

## **ECONOMY REGENERATION & DEVELOPMENT COMMITTEE**

**8 JUNE 2021**

<b>REPORT TITLE:</b>	<b>BIRKENHEAD TEMPORARY MARKET</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF REGENERATION AND PLACE</b>

### **REPORT SUMMARY**

On 17 March 2021 Policy and Resources Committee resolved (amongst other matters) to authorise the Director of Regeneration and Place to progress with scoping out a design and costed model for the fit out of the current preferred option for the temporary market, namely Unit 2 St Werburghs Square and St Werburghs Square, which would be used as a temporary holding position while the current Birkenhead Market site was made available for redevelopment.

This report sets out the next steps for the development to be taken forward through the use of Future High Street Funds in order to commence activity to develop and deliver the Temporary Market programme.

Similarly, this report seeks to put in place a development agreement between the Council and the Wirral Growth Company (WGC) to develop the new market, included within the original procurement of the WGC partnership and incorporated with the WGC masterplan. The Future High Streets Fund will also be used to bring forward early designs and cost plans before a final design is brought back to this committee for approval.

The regeneration of Birkenhead Town Centre is a long-standing priority for this Council and is reflected in the Wirral Council Plan 2025 through the requirement to deliver inclusive economic growth, working for a prosperous, inclusive economy where local people can get good jobs and achieve their aspirations.

Appendices 1, 3, 4 & 5 of this report are exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as they contain commercially sensitive information.

These are key decision owing to the significance in terms of the effect on communities living or working in an area comprising two or more wards in the Borough, as well as being in excess of £500,000 in monetary value.

### **RECOMMENDATION/S**

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

1. Agree the full business case for the preferred option of creating a hybrid indoor/outdoor market with the capital costs being met by the secured 'Future High Street Funding' (FHSF) with day to day on-costs being met through existing market budgets with a view of creating potential cost savings.

2. Authorise the Director of Regeneration and Place to progress a detailed planning application for the temporary market.
3. Authorise the Director of Regeneration and Place to enter into a lease of 2\1A St Werburgh's Square retail unit together with external space on the basis of the heads of terms attached at exempt Appendix 3.
4. Authorise the Director of Regeneration and Place to deliver the preferred option for the temporary market and to initiate the procurement process for the appointment of a Development partner and contractor to commence the full design and fit out of the temporary market solution.
5. Authorise the Director of Regeneration and Place to award the Wirral Growth Company a development agreement to undertake the design and cost modelling for the new permanent market across the partial footprint of the existing market and negotiate terms in accordance with the outline terms and Specification attached at appendix 5.
6. Note that a further report will be brought to Members for approval of the finalised design, funding and financial modelling for the new permanent market.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Future High Street Fund will support the Council by enabling access to significant funding to support the regeneration of Birkenhead.
- 1.2 Birkenhead Market's infrastructure incurs high maintenance liabilities and the building as it currently stands is expensive to operate, inappropriate for its current use and is not energy efficient. Ongoing repairs and maintenance costs are estimated to grow significantly over the next few years in its current state of repair. The current market structure will therefore be demolished to facilitate redevelopment including a new modern, energy efficient permanent home for the market in accordance with a resolution of Cabinet of 24 March 2020. The heads of terms for a development agreement to bring forward a design and costed model together with proposed Specification is set out in Appendix 5.
- 1.3 The general look, feel and operation of the market has become tired externally and internally and requires a major transformation to make it more appealing and fit for modern market trading conditions. Its Unique Selling Point has been lost over the years and there is a need for change to prevent further decline and to inject new trading opportunities and entrepreneurs into Birkenhead Town Centre.
- 1.4 The creation of a temporary holding position for the market will enable the current Birkenhead Market site to be demolished and the site made available to bring forward the next phase of development by the Wirral Growth Company in accordance with the Town Centre Masterplan. It will also provide continuity of trade for some of the current traders and keep the market operating during the new market build.

### 2.0 OTHER OPTIONS CONSIDERED

Various options have been considered for the temporary market.

Analysis of these options has taken place and is set out in full in the Options appraisal, within the Full Business Case Exempt Appendix 1.

