

Cabinet Member Decision Note

Property in Old Town – Termination of Development Agreement

To: Cabinet Member for the Town Centre

Date: 29th January 2020

Author: Head of Town Centre Development
Wards: Old Town
Parishes Affected: Central Swindon South

1. Purpose and Reasons

- 1.1 The Council entered into a Development Agreement on 9th November 2016 with the owner of the Corn Exchange and a developer to secure the comprehensive regeneration of the Corn Exchange.
- 1.2 The original deadline for submitting a planning application for the regeneration scheme has already been extended and the current deadline has been missed.
- 1.3 In accordance with the provisions in the Development Agreement, the Cabinet Member's approval is therefore sought to terminate the Development Agreement with immediate effect.
- 1.4 The recommendation supports the Council's pledge 23, which includes supporting the redevelopment of the Corn Exchange.

2. Recommended Action to be Authorised by a Cabinet Member Under Delegated Powers

Recommended that:

- 2.1 The Head of Property Assets, in consultation with Chief Legal Officer (Monitoring Officer) is authorised to issue a termination notice to parties named in the main body of the report.
- 2.2 The Chief Legal Officer (Monitoring Officer), in consultation with the Head of Property Assets, is authorised to complete all necessary legal documentation considered necessary to protect the Council's interests.

3. Detail

- 3.1 A lack of progress on plans to rejuvenate Old Town's Corn Exchange has forced Swindon Borough Council to initiate its internal authorisation process to seek to terminate a development agreement for the scheme.
- 3.2 In November 2016, the Council entered into a development agreement with the owner of The Corn Exchange, local businessman Gael Mackenzie, and Swindon

Further information on the subject of this report can be obtained from Emma Gee, egee@swindon.gov.uk.

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Corn Exchange Limited led by Steve Rosier, to turn Swindon's Corn Exchange and Old Town Hall buildings, better known locally as the Locarno, into apartments, restaurants and mixed use commercial space.

- 3.3 Swindon Corn Exchange Ltd has missed a number of deadlines to deliver the scheme and, despite being given a final opportunity to submit a planning application by September of last year, no application has been forthcoming.
- 3.4 The Council will therefore initiate its internal authorisation process to seek to terminate the development agreement to prevent any further delay of the development of The Corn Exchange.
- 3.5 The regeneration of this important heritage site remains a key priority for the Council.
- 3.6 The Council will now work with the owner of the building to bring forward an alternative scheme.
- 3.7 Additional details are contained in Appendix 1 of this document which is exempt from publication due to commercial sensitivity.

4. Alternative Options

- 4.1 Grant a further extension of time. There have been a number of time extensions which have not resulted in a viable scheme being worked up and a planning application made.
- 4.2 Do nothing. This would not free up the building and the site for an alternative route to delivery which may be capable of realising the community's aspirations for the building to be brought back into gainful use.

5. Consultation

- 5.1 The following Opposition and Minority Group Spokespersons / Ward Members have been consulted on the recommendations of the report and their responses are also summarised below:
- 5.2 Councillor Nick Burns-Howell – Comment: Good to see the Council taking proactive action to protect one of our most important heritage assets. Deadline after deadline has been missed so we must now find a positive way forward. I

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hope that the current owner comes forward with sensible plans for the local community to help shape, but if they are unable to do this I feel the Borough should be prepared to take further direct action to ensure the Corn Exchange is protected for generations to come.

- 5.3 Councillor Jane Milner-Barry – Comment: I note and request that the proposed action be reconsidered. I request that a further extension of time should be given to the developer as the plans both architectural and financial have reached such an advanced stage, the dangers to the building of another indeterminate period of neglect are so great and the cost of renovating the shell of the building must at some point become insupportable under any proposed scheme. I am also very concerned about the application for permitted development of the HSBC building adjoining the Corn Exchange, as if the HSBC building were not available to be included in the plan for the development of the Corn Exchange I cannot see how any plan for the Corn Exchange on its own could be financially viable. The applicant also has no plans to alter the facade of the building which is both dominant and ugly. I hope SBC will reconsider the proposed termination.
- 5.4 Councillor Nadine Watts – Comment: I am really disappointed with this outcome. I know that the Corn Exchange redevelopment was not progressing as quickly as we would have liked, but I was impressed with the designs that were being worked on and revised with feedback from the design review panel. I think this is the closest we have ever been to proceeding with this scheme and getting an acceptable planning application submitted. With all the work that has been done to date, I can't see that giving this developer a further time extension to submit a planning application, when we have waited years, would make much difference. We wouldn't get anyone else to proceed any quicker. In the meantime the site would only fall further into disrepair.
- 5.5 I think it is important with a site with so much heritage attached to it, it should be dealt with as a whole. I am concerned that the permission for the Forum building granted on 15 January to be converted from offices to flats without any changes to the external façade will have a detrimental effect for future plans of this important site in Old Town.
- 5.6 I don't think all possibilities have yet been exhausted with the current developer and that the plans discussed at the design review panel meetings does show progress. I would like to see one final time extension granted for a planning application to be submitted.

