
A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet

14 March 2023

Name of Cabinet Member:

Cabinet Member for Jobs, Regeneration and Climate Change - Councillor J O'Boyle

Director(s) Approving Submission of the report:

Director of Property Services and Development

Ward(s) affected:

St. Michael's

Title:

Strategic City Centre Asset Opportunity

Is this a key decision?

Yes – the implications of the decision will result in expenditure of over £1m

Executive Summary:

The Lower Precinct shopping centre is a key city centre commercial asset. The Council is the freeholder and Royal London have a long leasehold interest over the property, including Coventry Market. The Council has an opportunity to take control of all or part of this asset through an agreement reached with the long leaseholder Royal London.

Through the work undertaken on the City Centre South Compulsory Purchase Order, the Council has been offered the opportunity to enter into an Agreement with Royal London which, if entered into, gives the Council the option to either 1) take a full surrender of the Lower Precinct and Coventry Market; or 2) take a partial surrender whereby the Council receives Coventry Market and land interests required for the delivery of the City Centre South scheme.

Recommendations:

Cabinet is recommended to:

- 1) Approve the entering into of an Implementation Agreement with Royal London (based on the Heads of Terms included in the Private version of this report) that will require the Council to either:

- Accept a full surrender of the Lower Precinct head lease together with a reverse premium (being the sum identified in the Private element of this report) to be paid by Royal London; or
 - Accept the partial surrender (by way of surrender and regrant) of the Lower Precinct head lease such that Coventry Market and associated service areas are surrendered to the Council (on terms set out in the Private element of this report)
- 2) Delegate authority to the Director of Property Services and Development, following consultation with the Interim Chief Executive (Section 151 Officer), the Chief Legal Officer and the Cabinet Member for Jobs, Regeneration and Climate Change, to undertake and be satisfied with the necessary due diligence and negotiate the associated legal agreements in order to enter into the Implementation Agreement referenced above.
 - 3) Approve a budget of up to £200k (to be funded from existing Property budgets) to be used for the costs of the due diligence associated with bringing into effect the recommendations set out in this report.
 - 4) Note that a further report will be brought back to Cabinet in due course seeking the necessary authorisation as to which of the two options outlined above under the terms of the Implementation Agreement the Council will enter in to.

List of Appendices included:

The following Appendix is attached to the Private element of this report:

Appendix 1- Heads of Terms

Background papers:

None

Other useful documents:

Report to Cabinet and Council 24th January 2017 "City Centre South Development"

Report to Cabinet 11th January 2022 "City Centre South Land Acquisition and Compulsory Purchase Order"

Report to Cabinet 15th November 2022 "City Centre South Funding and Delivery"

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Title: Strategic City Centre Asset Opportunity

1. Context (or background)

- 1.1 The Lower Precinct shopping centre is situated in the heart of Coventry city centre. It contains approx. 200,000 sqft of retail space across more than 40 commercial units of a variety of sizes. It represents a key, strategic part of the city centre – a city centre which is undergoing unprecedented change and improvement.
- 1.2 The Lower Precinct (including Coventry Market) is the subject of a head lease between the Council, as freeholder, and Royal London, as long leaseholder, of 240 years which commenced in October 2010. Under the terms of the head lease (as varied), Royal London pay the Council a minimum annual rent (the sum of which is identified in the Private element of this report).
- 1.3 Coventry Market is part of the Lower Precinct head lease i.e. the head lease gives Royal London control over Coventry Market. There is a separate Management Agreement in place between the Council and Royal London whereby the Council runs the Market on Royal London's behalf. The Management Agreement can be terminated by either party with six months' notice.
- 1.4 As landlord and major tenant and stakeholder, the Council and Royal London are in continual dialogue regarding strategic and operational matters affecting each party's interests in the city. From the Council's perspective, as the custodian of the city, having a high performing city centre that is maximising its asset base and playing its part in attracting visitors, new businesses and investors is key to the city's future success.
- 1.5 This dialogue has been magnified recently through the process of bringing forward the Council's flagship City Centre South (CCS) development scheme which is adjacent to the Lower Precinct and Coventry Market. CCS will deliver up to 1500 new homes and create a new part of the city centre which will in turn lead to spillover benefits to surrounding areas.
- 1.6 The CCS scheme's land assembly process requires the Council to bring into its control areas of land currently in Royal London's ownership (including service yards next to Coventry Market; the stalls on the external façade of Coventry Market; and a head lease of the vacant "Victoria Buildings" site next to Coventry Market) in order for the scheme to be delivered. This has resulted in proposals being made to Royal London to acquire these land interests (including the acquisition of "Rights" over their land in order to bring the CCS scheme forward, an example of these "Rights" would be the Right to swing a crane jib over their land) and the inclusion of these interests in the CCS Compulsory Purchase Order (CPO) which was made in April 2022.
- 1.7 Further to the CPO being made, Royal London lodged an Objection to the CPO and, therefore, the proposed scheme. Notwithstanding Royal London's position, dialogue between the parties continued and Royal London removed their objection to the CPO on the first day of the CPO Public Inquiry (on the 17th January 2023).
- 1.8 The Council framed its position during these negotiations around the meeting of three key objectives: 1) ensuring the Council can be in control of its city centre in order to drive forward positive change and improvement; 2) delivering financial growth to the Council, including being able to share in the regeneration uplift that CCS will provide; and 3) de-risking the delivery of the CCS scheme given its importance to the city, its businesses and its communities.
- 1.9 To this end, the Council secured an Agreement with Royal London whereby their Objection to the CPO was removed and the Council also now has the opportunity to take control of strategic city centre assets in line with the objectives set out in para 1.8 above. Subject to the results of a comprehensive due diligence process, Cabinet are asked to approve the Council entering into an Implementation Agreement with Royal London which will result in either:

