



DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	23 JUNE 2021	7
PROPOSED REVISION OF DELEGATED AUTHORITY TO DETERMINE PLANNING APPLICATIONS ASSOCIATED WITH THE REDEVELOPMENT OF THE PUBLIC OFFICES SITE			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Authority to grant planning permission for a mixed retail and residential development of the Public Offices and former Tourism and Leisure Offices site was delegated to the Head of Planning & Housing in December 2020. This report seeks to vary that delegated authority to assist in the determination of existing, and limited potential future, planning applications associated with the redevelopment of the Public Offices site. The development package that is currently proposed involves the conversion and change of use of the Public Office building to a retail use, the demolition of the former Tourism and Leisure Building and the erection of an apartment scheme on that site, and the associated re-development of the former St Annes Station platform to provide off-site affordable residential units and a public realm scheme.

The form of the redevelopment involved has previously been considered by the Planning Committee, with the resolution being to support the development and so grant planning permission and listed building consent for the associated applications. Those decisions were delegated to the Head of Planning and Housing subject to a series of matters being resolved, principally regarding the content of a s106 agreement and the drafting of planning conditions. Progress has been made on these but there is the potential that revisions to some elements, particularly the content of the s106 agreement, may become necessary due to evolving circumstances.

Although a single planning application for the mixed use of the site was submitted, the retail and residential elements of the proposal are to be delivered by separate developers. The combining of the two elements in a single planning application has created additional complications for the disposal of the land. In an effort to help overcome these it has been suggested that a separate application for the retail use of the former public offices would allow the investment in this heritage asset to progress without any reliance on the development of the T&L part of the site, and so would help to secure the important planning benefits that this element of the proposal would bring.

The majority of the expected revisions would fall within the scope of the existing delegation, but the intention of this report is to update Members on the latest position and to vary the authority to determine the application that has previously been delegated to the Head of Planning & Housing so that officers can confidently react with appropriate timeliness to these evolving circumstances. The delegation is proposed to be specifically to the Head of Planning and Housing to ensure that the Director of Development Services is removed from that decision due to his role in the disposal and lease of the Public Office site. It is proposed that the authority is to be available within defined parameters, to ensure that the decision remains in accordance with the policies of the Fylde Local Plan to 2032, and be subject to consultation with the Chairman and Vice-Chairman of the Planning Committee to retain a member input into the ultimate decision on the applications.

Members are asked to support the recommendation here to provide the additional flexibility to officers in this matter to aid in bringing forward a suitable development on these important sites.

RECOMMENDATIONS

1. That the authority to negotiate and agree the terms of the s106 agreement to form part of the decision on planning application 20/0316 and listed building consent application 20/0317 associated with the development of the public offices site be delegated to the Head of Planning and Housing in consultation with the Chairman and Vice chairman of the Planning Committee.
2. That the authority to determine any future planning application for the change of use of the public offices part of the site be delegated to the Head of Planning and Housing in consultation with the Chairman and Vice chairman of the Planning Committee.
3. That the authority to negotiate and agree the terms of the s106 agreement to form part of the decision on planning application 20/0587 associated with the development of the former St Annes Railway Platform for a scheme of affordable housing and/or public realm works be delegated to the Head of Planning and Housing in consultation with the Chairman and Vice chairman of the Planning Committee. This authority is also to allow for the approval of the public office application without any affordable housing being provided on the railway platform site in the event that a viability appraisal that demonstrates that the provision of this affordable housing element would make the public offices development unviable, and that this viability appraisal has been verified by valuers appointed by the council who agree with its viability conclusions.
4. That a further report be provided to the Planning Committee as soon as is possible to report on the outcome of the decision on these applications.

SUMMARY OF PREVIOUS DECISIONS

The three applications involved were considered at the Planning Committee on 9 December 2020. In each case the decision was to delegate the decision to grant planning permission / listed building consent to officers following the satisfactory conclusion of a series of matters that are set out in the minutes to that meeting and reported in the body of this report below. Whilst some progress has been made on those matters, they remain to be concluded and so the applications have yet to be determined.

