

and where necessary and/or appropriate the instituting or defending of related proceedings;

- dispose of the property in accordance with the proposals set out in this report and authorises officers to negotiate terms with the successful party detailed in the exempt report later on the agenda;

2.2 In relation to the site of Oadby Pool, Leicester Road, Oadby, it is recommended that the Council resolves to make the land available for affordable housing development purposes in order to promote its housing priorities after it becomes vacant in 2015 and subject to the covenants as set out in paragraph 3.16.

2.3 In relation to Land at Bennett Way, South Wigston, it is recommended that the Council resolves to make its land available to be included as part of a wider scheme (as set out in paragraph 3.17) so that it can be developed for affordable housing in order to maximise the amount of affordable housing that can be built on both the land under the control of the developer and the Council's own land.

3. Information

41 Canal Street, South Wigston

3.1 Expressions of interest were sought from parties to work in partnership with the Council to regenerate 41 Canal Street, South Wigston, Leicestershire, LE18 4PN as shown hatched on the plan attached to this report at Appendix 1. The report proposes that the Council enters into an agreement with a party for its renovation and pursues a Compulsory Purchase Order (CPO) of the property with the intention of then transferring ownership to the developer to carry out the works and bring the property back into beneficial use.

3.2 41 Canal Street has been vacant and unused for several years and as long ago as 2003 was the subject of vandalism and suspected rodent and pigeon infestation. At that time a warrant was obtained to enter the building to assess its condition and ultimately the Council effected security boarding of the building. Efforts to contact the owners of the building (two names shown on Land Registry) have subsequently been unsuccessful. Neither have been traceable at registered addresses and letters returned marked 'wrong address'.

3.3 Previously Council resolved to proceed with the making of a CPO with the process to be at nil cost to the Council by way of bringing in a developer to underwrite the CPO costs, acquisition costs and then carry out the renovation. Attempts to find such a developer have failed though more recently a project to regenerate the property as an Enterprise Centre was put forward to LLEP. However as it was not included as a first year project by LLEP then Policy Finance and Development Committee on 22 July 2014 (minute no 22 refers) resolved that further Expressions of Interest be sought for an appropriate development partner to enable the compulsory purchase of the building and subsequent refurbishment for an appropriate use.

3.4 For the expression of interest parties were informed that the Council intends to purchase the property by a Compulsory Purchase Order (CPO) with the freehold of the property then reverting to the developer for refurbishment and that change of use to residential and/or business centre or office accommodation would be

appropriate. These uses fit with the overall spatial strategy for the Borough and the policies contained within the Council's Local Plan.

3.5 The parties were asked to:

- Confirm that they would underwrite the CPO costs
- Provide three years of audited accounts
- Show experience in this type of project
- Confirm that they will lodge an appropriate amount in an escrow account.
- Confirm compliance with and assist the CPO process which might include the early appointment of a consultant to act upon their behalf

3.6 Expressions of interest were received from parties and these were evaluated. Details are included in an exempt report later on this agenda. It is recommended that Council enter into an agreement with the successful party which incorporates the conditions from the expression of interest. Additionally there would be a condition that the developer commences and then completes their proposed residential development within a set time period once the CPO is confirmed. This will ensure that the development is completed and the property bought back into use.

3.7 Procedurally the Council will need to go through the compulsory purchase procedure first. The approach of the developer underwriting the costs limits the exposure of the Council as they will be responsible for

- the preparation, making and obtaining confirmation of the compulsory purchase order required for 41 Canal Street, including the costs of any public inquiry;
- acquiring 41 Canal Street including the valuation of the property by the District Valuer of any compensation claim arising out of such acquisition;
- any reasonable costs incurred in dealing with any compensation claims including any references to the Upper Tribunal (Lands Chamber) for determination of any claim;
- any reasonable costs of dealing with any legal challenges/ proceedings issued in relation to the exercise by the Council of its compulsory powers.

Legal Issues

3.8 Where owners cannot be traced or where a response from known owners is non-committal or otherwise unsatisfactory, there is scope for a compelling case in the public interest for enforcement action to be taken by the Council, to ensure that their strategy aims are achieved. In this case there is the length of the vacancy and the previous failed attempts to secure the renovation plus the Oadby and Wigston Corporate plan vision includes 'Create the best quality of life for local people' and the Council agreed with residents that the priorities for the period 2006-2016 are to achieve:

- Revitalise the town centres through development and by retaining free shoppers car parking
- Improve the health and well being of our residents

The reuse of this building therefore supports the Council's vision.

