

## **Cabinet – 17 December 2014**

### **Ravenscourt Shopping Centre, Petition Received at Council**

**Portfolio:** Councillor Nazir, Regeneration

**Related portfolios:**

**Service:** Regeneration

**Wards:** Brownhills

**Key decision:** No

**Forward plan:** No

#### **1. Summary**

- 1.1 This report refers to a petition submitted to Council on 22<sup>nd</sup> September 2014 which called for the council to compulsorily purchase Ravenscourt Shopping area with a view to re-development. The matter was reported to the Business, Employment and local Economy Scrutiny Panel on 24<sup>th</sup> November when members agreed that:

*officers continue to work with the owners of Ravenscourt Shopping Centre in order to help bring forward an appropriate redevelopment scheme for the site but if a planning application is not submitted within 6 months of the date of this meeting officers should serve the S215 Notice in accordance with the resolution of the Planning Committee in order to improve the appearance of the site.*

- 1.2 The Scrutiny Panel considered the historical context of the site from when the Shopping centre formed part of Tesco's redevelopment plans through to the current day and the council's Planning Committee resolution to serve a Section 215 (amenity) Notice in order to address the poor state of repair of the building.
- 1.3 The Scrutiny Panel were advised and considered the compulsory purchase process and rationale to follow should the council be mindful to acquire the building if the owners were a reluctant seller. The Panel took into account a statement made by the owner's agent who advised that they are in ongoing discussions with specialist advisers and council officers regarding the potential redevelopment of the site.
- 1.4 The Panel concluded that whilst negotiations remain ongoing with the owners and there remains a real prospect that a redevelopment scheme is likely to be submitted then the council should continue to hold back from formally serving the Section 215 Notice in order to avoid abortive costs. However, should negotiations stall or fail to bring forward an acceptable and deliverable scheme that secures

planning permission the Council should serve the Section 215 Notice in accordance with the resolution of the Planning Committee on 14<sup>th</sup> April 2014.

## **2. Recommendations**

- 2.1 That Cabinet agrees that officers continue to work with the owners of Ravenscourt Shopping Centre in order to help bring forward an appropriate redevelopment scheme for the site but if a planning application is not submitted within 6 months of the date of this meeting officers should serve the S215 Notice in accordance with the resolution of the Planning Committee in order to improve the appearance of the site.

## **3. Report detail**

- 3.1 In accordance with the Council's petitions scheme the petition which contains over 500 signatories is required to be reported to one of the Council's scrutiny and performance panels where the relevant senior officer will be give evidence. The petition was submitted to the Council by Councillor Craddock which called for the Council to *"use the powers available to compulsory purchase Ravenscourt Shopping area with a view to re-develop in keeping with Brownhills High Street"*. A report was presented to the Business, Employment and Local Economy Scrutiny Panel on 24<sup>th</sup> November and their recommendation is reported to Cabinet for agreement in accordance with The Constitution.
- 3.2 Ravenscourt Shopping Precinct is located to the South West of the High Street opposite the junction of Church Street within Brownhills District Centre, as shown on the attached plan. The site is predominately accessed through an arched entrance from the High Street and forms an integral part of Brownhills District Centre. The open courtyard area in the centre of the site is owned by the Council and is open for use by the general public. This area provides a range of seating and landscaping features and is surrounded by a precinct of privately owned retail outlets. The enjoyment of this area by its users is detracted by the poor appearance of the property and unfortunately there are now high vacancy rates within the Ravenscourt Shopping Precinct, which has contributed to a gradual decline in the use of the area.
- 3.3 Ravenscourt also provides a thoroughfare to the larger retail units to the rear of the site and the external elevations of the Ravenscourt building are widely visible from the surrounding area, including Silver Street, which provides vehicular access to the adjacent Tesco store.

## **4. Council priorities**

- 4.1 The council's priorities include helping local high streets and communities as well as creating jobs and local health and well being. The negative impact of these shops on Brownhills district centre causes harm to all these priorities. Urgent action is required in order to address the state of the Shopping Centre which requires significant investment. The proposed collaborative approach with the owners is considered to offer the best chance for the redevelopment of the site but if this does not result in the submission of a planning application and subsequent

development it is considered that remedial action as set out in the proposed Section 215 Notice should progress without further delay.

## **5. Risk management**

- 5.1 Following this Scrutiny Panel, officers will continue to work with representatives of the owner in order to help negotiate an acceptable solution for Ravenscourt. Any suitable scheme will need to be taken through the Council's decision making process which may include seeking Cabinet approval if the council is to include its land ownership in the scheme at less than best. This would be undertaken prior to or at the same time of the consideration of a planning application by Planning Committee.

## **6. Financial implications**

- 6.1 In the event of noncompliance with a Section 215 Notice, a local planning authority may bring a prosecution under Section 216. The fine levied would be 'level 3' which is currently a maximum of £1000 only. However if the work is not then undertaken as quickly as practicable, Section 216 allows for further prosecutions, when a fine can be levied for every day which has elapsed following the first prosecution. The maximum daily fine is £100 per day. Independently of prosecution, Section 219 allows a local planning authority to carry out direct action works in default and recover the costs it incurs. In the event of prosecution an application would be made to the Magistrates Court seeking to recover the Council's investigating and Legal Officer's costs. An application for an award of the defendant's costs against the Council could be made if it were considered prosecution proceedings were unreasonable.
- 6.2 The Council itself does not have sufficient financial resources to redevelop the centre. In the absence of any scheme of redevelopment and given the statutory and circular tests set out above it is not possible for the Council to justify making a compulsory purchase order at this time. Should a private developer come forward in future with viable redevelopment plans then it may be possible to use compulsory purchase powers if the tests above are satisfied.
- 6.3 All potential actions would be within existing budgets

## **7. Legal implications**

### Section 215 (Amenity Notice)

- 7.1 Planning officers have corresponded with the owners agents for several years regarding the appearance of the site but as negotiations failed to produce a solution on site it was considered necessary for the Council to take formal enforcement action to address impact upon amenity. Consequently a report was presented to the Planning Committee on 14<sup>th</sup> April 2014 under section 215 of the Town and Country Planning Act 1990 which required:
- a. Remove from the land to an authorised place of disposal all litter and fly tipped rubbish.

