

## **Shannoeks Hotel Site, Sheringham – Compulsory Purchase**

**\*\*NOT FOR PUBLICATION – BY VIRTUE OF PARAGRAPHS 1, 3 & 6 OF PART 1 OF SCHEDULE 12A (AS AMENDED) OF THE LOCAL GOVERNMENT ACT 1972\*\***

Summary: This report seeks to update Cabinet on progress so far and proposed future actions, in respect of the old Shannoeks Hotel site in Sheringham (“the property”) and makes various recommendations for future action.

Options considered:

1. Leave the property empty and as a blight on the local landscape, with the resultant reputational risks.
2. Leave the owner to progress its own development plans, with the risk that without pressure from the Council, the owner’s purported development plans would fall into abeyance as they seemingly have done since it first purchased the property, resulting in option 1.
3. Build on the success achieved thus far by continuing to apply legal pressure on the owner to improve the site and preparing the Council to step in at any stage to make a Compulsory Purchase Order (CPO) where it becomes clear the owner is not going to develop the property itself.

Conclusions: Steps taken by the Council since October 2015 (when this matter first came before Cabinet) would appear to have been very successful in compelling the owner to take action itself to bring about a redevelopment of the property. However, the owner has moved at a slow pace, and is yet to progress its own development to a stage where the Council should stop applying pressure.

The Council’s property professionals have drawn up proposals for a redevelopment by the Council of the property, in conjunction with the adjacent Council owned car park. This has allowed valuation for the best capital value of the Shannoeks site, which is necessary for the calculation of compensation in the event of a compulsory purchase. In addition it confirms financial viability for the use proposed by the Council following such a redevelopment.

It is recommended that the work carried out thus far is continued, by making a revised, voluntary offer to purchase the property. Due to the value of the property changing from that given a year ago, Members’ views

are sought on moving forward with a voluntary offer, or if it becomes necessary, Compulsory Purchase.

Further, an application for planning permission for the scheme advised by Savills as representing best capital value should be submitted to the Local Planning Authority for approval.

Work can then continue in parallel to compel the owners to carry out the work themselves, and if this fails, (thereby creating the necessary compelling case in the public interest) then a CPO should be made.

Recommendations:

- 1. That Council is recommended to approve a capital budget of £490,000 to be funded from capital resources to cover the Council's potential voluntary or compulsory acquisition purchase of the old Shannoeks Hotel site.**
- 2. That, if the budget is approved, the Corporate Director (NB) is delegated to make a voluntary offer for the old Shannoeks Hotel site based on the best capital valuation provided by the Council's property advisors.**
- 3. That, through its agent, the Council submits an application to the Local Planning Authority in line with the scheme overseen by the Council's property advisors.**
- 4. That if the voluntary offer at Recommendation 1 above, is not accepted, the Council will continue to apply legal pressure on the owner to develop the property itself.**
- 5. If it becomes clear that such development is not progressing in an appropriate manner, officers are authorised to make a CPO and seek its ratification by the Secretary of State.**

Reasons for Recommendations:

To achieve redevelopment of the property, which has stood empty for many years, giving rise to blight on the local area, and significant negative comment from the public.

The redevelopment would seek to bring about regeneration of this area of Sheringham, for the economic and social well-being of the area and local community.

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

The old Shannoeks Hotel (“the property”) has been empty for several years and is in poor condition, causing blight on the local landscape in a very prominent position in the town.

For many years, the Council has sought action, more recently via the Enforcement Board, from the owner of the property to improve it, for the benefit of the local area. However the property remains in the same poor state.

It was for this reason that in October 2015 Cabinet approved action to pursue a voluntary purchase of the property from the owner, failing which it was resolved to pursue the compulsory purchase of the property.

The owner has recently engaged with the Council, purporting to be intent on developing the property itself (as it has claimed for many years). However, at the time of writing this report, the Local Planning Authority has still not received a substantive planning application from the owner.

## 2. Background

The former Shannoeks Hotel has been a building on the Council’s Enforcement Board work plan 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 building. However, until recently, under the threat of compulsory purchase action by the Council, the owner had done little to improve matters.

A common theme throughout this building’s time on the Enforcement Board work plan is that the owner has claimed to be in the process of developing the building, for example in July 2014 the owner stated that he was engaged in discussions with architects and contractors regarding development of the building. Notwithstanding such assertions, no actions were taken by the owner that would indicate a realistic intention to develop, e.g. an application for planning permission.

