

Cabinet – 8 February 2012

St Matthew's Quarter: Redevelopment of Old Square Shopping Centre

Portfolio: Councillor Adrian Andrew, Deputy Leader and Regeneration

Service: Development and Delivery

Wards: St Matthew's

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 Members will recall a report to Cabinet in October 2010, at which it was resolved that the Council would appropriate land in the St Matthew's Quarter for planning purposes, under section 122 of the Local Government Act 1972, so that the Council could then use its powers under section 237 of the Town and Country Planning Act 1990 to override third party rights in the same land. This was an important step towards the disposal of the Council's interests to Zurich Assurance, the owners of the Old Square shopping centre, to facilitate the redevelopment of the shopping centre.
- 1.2 The proposals for the redevelopment of the Old Square shopping centre have progressed well in the intervening period, and Zurich Assurance has now requested that the Council confirms its willingness and readiness to use the section 237 powers. The use of the section 237 powers will override any third party rights (such as easements and restrictive covenants) in the land which the Council is disposing to Zurich Assurance, thereby ensuring that such rights do not present any impediment to implementation of the redevelopment. The beneficiaries of such rights will receive compensation (equal to the depreciation in value of the property caused by the loss of the right) and cannot seek any injunction to prevent the redevelopment proceeding. As there is a right to compensation, Zurich Assurance will indemnify the Council against any such payments.
- 1.3 Since October 2010, further consideration has been given to the exact area of land being acquired by Zurich Assurance, and the boundary of this land is slightly different to that agreed previously for appropriation by Cabinet. Therefore, Cabinet is recommended to appropriate the land edged bold on the attached plan **Appendix A (EPMS 3423/2)** for planning purposes under section 122 of the Local Government Act 1972. Authority is also sought from Cabinet to confirm the use of its powers under section 237 of the Town and Country Planning Act 1990, for the land edged bold on the attached plan **Appendix A (EPMS 3423/2)**, to facilitate the redevelopment of the Old Square shopping centre. The authority

will be conditional on completion of an indemnity agreement which provides that all compensation costs arising will be met by Zurich Assurance.

2. Recommendations

Cabinet is recommended:

To appropriate the land, edged bold on the attached plan **Appendix A (EPMS 3423/2)** for planning purposes under section 122 of the Local Government Act 1972, and to confirm the use of its powers under section 237 of the Town and Country Planning Act 1990 to override third party rights in the land edged bold on the attached plan **Appendix A (EPMS 3423/2)**, subject to completion of an indemnity agreement which provides that all compensation costs will be met by Zurich Assurance.

3. Report detail

- 3.1 The redevelopment of the Old Square Shopping Centre represents significant movement towards the delivery of the Council's aspirations for the regeneration of St Matthew's Quarter. In particularly difficult market conditions for the retail sector, the redevelopment of the shopping centre will show that Walsall's retail offer is improving, and will help to cement the town centre's position as an important sub-regional centre. The new retail floorspace that will be delivered through the first phase of the scheme has been confirmed at 5,645 sq metres (60,757 sq ft) in 3 retail units, and this phase achieved a planning consent in September 2011 (reference 11/0560/FL).
- 3.2 Later phases are also anticipated for the shopping centre, which could deliver further significant retail space that will represent a contribution towards the aspiration outlined in the Black Country Core Strategy for an additional 85,000 sq metres of comparison retail floorspace in Walsall town centre by 2026, and which is to be supported through the work (agreed by Cabinet in June 2011) that is starting on the Area Action Plan for Walsall Town Centre. The staged redevelopment of the shopping centre will provide more desirable, larger floor plates demanded by modern retailers currently lacking in the town centre, and a higher quality of design. This investment will represent the first major comparison goods retail investment in the town centre since the construction of Crown Wharf a decade ago.
- 3.3 The Council has been working with Zurich Assurance, and its agents Threadneedle Property and DTZ, for some time to realise the redevelopment of the Old Square. The Council exchanged a land sale agreement with Zurich Assurance in June 2011, which requires the Council, amongst other things, to confirm the use of its powers under section 237 of the Town and Country Planning Act 1990 before contract completion. In addition to the planning permission mentioned in paragraph 3.1, the demolition of the former Overstrand Restaurant also took place in September 2011.

