

Shannoeks Hotel Site, Sheringham – Compulsory Purchase

Summary: This report seeks to update Cabinet on progress so far and proposed future actions, in respect of the old Shannoeks Hotel building in Sheringham (“the Shannoeks”).

Options considered:

1. Leave the owner to continue with its own development plans at its own pace, with the risk that without pressure from the Council, these will not in fact be progressed at all. This would result in the Shannoeks being left empty and in the same condition.
2. Resurrect voluntary negotiations with the owner for the purchase of the Shannoeks. If these are unsuccessful, progress to make a Compulsory Purchase Order (“CPO”).
3. Resurrect voluntary negotiations with the owner for the purchase of the Shannoeks whilst simultaneously making a CPO.

Conclusions: Notwithstanding consistent pressure on the owner by the Council for a number of years, the Shannoeks remains undeveloped. The owner will say that it is making best efforts to start its development, however, progress has been at a slow pace and the owner has repeatedly extended the promised project start dates.

The Council is very close to a position where it can now make a CPO and progress this formal process. It has, up to now, refrained from taking this action to enable the owner to develop the Shannoeks itself. Following numerous extensions, the most recent projected start date given to the Council for demolition was October 2019, however it appears evident that this start date will not be met.

Officer advice is that the Council is very concerned that the owner will not develop the Shannoeks, and is mindful of the continual delays being incurred by not triggering the formal process through making a CPO. In this regard, projected timescales for the CPO process to be concluded could be as long as 18 months.

The Council considers that a line needs to be drawn somewhere of when the Council will no longer delay its own actions to accommodate the continued extensions

of promised development by the owner.

Recommendations: **That the Council makes a Compulsory Purchase Order in respect of the Shannoeks.**

The Head of Finance and Asset Management is delegated to simultaneously resurrect purchase negotiations with the owner.

Reasons for Recommendations: To achieve the redevelopment of the Shannoeks which has stood empty for many years, attracting significant negative comment from the public, thereby bringing about a regeneration of this area of Sheringham, for the economic and social well-being of the area.

Cabinet Member(s)	Ward(s) affected Sheringham
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1. Introduction

The Shannoeks has been empty for several years and is in poor condition.

For many years the Council has pursued action, via the Enforcement Board, against the owner to improve the Shannoeks for the benefit of the local area, however action taken to date has not been successful in bringing about a redevelopment of the Shannoeks.

It was for this reason that in October 2015 Cabinet approved action to seek a voluntary purchase of the Shannoeks from the owner, failing which it resolved to pursue compulsory purchase. The owner's response was to insist that it would be developing the Shannoeks itself. As compulsory purchase is intended to be a matter of last resort, the Council gave the owner time to progress its own development.

Development is yet to start on site, and the Council is now very close to a position where it can make a CPO. Due to the length of time since Cabinet first resolved to pursue a compulsory purchase, this matter is now brought back before Cabinet for confirmation that this action is still sought and to consider the options available to the Council in terms of redevelopment if the Shannoeks is acquired.

2. Background

The Shannoeks has been a building on the Council's Enforcement Board matrix since December 2012. During that time a number of methods were explored with a view to engaging the owner and encouraging it to improve the Shannoeks, however these actions were not successful.

The Shannocks has been in its current ownership since 2010, and has been empty and deteriorating during that time. The Council receives regular complaints from members of the public about the Shannocks, and it has been the topic of negative comment in the media and on social media on regular occasions.

In October 2015, Cabinet approved action to purchase the building voluntarily from the owners and instructed the Corporate Director to proceed with a CPO if the building could not be acquired voluntarily. In November 2016 Council approved an increased budget to enter further voluntary sale negotiations with the owner and proceed with making a CPO should these negotiations fail.

Further voluntary offers were made to owner, however the negotiations failed due to the significant difference in the valuations of the Council and the owner. Given that the owner continued to profess its committed intention to redevelop the Shannocks itself rather than sell, the Council and owner agreed that should the option of a voluntary sale become live once again, the parties would arrange for their respective experts to meet with a view to narrowing the areas of dispute and hopefully agree a valuation.

The owner has had planning permission in place since October 2017. The owner will vehemently claim it has been progressing as quickly as it can with its own development, that delays have not been of its own making and continues to maintain that it intends to develop the Shannocks.

