

TELFORD & WREKIN COUNCIL**CABINET - 29 MARCH 2012****CIVIC OFFICES SITE – UPDATE AND APPROPRIATION****REPORT OF ASSISTANT DIRECTOR: DEVELOPMENT, BUSINESS & HOUSING****PART A) – SUMMARY REPORT****1. SUMMARY OF MAIN PROPOSALS**

To provide an update regarding the sale of the Civic Offices Site and seek decisions that the land is no longer required for its present purposes and that in principle it should be appropriated for planning purposes to facilitate its redevelopment.

2. RECOMMENDATIONS

- 2.1 That Members note the recent Supreme Court decision to refuse permission to appeal.**
- 2.2. That Members, resolve in accordance with section 122(1) Local Government Act 1972, that the Civic Offices Site is no longer required to be held by the Council for office and associated car parking purposes.**
- 2.3 That Members decide in principle to appropriate the Civic Offices Site as identified on plan 1 (Appendix 1) attached for planning purposes subject to the consideration of representations as to the effect taking that step will have on affected landowners' interests.**
- 2.4 That Members note that an advertising process will follow if approval to 2.2 and 2.3 above is given and a further report will be brought back in due course.**

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	A growing local economy to create jobs
	Will the proposals impact on specific groups of people?	
	Yes	This is an in principle decision only and will be subject to public consultation but there are groups of people that have the benefit of the restrictive covenants affecting the site that will have the opportunity to make representations if the recommendations are approved.
TARGET COMPLETION/ DELIVERY DATE	The advertising process will commence shortly after Cabinet if the recommendations are approved.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	Provision has been made for dealing with any claims in accordance with advice received from QC and external valuer. Ongoing financial support and advice will be provided. JAC 270212
LEGAL ISSUES	Yes	The Council has the power to make the decisions identified in the recommendation and ongoing legal advice will be provided.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	As this is an in principle decision only and will be subject to public consultation there are no risks that are associated with this report.
IMPACT ON SPECIFIC WARDS	Yes	Malinslee Ward

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

Judicial Review

- 4.1 On 9 March 2009 Cabinet approved the sale of the Civic Offices Site as shown at appendix 1 and gave delegated authority to the Head of Asset & Property Management to negotiate and enter into a conditional contract for the sale of the Civic Offices Site following consultation with the Cabinet Member for Regeneration. This was following a formal tender process and McLagan Investments (ASDA's development company – referred to as "ASDA" in the remainder of the report) were successful in the tender. Conditional sale contracts were exchanged with ASDA on 14 August 2009, following which a full planning application was made.
- 4.2 Planning permission was granted in March 2010 following which, in May 2010, the owners of Telford Shopping Centre; Telford Trustees No.1 Ltd and Telford Trustees No. 2 Ltd ("the Trustees"), brought a judicial review claim on four grounds against the Council, in its capacity as local planning authority, to have the planning permission quashed.
- 4.3 The Council defended the claim and a hearing was held in the High Court in Birmingham on 22 October 2010. The Court rejected the Trustees' claim and they were ordered to pay the Council's legal costs. The Trustees then appealed and the case was referred to the Court of Appeal.
- 4.4 A further substantive hearing was held in the Court of Appeal in London on 6 and 7 July 2011. On 27 July 2011 the Judgment was issued by the Court of Appeal which dismissed the Trustees' claim for Judicial Review and again the Council's costs of defending the claim were ordered to be paid by the Trustees. Following this decision the Trustees sought leave to appeal from both the Court of Appeal and the Supreme Court (formerly the House of Lords) and on 7 February 2012 confirmation was received that permission to appeal had been refused by the Supreme Court and again the Council's costs were ordered to be paid by the Trustees.

Appropriation

- 4.5 A previous Cabinet report in May 2009 sought delegated authority for the then Head of Asset & Property Management to appropriate the Civic Offices Site for planning purposes. However, given that a significant period of time has elapsed since and the context in which that decision was taken has now changed, it is felt appropriate to bring a further report to Cabinet to seek new decisions:
 - 4.5.1 that the Civic Offices Site is no longer required for the purposes for which it is held because its current use as office accommodation will expire in early 2013;
 - 4.5.2 that in principle the Civic Offices Site should be appropriated for planning purposes to enable its redevelopment;
 - 4.5.3 that a consultation process should take place before a final decision is made in respect of the proposed appropriation in 4.5.2; and
 - 4.5.4 that in principle the decision in 4.5.2 should be reviewed in light of the response to the consultation process in 4.5.3 and only confirmed if that is considered appropriate following consultation.