In addition to the planning applications considered by this committee, the following decisions have also been made in regard to the disposal of the site:

On 29 March 2021 Finance and Democracy Committee Resolved:

1. Approve revised terms for a 20-year lease for the Public Offices site, outbuildings and adjacent land to Homebird Interiors Limited with the option to purchase at any time asset out in Table 1 at section 6 of this report;
2. Authorise the Director of Development Services to approve the details within the contracts to be drawn up between the parties, consistent with the principles as described within this report, following consultation with the Chairman and the Vice Chairman of the Finance and Democracy Committee.

On 22 July 2019 Finance and Democracy Committee Resolved:

1. Approve revised terms for a 20 year lease for the Public Offices site, outbuildings and adjacent land to Homebird Interiors Limited with the option to purchase in year 4 as set out in Table 1 at section 15 of this report;
2. Authorise the Director of Development Services to approve the details within the contracts to be drawn up between the parties, consistent with the principles as described within this report, following consultation with the Chairman and the Vice Chairman of the Finance and Democracy Committee.

On 18 February 2019 Finance and Democracy Committee Resolved:

1. Approve a 20 year lease for the Public Offices site and outbuildings to the company as detailed in the report;
2. Approve the disposal of the Council's leasehold interest in the land and property known as the T&L Building at 288-290 Clifton Drive South, Lytham St Annes to the second developer as set out in the report;

3. Authorize the Director of Development Services to approve the details within the various contracts to be drawn up between the parties, consistent with the principles as described within the report, following consultation with the Chairman and the Vice Chairman of the Finance and Democracy Committee.
4. The committee notes the advice from counsel with regards to the enforceability of the covenants by the company holding the freehold interest of the Public Offices site. The committee also notes progress in discussions with the company in respect of the level of the consent fee to develop which would be payable. However members consider the revised consent premium demanded is still unreasonable and instructs officers (1) to continue to negotiate with the company and (2) in the event that the negotiations do not achieve a reduction in the consent fee which officers feel, having regard to the advice received from Counsel, can be properly accepted, that proceedings be commenced with a view to testing the enforceability of the covenants.
5. Provide regular updates to the Chairman and Vice-Chairman of the Finance and Democracy committee on the disposal of the Public Offices site as part of the scheduled briefing sessions.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	

REPORT

BACKGROUND

1. This report seeks delegated authority to determine three current applications, the details of which are set out below.
2. Application 20/0316 is an application for planning permission at the public offices and former Tourism and Leisure Offices (T & L) site. It relates to the change of use and some minor external alterations to the public offices building to allow its use for retail purposes, and the demolition of the former T & L building and the erection of an apartment building on that site providing 23 units. The application also includes associated alterations to the access point to provide a single central access to the site, the parking arrangements and landscaping around the site.
3. Application 20/0317 is an associated application for listed building consent that relates to the external alterations to the public offices building and a series of internal alterations that are required to facilitate the intended retail use. Principally these involve the removal of the 'council office' elements that had been introduced over the years to enable the building to serve as the principal point of contact for customers to the council, but also the removal of a section of wall to the former council chamber to open it up from the stairs.
4. Application 20/0537 is an application for planning permission on the disused platform at St Annes Railway Station. This proposes the erection of a 3 storey building to provide 7 flats which are to be made available as affordable housing, and are to provide the affordable housing obligation of the residential development on the public offices site. The scheme also includes some enhancements to the remainder of that platform to ensure it provides a pedestrian/cycle route to the flats and also a more visually appealing element of public realm for users of the active platform at the station.
5. The applications were all considered at the 9 December 2020 meeting of Planning Committee, with the resolution of that meeting as recorded in the minutes being as follows:
6. Application 20/0316 – planning application at public offices site

The decision on the application is delegated to the Head of Planning and Housing, with that decision being to GRANT Planning Permission subject to the completion of the matters below, with the delegated authority also permitting a refusal of the application for reasons which the Head of Planning and Housing considers

appropriate in the event that agreement is not reached on the outstanding matters within a reasonable timescale.

