

## **WIRRAL COUNCIL**

### **CABINET**

**7 FEBRUARY 2013**

#### **REPORT OF THE INTERIM STRATEGIC DIRECTOR FOR REGENERATION AND ENVIRONMENT**

<b>SUBJECT:</b>	<b>LAND ADJACENT TO LAIRDSTREET, BIRKENHEAD – COMPULSORY PURCHASE ORDER</b>
<b>WARDS AFFECTED:</b>	<b>BIDSTON &amp; ST JAMES</b>
<b>REPORT OF:</b>	<b>INTERIM STRATEGIC DIRECTOR FOR REGENERATION AND ENVIRONMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>HOUSING AND COMMUNITY SAFETY</b>
<b>KEY DECISION</b>	<b>Yes</b>

#### **1.0 EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to seek authorisation to commence action to compulsorily acquire land required for comprehensive redevelopment with new mixed tenure housing in the Milner Street area of Birkenhead, by exercising Compulsory Purchase Order Powers under Section 226(1) (a) of the Town and Country Planning Act 1990
- 1.2 This report contains exempt information set out in paragraph 3 of Part 1 Schedule 12A of the Local Government Act 1972 and includes details of the current position with regards to negotiations to acquire remaining legal interests at a site adjoining Laird Street Birkenhead shown coloured pink and edged in red on the plan at Appendix 2 area of Birkenhead. The exempt Information is in Appendix 3.

#### **2.0 BACKGROUND AND KEY ISSUES**

- 2.1 On the 9<sup>th</sup> October 2003 (minute 259 refers), Cabinet approved a regeneration strategy for inner Wirral 2004-2014. This strategy was developed in consultation with local communities in response to the national Housing Market Renewal Initiative (HMRI). This involved Wirral Borough Council (“the Council”) working with Liverpool City Council, Sefton Council and the Merseyside Pathfinder (Newheartlands), in preparing a Housing Market Renewal Strategy to address issues of low housing demand in some of the poorest neighbourhoods in inner Merseyside. This strategy recognised that intervention was necessary in 5 neighbourhoods, including Birkenhead, to tackle both economic and social problems associated with low demand housing in these areas. As part of the delivery of the Housing Market Renewal Initiative the Council developed and adopted a more detailed Masterplan for North Birkenhead at Cabinet on the 16<sup>th</sup> June 2005 (minute 42 refers).

- 2.2 This was subsequently followed by a more focussed Neighbourhood Options Appraisal (NOA) involving 1-63 Milner Street (odds), 2-52 Milner Street (evens), the Narrowgate Centre on Milner Street, 1-49 Carrington Street (odds), 2-44 Carrington Street (evens), 32-50 Rundle Street (evens), and 57-71 Rundle Street (odds), Birkenhead, inclusive, known as Area 1. The adjacent area which included Thorneycroft Street, Plumer Street and 12-30 and 41-55 Rundle Street was known as Area 2. The aim of the NOA in Area 1 was to determine the best course of action for dealing with low demand issues.
- 2.3 Both before and during the Area 1 NOA the Council was approached by a number of property owners and residents in both Areas 1 and Area 2 who wished to sell and move on. On 6<sup>th</sup> September 2007 (minute 224 refers) Members endorsed the adjustment of the 2007/08 acquisitions programme to accommodate acquisitions within both NOA areas pending the final Area 1 NOA report. Acquisitions were focussed primarily on Area 1 although a limited number were made in Area 2, largely to limit the impact of property speculation occurring at that time.
- 2.4 In addition to the housing acquisitions, Members agreed, on 23<sup>rd</sup> January 2008 (minute 469 refers), to make selective strategic commercial acquisitions at 134-148, 240-246, 250-256 and 129-187 Laird Street, in support of a proposed wider scale retail regeneration strategy. Members subsequently agreed to the acquisition and demolition of the properties at 134-148, 240-246 and 250-256 Laird Street as recommended by the Cabinet Report of 9<sup>th</sup> July 2008 (minute 134 refers).
- 2.5 At Cabinet on 3<sup>rd</sup> of April 2008 (minute 490 refers) and as a result of the findings contained within the final NOA report, Members agreed to the recommended course of action of acquisition and clearance of Area 1. Properties involved included 1-63 Milner Street (odds), 2-52 Milner Street (evens), the Narrowgate Centre on Milner Street, 1a-49 Carrington Street (odds), 2-44 Carrington Street (evens), 32-50 Rundle Street (evens), and 57-71 Rundle Street (odds), Birkenhead, inclusive. It should be noted that there is a typographical error in relation to the odd numbered Carrington Street properties which should read '1 Carrington Street' (rather than 1a Carrington Street) as clearly identified in the cabinet report plan included with the said report and in Appendix 1 to this report. Members also agreed that as many of the properties as possible should be acquired by negotiation and agreement with individual owners and that should it not be possible to acquire all properties by agreement then a further report should be submitted to Cabinet seeking the use of Compulsory Purchase powers to secure the site for future residential development.
- 2.6 Members will note that the all properties within the area shown coloured pink and edged in red at Appendix 2 ("the Order Land") were therefore included in the strategy outlined in 2.5
- 2.7 Members authorised the implementation of a second NOA on 15<sup>th</sup> October 2009 (minute 170 refers), which included residential properties at 1-39 and 4-26 Plumer Street, 1-39 and 2-46 Thorneycroft Street and 41-55 and 12-30 Rundle Street (known as Area 2). It also included the commercial properties

