



Author/Lead Officer of Report: Nalin Seneviratne
– Director of Capital and Major Projects

Tel: 2057017

Report of: Executive Director Place
Report to: The Executive Leader
Date of Decision: 15th December 2016.
Subject: **Sheffield Retail Quarter – Proposed Appropriation of Land For Planning Purposes**

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? Business and Economy				
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing				
Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

Purpose of Report:

This report seeks approval for the Council to appropriate under Section 122 of The Local Government Act 1972 and Section 232 of The Town and Country Planning Act 1990, for planning purposes

- (i) All land interests it currently owns within the proposed development site for the Sheffield Retail Quarter development;
- (ii) Any land that may be acquired in the future for the Sheffield Retail Quarter development, and;
- (iii) Any land that is currently held by the Council as highways land within the Sheffield Retail Quarter development site, should that land no longer be required for its current purpose and the highway formally closed.

Recommendations:

That The Leader approves

1. The appropriation for planning purposes of all parts of the Sheffield Retail Quarter development site currently owned by the Council that are not currently held for such purposes;
2. That all future acquisitions by the Council of land required for the Sheffield Retail Quarter development be acquired for planning purposes and then held for planning purposes;
3. That any land currently held by the Council as highways land within the Sheffield Retail Quarter development site be appropriated for planning purposes at such time as the highways land is no longer required for its current purpose;
4. Delegates authority to the Chief Property Officer in consultation with Executive Director of Resources and the Director of Legal & Governance to agree and then execute all necessary legal documentation required to facilitate and formalise the appropriation of land required for the Sheffield Retail Quarter development for planning purposes.

Background Papers:

New Retail Quarter – Compulsory Purchase Order Report to Cabinet 13th December 2006, Sheffield New Retail Quarter Report to Executive Leader dated 8th October 2013, New Retail Quarter Steps Towards Delivery Report to Cabinet on 23rd July 2014, Sheffield Retail Quarter Delivery of First Phase Report to Cabinet on 20th July 2016

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: Jayne Clarke
		Legal: David Sellars
		Equalities: 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:	Simon Green – Executive Director Place
3	Cabinet Member consulted:	Cllr Leigh Bramall
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: Nalin Seneviratne	Job Title: Director of Capital and Major Projects
	Date: 15 th December 2016	

1.0 PROPOSAL

1.1 This report seeks approval for the Council to appropriate under Section 122 of The Local Government Act 1972 and Section 232 of The Town and Country Planning Act 1990 ,for planning purposes:-

(i) all land interests it currently owns within the proposed development site for the Sheffield Retail Quarter development;

(ii) any land that may be acquired in the future for the Sheffield Retail Quarter development and

(iii) any land that is currently held by the Council as highways land within the Sheffield Retail Quarter development site, should that land no longer be required for its current purpose and the highway formally closed.

1.2 The extent of the land affected by this decision is shown on the plan attached to this report marked as Appendix A and throughout this report referred to as the Sheffield Retail Quarter development site

2.0 HOW DOES THIS DECISION CONTRIBUTE?

2.1 The Sheffield Retail Quarter will provide a high class regional shopping and leisure addition to the current city centre retail offer which will deliver a step change providing modern high quality retail/leisure accommodation that the city centre is currently lacking. This new space will allow both current retailers/leisure brands to expand and for new retailers/leisure brands to establish a presence in the city centre and lift Sheffield up the national retail ranking to compete with other city centres such as Manchester, Leeds and Nottingham.

2.2 It will deliver substantial economic and social benefits, not only providing new retail, but also leisure uses, offices, housing and high quality public realm, creating an attractive environment in which to live, work, shop and relax

2.3 The development of the Sheffield Retail Quarter also enhances the status of Sheffield and the city centre in itself and it will help generate much improved visitor numbers thus adding to the overall success of the city centre. It will help stimulate office, commercial and leisure investment/development in the city centre which is part of the City's growth strategy

Outcomes:

2.4 The appropriation of the land referred to in this report will accurately report and document the way in which the Council holds or will hold the land and how it intends to treat the land required for the proposed Sheffield Retail Quarter development. This will provide a single point of reference and therefore greater clarity on the appropriation position which will in turn to support the delivery of the development.

Sustainability:

- 2.5 Completion of the Sheffield Retail Quarter development will make the city centre a more cohesive and sustainable location to attract further investment.
- 2.6 It will help the city centre become more sustainable in terms of economic activity, by bringing about improvements in social well-being and deliver buildings designed to minimise environmental impact.

3.0 PUBLIC CONSULTATION

- 3.1 The Council has, and will continue to undertake comprehensive consultation with both key stakeholders and with the general public on the Sheffield Retail Quarter development proposals.
- 3.2 No public consultation is required for the Council to appropriate land.