The outstanding issues are:

1. The completion of a s106 agreement to secure:

a) The appropriately phased delivery of an affordable housing scheme elsewhere within St Annes that provides a level and quality of affordable housing to accord with the obligations of Policy H4 of the Fylde Local Plan to 2032.

b) a financial contribution of £23,000 (and the phasing of the payment of this contribution) to Fylde Borough Council in lieu of the provision of any on-site public open space in accordance with the requirements of Policies ENV4 and INF2 of the Fylde Local Plan to 2032, with that money to be used by the council to enhance public open space facilities in the vicinity of the application site

c) a financial contribution of £25,090.60 (and the phasing of the payment of this contribution) to Lancashire County Council towards the improvement of secondary education capacity in the vicinity of the site in accordance with the requirements of Policies HW2 and INF2 of the Fylde Local Plan to 2032, with that money to be used by the council to enhance public open space facilities in the vicinity of the application site

d) a financial contribution of £300 per clause (and the phasing of the payment of this contribution) towards the council's proportionate costs in relation to the monitoring of the obligations of this agreement in accordance with the requirements of Regulation 122 (2A) of the Community Infrastructure Regulations 2010.

The agreement will be expected to meet the full amounts quoted above in all cases, unless a viability appraisal has been agreed with the Local Planning Authority. In the event that agreement is not reached on this legal agreement then the application is to be refused for being in conflict with the relevant policies of the Fylde Local Plan to 2032.

2. A Schedule of Planning Conditions to ensure that the development is appropriately brought forward and controlled, with these including matters such as (but not limited to):

a) The time limit for the commencement of the development

b) The approved plans

c) Phasing of development so that the conversion works to the retail building are completed to ensure this is available for use prior to the first occupation of any flat

d) Approved materials for the residential element

e) Approved materials for the external works to the public offices

[other condition topics were suggested but are omitted here as they are not relevant to this report]

7. Application 20/0317 – listed building consent application at public offices site

The decision on the application be delegated to the Head of Planning and Housing, with that decision being to GRANT Listed Building Consent on the satisfactory resolution of the outstanding matters associated with application 20/0316 to enable planning permission to be granted for the proposals contained in that application.

Any grant of listed building consent is to be subject to a list of conditions and reasons which the Head of Planning and Housing is to be given delegated authority to draft and impose with these to address matters including, but not necessarily limited to, the following:

1) Time limit

2) Plans

3) Agree detailed programme of works based on approved plans, including elements of fixtures that are to be retained and how the opened-up sections of original building are to be identified

4) Agree materials for internal works to building (walls, ceilings, doorways, other fixtures)

5) Agree materials for external works to building (walls, roof covering, windows, doors, decking area)

6) Agree materials for external works to site

7) Building recording details

8. Application 20/0537 – planning application at railway platform site

That the decision to GRANT Planning Permission be delegated to the Head of Planning and Housing, with that decision being subject to the completion of the following:

1) The Public Realm Element:

- a) The submission of a scheme of public realm works for that part of the site indicated as 'Area for Community Benefit Scheme' on the submitted site plan*
- b) The undertaking of a consultation exercise on that scheme with St Anne Town Council, local residents, Network Rail, Railway Friends Group, and United Utilities*
- c) The consideration of any comments received and the assessment of the planning merits of the proposal*
- d) The introduction of an appropriate mechanism within the decision to this application to secure the provision of a suitable scheme to deliver the Community Benefit Scheme prior to the first occupation of any residential properties within this application*
- e) The provision of a mechanism which secures the on-going availability of this area for Community Benefit and its future maintenance to a standard which permits that benefit*

2) The Affordable Housing Element

- a) The phasing of construction of the residential element of this scheme so that all proposed flats are available for first occupation prior to the first occupation of any of the flats on the Public Offices site which are proposed for development under application 20/0316 (or any alternative scheme that is brought forward for residential development of that site)*
- b) The provision of a mechanism to ensure that all flats within the residential element of this scheme are available for 'First Home' affordable housing including the operational details of that affordable housing, the qualifying criteria for residents including their access to alternative accommodation and their links to Fylde Borough, and to ensure that it is retained as affordable housing thereafter*
- c) The provision of sufficient funding to Fylde Council to support the management and operation of all the 'First Home' tenancies provided within the residential flats for a period of not less than 5 years.*

3) The Network Rail Element

- a) Confirmation from Network Rail that their concerns over the legal access to the platform and on-going operational management of the railway are not compromised by the proposed development.*
- b) The drafting of any conditions that are necessary to ensure that their concerns can be adequately mitigated by the management of the development.*

