

<b>Subject:</b>	Explore the potential of the compulsory purchase of Waterside Mill, Bacup	<b>Status:</b>	For Publication
<b>Report to:</b>	Cabinet	<b>Date:</b>	14 <sup>th</sup> March 2018
<b>Report of:</b>	Planning Manager	<b>Portfolio Holder:</b>	Regulatory Services
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	<b>General Exception</b>	<input type="checkbox"/> <b>Special Urgency</b> <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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## 1. RECOMMENDATION(S)

- 1.1 To authorise the Planning Manager to commence the process of the compulsory purchase ("CPO") under Section 226 of the Town and Country Planning Act of Waterside Mill, Bacup to secure the redevelopment of this long term vacant site for social, economic & environmental benefits to the area.
- 1.2 That the Planning Manager, in consultation with the Portfolio Holder and the Commercial Asset Manager be authorised to agree terms for the acquisition of the property in this report by agreement as an alternative to compulsory purchase in accordance with the terms of delegation

## 2. PURPOSE OF REPORT

- 2.1 To request Cabinet to approve the consideration and justification of making a Compulsory Purchase Order (CPO) under Section 226 of the Town and Country Planning Act in respect of Waterside Mill, Bacup.

## 3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
  - **A clean and green Rossendale:** our priority is to keep Rossendale clean and green for all of Rossendale's residents and visitors, and to take available opportunities to recycle and use energy from renewable sources more efficiently.
  - **A connected and successful Rossendale that welcomes sustainable growth:** our priority is to ensure that we are well connected to our residents, key partners and stakeholders. We want to make the most of every pound we spend and we are always looking for new and innovative ways to make the resources we do have, work harder for us.
  - **A proud, healthy and vibrant Rossendale:** our priority is to ensure that we are creating and maintaining a healthy and vibrant place for people to live and visit.

#### 4. RISK ASSESSMENT IMPLICATIONS

4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

Risk	Recommendations/mitigation
Failing to secure the future of the site	The building has a negative impact on the area and is a financial drain on Council resources by continually securing the building. Pro-active action is necessary to tackle this empty property.
Abortive Costs	The initial costs associated with a CPO will be borne by the Council in the short term however any redevelopment of the site will generate a level of profit/ council tax/ business rates in the long term to mitigate the legal costs. In the event of the CPO not proceeding it is anticipated that this money would be unrecoverable.
Existing debts against the property	The Local Authority has carried out works to the property over the last 20 years to secure it and make it safe a cost which has been borne by the Council. The total amount of charges to date is £11,196.30. Compulsory purchasing the property will mean that these debts would no longer be recoverable. While the redevelopment of the site will generate a certain level of profit and there will be associated longer term benefits of the re-use of the site these would not fully mitigate for the debts already incurred at this property. However if the ownership of this site is not secured further costs will be incurred by the Council as the building deteriorates further and needs securing. As such it is considered that the benefits of securing the site outweigh the ability to recover existing debts.

#### 5. BACKGROUND AND OPTIONS

- 5.1 Waterside Mill is a Grade II Listed Building within the Bacup Town Centre Conservation Area. The Conservation Area is on Historic England's 'At Risk' register.
- 5.2 To support the THI project currently underway within Bacup it is important to the regeneration of Bacup that a sustainable use be established for Waterside Mill, permitting the building to be economically active within Bacup's historic townscape.
- 5.3 The building has fallen into a severe state of disrepair following a fire which caused significant damage to the roof and internal floors in May 2003. The damage left the building largely open to the elements with internal structural timber now in very poor condition and the building no longer safe to access.
- 5.4 The building owner is absent and following concerns raised as part of a structural report, commissioned in respect of the building, Rossendale Borough Council stepped in and instructed contractors to take down the western gable, which was considered unstable and had the potential to collapse, putting neighbouring residential property at risk.
- 5.5 The regeneration of Bacup is a strategic priority for both Rossendale Borough Council and Regenerate Pennine Lancashire and it is considered that Waterside Mill is an integral part of this regeneration. In this regard options have been considered to secure the regeneration of the Mill including securing control of the site.

