

Decision No: CAB364 – 28/02/11

Forward Plan No: CAB20106

This record relates to Agenda Item 178 on the agenda for the Decision-Making

RECORD OF CABINET KEY DECISION

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	PLACE
SUBJECT:	OPEN MARKET DEVELOPMENT PROPOSAL
AUTHOR:	RICHARD DAVIES

THE DECISION

- (1) That Cabinet notes the project progress described in sections 3 and 7 of this report made since Cabinet approved landowner consent for the project to continue in December 2008.
- (2) That Cabinet resolves to exercise the City Council's powers of appropriation under section 122 of the Local Government Act 1972 so that the land at the Open Market redevelopment site as identified on the plan at Appendix 1 is appropriated for planning purposes.

REASON FOR THE DECISION

Powers of Appropriation

The council's power to appropriate land under section 122 of the Local Government Act 1972 is exercisable upon a determination that the Site "is no longer required for the purpose for which it is held immediately before the appropriation". By virtue of the current planning application for the site and the entering into of a Development Agreement, the council has clearly signalled that it is of the view that the sites are no longer only required for their previous purposes [retail market, disused education building, tyre fitting and retail unit and off-street parking] and that redevelopment is necessary.

Section 237 of the Town and Country Planning Act 1990 provides that where land is held for planning purposes and work is done in accordance with planning permission, third party rights are overridden. Thus an effect of appropriation for planning purposes is to protect the council and developers from the risk of the development process being stopped once it has started. The rights of third parties whose private interests may be affected by development are protected to the extent that they have a right to

compensation against the local authority. The council however, will be indemnified against any such claims by the developer of the site.

Appropriating the land for planning purposes is a requirement of the council in the Open Market Development Agreement. The Development Agreement specifies that the council will use its reasonable endeavours to agree that it shall appropriate the council land for planning purposes if planning permission for the proposed scheme is granted. It is therefore recommended that in order to facilitate the early start of the development, Cabinet agrees that, subject to the planning decision, the site is appropriated immediately following such a decision.

The Proposed Scheme

The Open Market planning application to the Local Planning Authority includes the following elements:

- a new covered market with 44 permanent market stalls (including three retail units facing on to Ditchling Road);
- a covered central market area for temporary stalls, visiting markets and a variety of activities normally associated with a public square;
- 12 arts/crafts workshops;
- 87 affordable housing units, subject to the level of housing grant received by Hyde from the Housing & Communities Agency.
- New public toilets to replace those existing in Marshalls Row, which will be maintained and operated by the council through contract.
- Francis Street integrated as a new street with a shared surface that allows for pedestrian priority and the requirements for servicing the new market.

The redevelopment offers the potential to deliver a range of other wider benefits for the area including:

- A significant contribution to the regeneration of London Road Town Centre;
- The establishment of a Community Interest Company to operate the market as a social enterprise for local benefit.
- Increased economic activity in London Road Town Centre;
- Safeguarding existing and creating new employment opportunities by way of an expanded new market and workshops;
- A new market to promote fresh, healthy produce while providing an outlet for local and regional producers.
- A new covered outdoor market space, providing a social meeting place that will promote community cohesion and contribute to achieving a sustainable community.
- Improving permeability and connections between London Road and The Level through the market and along Francis Street.

On 23 February 2011, Planning Committee was minded to grant planning permission for the submitted scheme, subject to completing a Section 106 Planning Agreement.

DETAILS OF ANY ALTERNATIVE OPTIONS

The Hyde/Market Traders development team has progressed the design to achieve a viable project that delivers a new covered market, workshops and affordable

housing. This has been an iterative process with staged submissions to the council resulting in the approval of landowner consent for the RIBA Stage D proposal. At each stage, the project has been assessed by the council, which has resulted in an improved scheme that is considered deliverable.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None.

CONFIRMED AS A TRUE RECORD:

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision

Date:

28 February 2011

Decision Maker:

Councillor Dee Simson
Deputy Leader of the Council

Signed:



Proper Officer:

28 February 2011

Mark Wall, Head of Democratic Services

Signed:



SCRUTINY

Note: This decision will come into force at the expiry of 5 working days from the date of the meeting at which the decision was taken subject to any requirement for earlier implementation of the decision.

Or: This decision is urgent and not subject to call-in (date of CE's agreement to urgency of decision).

Call-In Period

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*