- The full surrender of the Lower Precinct head lease (including Coventry Market) from Royal London to the Council with Royal London paying the Council a surrender premium (being the sum identified in the Private element of this report); or
- A surrender and regrant of part of the Lower Precinct head lease whereby the Council gets full ownership of Coventry Market and associated service yards with Royal London retaining a lease of the Lower Precinct shopping centre (on terms set out in the Private element of this report)

1.10 Under the terms of the Council's Agreement with Royal London, a decision on the entering into of the Implementation Agreement is required by April 17th 2023. If the Implementation Agreement is entered into, then the parties are obligated to enter into one of the two options set out in para 1.9 above prior to the 17th July 2023 (with that Decision being taken by Cabinet before that date).

2. Options and recommended proposal

2.1 Option 1. To not proceed with the entering into of the Implementation Agreement

2.1.1 The Council is required to use reasonable endeavours in moving forward its decision-making process regarding the entry into the Implementation Agreement. The Council and its advisory team are currently undertaking a comprehensive due diligence exercise (including legal review; tenancies review; financial and service charge review; and building and structural survey review) to inform its decision-making in these matters.

2.1.2 The due diligence process has not, to date, presented any reasons why the Implementation Agreement cannot be entered into. Furthermore, not entering into the Implementation Agreement would prevent the opportunity to meet the Council's key objectives (as set out in paras 1.8 above and 2.2.4 – 2.2.6 below) and, therefore, this option is not recommended.

2.2 Option 2. To approve the Recommendations set out above and agree the principle of entering into the Implementation Agreement

2.2.1 To provide the best possible opportunity for positive change in the city centre to come forward and to meet the Council's wider regeneration, financial, housing and economic growth objectives for Coventry it is recommended that the principle of entering into the Implementation Agreement is agreed. A surrender of the Lower Precinct head lease potentially offers a long term opportunity for the Council to take control of an important part of our city centre and given time, may open up further development opportunities. The lack of investment in the retail market has resulted in it becoming neglected and visually unattractive. As City Centre South visually exposes more of the market it is considered important that the Council is able to take control of the market and integrate it into City Centre South and look at longer term options.

2.2.2 It is important to recognise what the Implementation Agreement is committing the Council to, either taking a full surrender of the Lower Precinct head lease or a partial surrender whereby the Council takes control of Coventry Market and its adjacent service yards.

2.2.3 If the Recommendations set out in this report are agreed then officers will bring forward a subsequent report, once all necessary due diligence is complete, making a recommendation to Cabinet which of the options to pursue. For now, therefore, it is important to review the implications of the option with the more minimal direct impact on the Council, namely, the partial surrender where the Council takes control of the market and service yards. This should not, however, be interpreted as the preferred option, but simply a "back stop" position that gives the Council sufficient comfort that it is happy to enter into the Implementation Agreement.

