

**Agenda Item No:** 9.3 **Report No:** 53/16

**Report Title:** North Street, Lewes: Proposed Property Acquisition of Springman House

**Report To:** Cabinet **Date:** 21<sup>st</sup> March 2016

**Cabinet Member:** Cllr Andy Smith

**Ward(s) Affected:** All Lewes Wards

**Report By:** Nazeya Hussain, Director of Business Strategy and Development  
Alan Osborne, Director of Corporate Services

**Contact Officer(s)-**

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### **Purpose of Report:**

This report seeks consent to negotiate and complete the purchase of a strategically important land interest at Springman House, North Street, Lewes. The purchase of the site is necessary to enable the delivery of the North Street Quarter by enabling the relocation of the fire station from its current location in North Street.

### **Officers Recommendations:**

- 1** To delegate authority to the Director of Business Strategy & Development, and, in conjunction with the Director of Corporate Services and Assistant Director of Corporate Services and in consultation with the Leader of the Council and the Cabinet Member for Finance to purchase Springman House, North Street, Lewes for no more than £2.76m either by itself or, preferably, through a joint purchase with its proposed development partner for the North Street Quarter.
- 2** To authorise the Director of Business Strategy & Development, and the Director of Corporate Services, in conjunction with the Assistant Director of Corporate Services to put Springman House into the joint venture arrangement.
- 3** To delegate authority to the Director of Business Strategy & Development, and the Director of Corporate Services, in conjunction with the Assistant Director of Corporate Services to enter into an agreement with East Sussex Fire and Rescue Service to provide a new fire station on the Springman House site as part of an arrangement to take ownership of the existing Lewes fire station. Such provision will either be at the Council's sole cost or the cost will be shared

with the Council's proposed development partner for the North Street Quarter, depending on what is most financially advantageous for the Council.

- 4 To delegate power to officers to negotiate terms with its proposed development partner on the North Street scheme, which allow the Council to recover a fair proportion of the costs set out at 1 and 3 above.

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## Reasons for Recommendations

- 1 To unlock the strategically significant North Street Quarter (NSQ) development in Lewes. NSQ is a £150m mixed use brownfield site that will deliver the following regeneration benefits to the area:

- 416 new homes, of which 40% will be affordable
- 140,000 sq. ft. of new workspace, including subsidised creative workspace
- 475 full time jobs,
- 100 full time construction jobs,
- A new modern health centre for 26,000 patients,
- Strategically important flood defences, completing the defence of Lewes,
- A public square hosting contemporary restaurants and alfresco riverside dining, a two tier riverside promenade and extensive new cycle paths and footpaths.

## 2 Information

### 2.1 *Background*

The most recent report to Cabinet on the North Street Quarter (NSQ) project was on 7<sup>th</sup> January 2016 and covered a number of the commercial and legal matters. It agreed the heads of terms of the Joint Venture agreement, set out the procurement approach for disposals, agreed to explore CPO powers to ensure site assembly and also agreed expenditure necessary to buy back leasehold interests on the council owned land. That report followed the decision to grant planning permission at the December 2015 meeting of the South Downs National Park Planning Committee.

### 2.2 *The Site*

Springman House is located on North Street in Lewes, but is outside of the site area for the North Street Quarter (NSQ) planning application. The site comprises a mid to late 20<sup>th</sup> Century office building, which was most recently used as an NHS administration building and remains in the ownership of the NHS. An open yard and smaller buildings behind Springman House are owned by South East Coast Ambulance Service (SECAmb) and are still in use as an ambulance depot.

- 2.3 The NSQ site includes the existing fire station on North Street, which is in phase two of the development occupying space that is intended for more valuable family houses. In line with the Infrastructure Delivery Plan, there has been a long standing proposal to relocate the fire station. The new fire station would be built concurrently with phase one of the development (from early 2017 to 2019) so ESFRS can relocate prior to the clearance of land for phases two and three.

Failure to relocate the fire station would impact on the return from the development and therefore the viability of the proposed scheme. The most likely impact would be a loss of affordable housing.