Throughout this process, the Council has taken the consistent position that compulsory purchase would only become necessary where the owner failed to redevelop the Shannocks itself. It has received many assurances from the owner that it is their intention to redevelop the site, and whilst progress has been slow, the Council has afforded them the time and space to implement their own proposals. The Council's strategy has been to undertake preparatory work to be in a position where it can make a CPO without any undue delay whilst awaiting the owner's commencement of development. The purpose of this was to maintain the pressure on the owner, and to ensure that a CPO can be made swiftly once a decision to proceed with a CPO is made. To this end, the Council's planning permission for its proposed scheme for the Shannocks was approved on 6 February 2018, which was inclusive of the adjacent Chequers car park.

The statutory power on which the Council intends any CPO to be based is set out at section 226(1)(a) of the Town and Country Planning Act 1990, which states as follows:

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area:

(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land;

The section goes on to say:

(1A) But a local authority must not exercise the power under

paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects–

- (a) the promotion or improvement of the economic well-being of their area;*
- (b) the promotion or improvement of the social well-being of their area;*
- (c) the promotion or improvement of the environmental well-being of their area.*

Compulsory purchase is a draconian measure which involves the State's direct interference with human rights for a private life and protection of property (which still apply notwithstanding the Shannoeks being owned by a company – which is deemed a legal person). Accordingly, an inherent requirement of a compulsory purchase is that there must be a compelling case in the public interest to make a CPO. Flowing from this is that a compulsory purchase (in most circumstances, including these) should be a matter of last resort, i.e. there is no other way of achieving the Council's goal without a compulsory purchase.

The Council's goal is to achieve the redevelopment of the Shannoeks. The Council has refrained from making the CPO to date, in order to allow the owner to progress with its own stated plans to develop the property.

Officer advice is that in the face of the owner's failure to press on with demolition since planning permission was initially granted to it in October 2017, the conclusion to be drawn is that there is a significantly diminishing prospect of the owner developing the Shannoeks itself.

The process of a CPO being made, then confirmed by the Secretary of State and implemented is a lengthy one, potentially up to around 18 months if the CPO is objected to. It is possible to withdraw a CPO during this time, subject to any approval required from the appointed Inspector. Costs will be incurred at the Council's expense throughout the CPO process, estimates of which are set out at Appendix 2.

3. Progress to date

Planning permission was granted to the owner on 25 October 2017 and the most recent delivery program dated 29 June 2018 provided by the owner showed an anticipated start on site of January 2019 with a contract period of one year until January 2020. However, no on the ground development to implement the planning permission is yet to commence.

A planning application was received from the owners in August 2018 for the variation of Conditions 2 and 3 of their planning permission dated 25 October 2017 to allow a change of use of one of the units from restaurant/shop to restaurant/hot food and takeaway and to allow the demolition of the existing building prior to submission of details of construction contract. Consent was granted on 18 October 2018. Planning permission was granted in part to allow necessary survey work to take place which required the use of deep bore holes. Condition 3 was imposed setting out a further timetable for the start of development and states:

'Within a period of not more than 34 weeks from the start of demolition of the existing building a final signed contract for the site's redevelopment, which indicates a start date for the commencement of the development on site, together with the anticipated programme for sites redevelopment shall be submitted to and agreed in writing with the Local Planning Authority.'

Another application was received from the owners in April 2019 to vary the first floor layout, to remove the restaurant and substitute with residential accommodation over the whole first floor. The owner confirmed through its agent that on the basis of this planning permission being granted, it intended to demolish the Shannoeks and undertake effective ground investigations after the tourist season in October 2019 and tender for its altered scheme shortly thereafter. This planning application was invalidated and the owner's architects have not responded to requests for further information from the local planning authority sent in May 2019, until very recently when the local planning authority has been contacted by the architects to confirm another application is to be submitted. It therefore appears highly unlikely that demolition will be happening in October 2019. At the time of drafting, no such application has been submitted to the local planning authority.

The owner has historically vehemently claimed to be committed to redeveloping the Shannoeks. It has stated in correspondence that it has invested considerable sums to progress its redevelopment proposals. The company claims to currently have a team of property professionals working on its proposed redevelopment, on contracts lasting until the appointment of a main contractor or completion of the company's redevelopment, to include architects, quantity surveyors, a project manager, structural and civil engineers, a CDM principal designer and building regulations consultants.

The Council has commissioned an updated consultancy report and development appraisals, to report on value and development costs. These are attached as Appendix 1.

4. Future steps

The Council's planning permission was approved on 6 February 2018, therefore development must start by 6 February 2021 if the Council wishes to avoid making a further planning application. Having regard to an 18 month CPO process, this sharply focuses the position on whether formal action should now be commenced.

