

TITLE	Carnival Pool Site, Wellington Rd, Wokingham
FOR CONSIDERATION BY	The Executive on Thursday, 28 November 2019
WARD	Wescott;
LEAD OFFICER	Deputy Chief Executive - Graham Ebers
LEAD MEMBER	Executive Member for Regeneration - Charlotte Haitham Taylor

PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)

To confirm the appropriation of land at the Carnival Pool site which is held by the Council to enable delivery of the final phase of town centre regeneration in accordance with detailed planning consent (ref. 170212) granted February 2018

RECOMMENDATION

That the Executive:

- 1) notes that the Council no longer needs to proceed with a compulsory purchase order ("CPO") in respect of land to the south of Wellington Road Wokingham known as Carnival Pool shown indicatively edged red on the plan at Appendix 1 of this report ("the Site") pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) (the "1990 Act") because all outstanding freehold interests in the Site have been acquired by agreement.
- 2) authorises, to the extent that it is not already held for such purposes, that the land held by the Council and comprising the Site shown coloured red and blue on the plan at Appendix 2 of this report, be appropriated for planning purposes in accordance with section 122 of the local Government Act 1972 from the date this resolution is made, such land being no longer required for the purpose for which it was previously held.

EXECUTIVE SUMMARY

The regeneration of the Site has been a corporate and planning objective of the Council for many years. The Council originally referred to the potential use of compulsory purchase powers to assemble the land interests in the Site in the Wokingham Core Strategy 2010. The Council has subsequently demonstrated its intent to deliver regeneration of the Site by acquiring various land holdings by private treaty and by resolving to make a compulsory purchase order ("CPO") on 25th July 2019. The final land interests have now been acquired by negotiation without the need to utilise CPO powers and the Council now owns or controls all of the freehold interests in the Site necessary to deliver regeneration of the Site.

The purpose of this report is to:

- provide an update on the acquisition of land within the Site by agreement without the need to utilise CPO powers; and

- to confirm the appropriation of the Site for planning purposes to complete the final phase of the regeneration of the Site.

BACKGROUND

This report is submitted as required by [Decision 136 (3) of the Executive dated 30th March 2017].

The Executive resolved on 25th July 2019 to authorise the making of a Compulsory Purchase Order ("CPO") to acquire all outstanding parcels of land not owned by the Council that comprised part of the land south of Wellington Road Wokingham known as Carnival Pool shown indicatively edged red on the plan at Appendix 1 of this report (the "Site"). At the same time the Executive also resolved to appropriate for planning purposes much of the same land subject to the confirmation of the CPO.

The decision was made because the Executive considered that the acquisition would facilitate the carrying out of the development, re-development or improvement of land and contribute to the achievement of any one or more of the promotion or improvement of the economic, social and environmental well-being of Wokingham.

Since the Executive authorised the making of the CPO, all remaining freehold interests in the Site have been acquired by agreement. As a result the Council no longer needs to exercise its CPO powers under section 226 of the 1990 Act. But the land still needs to be appropriated for planning purposes. In consequence of this, the previous resolution of the Executive to appropriate land subject to the confirmation of a CPO needs to be updated and extended to all the land within the Site.

BUSINESS CASE

This further report is brought to the Executive to confirm that the Council now owns all of the freehold land comprising the Site and to invite the Executive to (insofar as it is not already held for such purposes) appropriate the Site for planning purposes. The part of the Site previously held by the Council and which the Executive approved for appropriation subject to confirmation of a CPO is shown coloured blue on the plan at Appendix 2. The recently acquired land which the Executive is also asked to (insofar as it is not already held for such purposes) approve the appropriation of for planning purposes is shown coloured red on the plan at Appendix 2.