**2.4** There have been discussions with ESFRS, who are keen to move and the proposal achieves the recognised infrastructure need of moving the existing fire station from what is a flood prone site (until the NSQ development is completed) to a location on higher ground. An initial site appraisal looked at a number of possible sites and found that Springman House was the best option operationally for the ESFRS, no other workable locations have been identified. In addition, SECamb have indicated that they would like an ambulance stand included as part of any future fire station (or indeed any development on the site), but much reduced in size from the existing facility. ESFRS are happy to accommodate this.

## **2.5 *Marketing***

The NHS also successfully submitted an application for prior consent to convert the building to a residential use under the office to residential permitted development rights to maximise the value from the marketing process. Santon had been actively engaged with SECamb and the NHS since 2013 in order to acquire the site for the relocation of the Fire station at market value. Lewes District Council and East Sussex County Council also tried to engage with both parties since the start of 2015, prior to the marketing exercise, to secure a public sector acquisition of the site, with little response.

**2.6** Despite these early negotiations and contact, the NHS/SECamb undertook the joint marketing of their sites for disposal to the open market. That marketing process has now completed and they have an unconditional offer of £2.76m. Santon/LDC made offers in the marketing process, at first and Best And Final Offers stage, but we have been informed that our offers were considerably lower than other bidders. The values we bid at were informed by what we considered would be a market valuation assuming a reasonable scheme in planning terms.

**2.7** Following the January Cabinet meeting, where LDC agreed to explore the case for a CPO of the site, we were contacted by NHS/SECamb who wanted to meet to discuss the situation. Having established a price for the site through a competitive marketing process, they are confident that their current offer represents a true market valuation and are not willing to accept any less for the building. However, they have stated that LDC could step into the purchaser's positions on exactly the same terms. The NHS have also indicated they would want the completion of any deal to be done by 31<sup>st</sup> March 2016.

## **2.8 *Proposed Next Steps***

There is a need to relocate the existing fire station, as failure to do so will impact on the viability and the regeneration benefits of the NSQ development. Given the lack of other sites at present that meet the operational needs of the fire service, we need to pursue the purchase of Springman House to enable this. Our red book assessment of 'market value' for the site might well be less than the bid the vendors have received and the costs of completing the purchase and building a new fire station outweigh the value generated by the old fire station coming into our ownership (see Financial Implications, below).

- 2.9** Notwithstanding this, it is considered necessary to buy Springman House to gain control of the fire station as the benefits from the entire NSQ development outweigh the lack of value that Springman House on its own offers at this price. If, as expected, the Springman House purchase does come at a net cost to the scheme then LDC and Santon will treat this as a 'development cost,' to be divided by the partners in line with our ownership (and profit) shares. Santon have agreed in principle to this shared-risk approach but the parties have not entered into a binding contract at present. The NHS requirement to complete a deal by a given deadline means there is a need to move quickly to secure the site.
- 2.10** LDC and Santon will continue to assess the most efficient way to deliver the replacement fire station, including exploring options to better use the Springman House site so it also includes residential uses or seeking an alternative site with lower costs (subject to ESFRS agreement) freeing Springman House up for a residential development. Officers will return to Cabinet with a detailed proposal if one of these options appears to offer a better return than the existing proposal.

### **3 Financial Appraisal**

- 3.1** GVA, acting as LDC's financial advisors for the deal, have looked at the value of Springman House in relation to the NSQ development. They have not done a detailed valuation due to the time pressures, but their initial analysis is that the Springman House site is going to be too expensive to warrant a relocation of the fire service in isolation. The cost of acquiring Springman House plus the cost of building the new fire station does not equate to the "value" being derived from owning the existing fire station site.
- 3.2** Even if both parties bear the "excess" cost beyond its value to the scheme in proportion to their share of receipts, the Council would have to shoulder circa £1,170,000 of undervalue against an estimated £2,720,000 deficit. However, this has to be set against the fact it unlocks profit, income and regeneration benefits from the wider NSQ development.
- 3.3** In the case of any subsequent disposal of the Springman House site to the Fire & Rescue Authority then when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people.
- 3.4** All legal advice and associated costs such as valuation work will be funded from the previous cabinet report, approved on 7<sup>th</sup> January 2015.

