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| Item No. 16. | Classification: Open | Date: 16 April 2013 | Meeting Name: Cabinet |
| Report title: | | St Olav's Public Convenience site, Albion Street-Resolution to make Compulsory Purchase Order for site assembly purposes | |
| Ward(s) or groups affected: | | Rotherhithe | |
| From: | | Councillor Fiona Colley, Regeneration and Corporate Strategy | |

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY

In December 2012 we agreed to prioritise Albion Street in Rotherhithe as an area for regeneration. The once thriving market street is now much in need of some TLC.

At the gateway to the street stands the beautiful grade II listed St Olav's Norwegian Church, but sadly just in front of it stands the eyesore that is the derelict former public toilets. It is our aspiration as part of the regeneration to replace this with a new high quality public square to complement the attractive historic church.

The council has made concerted efforts to negotiate with the owners to buy the old toilet block, but without success. We now recommend that cabinet agrees to use the council's compulsory purchase powers to secure the site and thus take this regeneration project forward.

RECOMMENDATIONS

That the cabinet

1. Agrees that the council makes a Compulsory Purchase Order under Section 226(1) of the Town & Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) for the acquisition of the freehold interest in the land shown edged in red on the plan attached at Appendix One for the purposes of securing the redevelopment of St Olav's square as part of the wider Albion street regeneration and in line with the aspirations of the Canada Water Area Action Plan (AAP).
2. That the Director of Regeneration be authorised to:
 - a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of notices and the presentation of the council's case at public inquiry should one be called.
 - b) To acquire the freehold interest in the land within the compulsory purchase order either by agreement or compulsorily for the purposes of redeveloping St Olav's Square as part of the wider Albion Street regeneration.

BACKGROUND INFORMATION

3. The recommendations in this report are to enable the council to acquire land in order to proceed with the redevelopment of St Olav's square which forms part of the ongoing Albion Street regeneration.
4. On 11 December 2012 cabinet agreed to the project mandate for the regeneration of Albion Street. One of the key themes of this mandate was public realm with a view of looking at a number of initiatives to improve the general appearance of the neighbourhood, way finding and links with the wider Rotherhithe area.
5. The Albion Street project mandate identifies St Olav's Square as a strategically important public realm project that the council can deliver in order to address the aspirations of the local people.
6. The council working in consultation with Albion Street residents and key stakeholders including the Norwegian Community which runs St Olav's church have been preparing a scheme that will transform St Olav's square into a public square which is capable of being used for Street markets and community events. The proposed scheme is supported by the community and is seen as key to the regeneration of Albion Street.
7. The majority of the freehold at St Olav's square is owned by Southwark Council save for the public convenience site ("the Site") which is under private ownership.
8. Following analysis and due diligence around the extent, scope and vision for the delivery of St Olav's Square redevelopment, it is clear that the Site will need to be acquired to proceed with the scheme, and that compulsory purchase powers will be necessary to secure the freehold interest in the Site.
9. The Site is located in St Olav's Square which lies between Albion Street and the Rotherhithe tunnel approach. The Site is within the vicinity of St Olav's church, a grade II listed building owned by the Norwegian Church.
10. Albion Street was once a thriving street at the heart of the Rotherhithe docklands community. However, this role has been challenged by the redevelopment of the docklands and the creation of new shopping and community facilities at Canada Water.
11. The Site, comprising disused public conveniences, is currently derelict and has been an attraction for illegal posting, dumping and fly tipping. The Site is generally an eyesore and a nuisance that continues to raise health and safety concerns to the local community. The council has on occasion served warning notices on the freeholders of the Site on health and safety grounds.
12. The freeholders of the Site have in the past secured planning consents for retail development. However, these consents have never been implemented and have subsequently expired.
13. Following concerted efforts to engage with the freeholders of the Site, contact was established in July 2011. The council has since this time offered to purchase

the Site and also invited the freeholders to community consultations related to Albion Street regeneration, but they have not attended these.

14. To progress negotiations and in order to ensure that the council does not over pay for the purchase of the site, BNP Paribas Real Estate were instructed to advise on the Market Value of the Site. Negotiations remain ongoing albeit the freeholders' monetary aspirations remain well over and above Market Value.