The building has been in the current ownership since 2010, and has been empty and deteriorating since that time. The Council has received regular complaints from members of the public during this period, and the building has been the topic of negative comment in the media and on social media on a

number of occasions.

In the absence of any evidence from the owner that development of the building was imminent, despite the owner's claims over a number of years of this to be the case, and given the failure thus far of any other enforcement method compelling the owner into action, this matter was brought before Cabinet in October 2015. Cabinet approved action to purchase the building voluntarily from the owners and, if an agreement could not be reached, a compulsory purchase of the building was to be pursued. This would enable the Council to redevelop the property itself for the benefit of the local area.

### **3. Progress to date**

Further to the Cabinet's decision in October 2015, delegated authority was given to the relevant Corporate Director to progress all such matters required to move forward with a voluntary sale, or failing this, a Compulsory Purchase of the property.

A voluntary offer was made to the owners in December 2015, which was made up of the market value of £250,000, plus associated disturbance payments and payment of costs as required by the CPO process. At this time, the owners instructed Solicitors who conveyed once again the owner's purported wish to develop the building itself, and claimed that 'detailed proposals' would be submitted in 'due course'.

Cabinet will recall that an inherent requirement of a compulsory purchase is that there must be a compelling case in the public interest to do so. 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, thereby meaning that there is a compelling case in the public interest.

Accordingly, in view of the owner's repeated wish to develop the property itself, the owner was invited to evidence this by submitting its 'detailed proposals' to the Council's property agent, Savills. It was intended that this would enable the agreement of a strategy going forwards, with the owner then implementing the development plans itself. The owner was invited to do this by 27 January 2016.

The owner responded by confirming its agreement to submitting its development proposals to Savills, however it became clear that the owner was not actually in possession of any detailed proposals. It was claimed that the owner was in correspondence with surveyors with a view to commissioning a development appraisal and had only just commissioned a local architect. An extension of the deadline of submitting the proposals was consequently sought by the owner to the first week of March. This extension was agreed.

At the beginning of March, the owner sought another extension as it still did not have detailed proposals for submissions to Savills. At this stage, and given the history of this matter, the Council confirmed that it was no longer willing to delay the preparation of its own development proposals for the building, to enable the Council to move towards compulsory purchase. The owner was invited to continue with its own purported development plans,

which if implemented, would result in the cessation by the Council of its own plans. However, given the history of this matter (i.e. many promises of progress but no action) the Council was not willing to delay its own progress any further. The owner has been put on clear notice that, until it has a financially viable, approved scheme in place for development which is moving forwards, then the Council would continue with moving towards compulsory purchase.

Accordingly, in May 2016, approval was given by Cabinet to instruct architects and property professionals to develop a planning proposal and valuation. This would be used to enable the Council to submit its own application for planning permission for a scheme of redevelopment should that be required.

The reason why such permission was desirable at this stage relates to the legislative basis that would be used for a compulsory purchase, i.e. section 226 of the Town and County Planning Act 1990 (TCPA). This enables a compulsory purchase where the acquisition would facilitate the development, redevelopment or improvement of the land.

The success of reliance on this provision is significantly bolstered where a) it can be shown in detail what the acquiring authority actually wants to do with the property once acquired and b) having planning permission already in place removes that potential obstacle to the scheme going ahead.

In order for section 226 TCPA to be relied on, it must be shown that the acquiring authority thought that the development, redevelopment or improvement of the land would contribute to the promotion or improvement of the economic, social and/or environmental well-being of the area.

In furtherance of this, the decision was taken that, in order to provide the maximum effective regeneration of this derelict site, and to make best use of the Council's assets for the benefit of its residents and the local economy, there should be a combined redevelopment of both the Shannocks site and the adjacent Council-owned car park. This is opportunistic, as it so happens that a Council owned car park is next to the property. Accordingly, whilst not an absolute requirement for a compulsory purchase to go ahead, it increases the prospect of having a CPO confirmed by the Secretary of State, as it enhances the extent to which the statutory requirements can be satisfied.

Officers are of the view that any lost revenue from the car park would be redistributed to other Council owned car parks, and the decision taken was that it would be a wasted development opportunity for Sheringham if the Council did not include the car park in its development proposals. Further, inclusion of the car park would maximise the development potential of the site and the resultant capital values of the site.

