

CABINET

10 MARCH 2015

CHATHAM WATERFRONT

Portfolio Holder: Councillor Rodney Chambers OBE, Leader

Report from: Robin Cooper, Director of Regeneration, Community and Culture

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Summary

This report:

- Informs and updates Members in respect of the acquisition of land at the Chatham Waterfront Development Site.
- Informs Members that negotiations with landowners to date have been satisfactory and that, provided this continues and acquisitions are completed promptly, it may not be necessary to use a compulsory purchase order to acquire the land.
- Informs Members that if the land is acquired by agreement, a report will be submitted to Cabinet and Council later in the year seeking permission to dispose of the site for development.
- Informs Members that if agreement with the landowners for the acquisition of their land cannot be reached at a reasonable cost and in a reasonable timeframe, it will be necessary for the Council to use its compulsory purchase powers to acquire the land and if necessary a report will be submitted later in the year to seek this approval.

1. Budget and Policy Framework

- 1.1 The decision to make compulsory purchase orders is a matter for Cabinet. As the disposal value of the site could be more than £1,000,000 then approving the disposal of the site is a matter for Council.

2 Background

- 2.1 This report concerns the proposed development of the Chatham Waterfront development site as shown edged black, hatched black and cross hatched black on the attached plan (area approximately 0.9 hectares (2.22 acres)). The site is located at a key gateway to Chatham town centre, facing onto the River Medway, Medway Street, the bus station and the Pentagon Shopping Centre. The acquisition and development of the site is a major regeneration focus, and will be supported by funding from the Growing Places Fund.
- 2.2 The main current use of the site is for pay and display parking, including the Council owned Globe Lane Car park and the Medway Street Car park, which the Council leases from a third party. Additional ancillary uses include part of the Chatham river walk, soft landscaping, the site of some demolished shops and a pub and public amenity land.
- 2.3 The location of the site facing onto the river, the main retail offer of the Pentagon Shopping Centre, the bus station and significant public amenity land in the form of the Paddock, provide the potential for a high impact mixed use development.
- 2.4 The Council's aspirations for the site:
 - 2.4.1 The Council has regeneration aspirations for the wider area as a destination and gateway to Chatham and the wider Medway area. As part of creating this gateway and destination, the Council has installed the 'Big Screen' on the Chatham Waterfront Pumping Station. This is a 9m by 6m digital outdoor screen which shows local news and services, interacting with the local community and town centre users/visitors.
 - 2.4.2 The site when developed will significantly contribute to the regeneration of the area, particularly if the ground floor of the development includes a leisure or restaurant use providing active frontage to the river walk and also facing out to the location of the Big Screen, the bus station and the Pentagon Shopping Centre. This will complement and support emerging plans for the civic space, which will begin to crystallise by 2015-16.
 - 2.4.3 In addition, there are potential development sites further up the river towards Rochester that could be available in the fullness of time. A successful development of this site could be the catalyst for viable developments elsewhere in the area in conjunction with the phased development of Rochester Riverside.
 - 2.4.4 It is proposed that the site be redeveloped for a residential led mixed-use development, including public realm and open space use.
- 2.5 Planning policy support
 - 2.5.1 Chatham Centre and Waterfront is one of several major regeneration projects in the wider Medway area, to enhance the character and economy of the sub-region and contribute to the wider regeneration of the Thames Gateway.

- 2.5.2 The Chatham Centre and Waterfront Development Framework 2004 and the Chatham Centre and Waterfront Development Brief 2008 Supplementary Planning Guidance promote unlocking potential at the site and encourage development to boost Medway's economy and deliver opportunities for further investment.
- 2.5.3 Retained policy C5 of the Medway Local Plan 2003 identifies the site as part of the area for development of a major multi use 'city' centre for Medway.
- 2.5.4 The site is identified for a residential led mixed-use development.
- 2.5.5 The council is at an early point of preparing a new Local Plan for Medway. The first stage of formal consultation on the emerging plan will take place later in 2015. This will consider options for the development of Medway up to 2035 to promote through the Local Plan process. The plan will seek to continue support for the area's regeneration, and this is likely to include the Chatham Waterfront, as a key opportunity for investment.
- 2.5.6 The National Planning Policy Framework (NPPF) promotes sustainable development, including ensuring that there is sufficient land available in the right places and at the right times to support growth and innovation.
- 2.5.7 The Council has also been awarded Growing Places Funding for the redevelopment of the site.
- 2.5.8 The Council and A2 Dominion, one of the landowners of the site, submitted two planning applications for the joint redevelopment of part of the site in 2011. These applications proposed a mixed-use development on the site. The Council as local planning authority resolved to grant permission for the applications. A2 Dominion has a number of different freehold and leasehold interests in that part of the site for which it applied for planning permission. Amongst other things, delivery of the scheme has been frustrated by fragmented ownership. In addition to this, the Council has been advised that the scheme proposed in the applications is not currently viable.

2.6 Proposals for redevelopment

- 2.6.1 It is now appropriate for the Council in fulfilling its function as a local planning authority to review its policies and proposals for the site. The Council has set out its aspirations for the site in a draft non-statutory planning document, referred to in the Cabinet report of 5 August 2014 as the design brief, which went out to consultation in November 2014. This will assist potential development partners and provide a framework to support the Council's aspirations for the site to accommodate a residential-led mixed-use development of around 72 apartments and 2,500 sqm of commercial space.
- 2.6.2 It is also appropriate for the Council to work with its advisors to ascertain developer appetite for the redevelopment of the site and to generate further appetite. The draft non-statutory planning document is currently with a number of developers and the Council is seeking feedback.

2.6.3 The Council's timeframes for the redevelopment of the site is between 30 and 36 months, which would allow for acquisition of the parts of the site not already owned by the Council, marketing of the site, discussions with a preferred developer, determination of a planning application completion of a development agreement/sale of the land and then carrying out the redevelopment.

2.7 Land ownership

2.7.1 The land edged black on the attached plan is currently owned by 3 third parties and part is leased to the Council for use as a temporary car park. The Council owns the area hatched black and has a long leasehold interest in the land cross-hatched black. This complex pattern of ownership means that, without a process of land assembly, the site is unlikely to come forward for regeneration.

2.7.2 Cabinet at its meeting of 12 February 2013, amongst other things agreed to delegate authority to the Assistant Director of Legal & Corporate Services, in consultation with the Portfolio Holder for Finance, to acquire third party land in the Chatham Waterfront area.

2.7.3 The Council has powers under Section 226 (1)(a) of the Town and Country Planning Act 1990 (Act) to acquire land compulsorily, if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land.

2.7.4 Cabinet at its meeting of 5 August 2014:

2.7.4.1 Instructed officers to:

2.7.4.1.1 Continue negotiations with landowners to acquire the land;

2.7.4.1.2 Prepare a design brief for the site;

2.7.4.1.3 Instruct experts to assess developer interest in the site;

2.7.4.1.4 Instruct experts to advise on the regeneration of the site and also the compulsory acquisition process (including the preparation of a draft compulsory purchase order) should negotiations not prove successful;

2.7.4.1.5 Issue landowners with requisitions for information to enable the council to fully understand the nature of their interests and also to assist in the preparation of a CPO.

2.7.4.2 Noted that if negotiations with landowners could not be concluded at a reasonable cost and in a reasonable timeframe, it would be necessary to use the Council's statutory powers of compulsory purchase to acquire the land.

2.7.5 Negotiations with the three landowners have progressed significantly, since the report to Cabinet on the 5 August 2014. Two of the landowners have agreed heads of terms and the drafting of legal agreements has begun. The third landowner is currently considering proposed heads of terms and is in regular contact with Council officers.

- 2.7.6 Good progress in preparing the case for a compulsory purchase order (if it is required) has also been made. Requisitions for information have been made and received by all known parties with interests in the site. Expert legal advice on the key steps and actions in preparing a compulsory purchase order has been received and the Council is progressing a programme of delivery.
- 2.7.7 The Council will continue to seek to acquire the land by agreement. However, in case negotiations are not successful, the Council will continue to promote a compulsory purchase order in parallel with further negotiations to allow redevelopment to take place within a reasonable timeframe to meet the Council's aspirations for the site.
- 2.7.8 The complex nature of the land ownership at the site means that it would be more likely that the redevelopment aspirations of the Council for the site (in the interests of the proper planning of Chatham) would be realised with intervention by the Council, together with an approach demonstrating strategic leadership for the site.
- 2.7.9 If negotiations to acquire the land by private treaty at a reasonable cost and within a reasonable timeframe are not successful, the Council could use its powers of compulsory acquisition to acquire the interests in the site within a reasonable timeframe.

3. Options

- 3.1 This report is for information only, however potential options in a decision paper later in the year are outlined in the below section; Advice and analysis.

4. Advice and analysis

- 4.1 There will be a paper submitted to Cabinet and possibly Full Council later in the year with options that will be dependent on the outcome of current negotiations.
- 4.2 Assuming that the land is acquired by agreement without the use of a compulsory purchase order a report will go to Cabinet and Full Council seeking authority to declare the recently acquired site as surplus and market for development. The final Design Brief will be used as the basis for the marketing brief for the site to ensure that the Council's aspirations can be met where viable.
- 4.3 Assuming that the land cannot be acquired by agreement within a reasonable timeframe a compulsory purchase order will be needed. Therefore a report requesting a formal resolution to use the Council's compulsory purchase powers will be submitted.
- 4.4 Of the two potential options it is clear that acquisition by agreement would be the preferred approach. However, if this is not possible a formal resolution to use compulsory purchase order powers will be requested.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Continuing negotiations with landowners without success.	Negotiations with landowners fall through.	Finalise the design brief and confirm market interest for the site. Resolve to use compulsory purchase powers if negotiations are not successful.	C2
Poor market conditions, slow progress of development.	Once the site is acquired and is put on the market potential developers may not consider it as a viable development.	Ensure the final design brief and marketing particulars reflect feedback given by potential developers in the soft marketing process and are also adaptable to changing markets.	C2
Delay in negotiations to acquire by agreement.	Acquisition by agreement could be prolonged and delay the acquisition and regeneration of the site.	Set a reasonable deadline to complete legal agreements and if this isn't met resolve to use compulsory purchase powers	C2

6. Consultation

6.1 Consultation has taken place with the public, developers and landowners on the first draft of the Design Brief.

7. Financial implications

7.1 If agreement can be reached with the landowners, the Council will need to pay the landowner the purchase price for the acquisition of the land, and pay stamp duty land tax to HMRC. The applicable rate of this tax on properties with a purchase price of over £500,000 is 4% of the purchase price. The terms of the agreement may also require the Council to pay the landowners' legal and surveyor's costs.

7.2 If agreement cannot be reached and the Council decides to use a compulsory purchase order to acquire the land, then the Council will need to pay for the costs of obtaining the compulsory purchase order and for any land compensation and professional fees etc. The Council will need to make a resolution to make the compulsory purchase order before it can proceed with the compulsory purchase order. This would be a decision for Cabinet. If required, further reports will be submitted to Cabinet and if appropriate Full Council concerning this. These reports will set out full details of the likely the costs involved.

7.3 The Council was awarded funding by the Local Enterprise Partnership Growing Places Funding (GPF). This funding was granted for the acquisition and marketing of the Chatham Waterfront Development Site and improvements on the waterfront. The GPF will also be used to improve the wider area including the river walk, central civic space, surrounding public realm and key feature points in the town centre such as the Brook Theatre to improve the visitor experience and encourage viable development and retail.

8. Legal implications

8.1 Human Rights Act considerations apply to any use of compulsory purchase powers. Landowners should only have their interests taken, if compensation is to be provided and they also have a right to a fair hearing. If the Council decides that compulsory purchase powers should be fully considered and a compulsory purchase order promoted, it will first have to consider the human rights implications of it making a compulsory purchase order. This would be fully explained to Cabinet if a report proposing a compulsory purchase order were brought forward in due course.

8.2 The Council's powers to acquire land for regeneration are set out in Section 226 (1)(a) of the Town and Country Planning Act 1990. The Council may acquire land compulsorily, if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land. Section 227 of the same Act gives the Council power to acquire land by agreement for the same purposes. This means that the Council may proceed to acquire the land compulsorily, if it is not able to do so by agreement. The exercise of these powers would be a decision for Cabinet in due course.