KEY ISSUES FOR CONSIDERATION

15. The council has been in negotiation with the owners to purchase their interest in the Site by agreement as part of its strategy for the delivery of the council's proposed scheme. However, the council and the freeholder's valuation of the site are significantly apart.
16. The making of a compulsory purchase order is therefore considered essential to ensure that this important project for the regeneration of Albion Street can be brought forward in accordance with a fundable programme of delivery. Efforts to acquire the interest by agreement will however continue in the meantime.
17. It is anticipated that on acquisition of the Site by agreement or compulsorily, the council will proceed to demolish and fill in the existing structures to ensure that the site does not remain a hazard and an eye sore as is the case in its current state. A Cleaner, Greener and Safer bid has been made by Albion Street Steering Group to fund the demolition works. A decision on this bid was not available at the time of the writing of this report. As it will be necessary to demonstrate for the purposes of the CPO that the scheme is fundable the council will need to confirm that it is prepared to underwrite these costs should the bid be unsuccessful.
18. A planning application for the proposed scheme at St Olav's Square in support of the CPO will need to be submitted by the council. Discussions have already been held with the Planning Department about the proposals and they have confirmed that they are supportive of the principle of the proposed development of the site as a public square
19. Officers in Public realm and Highways departments have respectively advised on the cost of delivering the proposed scheme and the status of St Olav's Square in relation to public highways. The advice indicates that St Olav's Square does not form part of the public highways and would therefore not require a stopping up order.
20. The local community have expressed a willingness to fundraise for the costs of laying out the site as a square most, notably the Norwegian Community that runs St Olav's Church. The amount and timing of these funds is not currently certain. As it will be necessary to demonstrate for the purposes of the CPO that the scheme is fundable the council will need to confirm that it is prepared to underwrite the costs of laying out the public square which are currently estimated to be in the region of £300,000
21. Policy 30 of the Canada Water AAP sets out the key themes for promoting the regeneration of Albion Street that include seeking funding to provide public realm improvements and continuing to investigate the potential for a market. The proposed scheme addresses these aspirations.

22. In summer 2012 Officers in Planning department began a process of reviewing the Canada Water AAP in order to accommodate changes to some key sites in the AAP core area. These changes will not affect the current guidance position of the AAP in relation to Albion Street.

Underlying information in resolving to make this compulsory purchase order

23. The compulsory purchase procedure is complex and has regard to a variety of factors. Details of relevant procedural and legal matters are set out at Appendix 2.

Community impact statement

24. The effect of a negotiated acquisition or compulsory purchase order will be to dispossess the freeholders of their rights in the Site. This is necessary to ensure that the proposed scheme at St Olav's square as part of the Albion Street regeneration can proceed. In Compulsory Purchase terms this is considered acceptable where the proposals are in public interest and where, as in this case, the advantages of the regeneration outweigh the disadvantages to those dispossessed.
25. In making its decision to agree on the Albion Street Project mandate, cabinet was advised that the theme of public realm would be taken forward in collaboration with local stakeholders. .
26. The redevelopment of St Olav's Square will not only benefit the local community but also the wider Rotherhithe area, creating an opportunity for further investment as part of the Albion Street regeneration. It is therefore necessary to balance the benefits that could be provided by the proposed scheme against the possible impact to the freeholder of the affected land. In carrying out this exercise a degree of proportionality should be adopted.
27. The furtherance of this project will not negate the council's diversity and equal opportunities policies.

Consultation

28. There has been extensive consultation with the Albion Street community and key stakeholders at all stages of the regeneration and the ongoing delivery of different projects within the area. An Ideas Workshop was held in June 2012 and facilitated by Soundings who were appointed by Southwark Council and Canada Quays Ltd. In addition the Albion Street Steering Group has been consulted with in consideration to making acquisition of the Site through compulsory purchase powers.
29. St Olav's square is viewed by the community as a neglected space bringing little benefit to the local community in its current state. The community also identified it as a potential destination opportunity that could be used for recreation, street markets and other community events that will attract further investment in the area.
30. The freeholders of the Site have also in the past been invited to Albion Street consultations and have been kept updated on the progress of the proposed

scheme and the wider Albion Street regeneration.

Resource implications

31. The net costs of acquiring the freehold interest and making of the Compulsory Purchase Order (CPO) are estimated at £80,000. These costs comprise market value, loss payment, freeholders' professional fees and funding for council legal and other professional fees necessary for the CPO.
32. The cost of the demolition of the structures on site and the capping of the sewers is estimated at £25,000.
33. The cost of laying out the site as a public square is estimated at £300,000.
34. The total cost of carrying out the project in full is therefore estimated at £405,000. It is recommended that a contingency of 10% (£40,500) be set aside to deal with risk, making a total project budget of £445,500.
35. As noted in the key consideration section of this report, steps are being taken to offset these project costs through a cleaner greener bid to meet the demolition costs and fundraising for the layout of the public square. At the time of writing the report there is uncertainty as to the outcome of these initiatives and therefore in order to pursue the CPO it will be necessary for the council to commit to underwrite the full project budget.
36. It is anticipated that these funds will be required in 2013/14 and 2014/15. It is proposed that the funding is drawn from the regeneration and development reserves subject to the approval of the strategic director of finance and corporate services.
37. There are no direct staffing implications arising from making the Order to its completion as well as ongoing negotiations with the freeholders.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Corporate Services (FC13/020)