2.2.4 This option has a number of important benefits for the Council, including:

- Giving the Council control over Royal London's property interests necessary for the CCS scheme to come forward;
- Gaining complete control over Coventry Market – the CCS scheme will “open up” the Market and being able to invest in and improve the Market is fundamental given the investment going in to the surrounding area. The current arrangements with Royal London (see para 2.2.5 below) do not allow for those improvements to come forward at the Council's election; and

2.2.5 Furthermore, given our current management of Coventry Market, as well as recent Condition Surveys on the asset, the Council understands in sufficient detail the asset it would be taking back ownership of. It is also clear that the Market suffers from a lack of investment and significant repairs and maintenance works need to be undertaken through a phased improvement programme currently estimated at c.£1.3m + fees. The ultimate responsibility for these liabilities have been a source of discussion and debate between the Council and Royal London and, accordingly, no significant investment programme regarding improvements is currently underway. Recent legal advice provided to the Council considers it likely that investment required in relation to repairs, maintenance and improvement to the internal area of the Market building do sit with the Council under the terms of the existing Management Agreement (whereas the responsibility for the external fabric of the building is more likely to sit with Royal London). Notwithstanding this, in order to improve the Market it is considered necessary to take control of it in order to effect positive change on this key city centre asset (which will also bring benefits to the current traders and the many customers and visitors to the Market).

2.2.6 Whilst it is important to set out the key factors relevant to the “minimal” option, as identified above if Cabinet agree to the Recommendations set out in this report then the subsequent report to Cabinet will set out full details of the options appraisal relevant to the decision making regarding the two options. For the full surrender option, this will include information about the opportunity available to:

- gain control of a significant part of the retail offer in the city centre;
- relocate existing CCS red line tenants into Lower Precinct;
- benefit from the “regeneration premium” that the CCS scheme will deliver to the city centre; and
- potentially achieve income growth above the Council's current ground rent (ground rent which will decrease in real terms through inflation)

2.2.7 Any future cabinet report will also set out the key risks that need to be considered, as well as the results of the due diligence process.

3. Results of consultation undertaken

Not applicable

4. Timetable for implementing this decision

If Cabinet agrees to the Recommendations set out in this report then the Implementation Agreement will be entered into by April 17th 2023. Then, further to the ongoing and detailed due diligence process, Cabinet will receive a further report setting out the details necessary to inform decisions regarding options 1 or 2 (see para 1.9 above). This is anticipated to be in June 2023.

5. Comments from the Interim Chief Executive (Section 151 Officer) and the Chief Legal Officer

5.1 Financial implications

Entering into the Implementation Agreement will have financial implications to the Council that will be dependant on whether or not the Council accepts a full surrender of the Lower Precinct head lease or a partial surrender accepting only the Surrender of Coventry market and associated service areas. Further financial comments are set out in the Private element of this report.

5.2 Legal implications

5.2.1 The Implementation Agreement will be legally binding on the parties once completed and as such, Cabinet needs to be satisfied that it is comfortable with the proposed Heads of Terms set out in this report.

5.2.2 Procurement

Any costs associated with undertaking the due diligence which results in the provision of services to the Council by external bodies will need to be procured in accordance with the Public Contracts Regulation 2015 and/or the Council's Contract Procedure Rules (as applicable).

6. Other implications

6.1 How will this contribute to achievement of the Council's Plan?

The delivery of the proposal outlined in this report will help deliver a range of housing, economic development, regeneration and wellbeing objectives that will help to realise the Council's strategic ambitions for a more vibrant and economically prosperous city.

6.2 How is risk being managed?

The Council is undertaking a comprehensive due diligence exercise to ensure appropriate decision-making. The Council is further mitigating risk through the two stage approach to decision-making. Due to the Council's current role in managing Coventry Market, the Council has sufficient information and knowledge regarding the running of the market (including the condition of the market building) in order to understand the implications of taking full control of Coventry Market.

6.3 What is the impact on the organisation?

The impact to the organisation will be primarily on officers within the Property and Development division who are managing the due diligence process and who are responsible for assets held for commercial purposes.

6.4. Equalities / EqIA

not applicable

6.5 Implications for (or impact on) climate change and the environment

not applicable

6.6 Implications for partner organisations?

not applicable

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