

# ECONOMIC DEVELOPMENT & CULTURE COMMITTEE

Agenda Item 60

Brighton & Hove City  
Council

<b>Subject:</b>	<b>Circus Street: Appropriating the Land for Planning Purposes</b>		
<b>Date of Meeting:</b>	<b>10<sup>th</sup> January 2013</b>		
<b>Report of:</b>	<b>Strategic Director, Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Max Woodford</b>	<b>Tel: 29-3451</b>
	<b>Email:</b>	<a href="mailto:max.woodford@brighton-hove.gov.uk">max.woodford@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>Queens Park</b>		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to obtain approval from Members to appropriate land at the Circus Street site for planning purposes, in line with the city council's obligations in the Development Agreement for the Circus Street site. Section 3 of the report outlines what the power of appropriation is and the implications arising.

### 2. RECOMMENDATIONS:

- 2.1 That Members resolve to exercise the city council's powers of appropriation under section 122 of the Local Government Act 1972 so that the land at the Circus Street site as identified on the plan at Appendix 1 will be appropriated for planning purposes at such time as it comes under the city council's control.

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The proposal for the Circus Street site will see a high-quality sustainable mixed use development providing a new university library and teaching space for the University of Brighton; employment space, from corporate office down to move on space and managed workspace for the creative industries; residential units, student accommodation, ancillary retail and a state of the art dance studio for South East Dance. The city council has recently signed a refreshed development agreement with the developers, The Cathedral Group, and the University of Brighton to unlock the scheme following a period where it had been stalled by economic conditions affecting the development market.
- 3.2 The Cathedral Group has selected ShedKM architects to take this project forward and produce an exciting scheme that can progress through the planning stage. Meanwhile there are a number of technical stages and conditions within the development agreement that need to be met as the project moves towards delivery, including a requirement to appropriate the land for planning purposes .
- 3.3 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 entering into a revised development agreement, the council clearly signalled that it was of the view that the site is no longer required for their previous purposes [wholesale market] and that redevelopment was necessary.

- 3.4 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.
- 3.5 Appropriating the land is a requirement of the city council in the Circus Street Development Agreement. Policy & Resources Committee did previously resolve to appropriate the land owned by the council at the site in January 2008 as part of the previous development process. Such land was appropriated for planning purposes but the development was stalled by the recession and a lot of time has passed since. That part of the site which presently belongs to the University of Brighton (shown in the plan at appendix 1) is intended to come into council ownership as part of the eventual land transfers, depending on where the final elements of the scheme are located. The Development Agreement specifies that the University of Brighton shall issue to the council a lease of these parts of the site. This area needs to be appropriated once it comes into council control, so it can then join the rest of the assembled site which has already been appropriated.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 During the development competition, the preparation of the SPD and following the selection of Cathedral as the preferred bidder there was considerable public consultation. As well as a general consultation process there were regular meetings with the Turner Area Partnership and there was a standing consultation panel. This activity had reduced as the scheme was unable to progress in the face of strong financial viability issues. However, as the scheme now progresses the developers will undertake further consultation and community engagement during the pre-planning stage.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The appropriation of the Circus Street site for planning purposes has no direct financial implications for the council. Any compensation payable is the responsibility of the developer and the Council's residual liability is indemnified through the Development Agreement.

*Finance Officer Consulted: James Hengeveld*

*Date: 06/12/12*

##### Legal Implications:

- 5.2 The revised Development Agreement was entered into on 28<sup>th</sup> August 2012 and clause 3.1.2 provides that the remaining land should be appropriated as soon as reasonably practicable after the grant of the Lease from the university. The legal implications are set out in the main body of the report in section 3.

*Lawyer Consulted: Bob Bruce*

*Date: 06.12.12*

Equalities Implications:

- 5.3 An equalities impact assessment has been undertaken for the Circus Street project. No equalities issues have been identified as arising from this report.

Sustainability Implications:

- 5.4 This decision will assist in the delivery of an environmentally and socially sustainable scheme that can act as an exemplar to other developers.

Crime & Disorder Implications:

- 5.5 This decision will assist in the delivery of a scheme that will regenerate a site that at present is vacant and either encourages crime or fear of crime.

Risk and Opportunity Management Implications:

- 5.6 A risk and opportunity register is maintained as part of the project. Appropriation of the site is a risk management measure aimed at removing the risk of injunction preventing development.

Public Health Implications:

- 5.7 The existing site offers no public health benefits, and indeed is a health and safety risk due to people accessing the roof and potentially falling through. Early consultation included comments from managers of the public health facilities on Morley Street suggesting that the existing vacant building put people off approaching those facilities from Circus Street in the dark. Townscape improvements linked to the scheme will address this issue. There will also be community health benefits arising from the proposed dance studio.

Corporate / Citywide Implications:

- 5.8 Ensuring the progression of the scheme will help to deliver regeneration benefits locally as well as economic benefits to the wider city. In addition, the Department for Communities and Local Government now offers that for every new home given planning permission the government will match fund council tax for the first 6 years. Unlocking the Circus Street site could mean c.200 new homes and up to £1.8m income over six years (based on present band D rates of Council Tax).

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The only alternative would be to not appropriate the site, in which case the terms of the development agreement would not be met and the project would drop away.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The recommendation seeks approval for a technical change to the status of the site which is necessary to unlock a scheme that has been stalled for a number of years.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Plan of the site.

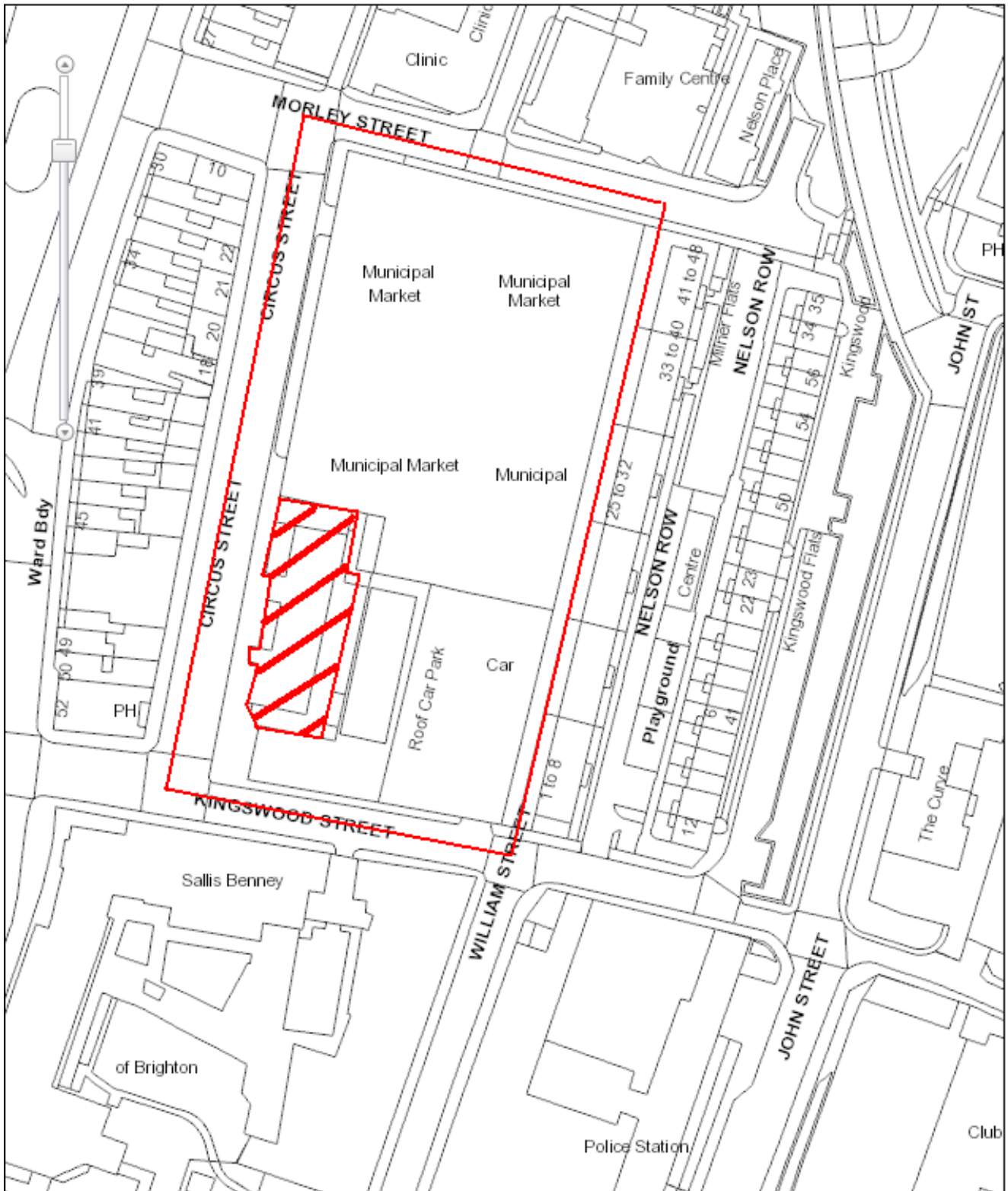
#### **Documents in Members' Rooms**



None

#### **Background Documents**

1. Supplementary Planning Document SPD045: Circus Street Municipal Market

## Appendix 1: Plan of the Site Showing Areas to be Appropriated



-  Land Already Appropriated for Planning Purposes
-  Area to be appropriated for planning purposes after the grant of a lease to the council by the University of Brighton