The Site is being developed in two phases. Phase I was completed in July 2017 and comprises a new 500+ space multi-storey car park and replacement Superbowl and Laserquest leisure attraction accessed off the Carnival roundabout on Wellington Road. The layout of Phase I anticipates the approved design of Phase II and depends upon its delivery to make full and best use of the Site. The two Phases of this Site and indeed the layout of the Elms Field regeneration scheme immediately to the north are interdependent.

The Phase II of the Site currently includes the Council's swimming pool with ancillary leisure facility, the site of the previous and now demolished superbowl ten pin bowling facility, an office building (constructed 2001) with ancillary parking and a public right of way on the western edge of the Site. The office building was until its recent acquisition by the Council owned and occupied by BJP Insurance Brokers Ltd.

The buildings on the Site have a poor relationship with the surrounding area; being inward facing from the highway and pedestrian routes; and having a negative impact on the public realm and environmental quality of the area. The buildings are poor quality

and disparate in their design, having been constructed at different times and they do not relate to each other or the surrounding environment. Securing the regeneration of the Site has been a long held aspiration of the Council.

As early as 2010, the Core Strategy for Wokingham identified one of the aspirations and spatial issues that needed to be addressed by the Council as the "*renaissance of Wokingham and other town centres*" (paragraph 2.68). More particularly at paragraph 2.84 it stated "*[Wokingham] town centre is the largest retail centre in the borough and its range of facilities and services is recognised in both LPS2 and appendix 3 [of the Core Strategy]. The sustainability of the town may be undermined unless schemes are developed which support its vitality and viability, particularly so it can retain trade that might otherwise leak to the centres of Reading or an improved Bracknell. During the plan period there are likely to be opportunities for a number of significant developments within the town centre. The Council recognises that development around Wokingham could help reduce traffic flows through the town and would support the vitality and viability of the centre through increasing its population*".

Core Policy 14 expressly deals with the growth and renaissance of Wokingham Town Centre:

"Wokingham, as a major town centre in Berkshire is considered suitable for growth. Proposals should retain and enhance the historic market town character of Wokingham and maintain its position in the Berkshire retail hierarchy by:

1. *Strengthening shopping in the retail core to reduce leakage of expenditure;*
2. *Conserving and enhancing historic quality and interest;*
3. *Improving existing public space;*
4. *Ensuring development cumulatively provides and maintains:*
 - a) *A wide range of services, learning opportunities, community facilities and tourist facilities that complement existing provision;*
 - b) *Housing;*
 - c) *Office accommodation;*
 - d) *Public open space providing for a range of activities;*
 - e) *Leisure and entertainment;*
 - f) *Improved pedestrian links between the station and the shopping streets;*
 - g) *Improved pedestrian and cycle links between the centre and other parts of the town;*
 - h) *Appropriate car parking to facilitate a viable and sustainable town centre;*
 - i) *Enhanced environmental and design quality.*

The use of compulsory purchase powers to facilitate site assembly and the delivery of renewal and regeneration schemes".

Paragraph 4.69 of the Core Strategy explains that "*Improving the centre means that it can better meet the needs of residents and prevent decline associated with loss of expenditure following expansion in nearby larger centres. The Retail Study indicates proposals within the town centre should contribute towards lengthening the time visitors stay (including into the evenings), as this will contribute towards the vitality and viability of the centre. The Retail Study (see table 4.1 earlier) indicates that there is scope for additional comparison floorspace in the centre to help reduce the current leakage....*".

Also, in 2010, the Wokingham Town Centre Masterplan was adopted by the Council. It describes the Council's key objective for the Site as "*The town centre leisure offer and evening economy will be enhanced through the redevelopment of the Carnival Pool area to provide a mixed leisure quarter, with sports and cinema uses integrated to improve and extend the existing swimming pool at Carnival Pool*".

In addition the Masterplan identified the area adjacent to the Site for "*Enhanced provision of at least 300 car parking spaces, supplementing provision around the leisure quarter, contributing to capturing principal routes into the town centre.*" This enhanced car parking provision was completed in July 2017.

