

# Southend-on-Sea Borough Council

Agenda  
Item No.

9

Report of Corporate Director for Corporate Services

to

**Cabinet**

on

**11 November 2014**

Report prepared by:

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**Heath House and Carby House, Victoria Avenue –  
Acquisition by agreement or Compulsory Purchase Order if necessary.**

**Policy & Resources Scrutiny Committee  
Executive Councillor: Councillor Woodley  
Part 1 Public Agenda Item**

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## **1. Purpose of Report**

To seek agreement to acquire Heath House and Carby House by agreement if possible.

To seek agreement to prepare the case for using compulsory purchase powers under Section 226 of the Town and Country Planning Act 1990 to acquire the land and buildings known as Heath House and Carby House, Victoria Avenue, Southend-on-Sea so as to promote the economic, environmental and social wellbeing of the area, if they cannot be acquired by agreement or brought forward for development without intervention.

## **2. Recommendations**

**2.1 That the preferred course of action is acquisition of Heath House and Carby House by agreement and in the event that acceptable terms can be reached, the Corporate Director for Corporate Services in consultation with the Leader be given delegated authority to agree such terms subject to external valuation advice confirming that the price is reasonable.**

**2.2 That, simultaneously to 2.1 above, the detailed case be prepared for Heath House and Carby House, Victoria Avenue, Southend-on-Sea shown edged black on the plan at Appendix 1 to be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 in order to facilitate the carrying out of development that will promote the economic, environmental and social well-being of the area and that a report come back to Cabinet and Council to make the formal resolution.**

- 2.3 That the Head of Finance & Resources be given delegated authority to re-profile the existing, allocated capital budget to ensure that finance is available when required to facilitate a purchase by agreement or a Compulsory Purchase Order (CPO) and to proceed with demolition.**
- 2.6 That Members note that separate applications for the demolition of Heath House and Carby House (14/01728/DEM) and the redevelopment of the land (14/01763/OUT) have been submitted by the Council and the demolition work is specified ready to tender to ensure that if a purchase can be negotiated, the buildings can be demolished without delay to mitigate risk.**

### **3. Background**

- 3.1** The land and office buildings in Victoria Avenue known as Heath House and Carby House (shown edged black on the plan at **Appendix 1**) have been vacant for some 10 years with the last entry being removed from the Local Rating List with effect from 1 April 2005.

The properties, whilst apparently structurally sound, are in a very poor and declining condition and routinely attract unauthorised entry and squatters, vandalism, graffiti and anti-social behaviour. The Council offices overlook these properties and members of staff regularly call the police when people are seen in the buildings or on the roofs.

The state of the properties is detrimental to the environment of the area and gives a very poor impression of the town and the Victoria Avenue area in particular which is the main gateway to the town centre. This is having a detrimental effect on regeneration of an area which the Council has designated as a key area for improvement.

The Council has, over the last 5 or more years, sought to facilitate development and has held discussions with a wider audience of property owners on Victoria Avenue in the hope that a wider regeneration opportunity could be realised. These discussions have not resulted in any positive action other than the preparation of an initial early stage masterplan by architectural firm, Stock Wolstencroft, which was appointed by a consortium of owners in 2011. This has progressed no further than the high level initial concept.

Officers have liaised with contacts at Essex Fire & Rescue Service and Essex Police who have presented details of the numerous call-outs to the properties, each of which put their officers at significant risk due to the condition of the properties and the known problems with unauthorised occupants.

These reports have been presented to the property owner to highlight the level of risk associated with the properties. The fire service's risk assessments have also been provided to the owner so it is aware of the risks as the fire service perceives them.

3.2 The owner of Heath House and Carby House, Southend Properties (Guernsey) Limited, is an off-shore company. Over a number of years discussions have been held with the owner (mainly via its agents) to bring the properties back into beneficial use or encourage redevelopment. An initial offer by the Council to purchase the properties was verbally declined at a meeting on 20<sup>th</sup> August 2014 when the owner's agent advised that a credible offer from a developer was being considered. This resulted in the Special Cabinet meeting scheduled for 2<sup>nd</sup> September 2014 being postponed. On 7 October 2014, it was confirmed that this transaction has fallen through and that the site is to be brought to a limited market, including the Council.