### **4 Legal Implications**

- 4.1** If the Council and its development partner become joint owners a trust of land will automatically be created. Therefore, we would need to enter a trust deed confirming the existence of the trust and setting out the proportions in which the co-owners hold the property. The proportions will be determined by the contributions to the purchase price.

- 4.2** We have considered whether there are any state aid issues arising from the fact that the purchase price is higher than our estimate of the value. The Council understands that the price of £2,760,000 is the result of a competitive process and so in principle there is no state aid issue here. However, it would be prudent to obtain copies of the offer documentation so that the information on price can be verified. It may be that the NHS and SECamb will want to provide redacted copies.
- 4.3** The preference in the event of a joint purchase is for the development partner to pay their share of the purchase price up-front rather than being billed by the Council at a later date. This avoids the need to create a separate contract for the payment of its share of the purchase price in an extremely tight timescale, and it also avoids any issues around state aid being given to the partner.
- 4.4** With reference to any subsequent disposal of the Springman House site to the Fire & Rescue Authority then local authorities are given powers under Section 123 of the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. A disposal must be for the best consideration reasonably obtainable, unless the Secretary of State consents to the disposal.
- 4.5** It is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action.
- 4.6** The Secretary of State has given a General Disposal Consent (England) 2003 which provides that specific consent is not required for the disposal of any interest in land that the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. Disposals at less than best consideration are subject to the condition that the undervalue does not exceed £2,000,000.
- 4.7** The January Cabinet decision raised the potential for the council to use its compulsory purchase powers, and this potential still remains. However, the Compulsory Purchase Guidance (issued October 2015) provides some guidance on what costs a Council can take into account when assessing appropriate payments for land in advance of making a CPO. The guidance states: "*In order to reach early settlements, public sector organisation should make reasonable initial offers*". The guidance therefore recognises, that when determining appropriate payments for purchasing land, the wider costs of going through the CPO process and timescales can be taken into account in determining what is an appropriate sum.
- 4.8** CPO is intended to be a measure of last resort to secure land and the Secretary of State would expect the Council to demonstrate that it has taken reasonable steps to acquire the land by agreement. That the land was available for private acquisition at a price which the market was willing to pay, has the potential to weaken the CPO case.

- 4.9** If the Council were to consider the use of CPO powers, the absolute minimum time period for commencing the CPO process through to securing a confirmed CPO and vesting the land is likely to be in the region of 18 months, in reality this is usually much longer.

### **Risk Management Implications**

- 5** I have completed a risk assessment. The following risks will arise if the recommendations relating to Springman House are not implemented:
- (a)** If the Council is unable to acquire a suitable replacement site for the fire station, the North Street Quarter development may not come forward in its present consented form due to the need to give space over to a replacement fire station. This will impact the viability of the scheme and the regeneration benefits it delivers.
  - (b)** Lewes Fire Station will continue to be situated in a location that is vulnerable to flooding.

The following risks will arise if the recommendations are implemented, and I propose to mitigate these risks in the following ways:

- The main risk for Springman House is that the cost of purchase plus building a new fire station will not be off-set by the additional value of the old fire station to the development when looked at in isolation. Our initial analysis shows that this is very likely to be the case. To mitigate this risk officers will explore options to extract maximum value from the Springman House site. Any deficit in value will be shared by the JV partners as a development cost and will be within the undervalue ceiling as described in the General Consent.
- The build cost risk for the new fire station will sit with the two partners. This will be mitigated through effective project management and value engineering. Any costs would be regarded as a development cost of the larger site.

If the recommendations are implemented, the residual risks that cannot be mitigated fully are:

- The risk, outlined above, relating to the costs associated with Springman House being higher than value it generates is not fully mitigated needs to be considered against the larger profits and benefits from the NSQ development as a whole.

### **Equality Screening**

- 6** Equality screening has been carried out for previous NSQ reports. This report raises no new equalities issues.

