

EAST AYRSHIRE COUNCIL

CABINET 20th MAY 2009

CUMNOCK TOWN CENTRE REGENERATION PROJECT

COMPULSORY PURCHASE ORDER GREENHOLM ROAD CUMNOCK

Report by the Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

To seek authority to promote a Compulsory Purchase Order in respect of the acquisition of an area of ground extending in total to 2631 square metres or thereby to the south of Greenholm Road Cumnock shown outlined on the attached plan to facilitate the office development phase of the approved Cumnock Town Centre Regeneration Project and to authorise the Solicitor to the Council to implement all subsequent statutory requirements to facilitate confirmation of the said Order by the Scottish Government

2. BACKGROUND

- 2.1 Cabinet will be aware of the regeneration plans for Cumnock Town Centre and will further be aware that one of the principal elements of the approved Cumnock Town Centre Regeneration Project is the development of office accommodation for the relocation of Council Services and other appropriate partner organisations
- 2.2 To facilitate delivery of the Town Centre Regeneration Project the Council's Emergency Powers Committee of 5th July 2007 agreed inter alia (i) to approve the location of the office development at Greenholm Road, Cumnock; (ii) to authorise the Executive Head of Finance and Asset Management in consultation with the Solicitor to the Council to enter into negotiations and acquire the necessary heritable interests to facilitate the Cumnock Town Centre Regeneration Project, subject to approval by Council or otherwise as provided for in terms of the Council's Scheme of Delegation; and (iii) to authorise the Solicitor to the Council to promote Compulsory Purchase powers to facilitate the acquisitions should it become necessary to do so.
- 2.3 In pursuance of the authorisation/resolution of the meeting of the Emergency Powers Committee of 5 July 2007 the Council either following direct negotiation or following negotiations carried out through the District Valuer Service has successfully acquired all necessary heritable interests required to facilitate the office development phase of the Town Centre Regeneration Project with the exception of the area of ground which forms the subject of this Report

- 2.4 Following the breakdown of initial negotiations in respect of the area which forms the subject of this Report the Solicitor to the Council in exercise of the powers conferred by sub-section (1) (a) of section 189 of the Town and Country Planning (Scotland) Act 1997 and section 1(1) and Schedule 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on 8 September 2008 promoted the East Ayrshire Council Cumnock Town Centre Redevelopment Compulsory Purchase Order No1 2008
- 2.5 Following objections submitted by the site owners the Scottish Government indicated in correspondence in December 2008 and January 2009 that the promotion of the Compulsory Purchase Order was premature for the following reasons
- (i) the Scottish Government did not consider, notwithstanding the identification of the site within the current adopted Local Plan as suitable for comprehensive mixed use development, community facility and residential purposes, that the office development was properly covered by the current adopted East Ayrshire Local Plan and the associated statutory Development Plan.
 - (ii) the site enjoyed the benefit of planning permission for residential development said consent 02/0267/FL having been granted by the Council as Planning Authority on 8th April 2004 and planning consent for the proposed office development had not been granted.
 - (iii) the terms of the Committee authorisation /resolution of the Emergency Powers Committee on 5th July 2007 were insufficient to allow promotion or subsequent confirmation of the Order in that a site specific authorisation /resolution to promote the Compulsory Purchase Order in accordance with the statutory procedure was required to allow the Order to be confirmed

Given the prematurity of the promotion of the existing Order steps have now been taken to withdraw the Order to facilitate promotion of a new Order as recommended within this Report.

3. CURRENT POSITION

- 3.1 The issue as to the appropriateness of the proposed office development within the context of the adopted Local Plan and the associated statutory Development Plan identified in 2.5 (i) of this Report has been addressed .The area which forms the subject of this report has been located within redefined boundaries of the Cumnock Town Centre Regeneration Area and identified for new office uses. The Council approved the terms of the finalised version of the Local Plan alteration with modifications and agreed at its meeting of 26th February, 2009 that the finalised version of the Local Plan alteration with modifications should become a material consideration in the determination of any planning applications that might be submitted to the Council for consideration, including any applications in respect of Cumnock Town Centre Regeneration Area.

- 3.2 The issue as to planning consent identified in 2.5 (ii) of this Report has also been addressed .The Southern Local Planning Committee at its adjourned meeting of 5th May 2009 granted approval to an application for full planning permission submitted by Cumnock Regeneration (Office) Limited in respect of an office development on a larger area at Greenholm Road, Cumnock incorporating the area which is the subject of this Report.