at 96-114 Laird Street and the Laird Street Baptist Church. The purpose of this NOA was to help determine the long term future of the area as part of the Housing Market Renewal Initiative.

2.8 On 2<sup>nd</sup> February 2012 Members agreed (minute 286 refers) to the acquisition by agreement and subsequent demolition of the residential properties in NOA Area 2 at 1-39 and 2-46 Thorneycroft Street, 1-39 and 4-26 Plumer Street, and 41-55 and 12-30 Rundle Street, followed by housing redevelopment of the cleared site and Members further agreed that the commercial properties at 96-114 Laird Street and the Laird Street Baptist Church be excluded from the demolition proposals

2.9 At Cabinet on the 2<sup>nd</sup> June 2011 (minute 21 refers), Members approved the appointment of Keepmoat Ltd (referred to as Keepmoat) as the Council's preferred private sector developer to implement the strategy for Birkenhead indicated at 2.4, 2.5 and 2.8 above. The Council subsequently entered into a Development Agreement with Keepmoat. Good progress with property acquisitions has resulted in the Milner/Thorneycroft Street site (Areas 1 and 2 combined) being the site available for redevelopment and redevelopment proposals have been drafted. Following consultation with the local community, Keepmoat intends to submit a full planning application to redevelop the site with new multi tenure affordable housing. The planning application will be for development of an area including the Order Land in line with the strategic aims outlined at 2.4 2.5 and 2.8 and with planning policies.

2.10 See exempt information at Appendix 3

### 3.0 THE CURRENT POSITION

See exempt information at Appendix 3

### 4.0 COMPULSORY PURCHASE ORDER

4.1 Although the compulsory purchase process is intended as a last resort should attempts to acquire by agreement fail, the Council should consider when the Order Land it is seeking to acquire will be needed and as a contingency measure should plan a compulsory purchase timetable in conjunction with ongoing negotiations to acquire by agreement. It is essential that the Council minimises any delay to the redevelopment by completing the statutory process as quickly as possible. In addition to the making of a Compulsory Purchase Order under Section 226 (1) (a) of the Town and Country Planning Act 1990 (as amended by Section 99 of the Planning and Compulsory Purchase Act 2004), Section 226 (1) (a) states that on being authorised to do so by the Secretary of State, a local authority has the power to acquire compulsorily any land in their area if the authority thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. Under s226 (1) (A) the Council cannot exercise this power under s226 (1) (a) unless it thinks that the development redevelopment or improvement is likely to contribute to achievement of the promotion and/or improvement of the economic, social or environmental well-being of the Council's area.

4.2 The acquisition of the Order Land is essential to facilitate:

- (a) the comprehensive redevelopment and improvement of the area coloured pink and edged in red on the plan in Appendix 2.
- (b) the comprehensive delivery of a range of new house types providing a mix of social and affordable open market housing in an area blighted by a dysfunctional housing market.
- (c) bringing forward a more diversified housing provision and the re- invigoration of the local housing market supporting the wider regeneration and sustainability of the area.

4.3 For these reasons it is believed that the compulsory purchase of the land is enabled under s226 (1) (a) of the Town and Country Planning Act 1990.