The options are summarised below:

Option 1:
Description: Do Nothing - Given the vision and the regeneration opportunity, together with the current high maintenance liabilities, future escalating costs and health and safety risks, this is not considered to be a viable option.
Option 2:
Description: Box Park Model - the use of shipping containers, fully equipped to cater for the trader base including adjustment to the public realm on Europa Boulevard. The financial costs of c£4.5m is not considered to be a financially viable option. It was also considered to be too remote from the existing Town Centre operation.
Capital Costs: c£4.5m
On Costs: Unknown utilities costs

Option 3:
Description: Hybrid indoor/outdoor Model - the use of a two-storey retail unit and basement together with outside stalls and canopies to cater for the trader base. This adheres to the current Covid protocols, allows for continuity of trade and costs for the redevelopment will be met through FHFS.
Capital Cost: c£2.0m (Supported via Future High Street Fund)
On Costs: Please refer to exempt financial information enclosed within the Full Business Case

### 3.0 BACKGROUND INFORMATION

- 3.1 The regeneration of Birkenhead has been a long-term priority for the Council, articulated as early as 2010 in the Birkenhead Integrated Regeneration Study (BIRS). In the time since the production of that study, the need for regeneration in Birkenhead has not reduced, but the context for town centres has changed significantly. We are facing unprecedented commercial high street challenges resulting in well reported high street decline with wider impact on the sustainability of communities and the built environment.
- 3.2 To support the emerging Local Plan the Birkenhead 2040 Framework has been developed which provides the framework within which the market redevelopment will be brought forward.
- 3.3 Wirral Plan Refresh

The Wirral Plan 2021 - 2026 is currently being refreshed to factor in significant updates (e.g., impact of Covid) since it's sign-off at Full Council in January 2019. The refreshed plan will focus on the following five themes:

- Safe & Pleasant Communities
- Brighter Futures
- Active and Healthy Lives
- Sustainable Environment
- Inclusive Economy

This project, and the wider regeneration Programme, delivers against all the above themes. Most specifically, it will contribute significantly towards the ambitions for a thriving and inclusive economy, creating jobs and opportunities for all.

Several strategies have been developed, which underpin this project. These are: Stronger Economy Plan and Birkenhead Regeneration Framework.

More details on the refreshed Wirral Plan will be available in July 2021, following further engagement and consultation.

- 3.4 The business need for this project is:
- (i) Birkenhead Market is part of an aged infrastructure that incurs high maintenance liabilities and is expensive to operate throughout the year. The Council needs to maximise the net income for investment and regeneration purposes whilst minimising the cost of its core footprint.

- (ii) The Market building has suffered from a lack of investment for several years and together with service deficiencies (e.g., asbestos, heating, electrics, drainage) the oncosts are growing significantly.
- (iii) There is a requirement for the temporary holding position to ensure continuity of trade and to ensure the Council does not lose valuable anchor tenants that will enable footfall into the regenerated town.

In summary the current building is fundamentally too large for modern-day market standards. The design and layout mean that the main Market is cold in the winter and warm in the summer and not energy efficient under its current configuration, aesthetically the front view of the market and outside space can appear unwelcoming and unappealing to members of the public, so this acts as a physical barrier for establishing increased footfall.

### 3.5 **Next Steps:**

Following approval of the Full Business Case and the recommendations presented, the next stages of the project will be:

- Further consultation and engagement with staff and traders
- Clarification of trader requirements and creating accommodation specifications that meet the needs of today's temporary markets.
- Independent trader selection process and obtain commitment.
- Submit Planning application\Change of use.
- Address any licencing requirements.
- Finalise the design of the accommodation space within the building.
- Transition planning for Trader relocations
- Serve notices on service providers for all utilities.

