

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

Part 1

SERVICE DIRECTORATE: Commercial

1. DECISION TAKEN

To proceed with the recommendation from Full Council of 23 March 2022 and proceed to exchange contracts and purchase the leasehold for the Churchgate Shopping Centre, Hitchin.

2. DECISION TAKER

Anthony Roche Managing Director and Steve Crowley Service Director – Commercial in consultation with Keith Hoskins, Executive member for Enterprise and the Arts and Cllr Ian Albert, Executive member for Finance and IT

3. DATE DECISION TAKEN:

20 July 2022

4. REASON FOR DECISION

- 4.1 By owning the Churchgate Shopping Centre this will provide the Council with the opportunity to investigate the redevelopment of the Shopping Centre, combined with the Council's existing freehold ownership of the centre and adjacent sites (Hitchin Market, Biggin Lane, St Mary's and Portmill Lane East and West car parks), the Council is uniquely positioned to control and bring forward deliverable regeneration proposals and has greater flexibility to determine what a suitable proposal should be.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Not to proceed with the acquisition following the due diligence. However, as set out in the report, the due diligence has not identified anything that would significantly impact on the business case to proceed.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 The Leader and Deputy Leader, the Executive Member for Enterprise and the Arts and the Executive Member for Finance and IT have all been kept up to date on this acquisition. The Leader of the Opposition has also received regular briefings. Political Liaison Board have been kept informed on key elements.

7. FORWARD PLAN

- 7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8 BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 A Part 1 and Part 2 exempt reports were presented to Full Council on 23 March 2022 that provided an update on the potential acquisition of the Churchgate Leasehold and to seek approval of the purchase price for the leasehold. The Part 1 public decision endorse the principle that Churchgate should be purchased¹ the following recommendations were resolved following a Part 2 decision: -

2.1. *That following consideration of the further information provided, in particular events since the Council meeting in January 2022, Council approves the purchase price, and completion funds to acquire the leasehold interest in the Churchgate Shopping Centre (overall capital budget as set out in paragraph 8.2.6 of the report) and delegates authority for the Managing Director and Service Director – Commercial in consultation with the Executive Member for Enterprise, the Arts and Transport and the Executive Member for Finance and IT, to complete the necessary due diligence to exchange contracts and complete this transaction.*

2.2. *That if further negotiations are required in respect of the offer, a report be brought to a future meeting of Full Council to consider it.*

2.3. *To note that if this acquisition is approved and completes, that a further report will be brought to Full Council to set out in detail the short, medium and long term approach for the asset and how the project will be managed.*

8.2 Since Full Council's approval, officers have appointed the relevant consultants to undertake the necessary due diligence, this has included undertaking a financial audit of all subtenants, technical surveys of the site and all legal work.

8.3 Two areas that were of importance were a better understanding of the condition of the building and the financial position: -

8.3.1 **Building condition** – by undertaken surveys and site visits the Council has a better understanding of the condition of the property, for example what work and safety inspections have been undertaken recently and what haven't and therefore the amount of work that the Council will need to undertake in the short and medium term.

8.3.2 **Financial position** – information has been provided to the Council so it has a clear understanding of the current financial position of the asset, for example the total amount of income that the tenants are paying, the amount to tenant debt arrears, service charge balance and service charge arrears. This information has been used to forecast the short to medium term income and expenditure for the asset.

8.4 From the information that has been provided by all consultants, our lead consultants (BNP Paribas) have produced the due diligence report which is provided in the part 2 report.

8.5 Based on the updated information provided by all consultants, this acquisition is still in line with what was presented and agreed by Council at its meeting on 23 March 2022, therefore, the Council is proceeding with the acquisition

8.6 Following this delegated decision, the aim is to undertake the exchange of contract on 25 July 2022, with a completion date of 1 August 2022.

¹ Decision can be found on this page: [https://srvmodgov01.north-herts.gov.uk/iel/istDocuments.aspx?CId=136&Mid=2618&Ver=4&SLO\\$=1](https://srvmodgov01.north-herts.gov.uk/iel/istDocuments.aspx?CId=136&Mid=2618&Ver=4&SLO$=1)

9 LEGAL IMPLICATIONS

- 9.1 Pursuant to Section 120 of the Local Government Act 1972 the Council has the power to acquire any land for the purpose of carrying out its functions or for the benefit, improvement or development of the area. In agreeing to the acquisition, the Council must satisfy itself that a fair market price is paid for the long leasehold interest in Churchgate Shopping Centre, Hitchin. The Council's powers to acquire property are set out below and the best consideration requirements are set in section 123 of the Local Government Act. This will be achieved through the due diligence process which has been carried out by the externally instructed advisors, lead consultants (BNP Paribas) and externally appointed Solicitors carrying out the urgent legal due diligence and transactional preparation.
- 9.2 Section 12 of the Local Government Act 2003 provides a power to the Council to invest a) for any purpose relevant to its functions, or b) for the purposes of the prudent management of its financial affairs. This includes investment in property if it relates, to the wellbeing of the area (including the regeneration of a town centre).
- 9.3 The Council has a general power of competence under Section 1 of the Localism Act 2011 to do anything that individuals generally may do; including the power to undertake activity that will support the social, economic or environmental wellbeing of its administrative area.

10 FINANCIAL IMPLICATIONS

- 10.1 The details of this are covered in the part 2 report as it is commercially sensitive.

11 RISK IMPLICATIONS

- 11.1 There were a number of risks that were set out in the 23 March 2022 Council report, these risks remain. The additional risks that have been identified are set out in the part 2 report.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are no direct equality implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that *apply to this report*

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no direct Human Resource Implications.

16. BACKGROUND PAPERS

- 16.1 Full Council 23 March 2022 parts 1 and 2 report

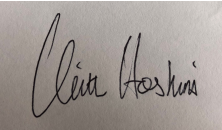
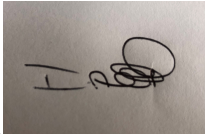
16.2 Cabinet 21 June 2022 part 2 report

17. APPENDICES



17.1 None

NOTIFICATION DATE - 22 July 2022

Signature of Executive Members Consulted

Cllr Keith Hoskins  and Cllr Ian Albert ...  ..

Date20/07/2022

Signature of Decision Takers  

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS