



Author/Lead Officer of Report:
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Report of: Executive Director, Place

Report to: Councillor Olivia Blake, Deputy Leader and Cabinet Member for Finance

Date of Decision: 8th November 2017

Subject: Acquisition of a long leasehold interest in premises known as 31/35 Arundel Gate, Sheffield

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Cabinet Member for Finance		
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing.		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given?	1159	
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i>		

Purpose of Report:

This report seeks approval for the Council to acquire the long leasehold interest in premises known as 31/35 Arundel Gate, Sheffield ("the Premises"), as shown on the attached plan marked as Appendix A

The acquisition of the Premises will be conditional upon the Executive Director of Place having sufficient confidence that funding from The Sheffield City Region Investment Fund (SCRIF) for the delivery of the Knowledge Gateway project, of

which the acquisition of the premises forms a key component, will be forthcoming.

Recommendations:

That the Cabinet Member for Finance

Authorises the Executive Director of Place in consultation with the Executive Director of Resources to instruct the Chief Property Officer and the Director of Legal and Governance to

- Enter into all necessary Legal Agreements for the acquisition of the Premises on such terms as are consistent with the contents of this report;

That the acquisition is compliant with the Council's budget processes, and Capital Approval processes.

Background Papers: None

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: <i>(Insert name of officer consulted)</i> Paul Schofield
	Legal: <i>(Insert name of officer consulted)</i> David Sellars
	Equalities: <i>(Insert name of officer consulted)</i> Beth Storm
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission:
	<i>(Insert name of relevant Executive Director)</i> Laraine Manley
3	Cabinet Member consulted:
	Cllr Olivia Blake
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.
	Lead Officer Name: Edward Highfield
	Job Title: Director of City Growth
Date: 25th October 2017	

1. PURPOSE

- 1.1 This report seeks approval for the Council to acquire the long leasehold interest in 31 - 35 Arundel Gate, Sheffield (the Premises), as shown on the attached plan marked as Appendix A
- 1.2 The acquisition of the Premises will be conditional upon the Executive Director of Place having sufficient confidence that funding from The Sheffield City Region Investment Fund (SCRIF) for the delivery of the Knowledge Gateway project, of which the acquisition of the Premises forms a key component, will be forthcoming.

2.0 HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The acquisition of the Premises will enable one of the key aims of the Knowledge Gateway project to be achieved, namely the creation of a high quality pedestrian route on Esperanto Place.
- 2.2 The intention is to demolish the Premises and replace them with high quality public realm which will open up/enhance the connectivity between Fitzalan Square and Arundel Gate/Norfolk Street and the wider city centre
- 2.3 The Knowledge Gateway project will transform the public realm on the route running from Fitzalan Square down Ponds Street through to Paternoster Row/Brown Street, and the route from Fitzalan Square to Arundel Gate, Norfolk Street and the wider city centre.
- 2.4 The public realm will be designed to a similar high standard as the existing award winning "Gold" and "Steel Routes"
- 2.5 The projects overall aim is to help unlock and connect key development sites within the city centre in order to generate additional economic growth and create new jobs

3.0. HAS THERE BEEN ANY CONSULTATION?

- 3.1 A comprehensive public consultation exercise on the draft proposals for the Knowledge Gateway project was undertaken by officers between 13th to 25th February this year.
- 3.2 As part of this exercise two public exhibitions were held each over a number of days. Both were well attended and over 100 written comments were received by the Council.
- 3.3 These written comments were either about the overall Knowledge Gateway project or related specifically to cycling.
- 3.4 The non-cycling community were overwhelmingly positive about the project, whilst the cycling lobby were against it due to its perceived failure to address cyclists concerns. These concerns were noted and

addressed where practical.

4.0 BACKGROUND

- 4.1 The Council own the freehold reversion of the Premises, subject to a 99 year lease granted in 1970
- 4.2 The Premises comprises of 2 retail units and these have been let on short term leases by the current long leaseholder. One unit is a furniture store and the other a hot food takeaway.
- 4.3 There is currently a set of pedestrian steps in the middle of the 2 retail units that link Arundel Gate to Esperanto Place. These steps are part of the public highway and are in a usable but fairly poor condition. These steps and the current design of Esperanto Place discourage pedestrian use.

