



ECONOMY REGENERATION & DEVELOPMENT COMMITTEE

Thursday, 4 March 2021

REPORT TITLE:	NEW FERRY – IMPLEMENTING THE REGENERATION PLAN
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

In March 2017 an explosion in New Ferry devastated the heart of the retail centre, destroying businesses and homes, having a significant impact on the local community. Since that time, the Council has been fully supporting the recovery of the area, seeking additional funding to acquire the interests of key properties and parcels of land which will enable the regeneration and redevelopment of the town centre to proceed.

These acquisitions are crucial to the delivery of the New Ferry Regeneration Plan. This was produced by the Council and consulted on in September 2017 and has led to a preferred development option being selected with the support of the community. The plan seeks to protect local businesses and bring a mix of new residential and retail units into the town to create a sustainable future for New Ferry.

However, negotiations for the acquisition of a number of property interests are not progressing or have reached an impasse. The use of Compulsory Purchase Order(s) powers is therefore recommended as the Council is unlikely to be able to acquire these interests by agreement. Since Members first considered the regeneration plan proposals for New Ferry, a preferred development option has been endorsed by Leader Decision in December 2019. An outline planning application for the preferred development option was approved by the Council in September 2020. An updated viability assessment has also been recently undertaken which is detailed further in this report. This scheme will now be taken forward for delivery and a preferred developer partner will be appointed to deliver the scheme in 2021. It is anticipated that this will be delivered by 2024.

This report provides an update to Members on the progress of the regeneration in New Ferry. It also asks that the Committee recommends to Policy and Resources Committee, the use of Compulsory Purchase Order(s) under the Town and Country Planning Act 1990 are used as a last resort, to acquire property critical to the implementation of the New Ferry Regeneration Plan. Finally, it updates members on the process for identifying a preferred developer to work with the Council on delivering the regeneration.

The matter affects the Bromborough Ward and is a Key Decision.

RECOMMENDATION/S

The Economy, Regeneration & Development Committee are requested to make a recommendation to Policy and Resources Committee to approve the following:

- (1) the making of a Compulsory Purchase Order(s) (“the Order”) under the Town and Country Planning Act 1990, Section 226(1)(a), and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of land and new rights in respect of the area identified in the plan and table of Appendix 1 of the report to enable the regeneration of New Ferry to be undertaken and the process for the Order shall be subject to following the procedures laid down by the Acquisition of Land Act 1981.
- (2) the draft skeleton Statement of Reasons (Appendix 2) attached to this report, which (in addition to the information in this report) sets out the justification for making the Order.
- (3) the Director of Regeneration and Place in consultation with the Director of Law and Governance be granted delegated authority to:
 - (a) finalise the Statement of Reasons.
 - (b) draft the Order Map and Schedule before the making of the Order (if required).
 - (c) negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the Order and/or undertakings not to enforce the Order on specified terms, including (but not limited to) where appropriate seeking the exclusion of land or rights from the Order, making provision for the payment of compensation and/or relocation.
- (4) the Director of Law and Governance be granted delegated authority to:
 - (a) take all steps to secure the making, confirmation and implementation of the Order including the publication and service of all notices and the promotion of the Council’s case at any public inquiry.
 - (b) in the event the Order is confirmed by the Secretary of State, to advertise and give notice of confirmation and thereafter to take all steps to implement the Order.
 - (c) take all steps in relation to any legal proceedings relating to the Order including defending or settling claims referred to the Upper Tribunal and/or applications to the courts and any appeals.
- (5) That where required to assist in the delivery of the New Ferry Preferred development option and may be appropriated for planning purposes pursuant to Section 122 of

the Local Government Act 1972 to enable Section 203 of the Housing and Planning Act 2016 to be utilised to override any third-party rights of land or part thereof.