4) The United Utilities Element

- a) Confirmation from United Utilities that their concerns over the implications for the layout of the public realm area to impact on their sewer easements, and the construction practicalities of the development, are addressed by the layout of this area when it is available for consultation with them*
- b) The drafting of any conditions that are necessary to ensure that their concerns can be adequately mitigated by the management of the development.*

5) A Schedule of Planning Conditions to ensure that the development is appropriately brought forward and controlled, with these including matters such as (but not limited to):

- a) The time limit for the commencement of the development*
- b) The approved plans*
- c) Approved materials for the residential element*
- d) Approved materials for the Community Benefit element*

[other condition topics were suggested but are omitted here as they are not relevant to this report]

UPDATED POSITION

9. Since the Planning Committee meeting officers have progressed matters in line with the resolution to the following positions:

10. Public Office / former T&L site

11. The planning conditions have been drafted and shared with the agent and so presumably the prospective developers. Concerns have been expressed by the proposed residential developer regarding the need to link the delivery of the public office development to the delivery of the residential element to ensure that the former is undertaken. This aspect is discussed further in the following section of this report.
12. The s106 agreement has been drafted. With the council being the current landowner there is no reason for the prospective developer to be a signatory to the agreement, but as they are clearly the ones who will be taking on the obligations of the agreement the obligations have been shared with them.

13. Railway Platform Site

14. The planning conditions have been drafted and shared with the agent and so presumably the prospective developer.
15. The s106 has been drafted in part, but the final drafting of this has been delayed as there have been some challenges over the format and delivery partner of the affordable housing as will be described in the next section of this report.
16. The revised plans were received, and consultations undertaken with United Utilities, Network Rail, St Anne's Town Council and local residents. These consultations did not highlight any additional areas of concern that had not been previously addressed in the officer report to Committee, or which could not be dealt with by the imposition of planning conditions to any subsequent decision.

ISSUES OF CONCERN

17. Issue 1 - The developer of the proposed residential element of the scheme has expressed some reservations over the intention to impose a condition to that decision which prevents the occupation of the flats to the availability of the public offices for retail trading. It is considered to be essential that the council has a link of this nature to ensure that the public offices development is undertaken and so there is an active and viable use for that building. By ensuring such a use is in place there is a greater likelihood that the building will be well maintained and will make apposite contribution to the local economy and the quality of the built environment of the town as a whole and as a designated heritage asset. Without such a link being in place there is the possibility that a seemingly more lucrative residential development of the former T&L site could be brought forward in isolation leaving the public offices building undeveloped. This formed part of the planning balance when the Committee considered the applications.
18. Recent discussions with both parties have indicated that it is more likely that the retail use of the public offices building will be delivered first and so this requirement may not actually be a sticking point, or need to be secured through some alternative measures. The works to the public offices are part of a single application alongside the works to the former T&L site and as the decision can only be made when all matters are resolved there is the potential that a delay over the decision on the former T&L scheme (for reasons set out in the next issue) could cause unnecessary delay to the works to the public offices.
19. Issue 2 – The prospective developer of the residential flats on the site of the former T&L building has expressed reservations over the viability of the delivery of the affordable housing and other elements set out in the Committee resolution. As yet these have not been fully explored, but it would be usual for the council to require that a developer making such claims provide evidence in the form of an 'open book' viability appraisal which would then be assessed by the council's retained assessors to ensure it is robust. This has yet to be received, but if the prospective developer is to present this there will be delay whilst this verification process is undertaken.
20. Issue 3 – The prospective developer of the affordable housing scheme for the railway platform had initially proposed a 'first home tenancy' approach for these units. This had been worked up with support from the council's Housing Manager and an affordable housing consultant acting for the developer, and was designed to provide a specific form of supported accommodation for those in housing need who are moving to their first independent accommodation. The scheme included relatively small units and a support package to help tenants with this move to independent accommodation. The scheme relies on a Registered Provider agreeing to purchase the units from the developer and to operate them, and as yet this has not been secured. Accordingly there may be a requirement to review the form of this affordable housing.