In February 2014, the Managing Development Delivery Local Plan was adopted by the Council which sets out how the vision in the Core Strategy will be delivered. Policy SAL08 allocates the Site and the area adjacent to the Site as suitable for mixed use redevelopment: "*Land at Carnival Pool, Wokingham, for the delivery of D1 (community uses), D2 (leisure uses) flexibility for A3 (restaurants & cafes), A4 (drinking establishments) and C3 (residential) development*".

The regeneration of the Site is further in accordance with national planning policy. The National Planning Policy Framework ("NPPF") confirms that the development plan continues to be the starting point for determining the acceptability of development. There is a presumption in favour of sustainable development which the NPPF identifies as having three "dimensions", namely an economic, social and environmental role. It is clear that the regeneration of the Site will contribute to sustainable development in accordance with the NPPF. The regeneration will contribute towards planning for prosperity (an economic role), planning for people through job creation (a social role) and planning for the environment by remediating the land (an environmental role).

The Council has and continues to remain committed to securing regeneration of the Site in accordance with the above policy. The vision for the town centre sees Wokingham as:

- The number one place for people to live in the UK.
- A town centre that is home to a thriving retail and business economy with a diverse leisure and recreation offer, and which provides high quality living at the heart of the Borough.
- A town centre that not only builds on the existing strengths and unique character of the Town, but also forms the heart of the surrounding community with a high quality and active public realm that attracts and promotes the well-being of its residents, working population and visitors alike.

The Council further considers that the Site represents a significant opportunity to improve the leisure facilities in Wokingham. Regeneration of the Site will further deliver significant environmental improvements by replacing tired poorly designed buildings with high quality well designed buildings which are complementary and in keeping with the surrounding townscape.

THE SCHEME

In July 2017 a full planning application (reference 172012) was submitted for the Site as follows:

"Full planning application for the redevelopment of the Carnival Pool site to create leisure led development as part of the regeneration of Wokingham town centre. The proposals include the demolition of all existing buildings on site and the construction of: a leisure centre (use class D2); library (use class D1); restaurant (use class A3); commercial unit for non-residential institution or assembly and leisure use (use classes D1 or D2); 55 dwellings (use class C3); pedestrian and vehicular access including a pedestrian boulevard and realignment of Wellington Road; car parking; hard and soft landscaping; realignment of an existing footpath; drainage" ("the Scheme").

Planning permission pursuant to the application was granted on 2 February 2018.

The development authorised by the planning permission is in line with the planning policy for the Site as set out above. It is further in accordance with national planning policy and guidance. The Council considers that the planning permission of the Site will deliver regenerative benefits to the town centre of Wokingham and will make a significant contribution to the improvement of the economic, social and environmental well-being of the town. These benefits include:

- New and enhanced leisure facilities on the Site, which will form part of the new leisure operating contract for Council facilities across the Borough and attract other new operators into the town centre. New facilities and operators will add to the vitality and economic performance of the centre in line with approved planning policy. In turn, this will assist in increasing footfall and dwell-time to the benefit of the town.
- Creation of new jobs and valuable investment into the local area. It is predicted to create in the region of 60 (net) new jobs, with a further circa 110 jobs per annum during the construction phase in gross value added (GVA) terms, once the new facilities are operational.
- More efficient use of prime town centre land and significantly improved public realm within the town centre. It will provide a high-quality environment both within the Site but also along a key pedestrian desire line from the new multi-storey car park in the southern part of the Site north across Wellington Road into the new Elms Field development and on into the heart of the town centre and vice versa. The Elms Field development has been designed in parallel with the Carnival Scheme to ensure good pedestrian connectivity and the provision of a high quality public realm.
- Improve the visibility of the Site which currently has a poor frontage relationship along Wellington Road and the Carnival Pool roundabout (Wellington Road, Denmark Street, Finchampstead Road junction) with the existing buildings either presenting their rear frontage to Wellington Road or hidden behind poor quality landscaping.
- Meet appropriate sustainability objectives in line with recently approved planning policies and will thereby ensure that climate change considerations are secured.
- Enhance the leisure offer to better cater for the needs of existing and future residents. The proposed leisure facilities will form part of the wider Council strategy for leisure provision across the Borough. Town centres are increasingly becoming places to meet and socialise, as well as to shop and access services. Improved leisure facilities in this location will provide additional opportunities for residents and visitors to increase their dwell time.

