



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
12 September 2024

Key Decision Yes

Ward(s) Affected: Central Ward, Worthing

Union Place – Exercising Powers of Appropriation

Report by the Assistant Director for Regenerative Development

Officer Contact Details

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Executive Summary

1. Purpose

- 1.1. The purpose of this report is to seek approval of members of the Joint Strategic Committee for the Council to appropriate part of the land comprising Union Place (Parcel A and B) for planning purposes and to acquire Parcel C for planning purposes for the redevelopment of Union Place.

The Union Place site (is shown edged red, in Appendix 1 of this report on Page 9). These land parcels as described under item 1.1 of this report are marked on the plan respectively 'A', 'B' and 'C'.

- 1.2. This Report updates the Committee on the proposal for the Council to exercise its Powers under s.203 Housing and Planning Act 2016 in respect of the proposed redevelopment of the Union Place site. The advice note attached to this Report at Exempt Appendix 2 sets out the advice obtained by the Council in considering whether to rely on s.203 powers in relation to the proposed development of Union Place.

2. Recommendations

For the Joint Strategic Committee to consider the contents of the Exempt Appendix which advised on matters relating to the appropriation of land for planning purposes for planning purposes under s203 Housing and Planning Act 2016 and on any third party rights which may be affected by the appropriation and thereafter to:-

- 2.1. Authorise the appropriation of Parcels A and B for planning purposes pursuant to section 122 (1) Local Government Act 1972 and section 227 Town and Country Planning Act 1990, to facilitate the use of powers available to a local authority within Section 203 Housing and Planning Act 2016 ('2016 Act') to override any rights to light or other third party rights which may be infringed by the development of the proposed housing at the Union Place site and to approve the use of such powers under Section 203 of the 2016 Act, in relation to Parcels A and B, for the said purposes;
- 2.2. Agree that, if Parcel C is acquired under an Option Agreement between the Council and LCR, that his land will also be appropriated for planning purposes, to facilitate the use of the Council's powers in Section 203 of the 2016 Act to override any rights to light or other third party rights which may be infringed by the development of the proposed housing at the Union Place site and to approve the use of such powers under Section 203 of the 2016 Act, in relation to Parcel C. Parcel C is currently owned by London & Continental Railways Limited (LCR) with the Council having an option to purchase Parcel C on giving notice to LCR.
- 2.4 Delegate authority to the Assistant Director for Regenerative Development;
 - a) following the surrender of the NCP Lease in respect of Parcel A, to approve the appropriation of Parcel A for planning purposes pursuant to section 122 (1) Local Government Act 1972 and section 227 Town and Country Planning Act 1990, to facilitate the use of powers available to a local authority within Section 203 of the '2016 Act to override any rights to light or other third party rights which may be infringed by the development of the proposed housing at the Union Place and
 - b) to approve the appropriation of Parcel B for planning purposes pursuant to section 122 (1) Local Government Act 1972 and section

227 Town and Country Planning Act 1990, to facilitate the use of powers within Section 203 of the 2016 Act in respect of Parcel B, as described in resolution 2.4a) above; and

c) to approve (if Parcel C is acquired by the Council) the appropriation of the same for planning purposes, to facilitate the use of powers within Section 203 of the 2016 Act in respect of Parcel C, as described in resolution 2.4a) above; and

d) to enter into any necessary legal documentation required to complete the appropriation of the rights referred to in this report including any necessary arrangements to record the appropriation of Parcels A and B or C (if C is acquired) within the Union Place site for planning purposes;

2.5 Agree the actions and recommendations at Paragraph 2 of the Exempt Appendix

3. Background

3.1. Union Place is situated, east of the Connaught Theatre and west of the High Street. The land includes a surface car park adjacent to the theatre acquired by the Council in 2017 (Parcel A); a cleared site of unmade ground to the former Police Station acquired by the Council in 2018 (Parcel B); and an adjoining small area of car park along the High Street (Parcel C). It links to the central shopping area via the Guildbourne Centre and close to Chapel Road (secondary shopping area). The overall Union Place site is shown edged red on the plan attached to this Report at Appendix 1, and the Land Parcels are marked on the plan respectively 'A', 'B' and 'C'.

3.2. The Worthing Local Plan identifies a number of sites that have been set out to deliver market and affordable housing in Worthing over the 2020 - 2036 plan period. Union Place being one of these sites situated in a key strategic location of Worthing.

3.3. The most important principles underpinning the council's involvement in Union Place have been to enable:

- Delivery of high-quality, and environmentally friendly, design and architecture; and

- Delivery of capital receipts that can be used to support the delivery and maintenance of new infrastructure.
- a focused approach to support the viability of the scheme and potentially, attract central government funding to support new homes;
- Maximising the number of homes delivered, in particular, genuinely affordable homes;
- Bringing forward other uses that will enhance the town's centre and promote economic recovery.