- 5.6 Valley Heritage has been working with partners since 2016 in an effort to find a viable future for the Mill with successful applications to the Architectural Heritage Fund and Heritage Lottery Fund. These applications permitted work including a measured survey and architectural design for the preferred option, at that time, to be developed.
- 5.7 The main option tested to date has been the redevelopment of the building into light industrial use, facilitating the expansion of a Rossendale based business. A significant conservation deficit still existed for this option and an application to the Heritage Lottery Fund was submitted, under their Heritage Enterprise programme, as a means of funding the deficit. Unfortunately however this has proven unsuccessful.
- 5.8 Since the unsuccessful bid however circumstances at the site have changed with the adjacent land becoming available and the building featured within a report by Historic England, 'Engines of Prosperity,' highlighting the opportunity afforded by historic industrial buildings. This has created the circumstances for Historic England funding support to the project at this early stage.
- 5.9 Valley Heritage have therefore focused recent efforts on looking at approaches which may be viable without the need for additional grant funding and include the adjacent land holding as a form of enabling development. Through this recent work, a mixed use option including residential and light industrial has been prepared in outline and appears to be viable albeit with a reduced margin which may prove unattractive to some developers.
- 5.10 A viable scheme has been identified through Valley Heritage's links with an Architectural firm, whilst the scheme is not considered to be attractive to a commercial developer as a Local Authority there is the option to deliver a mixed use scheme that would yield a profit of circa £250,000 in addition to the ongoing revenue from 39 New Homes and 1204m<sup>2</sup> of employment space.
- 5.11 Following discussions Historic England have committed £15,000 to fund a Heritage consultant to undertake the surveys and assessment necessary. It is proposed to utilise fusion21 procurement which is an OJEU compliant framework open to any public sector body and with single supplier call off capability with a heritage element. A Brief for the consultants has already been drafted. The next stage of the project will be to apply to Heritage Lottery (HLF) to address the conservation deficit.
- 5.12 In order to secure the redevelopment of the site control is needed over the ownership of the site and two options have been considered:
1. Compulsory purchase of the site (CPO)
  2. Enforced sale of the building
- Compulsory Purchase Order (CPO)**
- 5.13 CPO's are the final sanction available to local authorities to secure the improvement and/or development/redevelopment of vacant sites. Section 226(1)(a) of the Town and Country Planning Act 1990 provides for the compulsory acquisition of land to facilitate its development, redevelopment or improvement, provided that this will secure social, economic or environmental benefits. Whilst there is no specific planning approval at the site work has already occurred to develop a viable future for the site as set out above and there is clearly a compelling case to CPO this building in the public interest.
- 5.14 The owner of the property is listed as Vencray Limited with land registry however this company went into liquidation a number of years ago. There are two individual trustees cited

on the title along with an LLP, which has also gone into liquidation. Matters are complicated further by the liquidator at the time entering administration and being acquired by Linder Myers LLP. Contact has been attempted with the two trustees over several years, including serving a Section 16 Notice to establish ownership; however these enquiries have not established the trustees interest in the site.

- 5.15 CPOs can be time consuming and expensive which is why they are the last option for Local Authorities. Advice has been sought from NPLAW, who provide advice on such processes to local authorities, who have advised that they will issue the CPO for a fixed fee of £4,500. If there are no objections this fee also includes a vesting declaration and registration of title to the Council, plus disbursements (e.g. Land Registry fees, advertising fees etc.).
- 5.16 It is the opinion of the Asset Manager that the CPO can be used as a tactic to force the owner out of hiding.
- 5.17 At this stage all that is being sought is authorisation to explore the potential to CPO the property which a maximum discretionary spend of £10,000 in line with the constitution. In the event that a CPO is justified and would proceed to public inquiry stage a full report would be taken to Full Council due to the extent of the costs involved.
- 5.18 The project at this site will not proceed without the assistance of Heritage Lottery Funding and the intention is for the bid to the HLF to include the full potential costs of a CPO if it goes to full public inquiry stage, as follows:
1. Upto £100,000 in the event that the CPO goes to public inquiry
  2. Upto £50,000 compensation for the market value of the property
  3. Upto £100,000 for other owners/ occupiers costs- if applicable
  4. A commitment to fund the development deficit reducing the risk to RBC if appropriate.