- b. Repair or replace all of the existing timber security boarding on all elevations of the buildings and paint the exterior of the boards with a minimum of two coats of British Standard colour BS 18 B25 (Dark Grey). Ensure all openings are securely fixed to make certain the security of the building is not compromised.
  - c. Repair or replace all weathered fascias along the frontage of the overhanging canopies above the shop fronts.
  - d. Repair or replace all weathered fascia boarding on the front, side and rear elevations of the building. Paint the exterior of the fascia boarding with a minimum of two coats of external white paint.
  - e. Ensure all of the poorly maintained disused advertisement signage is either removed or repaired.
  - f. Remove all graffiti from the roller shutters and all external walls of the site.
- 7.2 The notice has not been served as the owner's agents have met with officers and members in order to explore potential redevelopment of the site. However an appeal against the issue of a Section 215 notice can be made to the Magistrates Court and could be subject to an application for a full or partial award of the appellant's costs in making an appeal if it was considered that the Council had acted unreasonably in issuing a notice.

#### Use of compulsory purchase powers

- 7.3 The main compulsory purchase power (CPO) used by local authorities for regeneration is found in section 226 of the Town and Country Planning Act 1990. The Council can use section 226 if it thinks that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to it. The power must only be exercised if the Council thinks the development will promote the social, economic or environmental well-being of the area. The Council can use the power on behalf of a private developer if it believes that allowing that developer to acquire the land would satisfy the statutory test. Circular 06/04 (*Compulsory Purchase and the Criche Down Rules*) contains – in addition to the statutory tests referred to above - the key tests the Secretary of State will consider when deciding whether to confirm a CPO. These are set out below.
- 7.4 A CPO will only be confirmed where the Council can demonstrate there is a proposal or plan for the land which is likely to be delivered within a reasonable time. In practice this means having an identified scheme for the site which is to be compulsorily acquired. In some cases it may be possible to satisfy this test by showing compelling market testing to demonstrate that an implementable scheme could be delivered once the land is acquired, but this is rare and each case has to be assessed individually. It is advisable, though not essential, to have planning permission for the proposed scheme. If there is no planning permission by the time of the CPO then the Council would need to show that planning policy for the area supports the scheme, and there is no reason why permission would be refused.

- 7.5 For all CPOs the Council will need to satisfy the Secretary of State that the scheme the Council intends to facilitate or implement is viable and that the financial resources are available to deliver it.
- 7.6 Examples of impediments – whether the scheme is proposed to being delivered by the public or private sector - would be not having the necessary financial resources to deliver the scheme, significant land contamination with prohibitive remediation costs, or planning policy not supporting the scheme.
- 7.7 CPOs are a power of last resort, to be used only once voluntary attempts to acquire the land have failed. The Secretary of State will want to know whether the proposed scheme could be delivered without using CPO powers. For example, could the scheme be amended so that it is not necessary to acquire land compulsorily, or is there another suitable site in the vicinity which could accommodate the scheme?
- 7.8 Acquiring land compulsorily is an interference with the rights of individuals and companies under the European Convention on Human Rights. The Council therefore needs to satisfy the Secretary of State that the public interest in acquiring the land significantly outweighs the private rights of the owner. This is done by demonstrating the social, environmental and economic benefits of the proposed scheme contrasted with what is likely to happen to the site if the current owner retains it; the less the owner has done with the land, and the fewer proposals he has for it, the more likely the Secretary of State is to think that there is a compelling case in the public interest for confirming the CPO.

## **8. Property implications**

- 8.1 The council owns the central thoroughfare to the larger retail units to the rear of the site. The owner requires this land as part of the proposed redevelopment of the site and will separately make representations to acquire from the council at less than best consideration.

## **9. Health and wellbeing implications**

- 9.1 The poor appearance of the building has an adverse impact on the amenity of the area by virtue of, the proliferation of fly tipped rubbish, the poorly maintained weathered timber window and fascia boarding's and the dilapidation of the overhanging canopy above the shop frontages. Moreover the appearance of the poor quality redundant advertisement signage and the manifestation of graffiti across the site contribute further to the adverse impact on the amenity of the surrounding area.
- 9.2 Officers have advised the owner on a number of occasions of the need to secure the site and carry out work to improve the appearance. The Council have also received complaints from the Police and the West Midlands Fire Service regarding the security of the property and our Environmental Health Enforcement Officers sent a letter to the owners in June 2013 to request the site is suitably secured. A further letter to the owners from Planning Services in July 2013 requested improvements to the condition of the site and this resulted in the owners contacting the Council to discuss the potential for redevelopment.

## **10. Staffing implications**

10.1 There are no staffing implications

## **11. Equality implications**

11.1 There are no specific equality issues arising from the proposed recommendation.

## **12. Consultation**

12.1 No formal user consultation has been undertaken at this stage. Officers in Legal Services have been consulted on the preparation of this report.

## **Background papers**

Business, Employment and local Economy Scrutiny Panel report 24<sup>th</sup> November 2014

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9 December 2014



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9 December 2014