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**Report of:** Tammy Whitaker, Head of Regeneration and Property Services

**Report To** Cllr Julie Dore, Leader of the Council

**Date of Decision:** 7<sup>th</sup> September 2020

**Subject:** Acquisition of Land as a substitute site in the Brownfield Acquisition Programme

|   |   |
|---|---|
| Is this a Key Decision? If Yes, reason Key Decision:-   | <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| - Expenditure and/or savings over £500,000  | <input checked="" type="checkbox"/>                             |
| - Affects 2 or more Wards   | <input type="checkbox"/>  |
| Which Cabinet Member Portfolio does this relate to? <b>Finance</b>  |   |
| Which Scrutiny and Policy Development Committee does this relate to? <b>Economic and Environmental Wellbeing</b>  |   |
| Has an Equality Impact Assessment (EIA) been undertaken? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                                      |   |
| If YES, what EIA reference number has it been given? EIA 179  |   |
| Does the report contain confidential or exempt information? Yes <input checked="" type="checkbox"/> No <input 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:-                           |   |
| Appendix A and B are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended). |   |

**Purpose of Report:**

The report seeks authority for the Council to acquire the freehold interest of a site in the Sheffield Housing Zone North and enter into an option for disposal to a developer to bring forward the site for residential development.

The site was initially identified as a strategic acquisition central to the Councils Housing Infrastructure Fund bid and is to be purchased via the brownfield acquisitions fund that enables the assembly of land interests, site improvement and subsequent marketing for residential and or commercial development.

Acquisition would enable either an option to be pursued with a development partner, or open market sale accelerating development of a key brownfield site to kick start the first phase of residential development in the Sheffield Housing Zone: North that is the subject of the Housing Infrastructure Fund bid.

**Recommendations:**

1. That the acquisition of the freehold interest in the site detailed in Appendix A be substituted for one of the sites previously identified in the Brownfield Acquisitions report (Stanley Tools, Rutland Road)
2. That subject to the substitution being agreed that the Chief Property Officer in consultation with the Director of Legal and Governance be authorised to:
  - a) Negotiate and agree terms for the acquisition of the site, set out in para 3.5 of Appendix A subject to site investigation. Funding for the acquisition will be provided from the Corporate Investment Fund as identified within the Brownfield Acquisitions Cabinet Report dated 21 March 2018
  - b) That funding is committed to for partial demolition, site management, site investigations, security and holding costs to facilitate the eventual re-development of the site as set out in para 1.8 of Appendix A.
  - c) On acquisition that the Council seeks to immediately enter into an option agreement with a developer to purchase the site from the Council for price set out in Appendix A within 28 months and after obtaining planning permission to redevelop the site for circa 450 new homes.
3. That the Director of Legal and Governance be authorised to complete such legal documentation as she considers necessary or appropriate in connection with this transaction on such terms as she may agree to give effect to the proposals set out in this report and generally to protect the Council's interests

**Background Papers:**

## APPENDIX A

Detail of Proposal (Not for publication but provided to assist the decision maker)

## APPENDIX B

Cabinet Report - Acquisitions for brownfield residential development (Not for publication but provided to assist the decision maker)

| 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: Tim Hardie   |
|   |  | Legal: David Sellars  |
|   |  | Equalities: Annemarie Johnson   |
| <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   | <b>EMT member who approved submission:</b>   | Laraine Manley  |
| 3   | <b>Cabinet Member consulted:</b>   | Cabinet member for finance and Resources<br>Terry Fox<br>Leader Julie Dore                |
| 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. |   |
|   | <b>Lead Officer Name:</b><br>Tammy Whitaker  | <b>Job Title:</b><br>Head of Regeneration & Property Services<br>(Chief Property Officer) |
|   | <b>Date:</b>   |   |

## 1.0 BACKGROUND

- 1.1 The Cabinet Report dated 21 March 2018 attached to this report set out proposals for the acquisition of brownfield sites within the wider City Centre area to enable site assembly for residential development and to fulfil wider regeneration and economic objectives, funded from the Corporate Investment Fund (CIF – previously Growth Investment Fund). The agreed CIF funding of £8.9m was to be used to remove barriers to development and acquire the sites and any other property interests, to carry out asset enhancement works as necessary to enable the subsequent sale or development of the sites.
- 1.2 A programme of 10 priority sites was provisionally identified for acquisition. It was proposed that the first four sites were initially progressed albeit that if circumstances dictated other sites could potentially be substituted.
- 1.3 Since its inception the Brownfield Acquisition fund was developed to bring forward stalled development and problematic sites in priority locations and has focused specifically on delivering the following objectives:
- Bringing forward stalled development sites and accelerating housing delivery within the Housing Zone.
  - Assist in the wider regeneration and development of the City Centre.
  - Delivering much needed mixed housing units within the City Centre.
  - Ensure a return on investment to SCC through regeneration of sites leading to generation of Capital receipts, Council Tax/Business Rates ,

and income from Community Infrastructure Levy (CIL) to create an evergreen fund to enable other capital projects to be realised.