3.4. The Council is working with Roffey Homes to deliver this opportunity and this report follows on from the issuing of the planning permission for Union Place on 12 August 2024.

4. Exercising powers under s203, and appropriation for planning purposes

- 4.1. Exercising powers under s203, and appropriation for planning purposes is proposed in order to facilitate the Union Place development.
- 4.2. Section 122 of the Local Government Act 1972 (“the Local Government Act”) enables the Council to appropriate land which belongs to the Council for any statutory purpose for which it is authorised to acquire land and which is no longer required for the purpose for which it is held immediately before the appropriation. Parcel A within the Union Place site is currently held for car parking purposes and Parcel B is a former police station and acquired by the Council for redevelopment purposes.
- 4.3. The meaning of the words “no longer required for the purpose for which it was held immediately before the appropriation” has been held to mean “not needed in the public interest of the locality”.
- 4.4. Appropriation of the land for “planning purposes” (in order to engage the provisions of sections 203 – 205 (inclusive) of the 2016 Act”) requires the Council to consider the following factors: whether;
- a. the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the Land or is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the Land is situated;
 - b. the proposed development, re-development or improvement will

contribute to the promotion or improvement of the economic, social and/or environmental well-being of the area;

c. it is in the public interest that the proposed development should be carried out, having regard to the provisions of the development plan, whether planning permission is in force, and any other considerations that would be material to the determination of a planning application for development of the Land;

d. whether the Union Place site is no longer required for the original purpose for which it was acquired;

e. whether rights capable of being overridden by sections 203 - 205 of the 2016 Act exist and whether interference with such rights is necessary.

- 4.5. "Planning purposes" is defined in section 246(1) of the Town and Country 1990 Act ("the 1990 Act") and acquisition for such purposes includes acquisition under section 226 or 227 of the 1990 Act.
- 4.6. Where land is appropriated for planning purposes, it is then held by the Council under the statutory provisions of Part 9 of the 1990 Act. The consequence (by virtue of section 203 - 205 of the 2016 Act) of this is that the erection, construction or carrying out of any maintenance or any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are carried out in accordance with planning permission, even if they interfere with third party rights.
- 4.7. The purpose of sections 203 - 205 (inclusive) of the 2016 Act is to ensure that where land has been appropriated for planning purposes, and provided that work is carried out in accordance with planning permission, then any existing rights, which could prevent the development of that land from proceeding, can be overridden (Members are asked to note paragraph 5.1 below).
- 4.8. It is considered reasonable for the Council to use its powers in this case to appropriate Parcels A and B within the Union Place site for planning purposes, as the appropriation will facilitate the carrying out of development and improvement of the land and contribute to the promotion of the economic, environmental or social well-being of the Borough. The development programme for which the Land is required will deliver much needed new housing, including affordable housing, and new public realm and landscaping. Therefore, it can be said that

the new development is likely to contribute to the economic, social or environmental well-being of the area.

- 4.9. The Human Rights Act 1998 (“the 1998 Act”) prevents public authorities from acting in a way that is incompatible with rights protected by the 1998 Act. Of particular relevance to the acquisition of interests in land or overriding of interests/rights in land, is Article 8 of the European Convention regarding respect for privacy and family life, and Article 1 of the First Protocol which concerns the protection of property.
- 4.10. Interference with rights by way of appropriation is permitted where it is proportionate, if that interference is necessary in the interests of, amongst other things, national economic wellbeing.
- 4.11. In considering this appropriation, the Council should carefully consider the balance to be struck between individual rights and the wider public interest. The Cabinet, in making this decision will need to consider if the significant public benefits to be derived from the proposed development of the Union Place site are of sufficient magnitude to justify the appropriation.

5. Engagement and Communication

- 5.1. The proposed appropriation of the Union Place site has been advertised inviting comments from any local residents/occupiers whose private rights may be infringed by the proposed development of the Union Place site and local residents and occupiers have also been written to. No representations or responses have been received.

6. Financial Implications

- 6.1. In relation to the subject of exercising existing rights, the Council may be required to manage and hold funds within its accounts paid for the duration of the construction programme and beyond completion of the development for a period of 5 years or more.

Finance Officer: Emma Thomas

Date: 04/09/2024

7. Legal Implications

- 7.1. The relevant statutory powers relating to Appropriation and the reasoning for their implementation to facilitate the development of the Union Place site are set out in detail in paragraph 2 of this report.

- 7.2. At Exempt Appendix 2 there is an additional document which is exempt under the Local Government (Access to Information) Act 1985 as the information relates to the financial or business affairs of Worthing Borough Council and contains legal advice. This information must be given due consideration and taken into account prior to members reaching a decision.