Accordingly a revised offer was made on 21<sup>st</sup> October 2014, supported by advice from DTZ and a formal response is awaited.

3.3 The recommended approach is therefore:

- a) To seek to acquire the properties by agreement based on specialist advice and undertake any possible preparation works to enable an early start to demolition, including planning and specification work. The Council must of course use public funds prudently and deliver value for money.
- b) Simultaneously to prepare the detailed CPO case with a report back to Cabinet and Council to make the formal resolution in the event that the owner refuses to sell at a reasonable price and seeks to achieve an above market value price.

3.4 The CPO Route

A CPO would be made pursuant to Section 226 Town and Country Planning Act 1990. This legislation enables the Council (subject to confirmation by the Secretary of State) to acquire land compulsorily where it believes that the acquisition will facilitate the carrying out of development that will promote the economic, environmental or social wellbeing of the area. There must be a compelling case to deprive the owner of its interest in land and the Secretary of State must be certain that the confirmation of the CPO is the correct decision.

The Council has taken advice from DTZ, experts in compulsory purchase and statutory valuations, to confirm that this is a reasonable approach in the circumstances and that with a comprehensive approach dealing with all the relevant matters, a CPO will have the best chance of success.

Once the detailed matters are dealt with, including securing a planning permission for the redevelopment of the site, then a further report will be submitted to Cabinet and Council seeking the necessary formal resolution to make a CPO. That report will set out, amongst other matters, the detailed statement of reasons, a schedule of interests to be acquired, and the detail of the scheme which together form the backbone of the CPO case.

An outline planning application has already been submitted for a residential led, mixed use scheme on the basis of the emerging Southend Central Area Action Plan (SCAAP) and comprising:

- Good quality residential, not exceeding 7 storeys, with appropriate parking and amenity space.
- Some flexible commercial elements of between c. 200 and 300sqm for possibly a nursery/gym/small retail/office/community use.
- Some flexible education provision to meet possible town centre demand with an option for this to be used for residential or commercial use if not required for education.
- c.200sqm for a GP surgery/dentist or similar

It is important to note however that acquisition by agreement is preferable in many respects to a CPO, and indeed, Government Circular 06/2004 requires this route to be exhausted before consideration is given to confirming a CPO.

- 3.5 The recommendations are therefore to pursue both the negotiated route and the CPO route simultaneously. In addition a planning application for demolition has been submitted to ensure that if the Council is successful in acquiring the properties that demolition can commence quickly to mitigate the risks associated with the buildings.

#### **4. Other Options**

The Council could:

- a) Delay any action and leave the market to possibly bring forward development;
- b) Continue with negotiations and not pursue a CPO at this time

#### **5. Reasons for Recommendations**

To enable the redevelopment of Heath House and Carby House.

To support the Council's regeneration agenda for the Borough and Victoria Avenue in particular.

To create housing and employment and stimulate investment into Southend.

To raise the profile of Southend on Sea and of this important area which is the focus of Southend's City Deal.

To mitigate the negative impact and risks associated with these derelict buildings.

To bring focus to the owners entering in to serious negotiations leading to a disposal of the site.

## 6. Corporate Implications

### 6.1 Contribution to Council's Vision & Corporate Priorities

Prosperous Southend

### 6.2 Financial Implications

6.2.1 Funding of up to £8m for various improvements to Victoria Avenue, including where necessary the purchase and demolition of properties, was agreed by the Cabinet as part of the consideration of additions to the Capital Programme for 2014/15 to 2017/18 [minute 776 refers] and the Capital Programme was ratified at full Council as part of the budget setting process at its meeting on 27<sup>th</sup> February 2014 [minute 794 refers].

The Council has made provision in the Capital Programme for 2014/15 to 2017/18 and part of this provision is to finance the cost of the Compulsory Purchase process, the compensation to the owners, the demolition of properties and to prepare sites for redevelopment in the context of wider Victoria Avenue improvements.

