



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Acquisition of the Maltings Precinct, Uttoxeter	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team 17/01/24	
	Pre Cabinet 25/01/24	
	Leader's / Leader of the Opposition's Advisory Group 01/02/24 & 07/02/24	
	Council 19/02/24	
	Scrutiny Regeneration, Development and Market Hall Committee 27/03/24	

<p>Is this an Executive Decision:</p>	<p>NO</p>	<p>Is this a Key Decision:</p>	<p>YES</p>
<p>Is this in the Forward Plan:</p>	<p>NO</p>	<p>Does this report contain Confidential or Exempt Information:</p> <p>If the report Contains Confidential Information, please provide reason.</p> <p>If the report contains Exempt Information, please state relevant paragraph from Schedule 12A LGA 1972:</p>	<p>YES</p> <p>The exempt information in question relates to Paragraph 3 – information relating to the financial or business affairs of any particular person (including the authority holding that information). These sections have been redacted accordingly.</p>



Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **John Teasdale**

Date Signature

Interim Chief Finance Officer: **Stephen Fitzgerald**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Corporate Management Team

Date: 17th January 2024

REPORT TITLE: Acquisition of the Maltings Precinct, Uttoxeter
PORTFOLIO: Regeneration and Development
CHIEF OFFICER: Thomas Deery
CONTACT OFFICER: Thomas Deery Ext. No. x1664
WARD(S) AFFECTED: Town and Heath (primarily)

1. Purpose of the Report

- 1.1. To propose the purchase of the Maltings Precinct, Uttoxeter, on the basis of a value-led process and agreed draft Heads of Terms with the landowner – M J Barratt Developments/Systemshare hereafter referred to as ‘the landowner’.
- 1.2. To further propose the delegation of the final decision to acquire the property follow contract negotiations to the Cabinet Member for Regeneration and Development and the Cabinet Member for Finance and Treasury Management, in consultation with the Leader of the Council, the Leader of the Opposition, and the Chief Executive Officer.

2. Background

- 2.1. Over a number of years, the Council has sought the regeneration of the Maltings Precinct in Uttoxeter, culminating in the identification of the site as a priority area in the Uttoxeter Masterplan 2020 and the initial progression of a Compulsory Purchase Order (CPO) process.
- 2.2. [REDACTED], which led to the decision approved by Council in September 2023 to:
 - 2.2.1. [REDACTED] and [REDACTED]

[REDACTED]

2.3. Since the making of that decision, the Council has undertaken a series of activities to inform a 'best and final' offer to the landowner, which is outlined in Section 4 of this report.

3. Contribution to Corporate Priorities

3.1. This report primarily contributes to the Corporate Priority of 'Creating a prosperous East Staffordshire', through the intended regeneration of the site in question following acquisition.

4. The Informing of the Best and Final Offer

4.1. To inform the offer put to the landowner for the site, the following stakeholders were consulted, as per the September 2023 Council decision:

- Planning (internal)
- Legal (external and internal)
- Property (external)
- Financial (internal)

4.2. As with the approved (and completed) purchase of the former Co-op building at the same site, the final offer to be made would be based on a consideration of the costs that the Council would incur as part of a CPO process, which could be included in the final offer value.

4.3. With regards the underlying value of the land, under the CPO process (as defined prior to the establishment of the Levelling-up and Regeneration Act 2023) there is a requirement for the purchasing authority to consider the value of the land as per the most valuable, achievable planning scheme.

4.4. As such, when calculating land value, the Council is required to consider the uses that would achieve the highest value, even if this is not necessarily what the authority intends to deliver at the site. This is considered the 'appropriate alternative development' and would be formalised by certification through the CPO process.

4.5. Therefore, for the site in question, in consultation with the Council's Planning service and independent property advisors, Savills, a presumption of appropriate development was agreed on the basis of [REDACTED]. This led to the confirmation of an underlying redevelopment value of [REDACTED].

4.6. Further to the land/property value, other costs incurred as part of a CPO process include: disturbance [REDACTED] legal (£5,000), surveyor (£7,500), and

basic loss [REDACTED] payments. The total of these sums are calculated at [REDACTED].

4.7. As with the Former Co-op purchase, advice from the property consultants, Savills, was that a contingency of 10-20% should be applied to the Council's acquisition budget in order to account for potential underassessment of compensation and unknown/undetermined costs. Applying a 20% contingency to the above combined values of [REDACTED] resulted in a figure of [REDACTED]

4.8. Finally, legal advice on the potential CPO costs, provided by legal consultants Browne Jacobson, indicated that the legal costs for pursuing a CPO would likely be [REDACTED]
[REDACTED]
[REDACTED] As such, a figure [REDACTED] has been identified for the potential legal costs of a CPO, resulting in a figure of [REDACTED] that can be applied to the purchase price as part of a settlement outside of a CPO process.

4.9. Therefore, the best and final offer value is as follows:

Compensation costs	Value
Land Value	[REDACTED]
Disturbance and Reinvestment [REDACTED]	[REDACTED]
Legal Costs	£5,000
Surveyor Costs	£7,500
Basic Loss Payment (7.5%)	[REDACTED]
CPO Legal Costs	[REDACTED]
Sub-total	[REDACTED]
Contingency (20%)	[REDACTED]
Total	[REDACTED]

4.10. The total value for a final offer is [REDACTED] and the advice to the Cabinet Member for Regeneration and Development ahead of making the offer to the landowner was that [REDACTED]
[REDACTED]

5. The Offer, Heads of Terms and Agreement

5.1. Following Cabinet Member approval, this offer was put to the landowner in writing on 7th December 2023 and was made subject to:

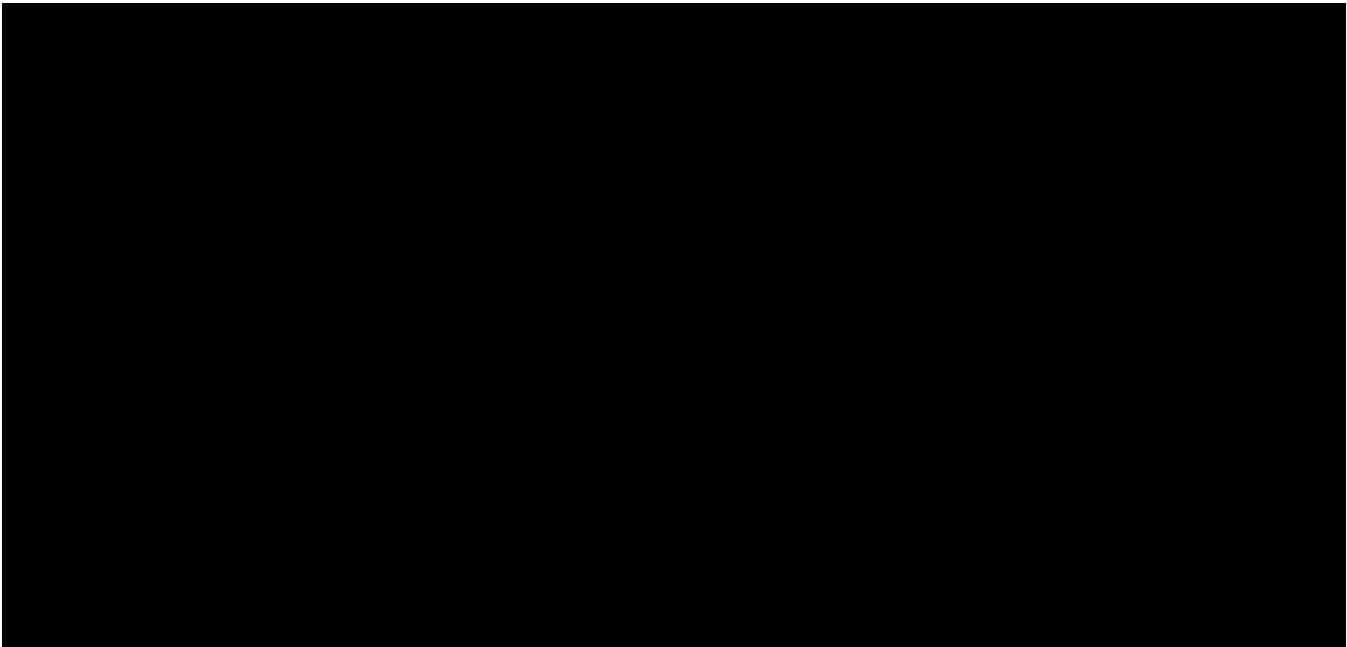
- Agreeing Heads of Terms, exclusivity and contract;
- Council approval of purchase and financing;
- The unencumbered freehold possession of the property, with no onerous conditions, easements, charges and notices relating to the land; and
- Review and acceptance of the existing leasehold arrangements affecting the site.

- 5.2. The draft Heads of Terms are included at Appendix 1, which also includes a plan showing the property in question within a red line boundary.
- 5.3. On 21st December 2023, the landowner confirmed their agreement in principle to the proposed offer and conditions, and so solicitors for both sides have now been appointed. Accordingly, this report seeks Council approval of the purchase and financing, in principle.

6. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: James Hopwood

- 6.1. The main financial issues arising from this Report are as follows:
- 6.2. The Council's existing capital budgets for the regeneration of the Maltings are shown below:



6.3. [Redacted text]

6.4. [Redacted text]

[Redacted text]

[REDACTED]

[REDACTED]

6.5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6.6. Given spend deadlines associated with the UK Shared Prosperity Fund, it is proposed that the UKSPF funded is exhausted first in 23/24 and 24/25 before the Council's Capital Programme funding, to avoid any risk of underspend and return of funds. This includes review of the funding source for the purchase of the Former Co-op building earlier in the year. As such, if this transaction completes in 2024/25, funding will be used from the UK Shared Prosperity Fund allocation first.

6.7. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6.8. [REDACTED]
[REDACTED]
[REDACTED] As such, only the principle of the capital implications can be reviewed as part of this report. Revenue income (lease) and expenditure (management) will be covered by the delegated decision.

7. **Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

7.2.1. The purchase of the Maltings precinct is part of the Council's existing strategy and Corporate Plan. The land in question is the final parcel of land required to enable the regeneration of the wider site.

7.3. **Negative** (Threats):

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

7.4. The risks do not need to be entered in the Risk Register. A separate risk register will be created for the forthcoming project ahead of commencement. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
Glen McCusker*

8.1. The main legal issues arising from this Report are as follows.

The Authority has the power, under s120(1) Local Government Act 1972, to acquire land by agreement for the purposes of:

- (a) Any of its functions; and
- (b) For the benefit, improvement, or development of their area.

The proposed purchase of the site will clearly fall within the definition of (b) and is therefore a proper use of this power.

The Authority also has a duty to obtain best value, pursuant to s3(1) Local Government Act 1999

8.2. The application of CPO powers should be used as a last resort. It is an expensive process with no certainty of the out-come. Acquiring the property by way of agreement is therefore a preferred option.

8.3. The Council has instructed Browne Jacobson on the proposed property transaction.

8.4. The following advice have also been provided previously by Browne Jacobson, acting as legal advisors for the Council:

8.4.1. The Council has a general duty to achieve best value for the public purse. It must therefore act prudently in making any property purchase. In seeking to satisfy this duty, it has taken both independent legal and property valuation advice from Browne Jacobson and Savills respectively.

8.4.2. Savills have advised the Council on their estimated value for the property. This includes a recommended tolerance to ensure that the agreed price is one which the Council would have costs protection for if the valuation was determined as part of a CPO compensation claim.

8.4.3. Savills have included within their assessment various statutory and professional costs which would be due if the matter proceeded by way of CPO. Any purchase made by way of CPO would be dealt with under the body of legislation and guidance known as the CPO Compensation code. It is therefore appropriate for Savills to take these additional payments into account.

8.4.4. Savills have not included within their assessment the additional costs that would be incurred by the Council in securing a CPO (legal and professional). It also needs to be recognised that CPO is a lengthy process and so there is a quantitative benefit for the Council in proceeding by voluntary acquisition now. CPO also carries inherent risks. Whilst the Council is likely to have a strong case for CPO, there are also practical and legal risks in securing a CPO.

8.4.5. Before turning to CPO, the Council should also have regard to the requirement for the Council to proceed by CPO only as a matter of last resort. The Council has followed this principle dutifully and sought to engage in continued negotiation with all land owners. Provided the price remains within the tolerance set by Savills, it is entirely appropriate that the Council seeks a voluntary settlement rather than seeking to rely on CPO powers

9. Equalities and Health

9.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

9.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

10. Data Protection Implications – Data Protection Impact Assessment (DPIA)

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

11. Human Rights

11.1. There are no Human Rights issues arising from this Report.

12. Sustainability (including climate change and change adaptation measures)

12.1. Does the proposal result in an overall positive effect in terms of sustainability.
N.A

12.2. If so, does the nature of these effects require an enhanced consideration from the Council's Climate Change and Adaptation Officers. N/A

12.3. Please detail any positive/negative aspects:

12.3.1. Positive (Opportunities/Benefits): N/A

12.3.2. Negative (threats): N/A

13. Recommendations

13.1. That Council approves the principle of purchasing the Maltings Precinct, Uttoxeter, on the basis of this report, the price identified within and the appended draft Heads of Terms.

13.2. That the authority to exchange contracts and complete the transaction is delegated to the Cabinet Member for Regeneration and Development and the Cabinet Member for Finance and Treasury Management, in consultation with the Leader of the Council, the Leader of the Opposition, and the Chief Executive, to allow for reasonable variations as part of the contract negotiations, including the consideration of VAT and revenue implications.

14. Background Papers

14.1. Property advice from Savills (available on request)

14.2. Legal advice from Browne Jacobson (available on request)

15. Appendix

15.1. Appendix 1: Draft Heads of Terms and site plan (EXEMPT INFORMATION)