

**Open**

# **Overview & Scrutiny Committee**

## **Agenda**

**6pm**  
**Thursday, 1st March 2018**  
**Council Chamber**  
**Wyre Forest House**  
**Finepoint Way**  
**Kidderminster**



## **Overview & Scrutiny Committee**

### **Members of Committee:**

**Chairman: Councillor H E Dyke**  
**Vice-Chairman: Councillor M Rayner**

**Councillor J R Desmond**  
**Councillor K Henderson**  
**Councillor D Little**  
**Councillor S J Williams**

**Councillor P Dyke**  
**Councillor N Knowles**  
**Councillor H S Williams**  
**Councillor R Wilson**

**Would Members please note that, to ensure continuity in scrutiny, substitutes should only be appointed for the Scrutiny Committee in exceptional circumstances.**

### **Information for Members of the Public:**

**Part I** of the Agenda includes items for discussion in public. You have the right to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

**Part II** of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

### **Declaration of Interests by Members – interests of members in contracts and other matters**

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of the Council's constitution for full details.

### **Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)**

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

### **Co-opted Members**

Scrutiny Committees may wish to appoint Co-Opted Members to sit on their committee in order to add value to the scrutiny process. To appoint a Co-Opted Member, a Committee must first agree to appoint either a specific person or to approach a relevant organisation to request that they put forward a suitable representative (e.g. the local Police Authority). Co-Optees are non voting by default but Committees can decide to appoint voting rights to a Co-Optee. The Co-Option of the Member will last no longer than the remainder of the municipal year.

Scrutiny Committees can at any meeting agree to terminate the Co-Option of a Co-Opted Member with immediate effect. Where an organisation is appointed to put forward a Co-Opted Member, they are able to send a substitute in exceptional circumstances, provided that they notify Democratic Services in advance. Co-Opted Members must sign up to the Members Code of Conduct before attending their first meeting, failure to sign will

mean that they are unable to participate. This also applies to substitute Co-Opted Members, who will need to allow sufficient time before a meeting in order to sign the Code of Conduct.

The following will apply:

- i) The total number of voting co-opted members on any Scrutiny Committee will not exceed 25% at any one time.
- ii) The total number of voting Co-opted Members on any Review Panel will not be limited.
- iii) Those Co-opted Members with voting rights will exercise their rights in accordance with the principles of decision making set out in the constitution.

**For Further information:**

**If you have any queries about this Agenda or require any details of background papers, further documents or information, you should contact Lynette Cadwallader Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732729 or email [lynette.cadwallader@wyreforestdc.gov.uk](mailto:lynette.cadwallader@wyreforestdc.gov.uk)**

Wyre Forest District Council

Overview & Scrutiny Committee

Thursday, 1st March 2018

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

<b>Agenda item</b>	<b>Subject</b>	<b>Page Number</b>
<b>1.</b>	<b>Apologies for Absence</b>	
<b>2.</b>	<b>Appointment of Substitute Members</b>  To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
<b>3.</b>	<b>Declarations of Interests by Members</b>  In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered.  Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
<b>4.</b>	<b>Minutes</b>  To confirm as a correct record the Minutes of the meeting held on the 1st February 2018.	6
<b>5.</b>	<b>Feedback from Cabinet</b>  To note the content of the Cabinet action list, following consideration of the recommendations from its meeting on 7 <sup>th</sup> February 2018.	11
<b>6.</b>	<b>Work Programme</b>  To review the work programme for the current municipal year with regard to the Corporate Plan Priority, Annual Priorities and the Forward Plan.	13
<b>7.</b>	<b>Acquisition of Land in Broadwaters Ward</b>  To receive a report from the Property and Investment Manager which considers an acquisition of land in the Broadwaters Ward.	15
<b>8.</b>	<b>Press Involvement</b>  To consider any future items for scrutiny that might require publicity.	

9.	<b>To consider any other business, details of which have been communicated to the Solicitor of the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</b>	
10.	<b>Exclusion of the Press and Public</b>  To consider passing the following resolution:  “That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”.	