Savills were appointed to provide the further property advice, approved by Cabinet, upon the development potential and options, as they had already provided the professional property advice in support of bringing the original proposal to Cabinet and therefore had existing knowledge of the issues involved.

Savills were instructed to appoint and liaise with the appointed architects to develop a proposal which would give maximum capital value for the site, on which Compulsory Purchase valuations are based. Ingleton Wood were duly

appointed as the architects and have liaised closely with the Council in its role as Local Planning Authority in terms of pre-application advice.

It is to be noted at this point that a further voluntary offer was made on 24 May 2016 to the owners for the purchase of the property. This increased the offer previously made by £25,000, this being the figure previously identified as the likely cost to the Council in pursuing compulsory purchase (the total offer therefore being £275,000 plus disturbance payments and costs). This offer was not accepted by the owners, who referred to previous offers being made to them for the property, of £400,000 and £550,000 by property developers.

In April 2016 the owner applied to demolish the building. This was recently refused by the Local Planning Authority by virtue of the building being within a Conservation Area and there being no supporting proposal for future development on the site.

In addition, the requirements of the historical section 215 notice (TCPA) remain outstanding (in relation to the general condition of the property), but in the current circumstances, the Council is reserving its position to pursue a further prosecution for non-compliance of the notice, in addition to the successful prosecution in July 2015.

With respect to the owner's actions since this matter was last before Cabinet, the owner has been invited to prepare a short statement of its position, which is attached as Appendix 1. It should be noted that the owner's submission for pre-application advice was submitted on 21 September 2016 but was not accompanied by the relevant payment and this had still not been paid as at 20 October.

The Council's architect's drawings are now sufficiently advanced for the Council to apply for planning permission in relation to its proposed scheme i.e. the Shannocks property and the Council's car park.

#### **4. Future steps**

4.1 There is currently a twin track process in place, as follows:

1. Continuing to apply the pressure on the owner to improve or carry out development of the property itself. This has been the ultimate intention of the Council since the property was placed on the Enforcement Board work plan.

As part of the enforcement process, it is necessary to find the right tool that will successfully encourage or compel an owner to carry out the works itself, rather than requiring the Council to step in and do so. Whilst the owner is moving at a very slow pace, it has carried out more to enable development in the last six months than it had in the prior six years of its ownership of the property. It would therefore appear that the threat of a CPO is the necessary tool to compel action in respect of this owner.

2. Preparing the Council to compulsorily acquire the property, such that if the owner's purported plans for development do not translate to actual development in the near future, the Council will be ready to compulsorily purchase the site at any time. This will ensure the development of this blight on Sheringham's seafront goes ahead and will bring about much

needed regeneration of the area.

This will entail the Council proceeding with its own Planning Application for a viable scheme, and ensuring that the necessary capital budget is in place to fund such an acquisition.

It is recommended that both processes referred to above continue.

- 4.2 The next step in the CPO process will be to make a further offer of voluntary sale, on the basis that the value of the property has changed.

The previous offers were based on the market value, as assessed by Savills within their report of August 2015, at £250,000, and then with other costs included, £275,000. As this was rejected, the Council has proceeded to prepare this matter for CPO.

We are now at the stage where the Council's imminent planning application for a development scheme is likely to be successful, to be contrasted with the position last year of this just being a derelict building with no planning permission in place or in the pipeline. It is recommended that this application is made as soon as possible, in support of the two stage approach referred to above.

The development value figures included within Savill's report are therefore now triggered for CPO compensation purposes (£380,000 for the Shannoeks, £395,000 for the car park, £945,000 for both combined).

The owner's advisor, unsurprisingly, has produced a higher development value for the Shannoeks at £715,000, but it is unclear whether or not this is based on the best capital value, as required for CPO or a wider investment based valuation. The Council's property experts have advised that the owner's figures are based on highly exaggerated and unrealistic property pricing.

It is therefore recommended that a further offer for the Shannoeks of £465,000 is made, comprising the value of the Shannoeks site (£380,000) as well as half of the "marriage value" of the two sites (£85,000).

- 4.3 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. It could be said that this would demonstrate an underlying unwillingness by the owner to see this project through, and therefore acts as a filter to draw this out now.

If a sale can be agreed, the Council is free to continue with its application for planning permission, and once the sale is complete it can implement its proposed scheme, and will have saved the additional costs and time of the CPO process.