- Opportunity to explore and trial alternative development methods to enable development including use of joint ventures and procurement of development partners. The HIF bid sought investment in 5 sites including the site which is the subject of this report.

- 1.4 The site which lies in the Housing Zone, was initially identified as a key acquisition where other investment in transport and place making infrastructure would demonstrate the commitment to regeneration of the wider area and stimulate private sector investment to create a new City Centre Neighbourhood
- 1.5 This site in particular is central to the regeneration aims for the area linking into the creation of a better neighbourhood environment along Rutland Road with enhanced walking and cycling facilities; and the extension of the Riverside Walk. As such the site is a critical first phase, a gateway site in the Council's Housing Infrastructure Fund bid for the Sheffield Housing Zone: North. The site is strategically important located, central to the Housing Zone North and acting as a catalyst to extend the success of Kelham.
- 1.6 The site was marketed by the landowner in 2019, but given the derelict nature of the site and the high cost of demolition and abnormals there was limited interest. SCC submitted an offer made to the land owner to acquire the site, but at a later stage a private sector developer with a track record of developing innovative housing schemes made it clear to the Council that they were also interested in acquiring the site. Following discussions with the developer, the Council withdrew from negotiations at this point taking the view that with private sector interest for the development of an appropriate housing scheme which would deliver the regeneration vision for the site in collaboration with the Council, it was not appropriate for the Council to continue to negotiate to acquire. If this had not been the case, the site would have been acquired using HIF funding (if successful) or progressed via the Brownfield Acquisitions Fund.
- 1.7 Officers liaising with the private sector developer know that the discussions with the landowner have resulted in an agreed purchase price subject to site investigation and planning permission. However, due to current uncertainties relating to the Covid 19 crisis, availability of development and investment finance is extremely restricted and the developer is unable to simultaneously pursue the purchase of the land and pursue planning permission for the site. This provides an opportunity for the Council to step in and buy the site and then enter into an option with a developer for a fixed price This approach will increase the speed of development and will reduce the risk to the council. The option price agreed will cover the Council's costs in managing and holding the site for the term of the option so that costs can be fully recovered. If the developer is unable to proceed the Council can pursue alternative options including: bringing on board an alternative development partner, direct development by SCC or open market sale with a development brief.
- 1.8 Purchase by the Council would allow for the site to be brought forward for development. The site has been in the ownership of the current owner for some considerable time and there is little prospect of the existing owner bringing the site forward in a timely manner given the current uncertainty in the market. A development partner with the skills and capacity of dealing with difficult brownfield sites and a track record of delivering high quality developments is required to ensure that the site can be brought forward in a manner that will kick start regeneration of the area.

## **2.0 PROPOSAL**

2.1 Details of the proposed approach are set out in more detail at Appendix A

2.2 In summary, the proposal is that:

- The Council acquire the site from the landowner;
- Acquisition is subject to site investigation not planning approval;
- Simultaneously to acquisition the Council enter into an option with a developer subject to them securing planning permission;
- The option will include a license to the developer to undertake site management and the site management costs will be covered through the sale price agreed via the option ; and
- The cost of the option will be the purchase price plus any funds agreed for site management during the period of the option

2.3 Appendix A contains the detailed cost assumptions of the approach

2.4 The approach provides for the quickest return both for the original expenditure and for the development and regeneration of the site. By linking the purchase to an option and timescale for an agreed price and together with sharing the site management costs, risk that acquisition costs are not recovered are minimised.

2.5 However, in the event that a developer partner does not secure planning permission, or for some reason does not pursue the option, SCC would still own the site and could consider options to either market the site, develop out the site itself or retain until the market improves.

2.6 Should the developer not pursue the option, and SCC marketed the site or developed out the site itself there is a risk that the full financial commitment could not be recovered. Any development of the site would be subject to the property market at the time and there is a risk that the land value may have decreased and that holding costs cannot be recovered in full. That said site investigations and even limited improvement works may enhance value and will reduce risk hence improving market appeal.