- The proposed residential provision and mix of units will also add to the stock of housing in a highly sustainable location and help meet wider planning objectives in terms of housing land supply.

The scheme forms phase II of the redevelopment of the Carnival Pool site. The first phase comprised the 529 space Multi-Storey Car Park and the delivery of the new Superbowl leisure facility which was completed in July 2017. Following the opening of the new bowling centre the Council demolished the old bowling complex (immediately to the north of the new one) and the site is currently in use as a temporary contractors compound supporting the related regeneration of Elms Field.

EXTENT OF THE LAND TO BE APPROPRIATED FOR PLANNING PURPOSES.

The Site is already in the freehold ownership of the Council subject to a small number of leasehold interests that are under the Council's control and fully aligned with the delivery of the Scheme. The final part of the Site that the Council has now acquired is the office building known as Southgate House situated on Wellington Road, shown coloured red on the plan at Appendix 2. The land shown coloured blue on the plan at Appendix 2 is also in the freehold ownership of the Council and was subject to the earlier Executive resolution to appropriate that land for planning purposes subject to the confirmation of a CPO. To the extent that the land is not already held for planning purposes this report recommends the appropriation of the entirety of the Site, shown coloured red and blue on the plan at Appendix 2, for planning purposes.

APPROPRIATION OF LAND

A local authority may hold property and land for a variety of statutory purposes in order to perform its functions. The Council is authorised, by virtue of section 122 of the Local Government Act 1972 ("the 1972 Act") to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement, where it is no longer required for the purpose for which it is held immediately before the appropriation.

The three elements to that test are all satisfied in this instance. Here the land comprising the Site is in the freehold ownership of the Council, satisfying the first element of the test.

The purpose for which the Council is appropriating the land must be authorised by statute. It is proposed that the land is held for planning purposes. This is a purpose which is authorised by statute. Section 227 of the 1990 Act provides that a council may acquire land by agreement for any purposes for which it is authorised to acquire land compulsorily by section 226 of the 1990 Act.

The purposes for which the Council can acquire land pursuant to section 226 of the 1990 Act include "if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land" where that is likely to contribute to "the promotion or improvement of the economic, social well-being or environmental well-being of their area". The second element of the test is therefore met.

Finally, in order to appropriate the Site for planning purposes, the Council must be satisfied that it is no longer required for the statutory purposes for which it was held before the appropriation. This enables the Council to consider and prioritise the different

needs for use of the land. In considering this requirement, the Council must consider the current use of the land as measured against the proposed use of the land and what the Scheme can deliver on that land. This might include consideration of such matters as whether the buildings make sufficient use of the land and the need to secure an enhanced form of redevelopment.

As already noted, the Site is currently held for part leisure and employment use. However, the Council considers, for the reasons set out earlier in this report, that such use fails to make the best use of the land. Instead it has long been the Council's aspiration to secure the comprehensive regeneration of the land to enhance its overall use. Regeneration of the Site in accordance with the Masterplan will replace historic uses and built form with new buildings and uses, which will deliver benefits to the town centre of Wokingham and will make a significant contribution to the improvement of the economic, social and environmental well-being of the town.

For this reason, the Council is satisfied that the current use of the Site is surplus to requirement and the appropriation of the Site for planning purposes will facilitate regeneration of the Site to optimise and enhance its use.

The final element of the test is therefore satisfied.