- (6) That the Economy, Development and Regeneration Committee be authorised to make all necessary further decisions that are not otherwise delegated to officers, in relation to the Compulsory Purchase Order and consequential on the Compulsory Purchase Order including the selection process for and approval of a development partner the structure of that partnership arrangement whether through a land transaction or otherwise and any related land transactions and settlement of compensation and the engagement of appropriate advisors to advise on compensation for any business interests.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Council is committed to the regeneration of New Ferry. It endorsed the New Ferry preferred development option in December 2019. There are a series of critical strategic acquisitions of land and property that is required to implement and deliver the regeneration proposals that have been endorsed by the Council.
- 1.2 There is approved capital funding in place of £1.3m to acquire the interests of all the properties required for the redevelopment. A number of sites have already been acquired and negotiations with property owners have taken place over the last two years, which are detailed in the plan in Appendix 1. However, for various reasons the acquisition of the remaining land and property interests cannot be acquired by agreement.
- 1.3 A number of the sites and properties in New Ferry are derelict and in a dilapidated state of repair. This is having a detrimental effect on the area and detracts from attracting new investment. Therefore, while the acquisition of the land and property required for the regeneration would be ideally achieved by agreement, the use of compulsory purchase order powers is now being sought (as a last resort) to enable the Council to promote and improve the economic, social and environmental well-being of New Ferry.
- 1.4 The Order will enable the full site assembly for preferred development option and remove these derelict and dilapidated properties and premises.
- 1.5 The strategic acquisition of various sites in New Ferry is necessary to deliver the preferred development option and of a suitable scale to make the development opportunity attractive and with financial assistance, which has now been secured, commercially viable.
- 1.6 The redevelopment of these sites will support the delivery of good quality housing provision and contribute to the authority's house building targets which will meet local housing needs in the area. This in turn will make New Ferry a more desirable area. The influx of new residents has the potential to have a positive impact in terms of increased footfall and spend in the local centre.
- 1.7 Delivering the regeneration and the preferred development option will also help to meet the Wirral Plan 2025 strategic priorities - specifically the themes for 'Safe and Pleasant Communities and Inclusive Economy'.
- 1.8 In the absence of a voluntary sale by the owners of their interests in the Order Land the most appropriate compulsory purchase power is under Section 226(1)(a) of the Town and Country Planning Act 1990, which allows acquiring authorities, with permission of the Secretary of State, to compulsorily purchase land in its area, if the authority thinks that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. In this case, given the

dilapidated condition and low demand for many of the properties concerned, the acquisition and demolition of these properties is considered vital to enable the New Ferry Regeneration Plan and preferred development option to proceed.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Members could decide not to proceed with the Order. In such case all the land will not be acquired by agreement, and the regeneration masterplan would not be fully delivered. The partial redevelopment of Council owned sites would result in piecemeal development and leave a number of derelict and dilapidated properties remaining in New Ferry. Not proceeding with the Order would impact negatively on the economic, social, and environmental well-being of the area leading to further decline in the retail centre, with significant impact on the local community and businesses. It would also damage the reputation of the Council, which has pledged to support New Ferry's recovery and regeneration.
- 2.2 There are other alternative compulsory purchase powers including powers under section 17 of the Housing Act 1985. It is considered that proceeding with the powers under Section 226(1)(a) of the Town and Country Planning Act 1990 is the most appropriate choice as the New Ferry Regeneration Plan provides for a mix of housing and retail.

3.0 BACKGROUND INFORMATION

- 3.1 The explosion in New Ferry in March 2017 had a very significant effect on people's lives and businesses in the area and beyond. Many businesses reported damage and a number were forced to cease trading with immediate effect. In addition, a significant number of households suffered structural damage which resulted in occupiers being displaced into temporary accommodation.
- 3.2 The Council developed a New Ferry Regeneration Delivery Plan, with the help of GVA Grimley. This was consulted on in September 2017 with the local community and finalised in December 2017, as a way of positively responding to the issues in New Ferry and working with local people and businesses to create a sustainable future for the area. This led to the preferred development option was endorsed by the Council in December 2019 and includes re-development plans for 79 residential units, 1008 m² of new retail accommodation and 78 public car parking spaces. See Appendix 3 for a plan of the preferred development option.
- 3.3 There have been a significant number of achievements in taking forward the regeneration of New Ferry which can be summarised as follows:
 - Resources of £1.3m approved by the Council to fund strategic acquisitions for the regeneration in December 2018;
 - Acquisition of key sites for the redevelopment including 41-43 Bebington Road, ("the blast site") and the site of the former Griffith's butchers, 68-72 Bebington Road;
 - The demolition of damaged buildings and site clearance in readiness for redevelopment;
 - Assisting in the establishment of the New Ferry Community Land Trust, "New Ferry CLT";

- Putting forward a successful bid to the Liverpool City Region Combined Authority which has resulted in resources of £500,000 to support the work and development of the CLT. This includes the acquisition of a prominent building in the Town Centre, 78-80 New Chester Road, which will be refurbished and brought back into economic use;
- The submission of a £4.65M funding bid to the Government's Future High Street Fund. This resulted in £3.2M of funding being awarded to the Council from MHCLG which will be used to support regeneration and development in New Ferry;
- Various community projects – notice board, alleyway project, community garden/planting;
- Outline planning permission was secured in September 2020 for the preferred development option across three specific sites in the town centre.