- 4.6 As a necessary first step, and before the Civic Offices Site may be appropriated for planning purposes, the land must no longer be required for the purposes that it is currently used in accordance with section 122(1) Local Government Act 1972. It was originally proposed that following the completion of the sale of the Civic Offices Site the office premises would be relocated to a purpose built premises in another part of Southwater. That option is no longer to be adopted and instead staff will be relocated within office space in and around Telford Town Centre. It is on this basis that all the land is no longer required for the purposes for which it is currently held.
- 4.7 In accordance with the planning permission granted in May 2009 the land is to be redeveloped for use as an ASDA superstore. It is considered that appropriation for planning purposes would be consistent with and facilitate the carrying out of redevelopment of the land and contribute to the promotion and improvement of the economic, social and environmental well-being of the Council's area. Additionally the proposed new use as a superstore is restrained by a number of restrictive covenants which affect the Civic Offices Site. To avoid the effect of these restrictive covenants the Council is likely to wish to rely on Section 237 of the Town and County Planning Act 1990. This provides that where a local authority has appropriated land it holds from one statutory purpose to planning purposes the appropriation is effective to overcome restrictive covenants that would otherwise affect the use or redevelopment of the land. In return for the loss of rights, affected landowners could be entitled to compensation.
- 4.8 As a matter of law there is no legal requirement to carry out any form of advertising prior to appropriating land in these circumstances from one purpose to another. However, in the interests of openness and transparency and to ensure that all matters are taken into consideration when a decision is made, it is intended to advertise the Council's intention to appropriate the land in a local newspaper on two consecutive weeks and allow a 21 day period from the first advertisement for representations to be made. In addition a copy of this report has also been provided to the Trustees' solicitors as they have expressed an interest in being informed of the procedure and any decisions taken.
- 4.9 It is intended to bring a report back to Cabinet to recommend a way forward once all representations have been received. The final decision to whether the land should be appropriated for planning purposes (as opposed to the in principle decision) is not being taken at this stage and will only be taken after consideration of all representations received during the proposed consultation and a further report.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 As this is an in principle decision only a full impact assessment will be undertaken as part of the process in considering any representations made if the recommendations are approved and the advertisement process is commenced.

6. PREVIOUS MINUTES

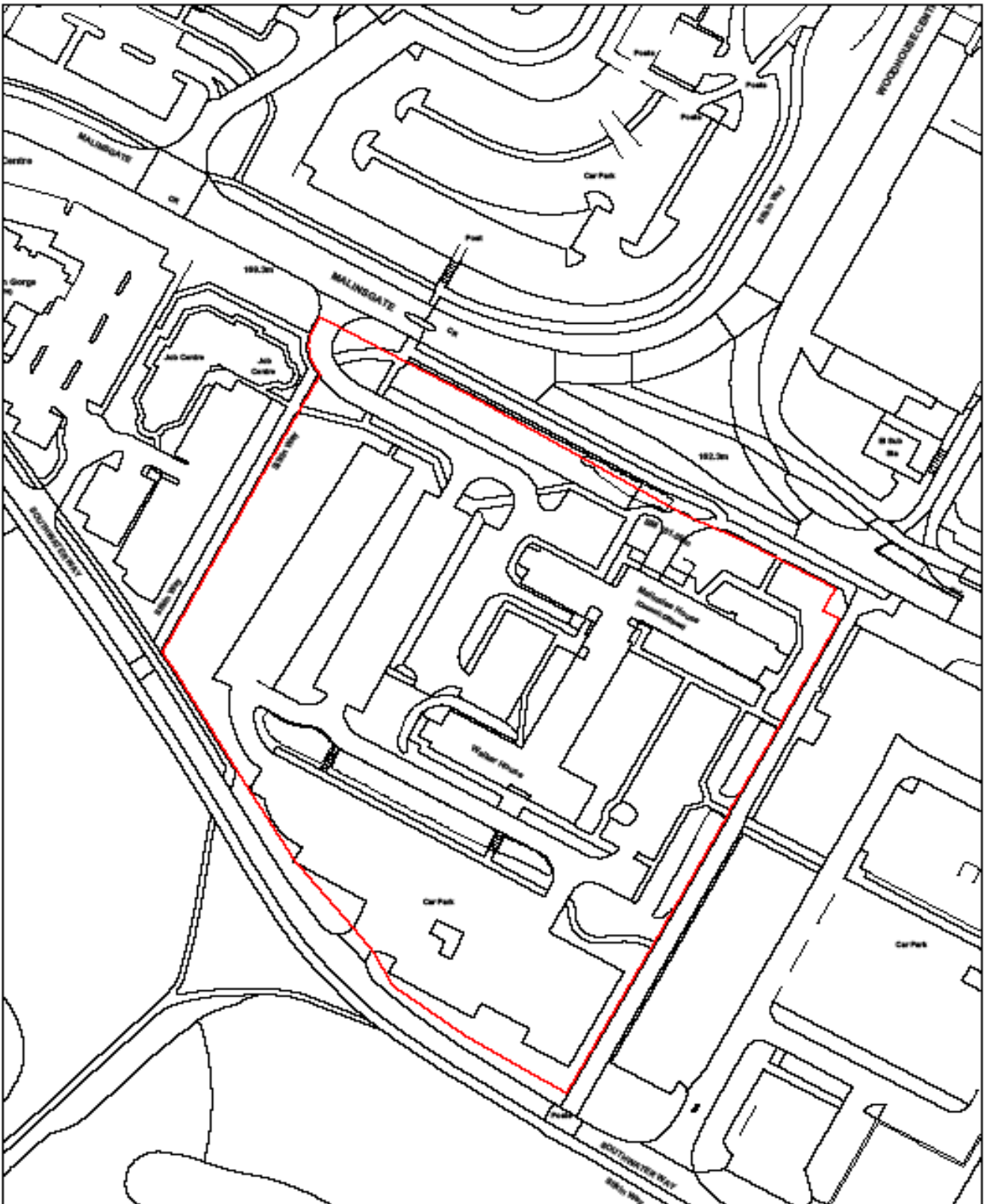
CB-165 – 9 March 2009



CB- 204 – 11 May 2009

7. BACKGROUND PAPERS

None

APPENDIX 1 – Site



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