9. Recommendations

9.1 That Cabinet notes the report.

10. Suggested reasons for decision(s)

10.1 To allow the Council's aspirations for the site to be realised within a reasonable timeframe.

Lead officer contact

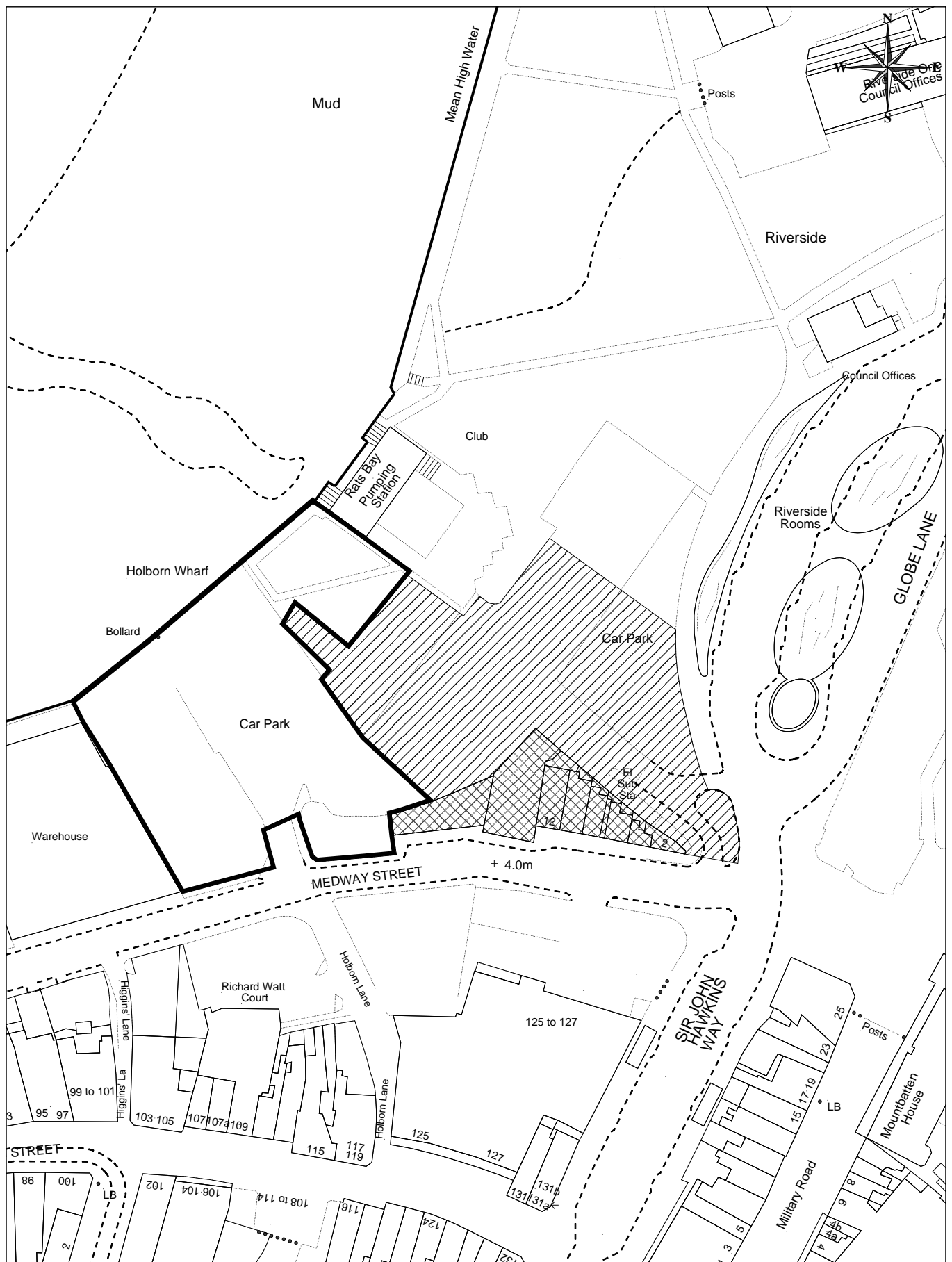
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Background papers

Report to Cabinet 5 August 2014
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=13181>

Report to Cabinet 12 February 2013
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=10291>



Chatham Waterfront



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