## **FINANCIAL AND COMMERCIAL IMPLICATIONS**

The main elements to consider;

### Opportunities

1. The acquisition of the freehold will bring the site into SCC ownership, which gives full control of a key strategic site
2. SCC will simultaneously enter into an option subject to planning with a developer.
3. Redevelopment would occur more quickly and the Council would recoup its outlay from the development partner if they are able to achieve planning
4. The holding costs of the site will be mitigated by providing a license to manage the site and introduce meanwhile uses on the site and holding costs will be recovered through the onward sale via the Option
5. This will in addition act as marketing and place making of the location once planning is achieved

### Risks

1. There is a risk that the Council will be left with the site if planning is not achieved or the developer does not proceed with the option
2. There is a risk that the site's value will be in excess of that set out in Appendix in 28 months' time or, conversely, that its value falls making it likely that a developer will not exercise the option
3. Funding will come from the existing approved 'Credit limit' agreed for the Brownfield Acquisitions Fund. This reduces the remaining "credit limit" to £297,617, but no additional funding commitment is required. As illustrated on the cashflow table at para 2.1 of Appendix A , no further approvals are needed to increase the budget as the costs of the Penistone Road and Upper Allen Street sites are achievable within the remaining credit limit.

### **Future Redevelopment**

From a planning perspective the site is allocated within a flexible use area. It is envisaged that the site could accommodate a mixed residential development of apartments and townhouses comprising c450 homes and around 40,000 sq.ft of associated commercial development

### **Value, Costs and Income**

The recent global pandemic has resulted in considerable market uncertainty and it is currently difficult to establish the impact on Sheffield's property market.

Whilst it is currently difficult to predict the site value, the option to a development partner will be the price set out in para 3.2 of Appendix A. Two options have been modelled which are also set out in Appendix A which assume that either the option is exercised or that the site is marketed and sold, developed by the Council or held until market conditions improve.

### **LEGAL IMPLICATIONS**

Section 123 of the Local Government Act 1972 contains a duty on local authorities to obtain the best consideration that can be reasonably obtained for the disposal of land. Disposal includes not only the sale of land.

In most cases Best consideration is achieved by marketing, allowing all interested parties to put forward a bid to purchase surplus property. However there are a number of occasions when it may be beneficial for the Council to offer direct negotiations with a special purchaser without resort to marketing. These are set out in the Council's Disposal Framework.

In regards to this site the Developer is considered a special purchaser on the basis that they had a previous agreement with the landowner to purchase the site, are offering open book terms and have the experience and capacity and track record of dealing with industrial./historic buildings.

It should also be noted that the site has been recently marketed and therefore other parties have had an opportunity to bid for the site in the recent past. There was limited interest when the site was previously marketed. It is likely that given the current uncertainty in the market, any interest in the site will be even more limited.

Section 120 of the Local Government Act 1972 enables local authorities to acquire property for any of their functions or for the benefit improvement of their area.

Sections 1 to 6 of the Localism Act 2011 deal with what is known as the General Power of Competence (“GPC”). In simple terms it gives councils the power to do anything an individual can do provided it is not prohibited by other legislation. The use of GPC may be for a commercial purpose or otherwise and without the need to demonstrate the use will benefit the authority, its area or persons resident or present in its area although in practice any use of GPC for the purposes of this report will be in order to realise such benefits.

## **RECOMMENDATIONS**

1. That the site detailed in Appendix A is substituted for one of the previously identified Brownfield sites (Rutland Road). That subject to the substitution being agreed that the Chief Property Officer in consultation with the Director of Legal and Governance be authorised to negotiate and agree terms for the acquisition of no more than the price set out in para 3.5 of Appendix A from the Brownfield Acquisitions programme.
2. That on completion of the Acquisition SCC simultaneously enters into a 24 month option agreement with a developer for redevelopment of the site for c400-450 homes
3. That the Director of Legal and Governance be authorised to complete such legal documentation as she considers necessary or appropriate in connection with this transaction on such terms as she may agree to give effect to the proposals set out in this report and generally to protect the Council’s interests

## **REASONS FOR RECOMMENDATIONS**

This provides an opportunity to implement the first phase of activity in the Council's Housing Zone: North in line with the proposals set out in the bid for Housing Infrastructure Fund investment and supports other investment in transport infrastructure and place making planned for the location. It will be a major step in bringing forward the next step in regeneration, moving on from Kelham into Neepsend and in support the Council’s housing growth requirements in the emerging local plan. housing.