3.4 In 2019 the Council carried out soft market testing with potential housing providers regarding the development opportunities within New Ferry. Initial discussions indicated that there were several Registered Providers who expressed an interest in becoming involved in the redevelopment plans. Since then, the Council has been approached by a number of local developers/house builders who have expressed an interest in the scheme.

3.5 The Council has been actively negotiating with various property owners in New Ferry for the land and property that will facilitate the carrying out of development, re-development or improvement for over 2 years. The properties and land to be acquired are shown in the attached plan and table (Appendix 1). A number of key sites have been acquired by negotiation (shown in blue on the plan), but there are a number of others (shown in pink) where agreement has not been achieved. As an impasse has now been reached on these acquisitions, as a last resort a recommendation to the Policy and Resources Committee is sought for authorisation to make a Compulsory Purchase Order.

3.6 Whilst some progress has been recently made in negotiations for a couple of properties, for most of the remaining land interests, these are unlikely to be acquired by agreement. It is therefore recommended that the use of Compulsory Purchase powers should now be sought as a last resort.

3.7 The Council will deliver the preferred development option. It will do this either directly or by working with a preferred developer partner to the Council's own defined timescale. In indicative terms the delivery programme will be as follows;

Future High Street Funding awarded – December 2020

Making of CPO (subject to Member agreement) – June 2021

Preferred Developer identified – July 2021

Completion of CPO – November 2022 (estimated 18 months assuming that the CPO has to run its full course.)

Development of Griffith's site completed by January 2023

Development of 41-43 Bebington Road completed by March 2023

Development of Woodhead Street car park completed by September 2023

New Chester Road site (subject to CPO) completed by September 2024

Bebington Road/Grove Street site (subject to CPO) to be completed by December 2024

3.8 Detailed timescale site development plans are now in preparation. The Council will commence a procurement process in March 2021 to identify a preferred development partner and once concluded this matter will be reported back to Members.

4.0 FINANCIAL IMPLICATIONS

4.1 £1.3m of funding for the Strategic Acquisitions Programme was approved by Cabinet on the 17th December 2018. This covers funding for the acquisitions, business relocations, site clearance works and meeting any inquiry/legal costs associated with the Compulsory Purchase Order.

4.2 There are no known revenue funding implications arising from this report.

4.3 It is considered that the retail market both nationally and locally has been significantly adversely impacted by the Covid 19 pandemic with demand for units and the values they can attract being significantly reduced. This is the case with the current retail picture for New Ferry also. The residential market has generally held its value and there remains a demand for this use in New Ferry. With some adjustment between the retail/residential mix across the various development sites within the preferred development option and with the inclusion of the Future High Street Fund, (a grant from Government was approved on 26 December 2020), the scheme is viable and therefore can be delivered. The Council has already approved funding of £1.3m in December 2018, to fund property and land acquisitions to enable site assembly to deliver the scheme.

4.4 The Future High Street Funding award includes financial support to enable the delivery of the preferred development option (£2.6M), with the remainder of £0.6M to be used to facilitate highways infrastructure improvements. The £2.6M of funding can be used to make a contribution to the selected developer, subject to Subsidy Control rules to support in the delivery of the scheme.

4.5 New residential properties will result in increased council tax income for the authority once the redevelopment works have been completed. The addition of new commercial units may also provide an increase to business rates income.

5.0 LEGAL IMPLICATIONS

5.1 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). However, the acquisition of land “in the public interest” is specifically allowed by the ECHR. The Council is of the view that there is a compelling case in the public interest for the compulsory acquisition of the Order Land which outweighs the ECHR rights and that the use of compulsory purchase powers in this matter is proportionate as this will improve the environmental well-being of the area.

- 5.2 The principal terms of any disposal and scheme delivery will be brought for Committee approval in due course following the appointment of a preferred development partner and further delegated authority will be sought as necessary for implementation.
- 5.3 Section 226(1)(a) of the Town and County Planning Act 1990 allows a local authority, on being authorised to do so by the Secretary of State, to have power to acquire any land in their area if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.
- 5.4 A local authority can only exercise the power if the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objectives;
- (1) the promotion or improvement of the economic well-being of their area;
 - (2) the promotion or improvement of the social well-being of their area;
 - (3) the promotion or improvement of the environmental well-being of their area.
- 5.5 It is considered that all three of these issues can be met by the making of the CPO and the following considerations justify the Council using the CPO powers recommended in this report.
- 5.6 Section 13(1) of the Local Government (Miscellaneous Provisions) Act 1976 permits a local authority to purchase any new rights over land compulsorily. Those whose property interests are affected by the order have a right to compensation. Compensation could include (depending on a person's circumstances):
- the market value of the property interest
 - compensation for a reduction in value of any retained land
 - reimbursement for the costs of moving from the land
 - statutory loss payments, and
 - other costs, including reasonable professional fees in respect of the negotiation and settlement of compensation.