4.0 BACKGROUND

- 4.1 The Council historically holds land it owns in various Committee ownerships to reflect the use of that land.
- 4.2 When any land is acquired by the Council it should be registered and held in the relevant Committee ownership, and if any piece of Council lands use is changed at any time, the ownership on the Councils records should be transferred from one Committee's ownership to another by way of an appropriation.
- 4.3 For the purposes of development/regeneration land should be held by the Council for planning purposes.

5.0 SHEFFIELD RETAIL QUARTER LAND ACQUISITIONS

- 5.1 The Council has acquired land over a number of years within the Sheffield Retail Quarter development site via
 - 5.1.1 CPO notices which were served under the Sheffield City Council (Pinstone Street and Trafalgar Street) (New Retail Quarter) Compulsory Purchase Order 2006
 - 5.1.2 By private treaty with individual land/property owners
 - 5.1.3 Via Option Agreements with our former Development Partner Hammerson and with the Homes and Communities Agency.
- 5.2 The report to Cabinet on the 13th December 2006 which authorised the making of the Sheffield City Council (Pinstone Street and Trafalgar Street) (New Retail Quarter) Compulsory Purchase Order 2006 also authorised that such parts of the New Retail Quarter site already owned by the Council , but not held for planning purposes are appropriated for planning purposes and as from that date are held for planning purposes

- 5.3 This report also confirmed that if necessary the Council would use the powers contained in Section 237 Town and Country Planning Act 1990 in order to ensure that the New Retail Quarter scheme is not prejudiced by claims of interference with rights to which the section applies
- 5.4 It should be noted at that time the now Sheffield Retail Quarter development was known as the New Retail Quarter and also that Section 237 Town and Country Planning Act 1990 has been repealed/replaced by Section 203 The Housing and Planning Act 2016
- 5.5 An interrogation of the Councils Geographic Information System (GIS) which documents/records the Committee ownership of all the land the Council own within Sheffield shows that certain parcels of land within the Sheffield Retail Quarter development site which were appropriated for planning purposes pursuant to the 13th December 2006 authority are recorded as currently not held for planning purposes.
- 5.6 Given the above it is considered prudent and reasonable to clarify the position and in order to provide this clarity and certainty for officers and third parties authority is now therefore being sought in this report to appropriate for planning purposes;
- 5.6.1 All land interests the Council currently owns within the Sheffield Retail Quarter development site which are currently not shown as being held for planning purposes;
- 5.6.2 Any land that may be acquired in the future for incorporation in the Sheffield Retail Quarter development site; and
- 5.6.3 Any land that is currently held by the Council as highways land within the Sheffield Retail Quarter development site, should that land no longer be required for its current purpose and the highway formally closed.

6.0 WHY APPROPRIATE LAND WITHIN THE SHEFFIELD RETAIL QUARTER DEVELOPMENT SITE FOR PLANNING PURPOSES?

- 6.1 By holding land for planning purposes the Council are able, if they are so minded to do so to override rights of light easements, restrictive covenants and other rights in relation to neighbouring land to allow development to take place on the Councils land under the powers of Section 203 of the Housing and Planning Act 2016
- 6.2 The use of Section 203 powers allows development to commence/proceed as any property rights over the land to be developed held by neighbouring land owners are overridden, thus preventing the beneficiaries of such rights from obtaining an injunction to prevent the development taking place.
- 6.3 The beneficiaries of the land rights are instead of being able to stop the development entitled to financial compensation for the loss of their rights. Any compensation would be assessed on the basis of the loss in value of the claimants land as a consequence of the interference or breach.

- 6.4 By clarifying that the appropriation of the Sheffield Retail Quarter land interests for planning purposes has occurred the delivery of the Sheffield Retail Quarter development can proceed as it gives the Council the option to use the powers of Section 203 of the Housing and Planning Act 2016, as authorised by Cabinet on the 13th December 2006. This removes the risk of the development being prevented from taking place due to an adjacent land owner with a property right over any of the Sheffield Retail Quarter development site, obtaining an injunction to prevent the development taking place.
- 6.5 Whether or not the Council will ever need to exercise its statutory powers under Section 203 depends entirely on the circumstances at that time.