Officer advice is that there are serious concerns the owner will not develop the Shannoeks, and that the continued delays increase the risk that the Council will miss the opportunity to trigger its planning permission, which will expire in February 2021, should the Council ultimately acquire the Shannoeks. A decision therefore needs to be taken as to whether the Council should continue to afford the owner further time in which to commence its development, or whether the Council should now trigger formal action by making a CPO.

If it is resolved that the owner should be permitted further time to commence its development, then no further action is required to be taken at this time.

If, however, the Council wishes to now make a CPO with a view to increasing the pressure on the owner and to avoid any further delay, then there two ways forward:

1. Resurrect voluntary negotiations for the purchase of the Shannoeks and conclude these before making a CPO; or
2. Resurrect voluntary negotiations for the purchase of the Shannoeks but concurrently make the CPO.

The Officer's recommendation is that in view of the very differing views on market value between the owner and the Council, no further time should be expended in delaying the progress of the CPO by carrying out sale negotiations beforehand when they can be done concurrently.

An integral part of the Council's case to the Secretary of State for confirmation of the CPO will be to show what the Council intends to do with the Shannoeks once it is acquired, and that these plans are realistic in terms of financial viability and implementation. The options available to the Council are as follows:

1. Redevelop the Shannoeks itself and retain the property as part of the Council's asset portfolio;
2. Redevelop the Shannoeks itself, either with or without a development partner, and then sell on the open market to realise the development value; or
3. Immediately sell the Shannoeks, on a back to back arrangement, to a third party developer with stringent conditions attached regarding deadlines for redevelopment.

The development appraisals at Appendix 1 demonstrate that a profit can be made through development of the Shannoeks in its current footprint or through development with the adjacent Chequers car park. Accordingly, officer's recommendation is that there is sufficient evidence available to support that options 1 and 2 above are presently financially viable. Further work would still need to be conducted to test the market around option 3.

Due to the length of time the CPO process can take, it is recommended that the Council reserves its position on which route to take in terms of the options set out above, until the time for legal acquisition is closer. Market conditions and the cost of construction are likely to be volatile in the coming months, and therefore delaying a decision in this regard will enable the Council to make a decision in future based on more accurate advice and information. Once a decision is taken on the option to be chosen, the Council will need to approve a capital budget sufficient to cover the costs of that option.

Since this matter was first put before Cabinet in October 2015, the Council has proceeded on the basis that the adjacent Council owned car park, Chequers, would be included in any development the Council implemented following a purchase of the Shannoeks. The Council's planning permission for redevelopment of the Shannoeks pertains to such a scheme. This was deemed to represent the best commercial investment for the Council at the

time, and it was considered to represent the best regeneration outcome for Sheringham, which thereby increased the prospect of the CPO being successfully confirmed by the Secretary of State with reference to the statutory power at section 226(1)(a) of the Town and Country Planning Act.

The most recent up-to-date financial information in relation to the Chequers car park indicates that revenue generated by parking charges is increasing, and there continues to be concerns surrounding the loss of parking spaces in Sheringham if Chequers car park were to be included in a development. The compulsory purchase process is likely to be a lengthy one during which a number of variables can change, such as the income generated by the Chequers car park, the cost of construction, etc. The Officer recommendation is therefore that the Council should reserve its position on whether a Council led development should include the adjacent car park or not. This does preclude a compulsory purchase from progressing in the meantime, as the Council is satisfied that the statutory power is still comfortably met by proceeding with a redevelopment of the Shannoeks only. In this instance, the Council could still commission its own plans for development of the Shannoeks – it would not be necessary to use the owner’s exact scheme.

Making the CPO would amplify the pressure on the owner to develop itself. It certainly does not prevent the owner from carrying on with its development in the interim whilst the CPO remains unconfirmed by the Secretary of State, and if the Council became satisfied that a CPO was no longer necessary, it could withdraw the same. Indeed, even when a CPO is confirmed by the Secretary of State, the Council still has three years to actually implement the CPO, and therefore could still afford the owner further time to complete its development without taking possession.

The following is an indicative timeline of the various steps through a compulsory purchase process:

1	Draft all forms following input from Property Services on the inclusion of any other land and/or rights	5 weeks
2	Make and seal the CPO	
3	Serve all requisite forms on interested parties and advertise the making of the CPO	2 weeks
4	Period for interested parties to make objections to the Secretary of State	6 weeks
5	Where valid objections are made, the Secretary of State will list the matter for a public inquiry or written representations. If successful, the Secretary of State will confirm the CPO.	26-39 weeks
6	If there are no valid objections, the Council will likely be authorised by the Secretary of State to confirm the CPO itself.	6 weeks
7	Serve the legal notices in relation to taking possession of the Property, which contain periods of notice that must expire before possession can be gained.	16 weeks
8	Take possession and arrange for the legal	8 weeks

	title to be changed with Land Registry and pay any Stamp Duty Land Tax due	
	Total:	43 – 76 weeks

Compensation can be negotiated concurrently throughout the above process, and if it cannot be agreed, then it can be referred to the Lands Tribunal for determination shortly after the CPO is confirmed.