## Part 2

### Not open to the Press and Public

11.	<b>Acquisition of Land in Areley Kings and Riverside Ward</b>  To receive a report from the Property and Investment Manager which considers an acquisition of land in the Areley Kings and Riverside Ward.	-
12.	<b>Investment Proposal</b>  To receive a report from the Corporate Director: Economic Prosperity and Place on an investment proposal	-
13.	<b>To consider any other business, details of which have been communicated to the Solicitor of the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</b>	

**WYRE FOREST DISTRICT COUNCIL**

**OVERVIEW & SCRUTINY COMMITTEE**

**COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER**

**THURSDAY, 1ST FEBRUARY 2018 (6PM)**

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**Present:**

Councillors: H E Dyke (Chairman), M Rayner (Vice-Chairman), S J Chambers, J R Desmond, P Dyke, K Henderson, N Knowles, D Little, H S Williams and S J Williams.

**Observers**

Councillors: I Hardiman and S Miah.

**OS.74      Apologies for Absence**

Apologies for absence were received from Councillor R Wilson.

**OS.75      Appointment of Substitutes**

Councillor S J Chambers was a substitute for Councillor R Wilson.

**OS.76      Declarations of Interests by Members**

Councillor S J Chambers declared an Other Disclosable Interest (ODI) in agenda item 6 – Annual Crime and Disorder Review 2017/18, as her brother is the Police and Crime Commissioner for West Mercia.

**OS.77      Minutes**

**Decision: The minutes of the meeting held on 7<sup>th</sup> December 2017 be confirmed as a correct record and signed by the Chairman.**

**OS.78      How Are We Doing? Performance Update**

The Committee received a report from the Business Improvement Officer which updated Members on the performance of the Council for quarter 3 (from 1<sup>st</sup> October to 31<sup>st</sup> December 2017).

The Business Improvement Officer presented the report and appendices which included an exception report for all of the Council's purposes namely; People, Place, Housing, Planning, Business and Enabling, and detailed reports on performance against the 'Place' purpose.

Members considered each page of the appendices in turn. In response to a Member question regarding the consultation on the future plans for the Stourport Riverside Meadows, the Operational Services Manager advised that he did not have any response rates for the consultation at the present time, however the

consultation was part of a wider piece of work which was looking at how the area could possibly be improved in the future, which Members would be updated on as the project evolved.

**Agreed: The progress in performance for quarter 3 be noted.**

**OS.79      Annual Crime and Disorder Review 2017/18**

The Chairman welcomed the Chair of the Community Safety Partnership to the meeting.

The Committee received a report from the Community Safety and Partnerships Officer which updated Members on the progress of the North Worcestershire Community Safety Partnership (NWCSP) during 2017/18.

The Community Safety and Partnerships Officer led Members through the report and advised that the NWCSP had been in existence since May 2013 and delivered the statutory community safety requirements under the Crime and Disorder Act 1998, across the three district areas of Bromsgrove, Redditch and Wyre Forest.

She added that the local level issues were dealt with by way of the Safer District Groups for the three areas. She reminded Members that the scrutiny arrangements for the CSP remained unchanged with local authorities having a statutory duty to scrutinise the work of its local CSP.

The Committee were advised that the NWCSP had received £139,250 of grant funding from the Police and Crime Commissioner (PCC) in 2017/18. She added that the NWCSP were currently working on funding bids to the PCC for its 2018/19 allocation. It was anticipated that once submitted the outcome of the bid would be known in early to mid March.

The Community Safety and Partnerships Officer outlined several of the current community safety / crime reduction projects which had been delivered from April 2017. She was pleased to report that the Community Ambassadors project which was led by the Community Safety team and the ContinU Trust had received national recognition when it won the Young Persons Safety Award at the Suzy Lamplugh National Personal Safety Awards 2017.

A discussion ensued and in response to a Member question regarding domestic abuse, the Community Safety and Partnerships Officer assured Members that supporting victims of domestic abuse remained a key priority and the Safer Wyre Forest team continued to work with District Council colleagues from the Sanctuary Scheme to support victims by providing home security advice and security products to enable them to remain in their homes.

A Member asked about the funding project relating to research into reducing rural property crime. The Community Safety and Partnerships Officer advised that she was unable to confirm if the project would continue as it was an initiative funded by the West Mercia PCC Grants to Voluntary Organisations scheme. She agreed to circulate a copy of the Harper Adams research project to Members for information. The Committee agreed it would be beneficial if the PCC could attend a future

#### **Agenda Item No. 4**

meeting of the Committee to discuss the work of the PCC and have the opportunity to answer any specific questions Members may have on them.

**Agreed: The progress made by the North Worcestershire CSP be noted.**

**OS.80**

#### **Community Led Housing – A Pledge by Wyre Forest District Council**

The Committee considered a report from the Community Led Housing Co-ordinator which shared the progress made on Community Led Housing (CLH).