21. As set out in Issue 2 above the council has yet to receive a full appraisal of the viability of the site, but it should be borne in mind that there is the possibility that the scheme would not viably provide any affordable housing at all. That would address this issue, but is clearly a less beneficial overall outcome for the development package.
22. Issue 4 – The planning applications at both sites are to be the subject of s106 agreements. The scope of these was clearly set out in the resolutions agreed by Committee in December 2020. However, it is possible that this will need to be revised to reflect changes that are required to ensure a policy compliant scheme is delivered with the issues set out above. This may require a greater degree of flexibility than is set out in those resolutions.

SCOPE OF REQUEST AND CONTROLS

23. The current resolutions of Committee as set out above do provide a degree of latitude to officers over the decisions. For example, the authority delegated in the decision for 20/0316 allows for the revision to the s106 requests in the event that the developer demonstrates that the scheme is not sufficiently viable to deliver the entire package of requirements listed in the decision. Similarly, the authority granted in application 20/0537 allows for the agreement of the mechanism for delivering the affordable housing support worker. However, at the time that the authority was delegated it was envisaged that the package of measures would be brought forward in the manner set out on the agenda without the need for utilising that authority. It now seems more likely that some variations of this will be required.
24. This delegation is therefore to reinforce the authority previously given so that officers can be comfortable that have Member support on these matters. It will also allow sufficient flexibility to address a number of other issues that have arisen such as the possibility that the developer of the public office building will want to undertake work in advance of the development of the residential flats on the former T&L part of that site.
25. At present the expected range of issues that are to be agreed, and so covered by this delegation are:
 - a. Revision of the obligations of the s106 at the public offices site should a viability appraisal demonstrate that the full package of affordable housing and infrastructure elements listed in the recommendation would render the development unviable
 - b. Agreement of the priority of what obligations should be secured in the event that not all are
 - c. Agreement of a suitable mechanism to provide as much security as is practically possible that the public office building is renovated and brought into an active use as a consequence of this development package
 - d. The format of the affordable housing to be provided on the railway platform site in the event that the public office development is sufficiently viable to deliver affordable housing
 - e. Alternative uses of the platform site (subject to the consideration of any further planning applications that may be necessary) to ensure that the public realm improvements to the platform are delivered
 - f. Determination of any applications that might be submitted for planning permission or listed building consent in respect of the change of use of and/or works to the public offices building that are of the same or of a similar form to that set out in applications 20/0316 and 200317 in order to enable the enhancement and operation of that building to be brought forward in advance of the residential development of the former T&L building

IMPLICATIONS OF RECOMMENDATIONS

26. The delegation should be explicitly to the Head of Planning and Housing rather than to the Director of Development Services. This is to ensure there is an officer separation between the responsibility for the determining of the planning decisions (with the Head of Planning and Housing undertaking that role), and the agreement of any lease or sales terms relating to the public office site as a property asset (with the Director of Development Services undertaking that role).
27. In the main part, the delegated authority sought in this report reflects the decision of this Committee from December 2020. It does, however, highlight that ongoing discussions with the developer are pointing to the development not being able to support the level of affordable housing originally considered and seeks greater flexibility in the determination of the residential aspect of the proposal. In addition, the report seeks delegated authority for the Head of Planning & Housing to determine a separate application for the retail use of the public offices building, should one be submitted.

28. It is proposed that the delegation would be undertaken in consultation with the Chairman and Vice-Chairman of Planning Committee. Whilst this will not extend to all minor elements of the discussions these leading members would be appraised and given the opportunity to feed into the final decision that is made by the Head of Planning and Housing on this subject.

NEXT STEPS

29. Officers are in on-going negotiations with the prospective developers of the Public Offices building, the prospective developers of the former T&L site and former railway platform. And other agencies (such as registered providers) regarding the delivery of the scheme. Those discussions will continue to ensure that the scheme is effectively delivered in accordance with the requirements of the Fylde Local Plan to 2032 and the wishes of Committees as previously expressed in their support for the development.
30. On conclusion of the discussions a report will be presented to the Planning Committee to inform committee of the decisions.

IMPLICATIONS	
Finance	There are no direct financial implications arising from the recommendations within this report
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Application file for 20/0316, 20/0317 and 20/0587	March and May 2020	Council's website