



Subject:	Council's Powers of Vesting - Tribeca
Date:	19 th January 2024
Reporting Officer:	Nora Largey – City Solicitor & Director of Legal & Civic Services Cathy Reynolds – Director of City Regeneration & Development
Contact Officer:	Colin Campbell - Divisional Solicitor Adrian Ferguson - Senior Development Manager

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.	
Insert number <input type="checkbox"/>	
<ol style="list-style-type: none">1. Information relating to any individual2. Information likely to reveal the identity of an individual3. Information relating to the financial or business affairs of any particular person (including the council holding that information)4. Information in connection with any labour relations matter5. Information in relation to which a claim to legal professional privilege could be maintained6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction7. Information on any action in relation to the prevention, investigation or prosecution of crime	
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	<p>The purpose of this report is to:</p> <ul style="list-style-type: none"> • Provide members with an outline of the powers of vesting available to the Council in respect of the Tribeca site. • Agree to officers carrying out further work in relation to the possibility of vesting and /or acquisition of the site by agreement including seeking a valuation of the site.
2.0	Recommendations
2.1	<p>The Members of the Committee are asked to:</p> <ul style="list-style-type: none"> • Note the contents of the report. • Agree to officers carrying out further work in relation to the possibility of vesting and/or acquisition of the Tribeca site by agreement, including seeking a valuation of the site; consideration of potential funding sources and planning considerations.
3.0	Main report
	<u>Background</u>
3.1	At its meeting on 29 th September 2023, the Committee agreed that a report on the possible options for the vesting of the Tribeca site be submitted to a future meeting.
3.2	The Tribeca site was formerly known as Royal Exchange, which was initially granted planning permission in October 2012 (Z/2010/1532/F).
3.3	This permission was a retail led proposal that allowed the demolition, redevelopment and part change of use of existing buildings to create mixed use development comprising retail, offices, café/bar use, 2no. retail pavilions, 205 apartments including 6 no. live/work units, with associated energy centre, service areas and above ground car parking, cultural/arts centre, hotel, 2-level basement car park and associated access and circulation, creation of new streets and public spaces, reconfiguration of Writers Square, public realm works, landscaping and associated site and road works. It also included works to restore, alter and extend listed buildings and facades and partial demolition of North Street Arcade retaining its facades, partial reconstruction of end blocks and reconstruction of rotunda on original location.
3.4	Whilst this permission was commenced through the discharge of conditions and some demolition work, none of the redevelopment has taken place. However, the works which have been undertaken had the effect of commencing the 2010 permission. Generally, this means that the permission remains extant in perpetuity.

3.5	<p>In 2017 an outline application (LA04/2017/2341/O) was received from the owners of the site for the demolition of a number of buildings and the redevelopment of the area to create a mixed use development comprising retail, offices, café/restaurant uses, residential apartments, including private rented sector units, hotel use, community uses, car parking, associated access, servicing and circulation arrangements, an energy centre, the creation of new streets, the reconfiguration of Writers Square, public realm works, landscaping and associated site and road works. The application also proposed works to alter listed buildings, restoration of retained listed buildings and facades, and partial demolition of North Street Arcade, retaining its facades. This application was granted in November 2020.</p>
3.6	<p>Since the grant of the 2020 permission, the developer has not begun construction of the development. Whilst the developer has ownership of the vast majority of the lands within the overall site, they have had some difficulty securing certain portions of the overall lands required to develop out the scheme as per the existing planning approval. Whilst they have suggested potential variation of the permission to deal with those issues no such application has been received. A report was brought to SPR Committee on 26th June 2023 seeking approval to Council using its vesting powers to secure one of properties within the site. However Members had agreed to defer consideration of the report until such time as the motion tabled at Standards and Business Committee on 27th June 2023, inviting Castlebrooke Investments and/or any of its subsidiaries or related companies which had an interest in or was responsible for the development of the Cathedral Quarter to attend a future Committee meeting to present their plans and provide an update on their work being undertaken to date to develop the area. Castlebrooke subsequently advised Council Officers they intend on meeting with Party Group Leaders to address this motion but to date no meetings have taken place.</p>
3.7	<p>At SPR Committee on 22nd September 2023, Members agreed that a report on the possible options for the vesting of the Tribeca site be submitted to a future meeting.</p>
3.8	<p><u>Key Issues – Vesting / Compulsory Purchase</u></p> <p>Belfast City Council’s power to vest land (or to acquire land without agreement, also known as compulsory purchase) is set out in Section 97(1) of the Local Government (Northern Ireland) Act 1972 (‘the 1972 Act’), which states:</p> <p><i>“Where a council desires to acquire land otherwise than by agreement for any purpose for which it is authorised by a transferred provision so to acquire land, it may apply to the Ministry concerned for an order (in this Act referred to as a “vesting order”) vesting the land in the council, and that Ministry may make a vesting order”</i> the Council can seek to vest</p>