The Head of Strategic Growth advised Members that the Council had received a grant of £191,250 from the Department of Communities and Local Government (dCLG) in December 2016 and March 2017 called the Community Housing Fund. She added that the fund was paid to 148 local authorities where there were issues of affordability and / or a high density of second homes.

The Community Led Housing Co-ordinator outlined the purpose of the policy and explained how the funding had been used. Members supported the policy and agreed it would enable interested individuals and communities to be equipped with the tools they needed to progress schemes within the District.

**Agreed: Recommend to Cabinet that:**

**The Council supports the principles of Community Led Housing; and that the Community Led Housing Pledge and related policy are approved.**

**OS.81**

#### **Treasury Management Strategy 2018-19**

The Committee received a report from the Chief Financial Officer which purpose was to provide Members with background information on the Chartered Institute of Public Finance (CIPFA) Prudential Code for Capital Finance in Local Authorities (Prudential Code), to restate the Prudential Indicators and Limits for the financial years 2018-19 to 2020-21 and set out the expected treasury operations for this period, and to seek approval for the Council's Treasury Management Strategy Statement for the period 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019.

The Chief Financial Officer led Members through the report and advised that this was the final of the 3 statutory reports which would be presented to the Committee in the current municipal year. She added that the report had been fully scrutinised by the Treasury Management Review Panel at its meeting on 29<sup>th</sup> January 2018, which followed a Member training session from the Council's Treasury Management Advisors.

Members were advised that in December 2017 CIPFA issued revised Prudential and Treasury Management Codes. It was noted that as from 2019-20 all local authorities would be required to prepare a Capital Strategy report which would provide a high-level overview of how capital expenditure, capital financing and treasury management activity contributed to the provision of services; an overview of how the associated risk was managed; and the implications for future financial sustainability.

**Agreed: Recommend to Council to:**



- 1. Approve the restated Prudential Indicators and Limits for the financial years 2018-19 to 2020-21 included in Appendix 3 of the report. These will be revised for the February 2018 Council meeting, as per paragraph 7.3 of the report, following any changes to the Capital Programme brought about as part of the budget process other than those proposed by Cabinet on 19th December 2017.**
- 2. Approve the updated Treasury Management and Investment Policy and Strategy Statements for the period 1st April 2018 to 31st March 2019 (the associated Prudential Indicators are included in Appendix 3 of the report and the detailed criteria is included in Section 10 and Appendix 5).**
- 3. Approve the Minimum Revenue Provision (MRP) Statement that sets out the Council's policy on MRP included in Appendix 1 of the report.**
- 4. Approve the Authorised Limit Prudential Indicator included in Appendix 3 of the report.**
- 5. Approve the adoption of the policy statement at section 10.2 covering non-treasury investments.**

**OS.82      Feedback from Cabinet**

**Agreed: The content of the Cabinet decision list following consideration of the recommendations from its meeting on 19<sup>th</sup> December 2017 be noted.**

**OS.83      Work Programme**

The Chairman advised that both the PACT and Affordable Housing Review Panels were underway. She confirmed that the PACT Review Panel was scheduled to meet again on 8<sup>th</sup> February 2018, and the second meeting of the Affordable Housing Review Panel had been arranged for 28<sup>th</sup> February 2018.

**Agreed: The work programme be noted.**

**OS.84      Press Involvement**

There were no future items of scrutiny that might require publicity.

**OS.85      Establishing a Group Structure of Local Authority Trading Companies**

The Committee considered a report from the Corporate Director: Economic Prosperity and Place which set out the Final Business Case (FBC) for setting up a Group Structure of companies to enable the Council to fully realise its ambitions to invest in and develop revenue generating projects across the residential, industrial and commercial markets.

The Corporate Director: Economic Prosperity and Place took Members through the report and outlined the background to the process which has taken place over the last 18 months. He added that the FBC followed the Treasury 'Green Book'

#### **Agenda Item No. 4**

approach to undertaking a business case which addressed the key elements of the business case under the headings of; Strategic Case, Economic Case, Commercial Case, Financial Case and Management & Operational Case.

Members fully supported the FBC and were assured that expert advice had been taken from both within the authority and from external sources, to ensure that due diligence had been taken throughout the process.

#### **Agreed: Recommend to Cabinet:**

- **The Final Business Case and consequential establishment of a holding company and a development company be agreed.**

There being no further business, the meeting ended at 7.47pm.

