

Subject:	Kings House – Appropriation for Planning Purposes		
Date of Meeting:	13 October 2016		
Report of:	Executive Director for Economy, Environment & Culture		
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Ward(s) affected:	Central Hove		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 In accordance with the draft Sale and Purchase Agreement for Kings House the council is to consider the appropriation of the Kings House site for planning purposes. Section 3 of this report outlines the process and implications of appropriation.

2. RECOMMENDATIONS:

- 2.1 That Committee authorises in principle for the land at Kings House to be appropriated for planning purposes and that the final decision to appropriate be delegated to the Director of Economy, Environment and Culture and Assistant Director Property & Design, such decision to be made following grant of a satisfactory planning consent.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In April 2014 Cushman & Wakefield (C&W) and CgMs Planning Consultants were instructed to act as agents for the council to support the disposal of Kings House. They were instructed to assess the disposal opportunities as offices and alternative uses. They consulted with the Council's Planning Officers to ascertain the optimum approach for the disposal of Kings House working within the planning framework, following which C&W were instructed to market Kings House for continued office use in order to identify any potential viable occupational interest.
- 3.2 A comprehensive marketing brochure was produced for the offices and the property was first advertised on the 13th September 2014 in the Estates Gazette with full details placed on the C&W website and commercial property websites such as Focus and EG Property link. Direct marketing was also undertaken with the brochure sent to all 986 members of the Office Agents Society. C&W received 145 enquiries, but of these, none related to office use and none of the office agents had a requirement for offices in this location. C&W have continued to market the property as an office but have yet to receive an enquiry relating to office use.

- 3.3 In February 2015, given the lack of interest for continued office use C&W were instructed to widen the marketing approach and a revised brochure was produced. All parties that had enquired previously were sent the details and in addition known developers and investors that had not previously enquired for alternative uses were contacted. This process resulted in an additional 53 enquiries.
- 3.4 In April 2015 the bidding process was commenced involving two rounds of bids and interviews with final parties. Following a false start with the first preferred bidder, a second preferred bidder was selected, a partnership formed by 9 companies with recent accounts showing combined net assets of circa £30m. Whilst the purchase is to be made by a Special Purpose Vehicle (SPV), the partners will provide a guarantee and be jointly and severally liable for meeting their obligations.
- 3.5 The preferred bidder has selected architects to draw up an exemplar residential scheme for Kings House which respects the heritage of the building but also optimises the provision of high quality residential units.
- 3.6 Appropriating the land for planning purposes by the city council is a condition in the draft Kings House Sale and Purchase Agreement.
- 3.7 The council's power to appropriate land under s122 of the Local Government Act 1972 is exercisable on determination that the site "is no longer required for the purpose for which it is held immediately before appropriation". Under the Workstyles Programme the council has rationalised its operational accommodation to not only reduce the amount of space held to control ongoing operational costs but also to introduce modern and flexible working practices. As part of the Workstyles Programme Kings House was identified for disposal with staff, members and associated services relocated to refurbished offices at Hove Town Hall and Bartholomew House by October 2016. It is therefore the case that Kings House will no longer be required by the council for the purpose for which it is currently held.
- 3.8 Section 203 of the Housing and Planning Act 2016 provides that where land is held for planning purposes and work is done in accordance with planning permission third 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 claims by the developer of the site for an initial tranche of the compensation and it is intended that an insurance policy will be put in place from completion of the Sale and Purchase Agreement for any subsequent liability.
- 3.9 It is intended that the Sale and Purchase Agreement will exchange by the end of October 2016. The preferred bidder will continue to work up designs for their residential scheme and will submit a planning application. When the details of the scheme are available for review and the implications of the development understood, a final decision regarding the appropriation of the land can be made

by the Director of Economy, Environment and Culture under the delegation proposed in this report.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 In the absence of appropriation for planning purposes, third party rights, such as rights to light and other breaches of covenant, would potentially be capable of enforcement by injunction. However in the circumstances where Kings House is appropriated for planning purposes such rights can only give rise to compensation payable in accordance with a statutory formula. Given the lack of demand for offices at this location and the reduced risk for developers associated with appropriation, the preferred option is to appropriate the land for planning purposes.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation on the appropriation process has been completed internally amongst officers in Property & Design and Legal Services.
- 5.2 Residents will be invited to consult on the planning application to be submitted to the local planning authority by the preferred bidder. In the event that planning permission is granted, the final decision as to whether it is reasonable in all of the circumstances to appropriate Kings House for planning purposes will be made after such planning decision.

6. CONCLUSION

- 6.1 Through its Workstyles Programme the council has rationalised its office accommodation and no longer has a requirement to retain Kings House for operational use. The property has been marketed as offices since September 2014; however our agents have received no enquiries for office use.
- 6.2 Following a robust bidding process the council has negotiated a Sale and Purchase Agreement with the preferred bidder who wishes to develop the site as a residential scheme. It is a condition of the draft Sale and Purchase Agreement that the council appropriate Kings House for planning purposes.
- 6.3 By agreeing to appropriate the land in principle, the preferred bidder is given some comfort as to the council's intent. A final decision to appropriate the land will be made once the planning application has been submitted and the full details of the proposed scheme and its implication are understood.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The proceeds from the disposal of Kings House forms part of the Workstyles Phase 3 business plan as reported to this Committee in September 2013. The savings from the running costs associated with the property form part of the Council's Integrated Savings and Financial Plans to 2019/20. The potential change in use for Kings House and the subsequent reduction in Business Rates the Council receives is reflected within the Workstyles Business case as is any potential increases resulting from additional Council Tax income.

- 7.2 The council will be indemnified against claims by the developer of the site for an initial tranche of the compensation. It is anticipated that this aspect will be covered by an indemnity policy or terms negotiated within the Sale and Purchase Agreement for the preferred bidder to accept a greater level of potential liability.

Finance Officer Consulted: Name Rob Allen

Date: 26/09/17

Legal Implications:

- 7.3 The legal implications are set out in the body of the report, particularly section 4. It is considered reasonable for the council to deal with the appropriation requested by the prospective purchaser in this way.

Lawyer Consulted: Bob Bruce

Date: 20/09/16

Equalities Implications:

- 7.4 Equalities Impact Assessments have been undertaken a part of the Workstyles Programme. No equalities issues have been identified as arising from this report.

Sustainability Implications:

- 7.5 Sustainability issues will be considered as part of the planning process for the proposed scheme.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