If the offer is not accepted, the twin track process, as referred to above, will continue, to maintain the apparently necessary pressure on the owner to move forward.

- 4.4 The owner has submitted a timetable for development, which anticipates a full planning application being submitted in November/December 2016.

As referred to above, having a CPO confirmed by the Secretary of State will be dependent upon the Secretary of State being satisfied that there is a compelling case in the public interest. If the owner is actually progressing with its own development (as has been the desired outcome from the offset), then the compelling case in the public interest is removed. Additionally, proceeding with a CPO to redevelop the property, where the owner is simultaneously working towards a similar redevelopment would likely amount to an unlawful interference with the owner's human rights.

By continuing to apply pressure on the owner, the Council can make the owner's compliance with its own development timetable mandatory if it wishes to avoid the Council making a CPO. Obtaining planning permission (along with an approved budget as discussed below), which would be valid for three years, as in the ordinary course, would be integral to this process, as it means that the Council would be ready to act by making the CPO straight away where the owner defaults, thereby keeping the pressure on the owner to keep to the timetable.

If the owner deviates from its timetable to the extent that led the Council to believe development had stalled, then it is recommended that the Council proceeds with making a CPO having already made an offer to purchase.

- 4.5 In order for a CPO to be made, the Council would need to approve a capital budget sufficient to complete the compulsory purchase for which a recommendation is contained in this report. A further capital budget would then be required and would be the subject of a further business case to Cabinet for any subsequent proposed redevelopment, to prove the redevelopment scheme was indeed financially viable.

In turn, the position described above, gives rise to financial implications on which Cabinet's views are now sought.

## **5 Financial Implications and Risks**

### **5.1 Increase in cost of the property since the original report.**

The Compulsory Purchase compensation rules, in this case, will require a valuation based on the *best capital value* for the land. On this basis, Savills have worked with the architects to ensure that the proposed design will give that capital valuation, and have advised on valuation as follows:

- The valuation of the Shannoeks site - £380,000
- The valuation of the Council's car park site - £395,000
- The "marriage" value of bringing the two sites together - £170,000

The original decision of Cabinet gave delegation to do all that was reasonably required to achieve a compulsory purchase, but a full Planning Application was not anticipated and the increase in value that a successful application would produce was therefore not costed at that stage, as it was believed that the owner may sell voluntarily.

It should be noted that in CPO terms, the marriage value is taken into account when valuing compensation following a compulsory purchase, where an acquiring authority obtains land adjacent to its own land that it also intends to develop. If an agreement on compensation cannot be reached with the owner



and this matter had to go before the Lands Tribunal for determination, then the Council's position is that the marriage value should be shared equally between the parties, as the development values of each are almost identical.

The addition of marriage value could be avoided by not including the car park within the Council's development proposal. However, as referred to above, the Council is of the view that the inclusion of the car park actually produces the best overall regeneration scheme for this site, thus improving the case for compulsory purchase, and would be a wasted opportunity for Sheringham if not included in the scheme now.

## 5.2 Potential changes in property value and therefore cost.

In terms of the valuations produced, these are always subject to potential change based on future events. The valuation date for the purposes of compensation following compulsory purchase is the date that the acquiring authority takes possession of the land. If the Council were to make a CPO today, the valuation date would therefore still be approximately a year into the future. The valuations are therefore as accurate as they can be as of today's date, but there will always be the risk of events that could increase, and equally decrease, the value payable as compensation.

For CPO compensation purposes, disturbance payments and the reasonable costs of the owner also have to be met. We do not have any information on what these may consist of; however given the property is empty it is to be hoped that disturbance payments would not be excessive. An extremely rough estimate of £10,000 is suggested; however without this information from the owner it is nothing more than a guess. On the face of it, this is a notable risk, however these recoverable costs are highly regulated by statutory provisions which would be stringently applied to keep costs to the maximum allowed in law.

A further risk is that if a CPO is made, then compensation is governed by a statutory framework that will be applied by the Lands Tribunal in the absence of the parties agreeing. There is inevitably a risk that the owner may put forward a claim for loss falling under the statutory framework that is not currently foreseen by the Council. If it is accepted that such a claim falls within the statutory provision for compensation, then it will have to be paid. On the same basis, if the Lands Tribunal determines that the value of the property is higher than the Council's expert has advised, then again the sum ordered by the Lands Tribunal will have to be paid. This is the risk with any compulsory purchase.