**WYRE FOREST DISTRICT COUNCIL**  
**FEEDBACK FROM CABINET MEETING HELD ON**  
**WEDNESDAY 7<sup>TH</sup> FEBRUARY 2018**

<b>Agenda Item No.</b>	<b>Decision</b>
<b>8.2</b>	<p><b>Community Led Housing Pledge</b></p> <p><b>Decision:</b> In line with the recommendations from the Overview and Scrutiny Committee, 1<sup>st</sup> February 2018:</p> <p><b>1.1</b> The principles of Community Led Housing be supported; and</p> <p><b>1.2</b> the Community Led Housing Pledge and related policy be agreed.</p>
<b>9.1</b>	<p><b>Establishing a Group Structure of Local Authority Trading Companies</b></p> <p><b>Decision:</b> In line with the recommendations from the Overview &amp; Scrutiny Committee, 1<sup>st</sup> February 2018:</p> <p><b>1.1</b> The Full Business Case for establishing a Group Structure of Local Authority Trading Companies and to proceed to the formation of the proposed Holding and Development Companies at Companies House under the Companies Act 2006 be agreed;</p> <p><b>1.2</b> The finalisation of the Articles of Association and Shareholders Agreements for all the trading companies, be delegated to the Corporate Director: Economic Prosperity &amp; Place in consultation with the Solicitor to the Council, the basis of which is contained in Appendices 5 &amp; 6 of Appendix 1 to the report.</p> <p><b>1.3</b> Delegated authority be given to the Corporate Director: Economic Prosperity &amp; Place in consultation with the Solicitor to the Council and the Leader of the Council to make appointments to the Boards of the companies in accordance with the Articles of Association and Shareholder Agreement and to appoint an Independent Chairman to the Holding Company;</p> <p><b>1.4</b> The schedule of responsibilities for decision taking set out in Appendix 7 of Appendix 1 to the report be agreed;</p> <p><b>1.5</b> Delegated authority be given to the Corporate Director:</p>

**Economic Prosperity & Place in consultation with the Corporate Director: Resources and the Solicitor to the Council authority to agree and/or implement any other matter expedient to the establishment of the companies.**

- 1.6 All future Right to Buy receipts received from The Community Housing Group are directed to the Evergreen Investment Fund for use in supporting investments and the development of new residential properties either by the Council or through the companies be agreed.**

**RECOMMEND TO Council:**

- 1.7 That the allocation of Right to Buy receipts identified at 1.6 above be agreed for use through the Evergreen Investment Fund to support investments and new residential developments undertaken by the Council or through its companies.**

**Overview and Scrutiny Committee Work Programme 2017-2018**

**June 2017**

“How are we doing?” Q4 update (Housing and Planning)  
Churchill & Blakedown Neighbourhood Plan Adoption  
Strategies for the Capital Portfolio Fund and Loans to Third Parties –  
Review of Wyre Forest District Local Plan (2015) Consultation on Preferred Options  
Tracking Recommendations 2016/2017  
Scrutiny Proposal Form  
EXEMPT Capital Portfolio Fund: Proposed Acquisition

**July 2017**

Kidderminster Town Centre Business Improvement District (BID)  
Strategic Facilities & Asset Management Plan (including Wyre Forest House Tenancy  
Management & Marketing Strategy)  
Establishing a Local Authority Trading Company (LATC)  
Housing Enforcement Policy Update  
Nominations for the Treasury Management Review Panel  
EXEMPT Residential Unit Investment Business Case

**September 2017**

“How are we doing?” Q1 update (Enabling)  
Annual Report on Treasury Management Service and Actual Prudential Indicators  
2016/17  
Wyre Forest Health and Wellbeing Plan Update  
Climate Change Update  
Open Space, Playing Fields and Sports Built Facilities Strategies  
Compulsory Acquisition of Land & Properties & Empty Property Strategy  
Public Space Protection Order (PSPO)

**October 2017**

Annual update from S106 Monitoring Group  
‘Write-off’ Procedure  
Potential additions to scrutiny work programme  
Scrutiny of decisions on capital portfolio fund

**November 2017**

Treasury Management Mid Year Report  
Depot 2020 Invest and Improve Project  
Local Plan Project Plan  
Hereford and Worcestershire Joint Municipal Waste Management Strategy Review  
(JMWMS)