5.0 PROPOSAL

- 5.1 The Council intend to acquire the long leasehold interest in the Premises and a price of £325,000 has been agreed with the owners Cordwell Property.
- 5.2 Both of the retail units are currently let on short term leases. However vacant possession can be obtained by the landlord on the serving of notice pursuant to break clauses, as set out in the terms of the underleases.
- 5.3 It was the Councils intention to acquire the long leasehold interest and serve notice on the tenants pursuant to the break clauses as soon as it is able on acquisition of the long lease, giving it control of the Premises and in part enabling delivery of the Knowledge Gateway project. However the notices must be served by 14th November and it is not possible to acquire the long lease within that timeframe. It is therefore proposed that the current long leaseholder will serve the notices based on assurances that the Council acquire the long leasehold interest as set out above.
- 5.4 No compensation statutory or otherwise is payable to the tenants if a notice to vacate is served on the tenants of the retail units under the terms of their leases.
- 5.5 The Councils intention is to ultimately fund the acquisition of the Premises from the SCRIF funding for the Knowledge Gateway project.
- 5.6 Under the terms of one of the retail unit's short term lease, notice to terminate must be served giving not less than 12 months' notice to expire on 14th November 2018.
- 5.7 It is highly unlikely that the SCRIF funding application will be decided or the funding actually secured by the date notice to terminate needs to be

served. However officers are as confident as is reasonable in the circumstances that the application will be successful.

- 5.8 It is therefore proposed that in the short term until the SCRIF funding is secured that the Council fund the acquisition of the Premises and then recover this cost from the SCRIF funding once it is secured.
- 5.9 This course of action will enable the Council to acquire the long leasehold interest of the Premises on condition that the current landlord has served the requisite 12 months' notice on the short term lease by the 13th November 2017
- 5.10 In the circumstances, although there is an element of risk for the Council, it is considered that this is outweighed by the loss of opportunity to obtain the Premises with vacant possession and thus de-risk any delay to this aspect of delivery of the Knowledge Gateway
- 5.11 Once the Council has secured vacant possession of the retail units it is proposed that the Premises will be managed and then demolished by the Council with funding from the Knowledge Gateway project.
- 5.12 This demolition will open up Esperanto Place and enable the creation of a high quality pedestrian route
- 5.13 Cordwell Property (the current owners of the Premises) have aspirations to acquire and then redevelop the adjacent Mecca Bingo site (as shown on the attached plan) and the Council understand that preliminary discussions have already taken place between Cordwell Property, Rank Leisure and a prospective end user about the sites development potential.
- 5.14 The Council are the freehold owners of this site and Rank Leisure occupy a majority of the site under a 99 year lease granted in 1937. The small area of landscaping to the rear of the site is in the Councils ownership
- 5.15 As a condition of the sale of the Premises Cordwell Property therefore require the Council to:
 - 5.15.1 Grant a 19 year lease of the land coloured grey on the attached plan back to them. Under the terms of this lease Cordwell Property will be obliged to dedicate this land as public highway when the Premises are demolished by the Council
 - 5.15.2 Enter into a Memorandum of Understanding that should Cordwell Property, within a 10 year period, obtain both planning permission for the Mecca Bingo site and enter into a binding Agreement to acquire the Rank Leisure interest in that site, then the Council will:
 - 5.15.3 (i) in good faith enter into negotiations to re-gear the long leasehold interest in the Mecca Bingo site to create an interest that will enable the

site to be redeveloped by Cordwell Property, and

(ii) subject to a premium which meets the Council's best value obligations being agreed for the re-gear then the small piece of landscaping to the rear of the site be included in that negotiation for a separate price of £,1000, and not used as a ransom strip

(iii) in its capacity, as a landowner the Council will not object to any application Cordwell Property make for a highway closure on a small strip of land on Esperanto Place adjacent to the Mecca Bingo site (which includes the grey land)

5.16 It should be noted that whilst the conditions of sale set out above require the Council to negotiate in good faith with Cordwell Property, the Head of Legal Services and Governance is satisfied that they would not prevent the Council from dealing with any other parties should they, not Cordwell Property, acquire the Rank Leisure interest, and so do not fetter the Council's interest/position.