6.2.2 Furthermore, re-profiling of this budget was agreed at Cabinet on 1<sup>st</sup> July 2014 [minute 64 refers] where the Amended Capital Programme and specifically Appendix 7 adjusted the profiling of this budget as follows:

“C2 Victoria Avenue Improvements – £8,000,000  
14/15 – £250,000  
15/16 – £3,750,000  
16/17 – £4,000,000”

6.2.3 Recommendation 2.3 above seeks delegated authority for the Head of Finance and Resources to adjust the budget profiling as required to meet the financial needs of the CPO process or to accommodate acquisition by agreement if that can be achieved and progress demolition.

#### 6.2.4 Growth Deal

On 7<sup>th</sup> July 2014 Government announced the Growth Deals agreed for each of the 39 Local Enterprise Partnerships (LEPs) in England.

The primary aim of the Growth Deal is to generate jobs and housing. This can be achieved through requests for freedoms and flexibilities and drawing down money from the Local Growth Fund (LGF).

The Growth Deal announcement named successful projects in two tranches – those due to start in 2015/16 and those due to start in 2016/17 onwards. The Southend Central Area Action Plan (SCAAP) transport and non-transport projects secured £7m and £6.7m respectively in the provisional allocation for 2016/17 onwards and as such will require submission of further information between now and then. The £6.7m for non-transport activity in the SCAAP area includes funds to support the purchase, demolition and preparation of land on Victoria Avenue. This is on the basis of it leveraging match funding from the Council as per its capital budget and £40m from the private sector in the redevelopment and delivery of space resulting in jobs and housing by the private sector.

#### 6.2.5 Public Works Loans Board (“PWLB”)

On 30<sup>th</sup> October 2013 Treasury confirmed that Southend Borough Council had been successful in securing an offer to borrow money from the PWLB at the project discount rate of 40 basis points below the standard PWLB rate to address Heath House and Carby Houses subject to various conditions set out in the Business Case.

### 6.3 Legal Implications

Any acquisition by agreement must be on reasonable terms as the Council is obliged to obtain value for money.

A CPO would be made pursuant to Section 226 Town and Country Planning Act 1990. This legislation enables the Council (subject to confirmation by the Secretary of State) to acquire land where it believes that the acquisition will facilitate the carrying out of development that will promote the economic, environmental or social wellbeing of the area.

### 6.4 People Implications

None

### 6.5 Property Implications

As set out in the report.

### 6.6 Consultation

Meetings have been held with representatives of the owner of Heath House and Carby House as detailed in paragraph 3.2 of the report.

Officers have been in regular and on-going dialogue with the owner’s agents since February 2014 including meetings on 25 February 2014 and 20 August 2014 and numerous emails and telephone calls.

DTZ have also been in regular email and telephone discussion with the agents since their appointment in August 2014.

Two offers have been made by the Council for purchase by private treaty and the owners have been alerted, and are very much aware of the Council's clear intention to pursue a CPO if the properties cannot be bought by agreement.

#### 6.7 Equalities and Diversity Implications

There are no significant equality implications – although the redevelopment of Heath House and Carby House will need to meet appropriate access standards.

#### 6.8 Risk Assessment

The prescribed compulsory purchase process must be followed carefully; otherwise it will not succeed. The risks associated with each route are outlined at a high level in the relevant report sections.

#### 6.9 Value for Money

The reasons for compulsory purchase as detailed in the report address this issue.

The use of appropriate experts will assist the Council in making a competitive bid through the negotiated route.

#### 6.10 Community Safety Implications

Heath House and Carby House are in an unsatisfactory state of repair. If the CPO process is successful they will be demolished.

#### 6.11 Environmental Impact

Heath House and Carby House in their current states are seriously detrimental to the area. Any redevelopment scheme will be subject to the full planning process.

### 7. Background Papers

None

### 8. Appendices

**Appendix 1** Plan of Heath House and Carby House showing the area subject to proposed CPO.