**December 2017**

“How are we doing?” Q2 update (Business and People)  
Depot 2020: Consideration of Call-In Request  
EXEMPT Asset exchange in Kidderminster

**February 2018**

“How are we doing?” Q3 update (Place)  
Treasury Management Strategy 2018/19  
Annual review of the North Worcestershire Community Safety Partnership 2017/18  
Establishing a Group Structure of Local Authority Trading Companies

Community Led Housing Pledge

**1<sup>st</sup> March 2018**

EXEMPT Acquisition of Land in Areley Kings & Riverside Ward

Acquisition of Land in Broadwaters Ward

EXEMPT Investment Proposal

**14<sup>th</sup> March 2018 – Sub Committee**

EXEMPT Investment Proposal

**22<sup>nd</sup> March 2018**

Capital Strategy

Future use of the former Magistrates' Court, Worcester Street

**Review Panels**

December 2017 – mid 2018: Availability of affordable and social rented housing

January – March 2018: Partners and Communities Together (PACT)

September – November 2018: Review of service standards for highways maintenance  
inc grass cutting / weed control

May – July 2018: Review of civil enforcement issues - PSPO

October – December 2018: Review of civil enforcement issues - Parking



## Overview & Scrutiny Committee

### Briefing Paper

Report of: Rupert Detheridge – Property and Investment  
Manager

Date: Thursday 1 March 2018  
Open

### Acquisition of Land in Broadwaters Ward

#### 1. Summary

- 1.1 To seek authority for the Council to use its compulsory purchase powers to acquire land at Radford Avenue/Horsefair in Kidderminster, to enable the bringing forward of a development scheme at a prominent gateway position within the Horsefair.

#### 2. Background

- 2.1 The land to be included in the CPO (“the Order Land”) is a cleared site fronting Blackwell Street, to the north-east of Kidderminster Town Centre. The ‘Order Land’ extends to approximately 0.045 acres and is illustrated on the plan provided as Appendix 1
- 2.2 The Council has an ambition to facilitate the redevelopment of the Order Land, in association with an adjoining undeveloped small parcel of Council owned land, which fronts Radford Avenue, Kidderminster. This wider land is illustrated on the plan provided as Appendix 2
- 2.3 The land for which a CPO is requested has been in private ownership for over 15 years. The land was, previously occupied by a former Post Office, which was left to fall into disrepair and required comprehensive demolition and clearance.
- 2.4 The present owner has previously approached the Council to acquire the Council’s adjoining land to deliver a development, but terms were not agreed as a consequence of a low financial offer for the Council’s land and reluctance by the party to disclose projected financial outcomes from a development. Irrespective of this no works have been undertaken during the course of the ownership to restore the subject property and prevent the partial collapse, which then required comprehensive demolition.
- 2.5 Although demolition has taken place this has now left an unsightly corner plot of land, with the gable of the retained property left un-restored.
- 2.6 Due to the amount of time that the property remained vacant, redevelopment of the Order Land by the present owner is considered to be unlikely, and furthermore this would present a challenging project for a constrained site next to a busy highway. Therefore a comprehensive redevelopment including the

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Council's adjoining land holding appears to be the only realistic solution. This will only be achieved with the Council taking ownership of a comprehensive redevelopment, which encompasses the Order Land and the adjoining Council land.

- 2.7 Although the Order Land does not have an individual site allocation within the adopted local plan the land is within the area of both the Churchfields Masterplan (adopted 2011) and the Kidderminster Central Area Action Plan (Adopted 2013)
- 2.8 The Churchfields Masterplan covers an area of some 30 Hectares (74 Acres) and provides a development framework for both the Churchfields and The Horsefair areas, recognising this wider area as being a key regeneration area.
- 2.9 Although the Churchfields area is the primary focus for the Masterplan, the Horsefair is recognised as an important 'Local Centre' to support both the vitality of the town centre and the regeneration of Churchfields. Community consultation related to the Horsefair identified that the condition of properties on the Horsefair is of concern to the town's residents. Furthermore within the plan Blackwell Street was acknowledged as providing an ageing retail experience and a poor quality pedestrian environment.
- 2.10 Chapter Eight of the Kidderminster Central Area Action Plan provides specific policy for the Horsefair. The document recognises that The Horsefair has been neglected and many of the buildings require refurbishment and repair. Specifically the Council aims to improve the built environment in The Horsefair.
- 2.11 Within paragraph 9.47 of the Action Plan, the role of The Horsefair as a neighbourhood centre is recognised and *"should be enhanced as part of a high density mixed use area"*
- 2.12 Furthermore Policy KCA.Ch8 states that support will be given to; new office development in the Horsefair, retention of the Blackwell Street frontage and residential development above ground level. The proposals for the redevelopment of the wider site accord with this, with the proposed restoration of the Blackwell Street frontage, provision of a ground floor office and residential uses in the floors above.
- 2.13 Currently the Government wish to bring forward new housing to address a significant lack of under supply of new homes. This was addressed in the Housing White Paper 'Fixing our Broken Housing Market', which was released in February 2017, with the Government proposing a range of initiatives to address the issue of housing supply. In September 2017 WFDC Cabinet approved the report *'Compulsory Acquisition of Land and Properties, and Empty Properties Strategy'*, in recognition of the encouragement for Local Authorities use of Compulsory Purchase Powers as set out above Government White Paper. The Strategy promotes the use of compulsory purchase powers to acquire under-utilised and vacant land and buildings.
- 2.14 The Council has been in discussion with the land owner over a number of years, ending in 2014, with no agreement being reached