7.0 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

- 7.1 If the Council is not able to show that it has appropriated all the land within the proposed site for the Sheffield Retail Quarter development for planning purposes, there is a risk that it may not be able to exercise its powers under Section 203 of the Housing and Planning Act 2016. As a result there is a risk that the Sheffield Retail Quarter development could be prevented from being developed.
- 7.2 This risk can be mitigated by appropriating all of the land within the Sheffield Retail Quarter development site for planning purposes as set out in this report

8.0 EQUALITY OF OPPORTUNITY IMPLICATIONS

- 8.1 The redevelopment of the Sheffield Retail Quarter site will be of universal positive benefit for all local people regardless of age, sex, race, faith, disability, sexuality, etc. Local people will benefit from the creation of a significant number of new full and part time jobs. The socio economic and community cohesion impacts locally will be particularly positive.
- 8.2 No negative equality impacts have been identified as a result of the authority being sought in this Cabinet report

9.0 FINANCIAL AND COMMERCIAL IMPLICATIONS

- 9.1 There are no financial implications to the Council of appropriating land within the proposed site of the Sheffield Retail Quarter development for planning purposes.
- 9.2 However if the Council make the decision, should it prove necessary, to use its statutory powers under Section 203 of the Housing and Planning Act 2016 as authorised by Cabinet on 13th December 2006, to override any rights of light, easements, restrictive covenants and other rights in relation to neighbouring land to allow the Sheffield Retail Quarter development to take place, then the Council will be liable to pay financial compensation to the land owner for the loss of their rights.
- 9.3 In 2006 when Cabinet granted authority to use these powers the Council had an Indemnity Agreement in place with our then development partner Hammerson

whereby they would fund any compensation payable so there was no cost to the Council.

- 9.4 As the Council has terminated its partnership with Hammerson the Council will now have to fund any compensation payment due to land owners should we choose to exercise the powers under Section 203. Provision for any compensation payments has been included within the approved existing Sheffield Retail Quarter budget.

10.0 LEGAL IMPLICATIONS.

- 10.1 Section 122 of the Local Government Act 1972 enables the Council to appropriate for any purpose land which is held by the Council but is no longer required for any other purpose. Section 232 of the town and Country Planning Act 1990 enables the council to appropriate land which is already held for planning purposes for any purpose

11.0 PROPERTY IMPLICATIONS

- 11.1 The Council has now acquired a majority of the site required for the Sheffield Retail Quarter development and is managing these properties for redevelopment.
- 11.2 There are no property implications arising from appropriating land for the Sheffield Retail Quarter development under S122 of the Local Government Act 1972 or Section 232 of the town and Country Planning Act 1990

12.0 ENVIRONMENTAL SUSTAINABILITY

- 12.1 The Sheffield Retail Quarter development will promote the use of sustainable materials wherever viable and the structures will be designed as efficiently as possible to reduce the quantity of raw construction materials used.

13.0 COMMUNITY SAFETY IMPLICATIONS.

- 13.1 The Sheffield Retail Quarter development will incorporate a series of well-designed pedestrianised streets and public squares within the scheme, and these will provide a safe environment for all.

14.0 HUMAN RIGHTS ISSUES

- 14.1 There are not thought to be any human rights implications arising from the proposals set out in this report.

15.0 ECONOMIC IMPACT

- 15.1 The long-term economic benefits to Sheffield of securing delivery of the Sheffield Retail Quarter are both enormous and long lasting. It will generate new business rates and Council Tax for the Council and retain and/or create new jobs in the city centre.

16.0 ALTERNATIVE OPTIONS CONSIDERED

- 16.1 The Council could do nothing. However if it does nothing then as set out above in this report there is a risk that the lack of clarity and uncertainty that could ensue as to the status of the land would mean that Sheffield Retail Quarter development could be prevented from being developed

17.0 REASONS FOR RECOMMENDATIONS

- 17.1 As outlined in this Report land held by the Council for development/regeneration purposes should be appropriated by the Council for planning purposes.
- 17.2 By having appropriated for planning purposes all of the land within the Sheffield Retail Quarter development site the Council will have the ability should it be needed in the future to exercise its powers under Section 203 of the Housing and Planning Act 2016, and thus remove the risk of the Sheffield Retail Quarter development being prevented from taking place due to an adjacent land owner with a property right obtaining an injunction to prevent the development taking place.

18.0 RECOMMENDATIONS

That The Leader approves:

- 18.1 The appropriate for planning purposes of all parts of the Sheffield Retail Quarter development site currently owned by the Council that are not currently held for such purposes;
- 18.2 That all future acquisitions by the Council of land required for the Sheffield Retail Quarter development be acquired for planning purposes and then held for planning purposes;
- 18.3 That any land currently held by the Council as highways land within the Sheffield Retail Quarter development site be appropriated for planning purposes at such time as the highways land is no longer required for its current purpose;
- 18.4 Delegates authority to the Chief Property Officer in consultation with Executive Director of Resources and the Director of Legal & Governance to agree and then execute all necessary legal documentation required to facilitate and formalise the appropriation of land required for the Sheffield Retail Quarter development for planning purposes.

Simon Green
Executive Director Place
6th December 2016

