

# Item no.

**Report to:** Executive  
**Date:** 16<sup>th</sup> October 2007  
**Report of:** Executive Member for Regeneration  
**Subject:** Appropriation of Land at St John's Square, Seaham  
**Ward:** All Seaham Wards

## **1. Purpose of report**

- 1.1 The purpose of the report is to seek authority for the appropriation for planning purposes of land owned by the Council at St John's Square, Seaham shown on the attached plan under section 122 of the Local Government Act 1972 in order to enable the powers in section 237 of the Town and Country Planning Act 1990 to be used to facilitate the comprehensive redevelopment of St John's Square.
- 1.2 The Council acquires and holds property for various statutory purposes in order to provide its various functions for example housing and leisure. The land is used only for the purpose of the function for which it was originally acquired, until such time as the land is disposed of or "appropriated" for another purpose. Appropriation is the statutory method used to change land from being held for one purpose to another purpose. The procedure for appropriation is laid down in section 122 of the Local Government Act.
- 1.3 Land is held by the Council subject to any existing third party legal rights and those rights will pass with the land on disposal. However if prior to disposal the land is formally appropriated to planning purposes section 237 of the Town and Country Planning Act 1990 provides a statutory power to override easements and other rights following the subsequent grant of planning permission for the development of the land.
- 1.4 Where rights are overridden compensation is payable to any person suffering loss however it removes the potential for excessive claims and the ability for owners to frustrate development.

## **2. Consultation**

- 2.1 The Director of Regeneration & Development, the Monitoring Officer, Head of Regeneration & Community Development and the Councils legal advisors have been consulted.

## **3. Background**

- 3.1 The Executive have previously considered and approved reports dated 20<sup>th</sup> March 2007 and 24<sup>th</sup> July 2007 accepting proposals to support the comprehensive redevelopment proposals for St John's Square.
- 3.2 Essentially the redevelopment will involve two large-scale public service buildings totalling 15,000 square metres to be constructed by Durham County Council and County Durham Primary Care Trust providing respectively a multi purpose office /library and a new health care facility. The scheme will provide investment of circa £15m.

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- 3.3 Both developments will be complemented by both high quality public realm and an element of residential and retail provision.
- 3.4 As the District Council own the majority of the land within the Square (as shaded on the attached plan) it is essential that this land holding is made available in order to enable comprehensive redevelopment to be undertaken.

## **4.0 Appropriation under section 122 of the Local Government Act 1972**

- 4.1 Easington District Council is authorised by section 122 of the Local Government Act 1972 to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement. Where land is appropriated for planning purposes, the consequence (by virtue of section 237 of the Town and Country Planning Act 1990) is that the erection, construction or carrying out, or maintenance of any building or work on such land is authorised, if it is done in accordance with planning permission, even if it involves interference with third party rights.
- 4.2 The purpose of section 237 of the Town and Country Planning Act 1990 is to ensure that where land has been acquired or appropriated by a local authority for planning purposes then existing rights, which could prevent the development of that land from proceeding in accordance with planning permission, can be overridden. The rights are overridden whether the local authority or a person deriving title from them undertakes the development.
- 4.3 The power contained in section 237 does not remove any legitimate rights of owners or occupiers to compensation which may arise from the interference with such rights, but it does remove the potential for excessive claims and it also removes the potential for such owners or occupiers to frustrate the development by obtaining an injunction to prevent the interference with their rights. If agreement cannot be reached as to the amount of compensation, then any claim can be referred to the Lands Tribunal for a decision in the same way as a claim for compensation under a compulsory purchase order.
- 4.4 In order to be able to rely upon section 237 of the Town and Country Planning Act 1990, the whole area of the land in the Council's ownership it must be formally held for planning purposes. It is therefore necessary for any part of the land not currently held for planning purposes to be appropriated for planning purposes. The recommendation of this report secures this position.

## **5.0 Implications**

### 5.1 Financial

There are no significant financial implications arising directly from the report other than there might be future compensation claims arising from the potential interference with third party rights.

### 5.2 Legal

There are no legal implications other than those referenced in the report.

### 5.3 Policy

There are no Policy implications.

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## 5.4 Risk

A risk assessment has been completed and the necessary actions required to effectively manage the identified risks have been implemented.

## 5.5 Communications

There are no communication implications.

## 5.6 Corporate Plan and Priorities.

The redevelopment of St John's Square accords with a number of the Councils Corporate priorities but primarily:

- Quality Services to our people – through the provision of responsive public services commensurate to the needs of the local community of Seaham.
- Clean, tidy communities – by providing a high quality and sustainable public realm area.
- Building a healthy community – resulting from highly accessible and enhanced health service provision.

## 5.7 Equality & Diversity

There are no equality & diversity issues arising from the report.

## 5.8 E-Government

There are no e-government implications

## 5.9 Procurement

There are no Procurement implications arising from the report.

## **6.0 Recommendation**

It is recommended that the Executive approves the appropriation with immediate effect of the land shown on the plan attached to this report for planning purposes, to the extent that it is not already held for such purposes, pursuant to section 122 of the Local Government Act 1972.