

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 November 2017
TITLE OF REPORT:	<p>164024 - RE-DEVELOPMENT OF FORMER COUNCIL OFFICES AT BATH STREET, HEREFORD INCLUDING CHANGE OF USE FROM B1 - BUSINESS TO C3 - DWELLINGHOUSES TO PROVIDE A TOTAL OF 75NO. APARTMENTS (COMPRISING 1 & 2 BED APARTMENTS). RE-DEVELOPMENT INCLUDES PARTIAL DEMOLITION OF EXISTING BUILDINGS (AS INDICATED ON SUBMITTED DRAWINGS), CONVERSION OF REMAINING ELEMENTS, EXTENSIONS TO EXISTING AND ALSO NEW BUILD TO PROVIDE RESIDENTIAL ACCOMMODATION AND ASSOCIATED LANDSCAPING, DRAINAGE, PARKING AND ANCILLARY BUILDINGS. AT FORMER COUNCIL OFFICES, 39 BATH STREET, HEREFORD HR1 2HQ</p> <p>For: Herefordshire Housing per Polly Upton, Upper Twyford, Hereford, HR2 8AD</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search
Reason Application submitted to Committee – Amendment required to previous planning and regulatory committee recommendation	

Date Received: 15 December 2016

Ward: Central

Grid Ref: 351479,239865

Expiry Date: 30 November 2017

Local Member: Councillor LC Tawn

1. Site Description and Proposal

- 1.1 The planning application described above was reported to the Planning and Regulatory Committee on 13 September 2017. Members resolved unanimously to support the officer recommendation. Namely that:

“Subject to the completion of a Section 106 Town and Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary.”

- 1.2 The normal practice would then be that the section 106 is completed, the planning permission is issued and the land transferred to Herefordshire Housing Ltd simultaneously on the same day.

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

- 1.3 However, Herefordshire Housing Limited is unable to purchase the site until a period of time has elapsed (6 weeks) should a third party wish to lodge judicial review proceedings against the grant of planning permission.
- 1.4 The purpose of this report is to seek authorisation to amend the previous recommendation to enable an alternative process to be followed under Section 111 Local Government Act 1972. It is not the purpose of this report to revisit the planning merits.
- 1.5 The Section 111 agreement is a legally binding covenant that will require 'Herefordshire Housing Limited' to enter into agreement under Section 106 Town and Country Planning Act 1990 with the Council once it has acquired a legal interest in the land.