- 5.7 The proposals in this report may have an adverse effect on property so that an owner-occupier is unable to realise the market value that would have been obtainable had the owner's land not been affected by the proposals because prospective purchasers either will not proceed with the purchase or, having learned of the planning proposals, will only offer a price 'substantially lower than that for which it might reasonably have been expected to sell'. This is generally referred to as 'planning blight'. Sections 149 to 171 Town and Country Planning Act 1990 are designed to relieve hardship by making it possible, subject to conditions, for owner-occupiers or mortgagees of certain properties to require the Council to purchase their interests.
- 5.8 A person whose interest qualifies for protection and who has fulfilled the other statutory requirements may serve on the Council a notice in the prescribed form requiring it to purchase the interest. The notice is known as a 'blight notice'.
- 5.9 An authority that does not wish to accept a blight notice may serve on the claimant within two months of the date of service of the blight notice, a counter notice in the prescribed form specifying the grounds upon which objection is made to the claim. Upon receipt of the counter notice the claimant, if not satisfied, has a period of two months in which to refer the objection to the Upper Tribunal (Lands Chamber) for determination. Appropriate delegated authority is sought within the recommendations within this report to deal with any blight notices that may arise from the proposed Order.
- 5.10 Any changes to any regulatory orders governing existing car parking will be the subject of separate processes and this process will not pre-determine such process.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 This regeneration project will be delivered by the Council's Special Projects Team in conjunction with Asset Management and Legal Services using existing resources. The legal team may seek external advice from appointed Counsel regarding the CPO should this be required.

7.0 RELEVANT RISKS

- 7.1 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 and consequent delivery of any scheme. As with all such proceedings it is difficult to project exactly how long the process will take, but this could be over 2 years from start to finish. The service of the Order in a timely manner will ensure that the Council has used its reasonable endeavours in relation to the procedural matters under its control.
- 7.2 Any objections formally made to the service of the Order could result in a Local Public Inquiry being held and there is a possibility that the Secretary of State may not confirm the Order following the Inquiry. However, officers consider that there is a compelling case in the public interest to proceed with the Order.

- 7.3 All risks associated with the proposal will be identified and managed in line with the Corporate Risk Management Procedure as part of the project delivery process.
- 7.4 As the re-development will require reserved matters planning approval, there is a risk that this would not be approved, should this be fundamentally different to the outline application. However, a competitive selection process will be undertaken to appoint a suitable development partner with the skills, experience and resources to deliver the scheme. The project team will work closely with development partners and Development Control officers to ensure that an acceptable reserved matters application is submitted and that the design meets the key objectives of the New Ferry Regeneration Delivery Plan and the preferred development option.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The development of the New Ferry Regeneration Delivery Plan was subject to a public consultation in September 2017 and the preferred development option which was consulted on in January 2019.
- 8.2 Ward members and the Member for Parliament have been informed of the proposal to seek the use of Compulsory Purchase Order powers by Council Officers and are in support of this action.
- 8.3 The property owners would be notified and kept informed as the process progresses. Negotiations to acquire the properties by agreement will continue in conjunction with the Order.

9.0 EQUALITY IMPLICATIONS

- 9.1 Pursuant to Part II of the Equality Act 2010, public authorities must, in the exercise of their functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Public authorities must have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment; pregnancy and maternity, race, religion and belief, sex and sexual orientation) and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and,
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

9.3 The Council is not aware of any significant equality and diversity implications arising from the proposals set out within this report.

9.4 An Equality Impact Assessment has been completed for this report. This is published on the Council website <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The re-development of the sites, including the Order Land, will result in the removal of old, dilapidated and inefficient buildings. These will be replaced with modern homes built to current energy efficiency standards. The Council will work with its delivery partner(s) to promote energy efficiency and incorporate low carbon initiatives where possible.

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APPENDICES

Appendix 1 Table and plan of land/properties to be acquired by CPO

Appendix 2 Draft Skeleton Statement of Reasons

Appendix 3 Preferred Development Option Plan

BACKGROUND PAPERS

New Ferry Regeneration Delivery Plan, November 2017, GVA Grimley

Outline Planning Applications DPP3/20/00415, DPP3/20/00420, DPP3/20/00418

BDP – Masterplan B – see attached appendix 3

Equality Act 2010

Human Rights Act 1998

Guidance on preparing CPO, MHCLG 2019

Equality Impact Assessment, completed February 2021.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet Report - New Ferry Regeneration Strategic Acquisitions	17th December 2018
Delegated decision Report - Preferred Development Option for New Ferry	20th December 2019