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- 5.7 I do not support the proposal to serve notice to terminate the development agreement for this scheme.
- 5.8 Councillor Stan Pajak –Comment: Happy to support the recommendation albeit it brings to an end the perhaps forlorn hope of bringing back to life this historic building and the boost it would have given to both Old Town and Swindon.
- 6. Implications, Diversity Impact Assessment and Risk Management**
- Financial and Procurement Implications
- 6.1 There are no financial or procurement implications relating to the termination of the Development Agreement.
- Legal and Human Rights Implications
- 6.2 The Chief Legal Officer would produce all legal documentation.
- 6.3 All other human right implications were taken into account in drafting this Decision Note. It is considered that the recommendations are compatible with Convention Rights.
- Climate Change Impact
- 6.4 The proposals would not bring a change in service delivery and Officers believe that there is no expected effect on the Council's carbon footprint.
- All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)
- 6.5 There are no known implications.
- Diversity Impact Assessment
- 6.6 A Diversity Impact Assessment has not been completed for this specific report as the building is not owned by the authority.
- Risk Management
- 6.7 There will be disappointment that the recent extension of time did not result in a viable planning scheme being worked up and a planning application made. There are risks associated in continuing with a partnership arrangement whereby no meaningful progress against successive deadlines has been made. Staying party to the Development Agreement post a material breach precludes other
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experienced developers who may have an interest in the scheme being able to put forward deliverable plans.

7. Consultees

7.1 The Corporate Director of Finance and Assets (s151 officer) and Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

7.1.1 The Chief Legal Officer (Monitoring Officer) cleared this report for publication on: 21st January 2020.

8. Background Papers

8.1 None

9. Appendices

9.1 Appendix 1 – Exempt from publication

10. Declarations of Interest

Opposition and Minority Group Spokespersons / Ward Members

10.1 Opposition spokespersons / Ward Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Senior Committee Clerk), and they should take no part in the consideration of the Briefing Note and should refer the Briefing Note to their Group Leader.

Cabinet Member(s)

10.2 Cabinet Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Senior Committee Clerk), and they should take no part in the consideration of the Decision Note and should refer the Decision Note to the Leader of the Council instead for consideration.

11. Sign-off

11.1 The Cabinet Member is requested to respond with 5 days of the date of this report (by 5th February 2020).

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- 11.2 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

Note and support the proposed action to be taken under delegated authority –

☒ Yes / No

Note and request the proposed action be reconsidered – ~~Yes~~ / ☒ No

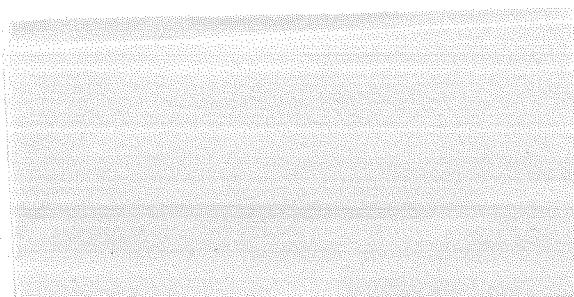
Reasons for Reconsideration:

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Request Report be Referred to Cabinet - ~~Yes~~ ☒ No

NB To protect against identity theft, Cabinet Member's signatures will be redacted on public versions of the signed Briefing Note.



...Cabinet Member

- 11.3 Decisions of Cabinet members will be published in the Members' Bulletin. The Decision must not be implemented until such time that a five-day "Call-in" period has expired. This date will be specified in the Members Bulletin. If a Decision is "called-in" it will be referred to the Scrutiny Committee for consideration. It must only be implemented if the Scrutiny Committee has raised no objection. If an objection is forthcoming the matter will be referred back to the Decision-Maker.