If an offer to purchase is accepted by the owner, then this brings an end to the compulsory purchase process, and a sale takes place in the usual way.

5 Financial Implications and Risks

Compulsory purchase rules mean that the Council is responsible for certain heads of costs. An estimated costs breakdown is produced at Appendix 2, which includes provision for a fully objected compulsory purchase process and contested Lands Tribunal proceedings for compensation assessment. If the CPO is not confirmed by the Secretary of State, then any CPO costs expended will not be recoverable and may expose the Council to meeting further legal costs of the owner.

Market value for the Shannoeks will need to be paid to the owner if the CPO is confirmed. If the adjacent Chequers car park is included in the Council's scheme for development of the Shannoeks, then a portion of the marriage value between the two sites, i.e. the added value attributable to the two sites being joined together, will need to be included in any compensation paid. The addition of marriage value could be avoided by not including the car park within the Council's ultimate scheme for development.

The valuation date for the purposes of compensation following compulsory purchase is the date that the acquiring authority takes possession of the land, i.e. a date in the future. The valuations produced are therefore subject to change. Officer advice is that there is a high risk of potential change given the current climate of uncertainty around the national political and economic situation, which is likely to impact on demand, property values and construction costs. Including a healthy contingency into the Council's development appraisals will help to mitigate some of this risk.

It is not necessary that the Council returns an immediate or short term profit on any compulsory purchase in order for the same to progress. Accordingly, notwithstanding market volatility, a compulsory purchase of the Shannoeks can still progress so long as the Council has committed itself to the expenditure for valid reasons, for example to achieve regeneration of this area of Sheringham. Keeping the Council's options open at this stage, in order to make a decision at a later stage on how to achieve development of the Shannoeks from a specified range of options, introduces flexibility for the Council to adapt to market conditions prevailing closer to the time of acquisition.

If an agreement on compensation cannot be reached with the owner then the matter is referred to the Lands Tribunal for determination. This introduces a litigation costs risk, as the Council will be required to pay the amount determined by the Lands Tribunal plus the costs of the owner, where these

have not been mitigated by making offers to settle.

CPO compensation rules require the Council to cover specific heads of loss such as disturbance payments and certain reasonable costs of the owner. The Council does not currently have any specific information on what these may amount to, but given the Shannocks is empty, it is anticipated that disturbance payments will be nil. If it transpires that there are recoverable costs under these statutory heads of loss, then the statutory provisions would be stringently applied to keep costs to only those allowed in law.

6 Implications and Risks

The Shannocks has been empty and in poor condition for many years, with significant public interest in regenerating the site for the benefit of this area of Sheringham. There is a reputational risk to the Council if it is not seen to act to remedy the situation.

In order to mitigate risk around property price fluctuations, contingency allowance can be factored in.

There is a risk that the CPO will not be confirmed by the Secretary of State. Officer advice is that on the present facts, this risk is low, but the risk is subject to change based on future events and the natural progression of the CPO process. Effective project management must therefore be maintained to ensure that a constant review is kept on prospects of success and the application of public funds.

There are still a number of decisions to be made regarding this project, namely whether to include Chequers car park in any proposed development or not, and also whether the Council should undertake development of the Shannocks itself or not. Momentum must be maintained on progressing these matters forwards to enable a decision to be taken at the opportune time.

7 Sustainability

There are no sustainability implications arising from this report

8 Equality and Diversity

There are no equality and diversity implications arising from this report

9 Section 17 Crime and Disorder considerations

There are limited sustainability implications arising from this report in as much as dilapidated buildings are often associated with crime and disorder.

10 Conclusion

Notwithstanding consistent pressure on the owner by the Council for a number of years, the Shannocks remains undeveloped. The owner will say that it is making best efforts to start its development, however, progress has

been at a slow pace and the owner has repeatedly extended the promised project start dates.

The Council is very close to a position where it can now make a CPO and progress this formal process. It has, up to now, refrained from taking this action to enable the owner to develop the Shannoeks itself. Following numerous extensions, the most recent projected start date given to the Council for demolition was October 2019, however it appears evident that this start date will not be met.

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