4.4 Members were made aware at Cabinet on the 2<sup>nd</sup> February 2012 (Minute 285 refers) that the Council has secured £2.7m capital funding to support outstanding occupied property acquisitions left following the demise of the HMRI at the end of March 2011. This funding is matched by an additional range of resources including Capital Receipts, Regional Housing Pot, Capital Programme, New Homes Bonus and New Growth Point. The match funding will provide the resources needed to compensate the owners for the sale of their interests to the Council. This includes the market value compensation and associated fees. Keepmoat are committing their own resources to achieve the residential redevelopment and the Global Development Appraisals demonstrate that redevelopment is viable and achievable.

## 5.0 RELEVANT RISKS

5.1 There is a risk that any Compulsory Purchase Order action taken will result in objections being received which could result in a Local Public Inquiry. This will prolong the time taken to secure ownership and demolition of the remaining interests. As with all CPO proceedings it is difficult to project exactly how long the process will take but this could be over 2 years from start to finish. Subject to progress with the redevelopment there is a possibility that the site might not be assembled in time to enable Keepmoat to fully develop the site in line with their programme. The service of the CPO in a timely manner will ensure the Council has used its best endeavours in relation to the procedural matters under its control. Keepmoat has also advised that it is fully committed to the scheme

5.2 Any objections formally made to the service of a CPO could result in a Local Public Inquiry being held and there is a possibility that the Secretary of State may not confirm the CPO following the Inquiry. However, officers advise that there is a compelling case in the public interest to use CPO powers for this particular site and are confident of a positive outcome.

## **6.0 OTHER OPTIONS CONSIDERED**

6.1 All options were considered as part of the original NOA work. Due to the advanced nature of the ongoing clearance programme and progress with site assembly and redevelopment, if the transfers of the remaining legal interests contained within the Order Land to the Council are not completed it is considered that there is no realistic alternative action that would be appropriate. Negotiations to conclude the transfer by agreement will continue in parallel with the CPO process.

## **7.0 CONSULTATION**

7.1 The Council has an ongoing dialogue with all known owners of the remaining legal interests and this will continue in parallel with the CPO proceedings.

## **8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

8.1 The use of CPO powers to complete the site assembly and enable a comprehensive residential redevelopment will ensure the site is regenerated in line with community expectations raised in both the North Birkenhead Masterplan and NOAs.

## **9.0 RESOURCE IMPLICATIONS**

### **9.1 FINANCIAL**

The Regeneration, Housing and Planning capital programme includes £2.7 million Government grant support and £2.7 million additional match funding resources to complete the outstanding property acquisitions following the demise of the HMRI. The cost of the Order Land should be in the region of £430,000 and can be met from these resources. An estimated allowance of £50,000 has also been made to support a Local Public Inquiry, should this be necessary. The exact costs of an Inquiry could increase in line with the number of objectors.

### **9.2 IT**

9.3 There are no IT implications.

### **9.4 STAFFING**

Existing Staff in the Departments of Regeneration Housing & Planning and Law, HR & Asset Management, would be used to take forward a CPO.

### **9.5 ASSETS**

The acquisition of the remaining legal interests contained within the Order Land will facilitate the comprehensive regeneration of the area and the Council will negotiate a Development Appraisal with Keepmoat. If members approve the recommendations in paragraphs 14.1 and 14.2, and should the remaining legal interests contained within the Order Land be either acquired

or vested following confirmation of the Compulsory Purchase Order, The original Global Appraisal predicted a capital receipt of £643,288 when the Order Land was to be transferred to Keepmoat. Since the Global Appraisal was undertaken the economic climate has deteriorated which in turn has depressed the housing market nationally. This will have an impact on the capital receipt eventually realised for this site. The Homes and Communities Agency will be entitled to receive 65% of any receipt based on previous HMRI and HCA funding utilised to assemble the whole site.

## **10.0 LEGAL IMPLICATIONS**

10.1 It is acknowledged that the compulsory acquisition of the Order Land will amount to an interference with the human rights of those with an interest in the Order Land. These will include rights under Article 1 of the First Protocol of the European Convention on Human Rights (“ECHR”) (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence). The acquisition of land ‘in the public interest’ is specifically allowed by the ECHR. Having consulted extensively with both residents and property owners both through the original masterplanning exercise for North Birkenhead and the area specific Neighbourhood Options Appraisals, a majority were in favour of clearance action as part of a wider regeneration strategy for Birkenhead as a whole. Progress with property acquisitions and demolitions has resulted in the assembly of the majority of the site. The Council is of the view that there is a compelling case in the public interest for compulsory acquisition of the Order Land which should outweigh the ECHR rights, and that the use of compulsory purchase powers in this matter is proportionate.