In addition the previously existing planning permission, 02/0267/FL granted on 8th April 2004 for a residential development on the area which is the subject of this Report expired on 8th April 2009 on the basis that the approved development had not commenced within the statutory five year time-frame with no extension of time having been sought by the site owners. The only authorised planning use for the site irrespective of the wider designation within the finalised version of the Local Plan alterations with modifications (which in addition to the office use identified above includes a designation of the site as a housing development opportunity to reflect the previous authorised use) is accordingly the office use development approved by the Southern Local Planning Committee of 5th May 2009

- 3.3 The issues as to the adequacy of the Committee Authority of 5th July 2007 in respect of the promotion of the East Ayrshire Cumnock Town Centre Redevelopment Compulsory Purchase Order No1 2008 as identified in 2.5. (iii) of this Report will be addressed by the granting of site specific authority to promote a Compulsory Purchase Order as recommended within this Report
- 3.4 Given the time lapse since the breakdown of negotiations for a voluntary acquisition and, given the resolution of the concerns raised by the Scottish Government, the Solicitor to the Council following the grant of planning permission on 5th May 2009 for the proposed office development has made a final offer of settlement at £220,000 to the site owners in an attempt to reach a negotiated settlement which would avoid the need for a Compulsory Purchase Order. A formal response to that settlement offer has been requested by close of business on 19th May and the up to date position will be reported to Cabinet at the meeting on 20th May. Should that settlement offer however not be accepted by the site owners it is considered that there is no further prospect of a negotiated settlement and that the promotion of a Compulsory Purchase Order is necessary to facilitate delivery of the Town Centre Strategy.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising out of a decision to promote a Compulsory Purchase Order. Should the Order subsequently be confirmed by the Scottish Government the Council will require as in the case of all acquisitions to pay the site owners the market value of the area of ground which forms the subject of this Report which market value in the absence of agreement will be determined by the Lands Tribunal on the basis of a recommendation from the District Valuer .Whilst specific detail of the finalised acquisition costs cannot be provided at this stage it is estimated on the basis

of current valuation information that the acquisition costs could be anywhere in the region of £37,500 to £400,000.

5. LEGAL IMPLICATIONS

- 5.1 The Council in its use of its Compulsory Purchase Powers in terms of sub-section 1 (a) of section 189 of the Town and Country Planning (Scotland) Act 1997 and section 1 (1) and Schedule 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 requires to ensure compliance with the statutory procedures for the promotion of a Compulsory Purchase Order to allow subsequent confirmation by the Scottish Government

6. POLICY/COMMUNITY PLANNING IMPLICATIONS

- 6.1 Whilst there are no specific policy/ community planning implications arising out of the promotion of a Compulsory Purchase Order should the order be confirmed the subsequent acquisition of the area of ground forming the subject of the report is critical to the subsequent implementation of the Town Centre Regeneration Project .The implementation of that Project will contribute significantly to achieving targets contained in the “Improving the Environment” and “Improving opportunities” Action Plans of the East Ayrshire Community Plan.

7 ASSET MANAGEMENT IMPLICATIONS

- 7.1 Again whilst there are no specific asset management implications arising out of the promotion of a Compulsory Purchase Order should the Order be confirmed the subsequent acquisition will meet the Council’s policy objectives in respect of Asset Management and will, as indicated in paragraph 6.1 above, allow the Council to implement its Town Centre Regeneration Project.

8. RECOMMENDATIONS

- 8.1 It is recommended that Cabinet -

- (i) approves the promotion of a Compulsory Purchase Order in respect of the acquisition of an area of ground extending in total to 2631 square metres or thereby to the south of Greenholm Road Cumnock shown outlined on the attached plan to facilitate the office development phase of the approved Cumnock Town Centre Regeneration Project
- (ii) authorise the Solicitor to the Council to formally promote the Order and thereafter to comply with all necessary statutory requirements and to take all necessary steps deemed necessary by the Solicitor to the Council to protect the interests of the Council to facilitate confirmation of the Order by the Scottish Government

(iii) otherwise note the contents of this report

**Elizabeth Morton,
Depute Chief Executive and Director of Corporate Resources**

**AG
11TH May 2009**

BACKGROUND PAPERS

Cabinet Report of 5th July 2007
Report to Council of 26th February 2009
Report to Southern Local Planning Committee of 5th May 2009

Any person wishing information about this report please contact Anna Gallagher, Solicitor (Team Leader Contracts and Conveyancing) Legal Services on telephone extension 576170

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