- 2.15 WFDC remains committed to acquiring the Order Land by private treaty negotiation where practicable; however, in order to provide certainty the Council's compulsory purchase powers are likely to be needed to be exercised to enable a scheme to be brought forward within a reasonable timescale. This report outlines what the Council needs to have regard to when making a CPO, with a recommendation that the Council resolves to use its compulsory purchase powers.

### **3. The Development Proposals**

- 3.1 The Council owned land comprises a small parcel of undeveloped land which fronts Radford Avenue. The two land parcels comprise a small cleared site which extends in total to 0.056 Hectares (0.14 acres).
- 3.2 There is significant merit in a development encompassing both sites, as development of the Council's land in isolation would result in a development next to an unattractive cleared site. Furthermore the issues of the Order Land potentially remaining undeveloped would not be resolved
- 3.3 In order to progress the opportunity presented by the potential redevelopment of the combined land a topographical survey was undertaken and architects appointed to assess the site and prepare an appropriate architectural layout.
- 3.4 The scheme prepared by the architects extends to four storeys, with a small office, residential and ancillary uses on the ground floor, with residential uses on the upper floors. The scheme has an approximate total gross area of 1,117sqm (12,028 sq ft).
- 3.5 A small ground floor office/retail unit is included as there is potential local demand from occupiers who serve the local community and require a presence in the Horsefair. A comprehensive ground floor retail scheme would not be appropriate as the locality has a significant amount of vacant retail space, and the 'convenience' market is satisfied.
- 3.6 A pedestrian right of way bisects the site, aligned north south and this has been preserved, with a ground floor vehicular passageway, which also provides access to 6 dedicated car parking spaces.
- 3.7 The scheme has been discussed in detail with the Council's planning officers, who support the proposal.
- 3.8 It is anticipated that the redevelopment proposed for the site could be a candidate for the Council to support through the Capital Portfolio Fund and any such proposal will be reported separately to this committee and Cabinet in due course in accordance with the established procedures.

### **4. The Order Land**

- 4.1 The proposed CPO is to include all of the land edged red on the plan of the 'Order Land', provided as Appendix 1

## **Agenda Item No. 7**

- 4.2 In addition, *if* any other rights not referred to in the report come to light that impact the Order Land, the CPO will need to extinguish those rights.
- 4.3 The Order Land is located to the north-east of Kidderminster Town Centre, within the historic Horsefair area of Kidderminster. The land is bounded to the west by Horsefair and to the north by Radford Avenue.
- 4.4 The Order Land does not contain any statutorily listed buildings or locally listed buildings.
- 4.5 There are no residential properties within the Order Land.
- 4.6 A 'Red Book' valuation of the Order Land was prepared by Bruton Knowles in January 2018. The valuation basis was the 'Market Value' of the land as existing, without the benefit of planning consent for an alternative use.
- 4.7 The owner of the Order Land was approached in September 2017 as a consequence of the demolition of the standing buildings on the Order Land. Access for the topographical survey was established and a scheme prepared.
- 4.8 Based on the Bruton Knowles valuation an offer has been made for the purchase of the Order Land. A response is awaited from the land owner and private treaty negotiation will continue to seek to reach agreement.
- 4.9 Based on previous discussions, it is anticipated that the land owner's price aspirations will be well above the level of financial offer submitted. As a consequence CPO powers will be required to bolster the negotiation position and if negotiation fails acquire the Order Land. The Council's commitment to use its CPO powers by the passing of a CPO resolution will show the seriousness of the Council's intentions to provide added focus to the private treaty negotiations and a means of delivering the scheme in the event that agreement cannot be reached.