## **11.0 EQUALITIES IMPLICATIONS**

11.1 It is intended that the use of CPO powers will have a positive impact on one of the most socially and economically deprived areas of Wirral and the successful acquisition of the remaining Order Land will contribute to achieving delivery of the North Birkenhead masterplan.

11.2 An Equality Impact Assessment has previously been completed in 2009 for the combined delivery of the clearance, refurbishment and new build schemes in accordance with the former Housing Market Renewal Programme and the Private Sector Housing and Regeneration Assistance Policy. This Assessment has been reviewed and a separate EIA has been completed to cover both NOAs and clearance schemes. These can be viewed using the following link:

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/regeneration-housing-planning>

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1 The acquisition and demolition of the Order Land will result in a loss of embodied carbon in the building materials; however, a proportion of this will

be recycled as salvage. The redeveloped housing stock on the cleared site will be built to current day building standards and Level 3 of the Code for Sustainable Homes. Over the longer term carbon savings will be realised through lower energy consumption by the future new build property occupants. The site is also close to good public transport networks reducing the need for car use.

### **13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

13.1 Keepmoat intend to submit a full planning application incorporating the Order Land.

13.2 The majority of the site of the redevelopment area is designated as a Primarily Residential Area in the Wirral Unitary Development Plan (UDP saved by direction of the Secretary of State on 28<sup>th</sup> September 2007). Part of the site between Milner and Carrington Streets (already acquired), fronting onto Laird Street lies within part of the Laird Street Traditional Suburban Centre under Policy SH2. The site is within the inner area of the City Region shown on the map with Policy LCR1 of the Northwest Regional Spatial Strategy (September 2008). The site is therefore within a regeneration priority area.

13.3 Although the Government intends to abolish RSS, subject to the outcome of consultation on Environmental Assessment, it will remain part of the statutory development plan until formally revoked.

13.4 Housing development in this location would be consistent with the principles of urban regeneration and the aim to revitalise the area through comprehensive area based regeneration schemes as set out in RSS and the UDP.

13.5 Planning applications for new housing developments within Primarily Residential Areas are currently subject to UDP Policy HS4 'Criteria for New Housing Development' and RSS Spatial Principles, which contain criteria for securing good design including community safety and security, landscaping and public open space with children's play areas.

13.6 Additionally, the Integrated Regeneration Study for Birkenhead and Wirral Waters (IRS) was adopted by the Council's Cabinet on the 24<sup>th</sup> March 2010 (Minute 43 refers) as a material planning consideration in relation to development proposals in the vicinity of the study area. The IRS provides a framework, which sets the Wirral Waters proposals being promoted by Peel Holdings in a wider context and develops linkages with HMRI and Birkenhead Town Centre.

13.7 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable and mixed communities (para 50, NPPF). At para 51 the NPPF requires local planning authorities to identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.

13.8 Once the remaining properties are acquired all openings will be secured by metal or timber sheets at ground and first floor levels. Regular monitoring throughout the CPO process will be undertaken with available staffing resources to ensure property security is maintained and that the remaining buildings do not blight the area and be a focus for anti-social behaviour.

#### **14.0 RECOMMENDATIONS**

14.1 The Council authorise the use of Compulsory Purchase Order powers under the Town & Country Planning Act 1990, Section 226 (1) (a) for the acquisition of the Order Land to complete the acquisition of land and property shown coloured pink and edged in red on the plan at Appendix 2.

14.2 That the Director of Law, HR and Asset Management be authorised to take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry and acquire the interests in the Order Land either by agreement or compulsorily.

#### **15.0 REASONS FOR RECOMMENDATIONS**

15.1 Acquisition of the Order Land is needed to complete a key element of the Council's regeneration strategy for North Birkenhead.

15.2 In the absence of a voluntary sale by the owners the most appropriate compulsory purchase power is under Section 226(1) (a) as explained in this report.

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#### **APPENDICES**

Appendix 1 – Copy of plan from Cabinet report from the meeting held on the 23<sup>rd</sup> April 2009

Appendix 2 – Proposed Compulsory Purchase Order Map – Land adjacent to Laird Street, Birkenhead

Appendix 3 – Exempt Information