- 3.4 The land sale agreement is for the acquisition by Zurich Assurance of an area of land that is slightly different to that anticipated at the time of the October 2010 Cabinet report. As such, it is necessary to appropriate a revised area of land for planning purposes under section 122 of the Local Government Act 1972, as identified in bold in **Appendix A**. Furthermore, Zurich Assurance has now asked the Council to confirm the use of the powers within Section 237 of the Town and Country Planning Act 1990, which will override any third party rights in the land, as indicated in **Appendix A**. Zurich Assurance will indemnify the Council for any compensation costs resulting from the use of these powers, and this arrangement is addressed in the land sale agreement and a separate deed of indemnity.

4. Council priorities

As expressed in the Corporate Plan 2011/12 – 2014/15, part of the Council's shared vision for the Borough is that Walsall will be a great place to live, work and invest, where "there are more and better jobs for local people" and where "there are a wide range of facilities for people to use and enjoy". Furthermore, one of the three priorities for the Council is the economy, and if Cabinet approves this important step towards the redevelopment of the Old Square shopping centre, it will help to deliver the shared vision for the Borough and underpin the Council's economic priority.

5. Risk management

- 5.1 It is acknowledged that the project contains considerable elements of risk, which has warranted the need for Zurich Assurance request the use of powers under section 122 of the Local Government Act 1972 and section 237 of the Town and Country Planning Act 1990. Without the use of these powers, third parties may not be able to reach a negotiated settlement in respect of any rights over land, which could lead to delays in the delivery of the overall project. The use of the section 237 powers removes this risk. The completion of an indemnity agreement in respect of any compensation claims mitigates any financial risk for the Council.
- 5.2 The delivery of the overall project is dependent upon the commitment of private sector partners in a time of recession.

6. Financial implications

As noted above, if the Council confirms the use of its section 237 powers to override any third party rights in the land to be disposed to Zurich Assurance, then Zurich Assurance will indemnify the Council against any compensation claims.

7. Legal implications

- 7.1 The legal implications of the use of Section 237 of the Town and Country Planning Act 1990 are set out elsewhere in this report. There will be an ongoing requirement for Legal Services to be included in various elements of this project.
- 7.2 The use of section 237 powers is considered appropriate in the circumstances given the very strong public interest in delivering the redevelopment.

8. Property implications

As reported elsewhere, the Council's use of its section 237 powers is a condition of the land sale agreement contract with Zurich Assurance, and therefore must be met before the land sale can complete and the Council can secure its capital receipt. As such, there are ongoing property considerations which require the continued input of Property Services.

9. Staffing implications

Staff in Development and Delivery, Legal and Property Services have been involved in this project thus far, and further input will be required from these Council service areas.

10. Equality implications

- 10.1 It is considered that the citizen's of the Borough will welcome and benefit from the implementation of the wider project to redevelop the Old Square shopping centre. These proposals will not only improve the environment of the town centre, they will also deliver a considerable enhancement in existing retail stock and therefore the retail offer in the town centre.
- 10.2 The delivery of the project, particularly in the construction and retail sectors, could provide employment and business opportunities for Walsall's citizens. Where possible, the aspirations of the Think Walsall initiative will be pursued to ensure this happens. The redevelopment of the Old Square will evolve to ensure accessibility for all, whilst the demolition of any buildings will be undertaken in accordance with the principles of continued accessibility for all wherever possible.
- 10.3 Whilst there will be an overall positive benefit for the Borough, it is possible that the use of the section 237 powers to override third party rights will impact negatively on some individuals. As indicated earlier in this report, in such circumstances compensation will be payable.
- 10.4 An equality Impact Assessment has been carried out on the implications of this Cabinet report. This assessment concluded that there will not be any negative implications for the characteristics protected by the Equality Act 2010.

11. Consultation

Neighbours and the wider community have been involved through the statutory planning process and other aspects of this project, including the pursuance of highway stopping-up orders by the developer.

Background papers

Report to Cabinet, 13 October 2010

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Tim Johnson
Executive Director
Regeneration

8 February 2012



Councillor Adrian Andrew
Deputy Leader
Portfolio Holder - Regeneration

8 February 2012



Walsall Council

AREA EDGED BOLD = 6,333 SQ METRES (OR THEREABOUTS)



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SITE ADDRESS:
APPENDIX A : LAND TO BE APPROPRIATED AND SUBJECT TO USE OF SECTION 237 POWERS
DRAWING NO: EPMS 3423/2
DATE : 26/01/2012
DRAWN BY : SSP



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