## **5. The Council's Powers and Use of Compulsory Purchase**

- 5.1 The Council has the power under Section 226(1) of the Town and Country Planning Act 1990 to acquire land compulsorily for planning purposes. The relevant tests are set out in Section 226(1) (a). First, the local authority must think that the acquisition will facilitate the development, redevelopment or improvement of the land. The Council considers that this first test will be met by the implementation of the Scheme which will facilitate the development and improvement of the land.
- 5.2 Further Section 226(1A) requires local authorities utilising the powers under Section 226(1) (a) to show that they think that the development, redevelopment or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the area. The Council should also have regard to the CPO Guidance published by the Government-currently the "Guidance on Compulsory purchase and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion 2015" ("the Guidance")

- 5.3 The Council's preference is that if at all reasonably practicable, the interests will be acquired through private treaty negotiation. Attempts to do this are being made and will continue to be made throughout the CPO process. The signalling of its intentions to use compulsory powers will demonstrate that the Council is committed to the proposal. With a CPO timetable, that has a clear end point, meaningful negotiations will be easier to undertake.

**6. Reasons for the Decision and the Justification for Making The Proposed CPO**

- 6.1 Paragraph 1 of the Guidance states "Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life."
- 6.2 Paragraph 2 of the Guidance goes on to state "Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest" and that authorities "should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected". Compulsory purchase is intended as a last resort to secure land assembly. However, the CPO Guidance does acknowledge that given the length of time it can take to secure a CPO, it can be sensible to plan for and initiate the formal CPO process alongside the negotiation process.
- 6.3 A CPO requires confirmation from the Secretary of State unless no objections are made or are not withdrawn, in which event the Council can confirm the CPO itself. In the event that the CPO is made and objections are made and not withdrawn, it is likely that a public inquiry will be held and a planning inspector appointed to consider the case and to make a recommendation to the Secretary of State who will decide whether or not to confirm the CPO.
- 6.4 The Guidance sets out the key matters that the Secretary of State will have regard to when considering whether to confirm a CPO and what an acquiring authority will need to demonstrate, in particular:
- 6.4.1 whether the purpose for acquisition fits with the planning framework for the area;
  - 6.4.2 the extent to which the scheme will contribute to the achievement of the economic, social and/or environmental well being of the area;
  - 6.4.3 whether the necessary resources are available to achieve the purpose of the Order within a reasonable timescale;
  - 6.4.4 that the scheme is unlikely to be blocked by legal or physical impediments

6.4.5 whether the purpose for which the Order land is to be acquired could be achieved by any other means.

6.5 The Council will need to demonstrate having regard to the above, and having particular consideration to the impact of the proposed CPO on Human Rights, and Section 149 of the Equality Act 2010, that there is a compelling case in the public interest for the making and confirmation of the CPO.

These matters are addressed as follows:-

- i) The Order Land largely comprises a prominent site, previously occupied by a historic post office which was purchased by the present owner and left to dilapidate to the point of partial collapse. This in turn required total demolition and clearance of the standing building. The site is an under-utilised Brownfield town centre site with no architectural or heritage merit.
- ii) There is no confidence that the present owner of the Order Land will redevelop the subject site, having held the subject property as a commercial property for a considerable period of time and not having undertaken any works to restore the property.
- iii) The proposed re-development will deliver a significant number of improvements for the benefit of the area.
- iv) It is the Council's view that the significant public benefit which will be derived from these proposals outweighs the interference caused by the CPO with the human rights of those parties affected by the CPO.
- v) The Council is content that there are no financial impediments to the Scheme proceeding. Funding of the proposed scheme will be by means of the 'Capital Portfolio Fund'.
- vi) There are no physical impediments to the scheme proceeding. The Council is satisfied that if the CPO is made and confirmed there is a reasonable prospect that the scheme will proceed.
- vii) The proposed development has the benefit of an architectural scheme, which has considered the site environs, constraints and surrounding built form.
- viii) In terms of conformity to national and local planning policy this has been addressed earlier in this report.

The Scheme also conforms to national planning policy as set out in the National Planning Policy Framework (NPPF) which came into effect in March 2012 and replaced nearly all of the previous national planning policy statements and guidance and the NPPG which supports it. At the heart of the NPPF is the presumption in favour of sustainable development.