6.0 **RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

6.1 **EQUALITY OF OPPORTUNITY IMPLICATIONS**

6.1.1 An EIA has been carried out for the overall Knowledge Gateway project – reference number 1159.

6.1.2 The enhancement of the public realm will be of positive benefit to all local people, regardless of age, gender, race, faith, sexuality, disability, etc. No negative equality impacts have been identified.

6.2 **FINANCIAL AND COMMERCIAL IMPLICATIONS**

6.2.1 Funding for the acquisition of the Premises will come from The Sheffield City Region Investment Fund (SCRIF) funding the Council has been awarded for the delivery of the Knowledge Gateway project.

6.2.2 However it is highly unlikely that the SCRIF funding will be actually secured by the date notice to terminate needs to be served.

6.2.3 The Council will therefore fund the acquisition in the short term and recover this expenditure from the SCRIF funding once the SCRIF Funding Agreement is completed.

6.3 **LEGAL IMPLICATIONS**

6.3.1 Local Authorities are generally free to acquire land without legal constraint. However, all land purchased must be used for the purpose for which it was acquired.

6.3.2 There is no one statutory power which provides for local authorities to acquire land. However, section 12 of the Local Government Act 2003

provides a general power of investment to local authorities and this would be suitable for this acquisition

6.3.3 Any acquisition is subject to the general requirement to acquire assets for the best price and at best value for money in order to demonstrate the principles of best consideration.

6.3.4 The sub leases are contracted out of sections 24 to 28 of the Landlord and Tenant Act 1954, as such although they are business tenancies for the purposes of the Act there is no requirement to show a statutory ground for taking possession nor is there a statutory obligation to pay any compensation to the outgoing tenants

6.4 PROPERTY IMPLICATIONS

6.4.1 The Premises produce an annual rental income of £23,200

6.4.2 As set out above in this report it is the Councils intention once the requisite notices have been served on the under tenants to acquire the Premises in order to obtain and secure vacant possession.

6.4.3 Once vacant possession has been obtained and secured the Council will then either:

6.4.3.1 Demolish the premises if the SCRIF funding for the Knowledge Gateway project is in place, or

6.4.3.2 If the Knowledge Gateway project is not proceeding seek to re-let the 2 retail units and the Premises will be incorporated into the Corporate Estate portfolio

6.4.4 Any future re-gear of the long lease of the Mecca bingo site by the Council will be at full open market value.

6.5 COMMUNITY SAFETY IMPLICATIONS

6.5.1 The demolition of the Premises and creation of a new high quality public route between Fitzalan Square and Arundel Gate, Norfolk Street and the wider city centre will lead to the opening up of the route which will increase safety in the area. This in turn will bring more people into the area and this increased footfall, together with the improved safety will enhance the overall experience of the users.

6.6 HUMAN RIGHTS ISSUES

6.6.1 There are not considered to be any human rights implications arising from the proposals set out in this report.

7.0 ECONOMIC IMPACT

7.1 The overall aim of the Knowledge Gateway project is to help unlock and

connect key development sites within the city centre.

- 7.2 By unlocking and connecting these key development sites the Council is seeking to generate additional economic growth and create jobs in the city centre

8.0 **ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 Do nothing is an option that has been considered but discounted. If the Council do not acquire the Premises then the opportunity to improve the public realm on Esperanto Place and to open up/enhance the connectivity between Fitzalan Square and Arundel Gate/the wider city centre may be lost.

9.0 **REASONS FOR RECOMMENDATIONS**

- 9.1 The acquisition of the long leasehold interest in 31/35 Arundel Gate, Sheffield will enable the Council, as part of the Knowledge Gateway project, to demolish the Premises and replace them with high quality public realm which will open up/enhance the connectivity between Fitzalan Square and Arundel Gate, Norfolk Street and the wider city centre
- 9.2 For the above reasons it is proposed that the Cabinet Member adopts the recommendations set out in this report.