Accordingly, the current position is that, if the Council wishes to consider further progressing the Compulsory Purchase, a voluntary offer of at least £465,000 should be made, which encompasses the actual value of the Shannoeks site as well as half of the marriage values shown above. This would minimise the risk of any later increases in cost.

Any other required sums, would be additional to this and would be confirmed once the relevant information is received from the owner.

## 5.3 Issues arising from any purchase of the property

### 5.3.1 Perceived gain by the owner for having left the property to become neglected

This increase in value cannot be avoided, on the assumption that the planning application will be successful. This option is the last resort available to the council to drive regeneration of this area.

#### 5.3.2 Perceived overpayment for the site

As described above, the offer price for the property is some £85,000 above its singular value, but this cannot be avoided because of the marriage value issues.

#### 5.3.3 Committing the adjacent, Council owned car park to the development.

The development proposal effectively commits the car park to the development with its income capitalised within the costs of the proposal. It is believed that the loss of this small car park for potentially, such a good regeneration project is worth this commitment.

#### 5.3.4 Potential risk of no return on investment

If the property is acquired by either voluntary or compulsory purchase, Savills' report shows a modest return to developers (including the Council) from the proposed development, which can be described as the safest option in terms of risk. Against this, there is the consideration of a very low return on the money required to purchase the property, if it remained in Council reserves. Either way, there is low risk return of modest value.

#### 5.3.5 Potential for a different development to be actually built

It is important to note that the valuation given by Savills is for the proposal as drawn, which gives the best capital value, on which CPO valuations are based.

This does not mean that it would necessarily be built out, by either the Council, or any development partner, as there may be better uses in terms of future revenue streams. However, the fact that the owner would have already received the best capital value for the property means it could not return to claim more compensation at a later date.

The fear of a different development would also be controlled by the Planning Approval from which the site benefitted.

#### 5.3.6 Sources of Funding

As was previously advised to members, the cost of an accepted voluntary offer could properly be funded from the Enforcement Board Reserve, where delegation also exists, to approve use of this Reserve for such a purpose.

However, this Reserve would need to be increased significantly and in both cases therefore, a budget would need approval of Council, for which a recommendation is contained in this report.

On the basis that such an acquisition takes the Council effectively from an enforcement role to one of development, it is therefore considered more appropriate for any acquisition to be funded from capital resources.

- 5.3.7 The intention is to finance the purchase from existing capital resources therefore no ongoing Minimum Revenue Provision (MRP) charge to the Revenue Account would be required. Internal borrowing would be used (rather than external borrowing) which will reduce the council's surplus balances resulting in a slight loss of interest. However average rate of return on investments up to period 6 was 1.58% so £490,000 expenditure at this rate would equate to £7,742 per annum.

## **6 Implications and Risks**

- 6.1 The building 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.
- 6.2 The risk of a CPO not being confirmed by the Secretary of State once made is ever present, but again has been mitigated by the use of legal support throughout the process.
- 6.3 There will inevitably be questions around the use of one of the Council's car parks for this purpose. However, Sheringham is well provided for in this regard and any criticism is balanced by the use of a council asset for the benefit of the local area, in this case by enabling regeneration.

## **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**

Steps taken by the Council since October 2015 (when this matter first came before Cabinet) would appear to been very successful in compelling the owner to take action itself to bring about a redevelopment of the property. However, the owner has moved at a slow pace, and is yet to progress its own development to a stage where the Council should sit back and stop applying pressure.

The Council's property professionals have drawn up proposals for a redevelopment by the Council of the property, in conjunction with the adjacent Council owned car park. This has allowed valuation for the best capital value of the site, which is necessary for the calculation of compensation on a

compulsory purchase. In addition it confirms financial viability for the use proposed by the Council.

It is recommended that the work carried out thus far is continued, by making a revised, voluntary offer to purchase the property. Due to the value of the property changing from that given a year ago, Members' views are sought on moving forward with a voluntary offer, or if it becomes necessary, Compulsory Purchase.

Further, an application for planning permission for the scheme advised by Savills should be submitted to the Local Planning Authority for approval.

Work can then continue to compel the owners to carry out the work themselves, and if this fails, (thereby creating the necessary compelling case in the public interest) then a CPO should be made.