- 3.9 In this particular case the Council has made every effort to secure the improvement of the property to the benefit of the street scene and locality generally, particularly since the deteriorating state of the premises continues to be an issue.
- 3.10 The Council has the power under section 17 of the Housing Act 1985 to acquire land by way of compulsory purchase (land in this instance includes houses) for housing purposes. Part XVII of the Housing Act 1985 applies to the compulsory purchase. This in turn applies, with modifications, the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation).
- 3.11 The Compulsory Purchase Order must be advertised locally and copies served on all owners, lessees or reputed lessees, tenants or reputed tenants (other than lessees), and occupiers (except tenants for a month or less). If any statutory objector (a statutory objector can be an owner, lessee or occupier, not a licensee or tenant for one month or less of land within the Order) has objected within the stipulated period and not withdrawn the objection, the Secretary of State can cause a public local inquiry to be held:
- to afford the objector an opportunity of appearing before and being heard by a person appointed by the Secretary of State:
 - or with the consent of the objector, follow a written representations procedure, and then consider his findings before determining whether or not to confirm, quash or modify the Order.
- 3.12 In the event that there is no objection, the Secretary of State may, in certain circumstances, permit the Council to confirm the Order. The confirmation of the Order may be challenged on a point of law within 6 weeks of the publication of such confirmation. Any dispute as to the amount of compensation to be paid is referred for determination to the Upper Tribunal (Lands Chamber). The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. The Convention Rights relevant to compulsory acquisition are as follows:
- Article 1 (of the First Protocol)
- This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- Article 6 (of the Convention)
- This provides that in determining civil rights and obligations... everyone is entitled to a fair and public hearing within a responsible time by an independent and impartial tribunal established by law.

Article 8 (of the Convention)

- This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.

Article 14 (of the Convention)

- This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or a social origin.

- 3.13 These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. In this case, compulsory purchase of land is permitted under the terms of the Housing Act 1985 and is subject to a statutory procedure (giving rights to consultation and to be heard at a Public Inquiry) which is being followed. In addition, compensation is payable making the action fair and proportionate.
- 3.14 The Council will use the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 to vest the property in the Council. Compulsory Purchase is though a drawn out process and can take between 6 and 18 months with the first step being the making of a resolution then as previously stated a draft order is published and a notice fixed on the property and served on those with an interest in the property.

Site of Oadby Pool, Leicester Road, Oadby

- 3.15 The Council is in the process of renewing its swimming pools, which, in the case of the existing Oadby Pool, will result in the site becoming vacant once a new pool is opened at Parklands Leisure Centre in Oadby. The site of the existing Oadby Pool, which is owned by the Borough Council, will become vacant during 2015 and as such available for an alternative use as a brownfield site. This will enable the Council to make use the land available for housing development purposes in order to promote its affordable housing priorities.
- 3.16 There is one restrictive covenant in relation to this site which states that the Council or its successors in title will not permit or suffer the sale of ale wine beer or spirituous liquors on the said land or any buildings to be erected thereon. There are no further covenants and nothing to restrict the development of the land.

Land at Bennett Way, South Wigston

- 3.17 The Council owns circa 0.15ha land at Bennett Way, South Wigston. At its meeting on Tuesday 28th October 2014 it was reported as follows:

‘the Homes and Communities Agency has been invited to attend the October meeting of the Place Shaping Working Group to present the options that are available to the Council in facilitating the development of affordable housing, for example, in relation to the small plot of land in Council ownership at Bennett Way, South Wigston.

The developer in partnership with a Registered Provider on this

development has been successful in its grant bid from the Homes and Communities Agency to deliver affordable homes. This bid was supported by the Borough Council because it meets with the Council's planning policy objectives for South Wigston in relation to delivering affordable homes. In conjunction with the advice from the Homes and Communities Agency the Council intends to seek opportunities to work with the developer to consider the best options for the area, including the adjacent land that is in the Borough Council's ownership'.

- 3.18 These discussions have progressed to a point where it is necessary for the Council to resolve to make its land available to be included as part of this wider scheme so that it can be developed for affordable housing in order to maximise the amount of affordable housing that can be built on both the land under the control of the developer and the Council's own land.

Email: adrian.thorpe@oadby-wigston.gov.uk

Implications	
Legal (AC)	There is a statutory procedure to follow in making a CPO
Financial	None directly as the developer will underwrite reasonable costs.
Equalities (AT)	An Equalities Impact Assessment has been carried out. As part of the planning process for the project there will be stakeholder and community consultation and engagement
Risk (AT)	<p>Corporate Risk 5 (effective utilisation of land and buildings) and 9 (economy) Compulsory Purchase Order is not confirmed. <i>This is a low risk and most orders do not need an Inquiry. It can be also be mitigated by continued negotiations with any objectors</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) Terms cannot be agreed with the developer. <i>By already detailing the basic concept when inviting the EOI's this limits the opportunity for future issues. Flexibility in agreeing the final details will be used and balanced against the benefits of the building being refurbished.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) and 9 (economy) Developer cannot obtain planning consent for their scheme. <i>The developer is proposing a residential scheme and this is in accordance with the EOI.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) Developer does not complete the renovation works. <i>The proposal to include a term regarding starting and completing the works and the opportunity to buy back at CPO price should limit this risk.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The continuing deterioration of the building. <i>By adopting the current approach the developer will be able to commence their scheme once the property is vested in the Council thereby minimising the time until works start.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The owner materialises before CPO confirmed and fails to</p>

improve the property. *The owners can negotiate directly with the developer. If the owner wishes to retain the property undertakings are obtained to bring the property into a satisfactory state within a time period during which time the CPO process is not abandoned but the Council gives an undertaking to withdraw if the works are done in time.*

Corporate Risk 5 (effective utilisation of land and buildings)
The original owners materialise within 12 years of sale and dispute compensation *The statutory procedure will assess the market value and money will be paid into court.*

Corporate Risk 6 (regulatory governance) High court challenge to a confirmed CPO. *Mitigated by the correct procedures being followed.*

APPENDIX ONE