The existing site comprises under-utilised Brownfield land with little architectural merit. The regeneration benefits are summarised as:

- Redeveloping a prominent corner site, which prior to demolition was derelict and detracting from the wider historic Horsefair area of Kidderminster.
  - Provide new town centre residential units and a potential ground floor office, provided to respond to demand for a community based function that serves the local area.
  - Assisting the future viability of The Horsefair Contributing to future housing completions
- ix) It is unlikely that development could be achieved by any other means, as the development of the Order Land in isolation would be exceptionally challenging, due to its constrained nature and position fronting a busy highway. The development of the Order Land is deliverable if the wider site encompassing the adjoining Council land is developed.

## **7. Human Rights Act 1998 and Equalities Act 2010 Considerations**

- 7.1 In reaching their decision, members should take account of the provisions of the Human Rights Act 1998. As a public authority, the Council must not act in a way which is incompatible with a Convention right protected by the Human Rights Act 1998. As outlined above, in officers' view there are strong grounds on which to conclude that there is a compelling public interest sufficient to justify interfering with the human rights of those with an interest in the Order Land, in compulsorily acquiring the third party interests. The proposed CPO does not include the acquisition of any residential properties.
- 7.2 The key provision of the Guidance is paragraph 2, quoted in section 5 above. This not only summarises the national policy and the need for there to be a "compelling case in the public interest" for compulsory acquisition, but also meets the requirements of the Convention. In relation to Article 1 of the First Protocol of the European Convention, a fair balance is required to be struck between the public interest and private rights and in relation to Article 8, any interference with the right to respect for a person's private and family life and home must be proportionate.
- 7.3 Human rights protected by the 1998 Act of particular importance to the decisions on compulsory purchase are those under Articles 6 and 8 and Article 1 of the First Protocol of the Convention.

Article 6 provides:

*"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."*

The statutory procedures require that all those likely to be affected by the Order are notified and given an opportunity to object. If there are objections the Secretary of State will arrange a public local inquiry so that their

objections can be heard (unless all parties agree to the written representations procedure).

The legislation provides for statutory review in the event of challenge to the decision of the Secretary of State on confirmation of the Order. Disputes over compensation can be referred for hearing by the Lands Chamber of the Upper Tribunal. Taken together, the availability of these procedures satisfy the requirements of Article 6.

*Article 1 of the First Protocol provides:*

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."

Article 1 of the First Protocol again indicates that compulsory purchase must strike a fair balance between the public interest and the private rights protected by Article 1, equivalent to proportionality under Article 8. For the reasons set out above, it is considered that there is a compelling case in the public interest for the Order to be made and this satisfies the requirements of proportionality and fair balance.

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender re-assignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers. In particular the Council must pay due regard to the need to:

- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.4 The Council considers that the Scheme is fully compliant with the Equality Act. The Order required to facilitate the Scheme is not anticipated to have any additional effects. The Council will undertake an Equality Impact Assessment before making the CPO.

## **8. Options**

Overview and Scrutiny Committee are asked to either:

8.1 Recommend to Cabinet that the Council makes a Compulsory Purchase Order ('CPO') to acquire 'The Order' land as detailed. This will be subject to:

- A business case being agreed to acquire 'The Order' Land and develop the wider site utilising the 'Capital Portfolio Fund'
- Planning permission being granted for a scheme which encompasses the land.

Or

8.2 To make any alternative recommendation they might agree.

**9. Consultation**

9.1 CLT.

**10. Related Decisions**

10.1 Not Applicable.

**11. Relevant Council Policies/Strategies**

11.1 Not applicable.

**12. Implications**

12.1 Resources: Any implications as a result of the pledge and policy will be met from within the existing budget.

12.2 Equalities: There are no negative impacts on equality as a consequence of the proposed scheme.

12.3 Partnership working: The principles of CLH are to work in partnership with individuals and groups who want to bring forward CLH

- a. Human Rights: Considered as not being impacted if the CPO of the Order Land is progressed
- b. E-Government: Not applicable
- c. Transformation: Not applicable

**13. Equality Impact Needs Assessment**

13.1 No equality impact needs assessment is required.

**14. Wards affected**

10.1 Broadwaters Ward

**15. Appendices**

15.1 Appendix 1 – Order Land

15.2 Appendix 2 – Wider Land

**16. Background Papers**

None.

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