2. Officer's Appraisal

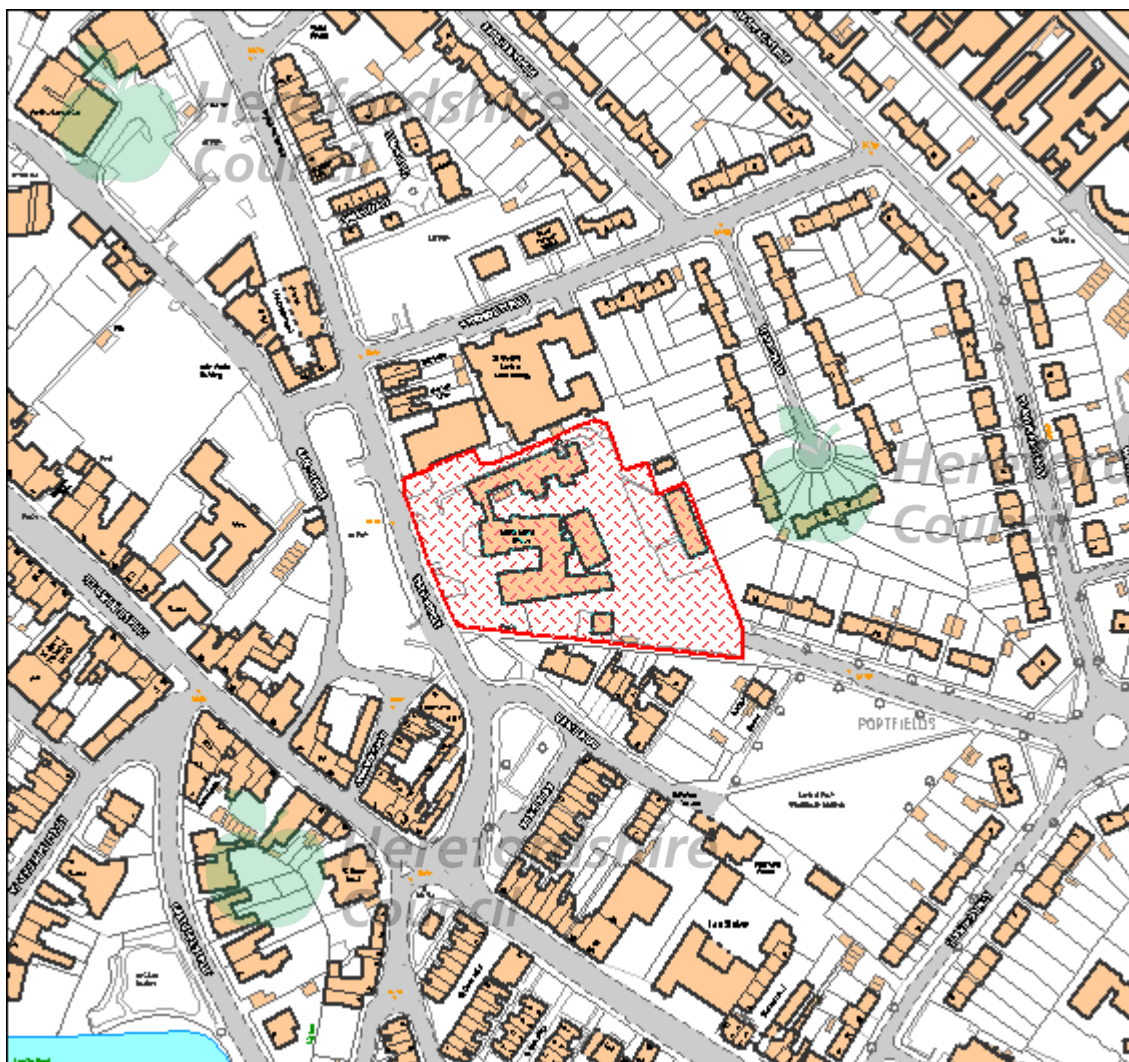
- 2.1 Section 111 of the Local Government Act 1972 is entitled "Subsidiary powers of local authorities". It is a generalised catch-all provision to enable local authorities to "do any thing.... which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions" (Section 111(1)).
- 2.2 The use of the power under Section 111 is by its very nature applied to a very wide range of local authority functions, and its use must be subsidiary to the discharge of some particular function.
- 2.3 In the present case, the power under Section 111 is being used by the council to enter into an agreement with Herefordshire Housing Limited which will secure the entering into of a planning agreement under S106 of the 1990 Act. Accordingly, the relevant principal function to which the use of S111 is subsidiary in this case is S106 of the Town and Country Planning Act 1990 (as amended).
- 2.4 S106 of the 1990 Act authorises persons with an interest in land to enter into planning obligations with the local planning authority (by agreement or otherwise) and gives local planning authorities powers to enforce such planning obligations. 'Herefordshire Housing Limited' is not currently in a position to enter into a planning obligation with the Council as local planning authority under S106 because it does not yet have an interest in the relevant land, and as the landowner and also the local planning authority, Herefordshire Council cannot covenant with itself to comply with the planning obligations, nor can they be enforced against themselves.
- 2.5 Therefore the effect of the S111 agreement will be two-fold.
 - a. It will enable the council to issue the planning permission, within 5 working days of the S111 being signed; &
 - b. It will require the council (as local planning authority) and Herefordshire Housing Limited to enter into the agreed form of S106 agreement simultaneously that Herefordshire Housing Limited acquires the legal interest in the land.

RECOMMENDATION

That subject to the completion of a Section 111 Local Government Act 1972 agreement, binding both parties into the unconditional completion of the Section 106 Town and Country Planning Act 1990 agreement and, transfer of the land to Herefordshire Housing Limited, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions set out and attached to the original officer report to committee on 13 September 2017.

Decision:

Notes:



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APPLICATION NO: 164024

SITE ADDRESS : FORMER COUNCIL OFFICES, 39 BATH STREET, HEREFORD, HEREFORDSHIRE, HR1 2HQ

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