### **Enforced Sale**

- 5.19 The Law of Property Act 1925 allows a local authority, in certain circumstances, with a debt on a vacant property, to register the debt as a Charge registered in part 2 of the Local Land Charges Register. Once registered, the local authority then has all the powers and remedies available to a mortgagee under the Law of Property Act and an enforced sale can be carried out.
- 5.20 The property has been vacant for a number of years now with an absent owner and the Local Authority have incurred debts on the property in respect of securing the building and emergency measures to stabilise dangerous sections of the building. These charges have been registered as a local land charge and as such the enforced sales process is an option for this site.
- 5.21 However the overall aim is secure ownership of the site with a view to pursuing a redevelopment scheme and the enforced sale route is more applicable where the Council are purely seeking to recover a debt secured against the property. The enforced sale route puts a duty on the Council to get the market value of the property and the best way of proving that this has been achieved would be to put it into auction, where it will be sold to the highest bidder on the day. Sale of the property to another party would potentially not secure the redevelopment of the site and it would not be possible to impose obligations, such as the redevelopment/ re-use of the site, on any sale.
- 5.22 As such it is not considered that the enforced sale route would be the most appropriate mechanism for this site.

**COMMENTS FROM STATUTORY OFFICERS:**

**6. SECTION 151 OFFICER**

6.1 Financial implications are noted within the report.

**7. MONITORING OFFICER**

7.1 Compulsory purchase powers are provided to enable acquiring authorities to compulsorily purchase land to carry out a function which Parliament has decided is in the public interest. The compulsory purchase process is made up of a number of stages however the Council can acquire by agreement at any time and we should continue our attempt to do so before acquiring by compulsion.

**8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT**

8.1 An initial EIA has been completed and in regard to the content of this report there will not be any adverse or disproportionate impacts under the Council's Equality Policy or associated equality duties.

8.2 Consultation as detailed in the report.

**9. CONCLUSION**

9.1 This building has been vacant and in a state of disrepair for over 20 years and it is considered that without intervention by the Council through acquisition by agreement or CPO the building will may remain vacant, continue to deteriorate, attract anti-social behaviour, fly-tipping and arson, all of which cause fear in local residents, resulting in declining neighbourhoods. This will also have a negative impact on the Conservation Area and the work being undertaken on the THI project.

9.2 Whilst numerous attempts have been done to ascertain the ownership of this property the Council's preferred route would be to purchase the property by agreement and a further letter has been sent to Messrs Linda Myers, who are understood to have taken over the LLP cited on the land registry title, to establish contact with the owners.

9.3 The land identified as potential for compulsory purchase includes both the Mill and the adjacent vacant garage site. Whilst it is not envisaged that it will be necessary to CPO to adjacent garage as it is currently for sale this land forms part of the redevelopment scheme for this site hence why it is included for completeness.

9.4 The use of CPO will be the last option and measures to reduce the costs associated with the process will be fully explored. In the first instance the potential for a CPO will be explored.

9.5 If all other enquiries do not establish contact with the owners and compulsory purchase of the property is considered to be the only option to securing the redevelopment and regeneration of the site then a further report will be taken to Full Council. It is important to note that any CPO at this property will take a number of years and the project at this site will not proceed without financial support from HLF so there is no significant financial risk to the Council at this stage.

**Background Papers**

Document	Place of Inspection
Site Plan	Attached