging Town Centre Masterplan and the emerging Local Plan, the burnt out buildings, comprising 3-7 Corporation Street, Rotherham be acquired by the Council to facilitate the redevelopment of the site.
2. That the Assistant Director of Planning, Regeneration and Transportation continue to attempt to contact the owners of 3-7 Corporation Street, Rotherham with a view to acquiring the site by agreement if possible.
3. That the Assistant Director of Planning, Regeneration and Transportation procure a developer partner to produce a development scheme in relation to 3-7 Corporation Street, Rotherham and a further report be submitted to Cabinet/Commissioners regarding proposals for the site.
4. That if the Assistant Director of Planning, Regeneration and Transportation is unable to negotiate an acceptable acquisition of the site and is unable to persuade the owner to bring forward a suitable development proposal for the site, a further report will be submitted in relation to possibly acquiring the site by compulsory purchase.

List of Appendices Included

Appendix 1 – Exempt information

Background Papers

Rotherham Economic Growth Plan 2015-25

Housing Growth Strategy 2015-20

Town Centre Supplementary Planning Document

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

*An exemption is sought for **Appendix 1** under paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972 is requested, as this report contains sensitive commercial information with regards to costing for works and commercial agreements which could disadvantage the Council in any negotiations if the information were to be made public.*

It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information, as the parties' commercial interests could be prejudiced by disclosure of commercial information.

Title:

Acquisition of 3-7 Corporation Street, Rotherham

1. Recommendations

- 1.1 That in accordance with the emerging Town Centre Masterplan and the emerging Local Plan, the burnt out buildings, comprising 3-7 Corporation Street, Rotherham be acquired by the Council to facilitate the redevelopment of the site.
- 1.2 That the Assistant Director of Planning, Regeneration and Transportation continue to attempt to contact the owners of 3-7 Corporation Street, Rotherham with a view to acquiring the site by agreement if possible.
- 1.3 That the Assistant Director of Planning, Regeneration and Transportation procure a developer partner to produce a development scheme in relation to 3-7 Corporation Street, Rotherham and a further report be submitted to Cabinet/Commissioners regarding proposals for the site.
- 1.4 That if the Assistant Director of Planning, Regeneration and Transportation is unable to negotiate an acceptable acquisition of the site and is unable to persuade the owner to bring forward a suitable development proposal for the site, a further report will be submitted in relation to possibly acquiring the site by compulsory purchase.

2. Background

- 2.1 No. 3-5 Corporation Street was formerly the Muskaan Indian Restaurant.
- 2.2 The building at 7 Corporation Street comprised the Kyber Pass Indian Restaurant, Club Envy nightclub and three retail units.
- 2.3 The Kyber Pass Indian Restaurant suffered fire damage in December 2005 with the adjacent night club suffering a similar fate in April 2007 (affecting the retail units below). The Muskaan Indian Restaurant was fire damaged in July 2011.
- 2.4 The building has been periodically inspected with regard to its safety and the Council's Building Control officers have confirmed that the building remains structurally sound. An inspection undertaken on 9th June 2016 re-confirmed this view and for the purposes of Section 77/78 of the Building Act, the building does not represent a 'Dangerous Structure'. A full structural survey has not been undertaken as officers do not have full access to the properties.
- 2.5 Officers have tried to contact the owners by phone and followed these attempts up with registered letters setting out the Council's desire to either work with the owner to bring forward a development or to acquire the properties.

3. Key Issues

- 3.1 The Council has made previous attempts to bring the properties in question back into use by working with the owners, but without success.

- 3.2 Before embarking on a Compulsory Purchase Order (CPO), it is necessary to establish whether it is possible to acquire the site by agreement. This is a requirement of statutory CPO guidelines.
- 3.3 In the event that officers cannot negotiate a purchase by agreement, the Council can pursue a compulsory acquisition of the site. There are a number of key issues which need to be resolved if a CPO is to be successful:-
- a) There needs to be a properly defined development area and scheme for the site, which must enhance the economic, environmental or social wellbeing of the area.
 - b) There needs to be a clear planning justification for the scheme.
 - c) The scheme needs to be financially viable.
 - d) The scheme needs to be commercially deliverable.
- 3.4 If the Council is not going to deliver the scheme itself, it will have to procure a developer partner to come forward with a scheme.

4. Options considered and recommended proposal

- 4.1 The preferred option would be to engage with the current owners of these properties to agree how this site could be brought forward for development. However, officers have not been able to contact the owners by phone and to date have received no response to letters sent. This lack of engagement by the owners has led to the Council considering the compulsory purchase route.
- 4.2 In the event that the current owners are unwilling to engage with the Council to bring this site forward, the Council has the option to acquire the site using its compulsory purchase powers. This option is deemed to be a last resort and should be used only after all efforts have been made to purchase the site by agreement.
- 4.3 Although the Council does not usually undertake speculative developments, the Council could in theory develop this site itself. However, this would require the allocation of adequate resources to design, cost up and fund a proposal. The Council would also have to be willing to take on the risk inherent in any development scheme. Therefore, it is proposed the Council will look to procure a development partner to bring this site forward.
- 4.4 Do nothing – The properties will continue to lie derelict and act as a blight on the streetscape and continue to adversely affect Rotherham town centre.

5. Consultation

- 5.1 Officers have consulted with colleagues in Finance and Customer Services, Human Resources and Strategic Housing and Investment Services.
- 5.2 The Commissioner and the Cabinet Member for Jobs and the Local Economy have both been briefed on this proposal and are supportive.

- 5.3 As part of the planning process the wider business and local community will be consulted on the proposed scheme.
- 5.4 Local ward members will be offered a briefing from officers on the CPO process and how it will work.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Following Cabinet approval, officers will prepare a brief, setting out the broad proposal for the site and desired outputs. The brief will be used to procure a developer partner through a competitive tender process. As part of this work an initial appraisal will be undertaken to inform the commercial viability of the various options for the site. This work will run alongside continued attempts to contact the owner and if necessary the compulsory purchase of the site by the Council.
- 6.2 Officers will seek to identify a developer partner by December 2017. This assumes Cabinet approval is obtained on 15th May 2017 and the procurement of a developer partner, following an agreed tender process, and marketing of the site.
- 6.3 During the procurement of a developer partner, officers will continue to try to negotiate a purchase of the properties by mutual agreement with the current owners.
- 6.4 Once the Council, working with a developer partner, has a scheme with a clear planning justification that is both financially viable and justifiable, and if the negotiations at 6.3 above have not been successful, officers will begin the CPO process. Initial programming suggests this will commence in early 2018.

7. Finance and Procurement Implications

- 7.1 Within the Capital Strategy (2017-2022) approved by Council on the 8th March 2017, there is an allocation of £14.902m in respect of Town Centre Development. It is proposed that any costs associated with the acquisition, demolition and procurement of a developer partner are funded from this allocation. The £14.902m allocation reflects the balance of the original approved allocation of £17m in 2016/17, following the decision to acquire Forge Island and the Riverside Precinct units. The actual expenditure outturn position for 2016/17 will be reported in the outturn report to Cabinet and Commissioners' Decision Making Meeting on 10th July 2017 and the balance of the allocation will be carried forward into future years.
- 7.2 To procure a developer partner to bring forward a scheme for this site, the brief will be tendered in line with the Public Contracts Regulations 2016 and the Council's Contract Standing Orders and Financial Regulations.

- 7.3 It is estimated that the holding costs for the site will be approximately £10,000 per annum. This includes the cost of site security and any ad hoc repairs to ensure that the buildings are stable and therefore safe. These costs will be managed within existing Asset Management Service budgets. There are no empty business rates associated with these properties as they have been removed from the ratings list.

8. Legal Implications

- 8.1 As the removal of private property from owners is considered to be draconian by English law, the justification for a CPO will have to be carefully considered. The scheme must be valuable to the area and the acquisition must be necessary to it. In addition the scheme must be, as detailed above, aligned with the planning framework, financially viable and deliverable.

9. Human Resource Implications

- 9.1 None

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 The redevelopment of this site will improve the streetscape of the town centre and will contribute to a positive perception of Rotherham town centre as a safe place to visit.

11. Equalities and Human Rights Implications

- 11.1 None

12. Implications for Partners and Other Directorates

- 12.1 Development of this site would contribute to the Rotherham Economic Growth Plan 2015-25 and the emerging town centre masterplan.

13. Risks and Mitigation

- 13.1 A successful CPO will need to show that officers have made every attempt to negotiate an acquisition by agreement and give the owners of these properties every opportunity to engage with the Council. There is a risk that the Council might be deemed to have made insufficient effort to secure a deal by negotiation. Officers will keep a record of all attempts to contact the owners and a record of all negotiations that take place.
- 13.2 There is a risk that any proposed scheme will not be given planning permission. Planning officers will be consulted at an early stage to ensure that any proposals brought forward by a developer are in line with current planning policy.

13.3 There is a risk that the case for the application for a CPO will not be robust enough to ensure success. Officers will undertake all due diligence to ensure that any scheme brought forward firstly enhances the economic, environmental or social wellbeing of the area and is both financially viable and deliverable to ensure that any Compulsory Purchase Order is as robust as possible.

14. Accountable Officer(s)

Paul Woodcock, Assistant Director Planning, Regeneration and Transport
Mike Shires, Development Manager, Regeneration and Environment Services

Approvals obtained from:-

On behalf of Strategic Director of Finance and Customer Services: Jonathon Baggaley, Finance Manager.

On behalf of Dermot Pearson, Director of Legal Services: Lesley Doyle, Solicitor.

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