Legal Officer: Joanne Lee

Date: 4th September 2024

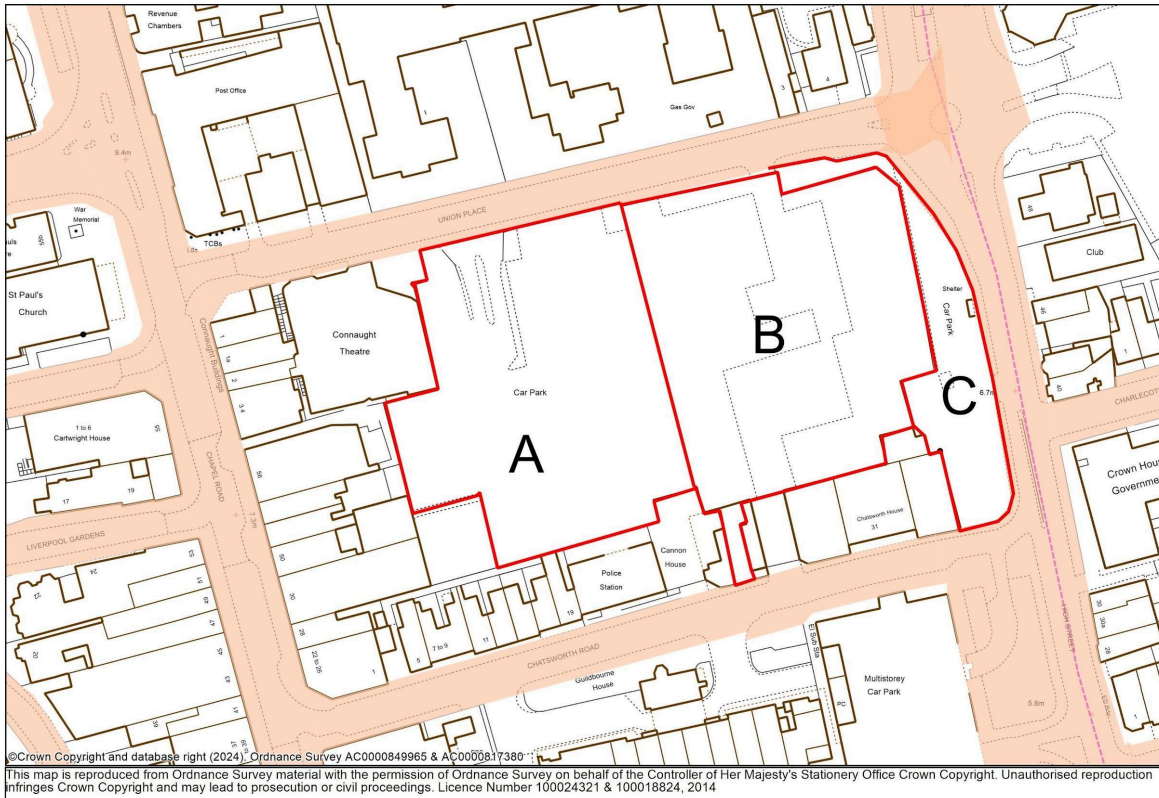
Background Papers

- Report to Joint Strategic Committee 14/03/2024 - Joint Venture Partnership with Roffey Homes
- Report to Joint Strategic Committee 11/07/2023 - Joint Venture Partnership with Roffey Homes
- Report to Joint Strategic Committee 16/03/2022 - Union Place Joint Venture with Roffey Homes Update
- Report to Joint Strategic Committee 08/02/2022 - Union Place - selection of preferred developer
- Report to Joint Strategic Committee 06/11/2018 - Union Place Update
- Report to Joint Strategic Committee 10/04/2018 - Union Place Redevelopment

Appendix 1 - The Union Place Plan

Appendix 2 - Exempt Information Report

Appendix 1.



Sustainability & Risk Assessment

1. Economic

The development delivers new homes and space for businesses to expand. The scheme is strategically important for the town centre and will benefit local shops and services.

2. Social

2.1 Social Value: the development provides an important opportunity to secure the delivery of genuinely affordable homes; to demonstrate local employment and offer opportunities for young people to secure training and develop skills.

2.2 Equality Issues: the project offers an important opportunity to address diversity and inclusion matters through the recruitment and selection of those people working on the project and in the provision of training and Skills.

2.3 Community Safety Issues: the development will take a positive approach to designing out crime and addressing matters such as safe pedestrian routes and areas for play. Design aspects such as lighting will take into account the importance of people feeling safe at night.

2.4 Human Rights Issues: the project will ensure that aspects such as people trafficking are considered through the construction process and in the selection of contractors and sub-contractors.

2.5 The construction programme will deliver local procurement and employment strategies and offer on-site opportunities for training and skills development for local residents and communities.

3. Environmental

Sensitive redevelopment of the site offers a significant opportunity to enhance biodiversity and to improve the local environment through planting and the provision of open spaces.

4. Governance

An internal officer board consisting of representatives from key departments essential to successful delivery has met and reviewed the programme at key stages of the marketing exercise. The governance associated with the delivery of the project is set out in the body of the report and formal updates will be provided to members of the Worthing Joint Strategic Committee Sub-Committee.