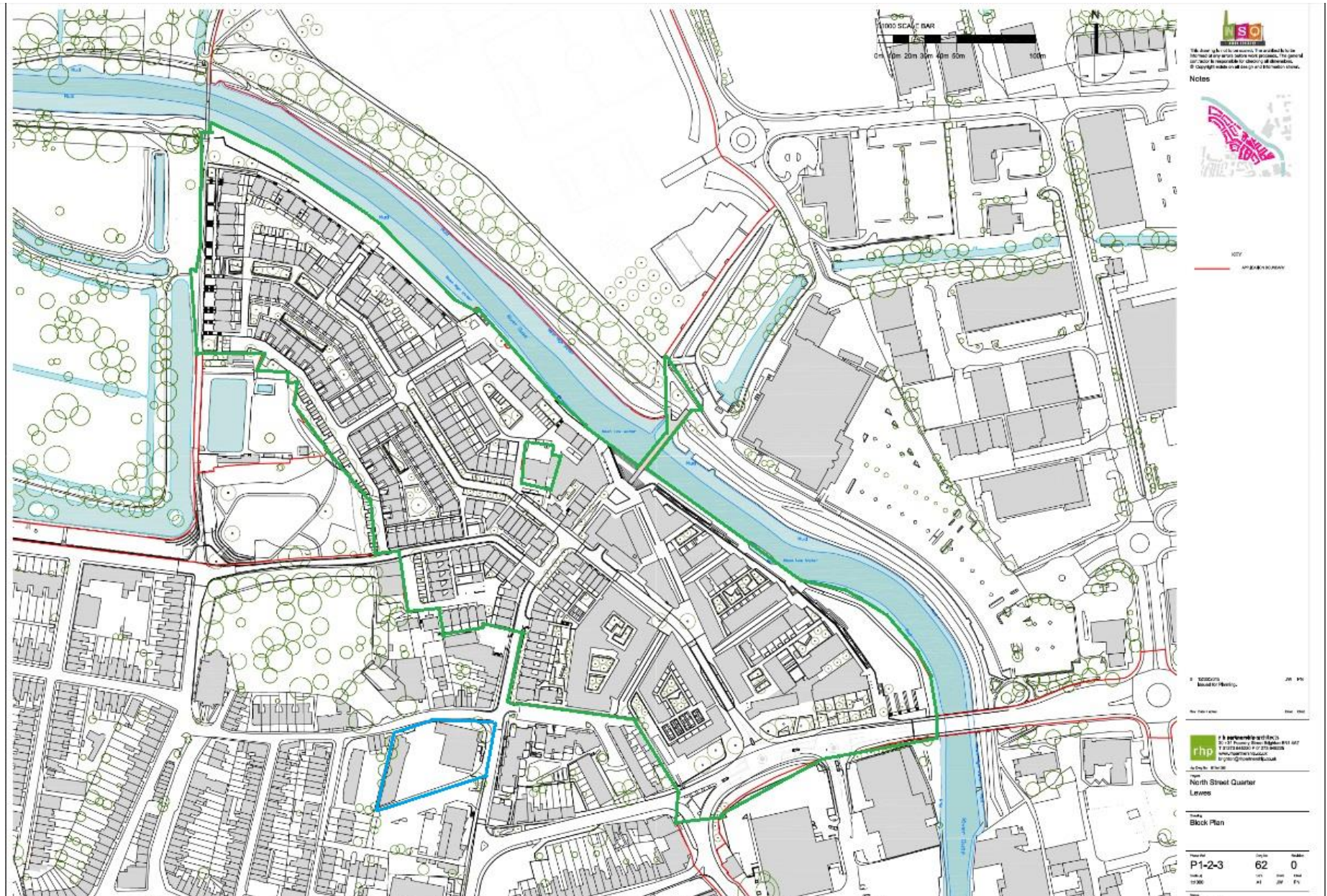
### **Background Papers**

- 7** Lewes Fire Station Site Appraisal

### **Appendices**

Appendix 1 – Plan of Springman House and the NSQ Site

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Springman House edged Blue, NSQ Site edged Green