	<p>land where it has legislative authority to do so. It is also generally only permitted where it has provided impossible or difficult to acquire the land by negotiated agreement. The general statutory intention behind a Vesting Order is that there is an intention to implement a scheme which requires the vesting to take place. As previously advised in the report to SP&R on 23/6/23 the Council can only vest land where a specific power is given to vest by another legislative provision. The Council must apply for the Vesting Order to the Department that has oversight of the particular function the Council is relying on to apply for the Order.</p>
3.9	<p>There are a number of legislative provisions which allow the Council to seek to vest land, including where it wants to do so to provide recreational and cultural activities or for providing tourist amenities. However the most relevant power rests in the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 which confers on the Council the power to vest land for the purpose of the economic development of its district.</p>
3.10	<p>Prior to asking the relevant Department to seek a Vesting Order, the Council must be clear on a number of factors:</p> <ol style="list-style-type: none"> 1. The purpose for which the scheme is required. This involves carrying out extensive consideration of the proposal in detail. From which, the Council can make decision on the most suitable vesting power to use. 2. Explain why vesting is necessary and the outcomes which the vesting will achieve. 3. The further costs in financing of the redevelopment, the investment which may be required and whether it will be entirely public funded together with an overarching assessment of the viability of the scheme as a whole. 4. The use of a Vesting Order is generally to be considered, only where it has proved impossible or difficult to acquire the land by negotiated agreement.
3.11	<p>The process of obtaining a Vesting Order in respect of the site will be complex and require a significant officer resource to satisfy the various steps set out within the 1972 Order, not least of which is securing the approval of the relevant Department, that being the Department of Communities.</p>
3.12	<p>The timescale on making a Vesting Order depends greatly on the nature of the site, whether an owner(s) is identified, and how willing the owner is at negotiating sale by agreement to the Council. The Council would also need to be clear about what it is</p>

	proposing to do with the vested land which would require a considerable amount of work in advance of applying to a sponsoring Department.
3.13	If the Department agrees to make a Vesting Order, they must publish their intention to do so and if it receives any objections, it can cause a local enquiry to be held at which the Council and any objector shall have the opportunity to make representations.
	Financial Implications of vesting
3.14	If the Vesting Order is granted, the Council must pay compensation to the landowner whose lands have been vested. The level of compensation and valuation of the site will be complex given its size and the particular circumstances. If no agreement on the amount of compensation can be reached, the valuation can be referred to the Lands Tribunal, who shall determine the level of compensation payable after hearing arguments on same from the Council and the Landowner.
3.15	At this time, officers cannot advise members as to the potential amount of compensation which may be payable. Generally this only becomes clear after the Vesting Order is made but it may be possible, and based on currently available information, to obtain a 'high-level' valuation of the site to include other heads of claim arising from a Vesting Order.
3.16	Committee is also asked to note that in addition to compensation to the landowner, Council would also be liable for other associated costs in terms of claimant's legal and professional fees together with other costs not usually considered with purchase by agreement such as disturbance payments, business loss/extinguishment, cost of any public enquiry as a result of a challenge etc.
	Finance & Resource Implications
3.17	There are none associated with this report although Committee should note that there are likely to be significant finance and resource implications if Council wishes to pursue vesting.
	Equality or Good Relations Implications/Rural Needs Assessment
3.18	None at this time
4.0	Appendices – Documents Attached
	Appendix One – Plan of the Tribeca site