38. This report seeks approval for a compulsory purchase order (CPO) for St Olav's Public Convenience site, Albion Street. Details of the financial implications are contained within paragraphs 31 to 37. Funding is available for the estimated £80,000 cost of the CPO.
39. The strategic director of finance and corporate services notes that a Cleaner, Greener and Safer bid has been made by Albion Street Steering Group to fund the demolition works and that the local community have expressed a willingness to fundraise for the costs of laying out the site. In the event that these funds are not sufficient then a draw down from regeneration and development reserves will be sought.
40. Once the freehold of the site is secured any demolition or development works will be subject to a separate report, which will include full financial implications.

Director of Legal Services

41. Cabinet is advised that the council has a power to compulsorily acquire land and property interests under Section 226 (1) (a) of the Town and Country Planning Act 1990 (as amended by Section 99 of the Planning and Compulsory Purchase Act 2004) (“the 1990 Act”).
42. Section 226(1)(a) gives the council power to acquire compulsorily any land in their area if the council thinks that the acquisition will “facilitate the carrying out of development / re-development, or improvement on or in relation to the land”. In exercising this power the council must have regard to Section 226(1A) which provides that the council must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well being of the area.
43. The cabinet will note from paragraph 26 of Appendix 2 to this report that consideration has been given to the well being objectives under section 226(1A) of the 1990 Act in relation to the council’s aspirations for the regeneration of St Olav’s Square and the wider Albion Street regeneration area. It is considered that the regeneration of the area will assist the council in promoting and improving the economic, social and environmental well being of the Albion Street area, and therefore there are adequate powers available to the council to acquire the land and property interests in the Site either compulsorily or by agreement. The council also has power under section 227 of the 1990 Act or Section 120 (1) of the Local Government Act 1972 (“the 1972 Act”) to acquire interests in land by agreement with the owners. Further, by virtue of section 120(2) of the 1972 Act, any property acquired under the 1972 Act which is not required immediately for the purpose for which it has been acquired, can be used in the interim for the purpose of any of the council’s functions.
44. Part 3C of the council’s constitution reserves to the cabinet decisions on acquisition of land and property where the market value exceeds £100,000, and the acquisition of land and property which involves the use of compulsory purchase powers.
45. In the event that it proves possible to acquire the site by agreement, such that compulsory purchase powers are not required, cabinet is advised that Section 120 (1) of the Local Government Act 1972 (“the 1972 Act”) authorises the council to acquire any land by agreement for the purposes of (a) any of its statutory functions or (b) for the benefit, improvement or development of its area. The acquisition of the Site would fall within this since the acquisition is to facilitate the improvement of the area.

Strategic Director of Environment and Leisure

46. The Site in question has been derelict for years and attracts fly posting, dumping and general antisocial behaviour. It serves no positive purpose to the area or its residents. Bringing it into part of a wider regeneration scheme will solve a long standing problem and enhance the general appearance as a whole. Environment and Leisure therefore fully support the proposal.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|---------------------------------|---|--------------------------------|
| Canada Water Area Action Plan | http://www.southwark.gov.uk/canadawateraap | Fahad Nakendo 020 7525 5359 |
| Cabinet Agenda 11 December 2012 | http://moderngov.southwark.gov.uk/documents/g4249/Public%20reports%20pack%20Tuesday%2011-Dec-2012%2016.00%20Cabinet.pdf?T=10 | |

APPENDICES

| No. | Title |
|------------|----------------------------------|
| Appendix 1 | Location Plan showing Order site |
| Appendix 2 | Procedural and Legal matters |

AUDIT TRAIL

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|---|--|--------------------------|
| Cabinet Member | Councillor Fiona Colley, Regeneration and Corporate Strategy | |
| Lead Officer | Eleanor Kelly, Chief Executive | |
| Report Author | Fahad Nakendo | |
| Version | Final | |
| Dated | 4 April 2013 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments Included |
| Director of Legal Services | Yes | Yes |
| Strategic Director of Finance and Corporate Services | Yes | Yes |
| Strategic Director of Environment & Leisure | Yes | Yes |
| Cabinet Member | Yes | Yes |
| Date final report sent to Constitutional Team | 4 April 2013 | |