Where land has been acquired or appropriated by the Council for planning purposes then section 203 of the Housing and Planning Act 2016 (the "2016 Act") provides the Council with the power to override easements and other rights in order to facilitate the delivery of a planning permission. Specifically, the carrying out of building or maintenance work by the Council is authorised if it is done in accordance with planning permission, on land acquired or appropriated by the Council, where the Council could have acquired the land compulsorily and the building work is for the purposes related to which the land was acquired or vested; even where such work would interfere with certain private rights such as easements. Planning Permission was granted on 2 February 2018 and this report confirms that subject to the Council appropriating the Site for planning purposes all elements of this test are satisfied.

The effect of triggering section 203 of the 2016 Act is that private rights are effectively overridden and converted into a claim for compensation. Section 204 of the 2016 Act confirms that the level of compensation for interference with rights is assessed in the same way as a claim under the Compulsory Purchase Act 1965 with disputes capable of being referred to the Lands Chamber Upper Tribunal. The conversion of rights into a claim for compensation prevents the beneficiary of the right being entitled to obtain an injunction to restrain the development from proceeding.

HUMAN RIGHTS IMPLICATIONS

The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("ECHR"). The ECHR includes provisions in the form of the Articles, which aim to protect the rights of the individual. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the ECHR.

The Council has considered the impact of appropriating land which will enable private rights to be overridden and converted into a claim for compensation. In this instance the law under the 2016 Act expressly permits rights to be overridden because the public

benefit in doing so outweighs the private interests of the relevant rights holders. In that context the Council considers that the appropriation of the Site for planning purposes is in accordance with the law, is in the public interest, and that the use of such powers is proportionate to the ends being pursued. In particular, the Council has had regard to the provisions of Article 1 of the First Protocol and Articles 6 and 8 to the ECHR.

Article 1 of the First Protocol of the ECHR states that “*every natural or legal person is entitled to peaceful enjoyment of his possessions*” and that “*no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law....*”. The beneficiaries of private rights over the Site will be compensated fully in accordance with the law.

Article 6 of the ECHR further provides that: “*in determining his civil rights and obligations ...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law*”. The Article 6 rights will be met by the procedures for compensation and the determination of disputes in the Lands Chamber Upper Tribunal where agreement cannot be reached in relation to the level of compensation payable.

In addition, in making this decision, the Council must be mindful of its public sector equality duty (section 149 of the Equality Act 2010), which requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. In particular, the Council will need to consider its equality duty in its decision making and endeavour to understand how different people with protected characteristics will be affected by its activities.

CONCLUSIONS

The Council is satisfied that following the acquisition of the last freehold interests in the Site it no longer needs to make the CPO.

The Council as the freehold owner of the Site is further satisfied that, to the extent that it is not already held for such purposes, the land held by the Council and comprising the Site shown coloured red and blue on the plan at Appendix 2 of this report, should be appropriated for planning purposes in accordance with the section 122 of the 1972 Act.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council continues to face severe financial challenges over the coming years as a result of reductions to public sector funding and growing pressures in our statutory services. It is estimated that Wokingham Borough Council will be required to make budget reductions of approximately £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	‘nil’ already in existing budget	Yes	Capital
Next Financial Year (Year 2)	As above	Yes	Capital

Following Financial Year (Year 3)	nil	nil	
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Other Financial Information
Funding for this process is already included within the WTCR budget currently approved and all land has now been acquired.

Stakeholder Considerations and Consultation
The project is in line with the Council vision and forms one of the top priorities. Engagement with all affected land owners will continue.

Public Sector Equality Duty
Due regard has been given to the Public Sector Equality Duty. The scheme has been designed to deliver a fully accessible scheme for all our residents and an Equalities Impact Assessment has been undertaken to support and inform this design process. The project is in line with the Council vision and forms one of the top priorities. Engagement with any affected land owners will continue.

List of Background Papers
None

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