Asset consolidation

### 3.6 **Temporary Market**

- 3.6.1 A catalyst for driving growth throughout the borough includes delivering a strong and thriving Birkenhead Town Centre and the market has been identified through consultation as a key element of this centre. The Wirral Growth Company has conducted various outreach public consultation events and at each event residents have confirmed the importance of Birkenhead Market to the town and its residents.
- 3.6.2 In December 2018, full Council approved the acquisition of the long leasehold interest in Birkenhead Market to facilitate its assimilation into the Council's freehold title.
- 3.6.3 Consideration for the provision of a new Market is included within the scope of the Birkenhead Commercial District development. This provides the opportunity to bring forward a redeveloped Market and create a 'go-to' destination.
- 3.6.4 In order for a new market building and other redevelopment to take place on the current site of Birkenhead Market, the building needs to be vacated, demolished and then the new market building built. This will take some time and so a requirement for a temporary alternative site is needed to ensure continuity of trade and to ensure we maintain Birkenhead as a market town.
- 3.6.5 The temporary solution is intended to be a hybrid model based on an indoor and outdoor market offer. This will include the retail unit at 2/1a St Werburghs Square along with developing an outside market to be situated on St Werburghs Square

Itself. The aim is to allow for continuity and a smooth transition while the new market development takes place.

- 3.6.6 The preferred option at St Werburghs will require part of the Future High Streets Fund grant to be allocated for the delivery of the temporary market. Furthermore, it will also require the agreement of a short-term lease between the Council and the Landlord, MARS Pension Fund (Shopping Centre Owners) before a planning application is submitted to allow the required approvals for alteration.
- 3.6.7 The temporary market site will not be able to accommodate all of the current traders, nor will the nature of the premises be suitable for all of the current traders' businesses. It is proposed to engage with local landlords and the Chamber of Commerce to assist traders who wish to relocate elsewhere. We are also mindful that some of these traders may wish to return to Birkenhead Market when it is in its new permanent home and we hope to keep those contacts and relationships alive.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 Financial provision within the existing funding arrangements for the redevelopment of the market has been made within the FHSF Business Approval Plan which was approved by Committee in March 2021. In addition, the newly identified site will in effect take over from the existing running costs of the current market thus potentially creating savings to support the oncosts of this site. It is anticipated that the costs of the redevelopment will be provided for through these planned funding allocations.
- 4.2 Further specific financial details of the scheme are set out in the Full Business Case attached to this report as Exempt Appendix 1.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 The Director of Law and Governance will provide advice to the Director of Regeneration and Place regarding the compliance of the Future High Street Fund projects within the UK's new international obligations on Subsidy Control following the end of the Brexit transition period on 1 January 2021.
- 5.2 The Council's right to hold a market in Birkenhead is contained in the Birkenhead Improvement Act 1833 and the Birkenhead Corporation Act 1881. These rights are often referred to as "Charter Rights" as the original grant of the right to hold a market in Birkenhead was made by Royal Charter in the thirteenth century. By having the right to hold a market in Birkenhead, common law implies that this exclusivity extends to 6 2/3 miles from the site of the Birkenhead Market.
- 5.3 The Council will be held liable for a period of 4yrs under a lease agreement with Mars Pension Trustees Limited, securing the immediate future of the market retaining full operation while the new market development takes place. Liabilities include rent payments and service charge as set out in the heads of terms in exempt appendix 3.
- 5.4 The proposed use as a market facility by the Council will require planning consent for a change of use. Upon approval of the recommendations within this report an application will be submitted by the Council shortly.
- 5.5 Terms of the development agreement with the Wirral Growth Company will need to be negotiated.

## 6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Temporary Market programme will be managed respectively by existing staff from within the Regeneration and Place team along with expert resources from external consultancies.
- 6.2 Internal officers will coordinate and manage all project related activities including legal title investigations and conveyancing, financial modelling, monitoring and reporting, supplemented by the use of external consultancy resource where necessary. Steps will be taken to appoint a development manager and contractor in due course to deliver the final scheme.
- 6.3 External legal support will assist with the negotiations of the development agreement.

## 7.0 RELEVANT RISKS

- 7.1 The governance of the programme will enable the escalation and management of risks and issues. Risks and Issues will be managed using risk and issue logs and the process will be supported by the Council's Corporate Risk Management structure and Project Management Office. All risks will be managed through the project governance route and discussed and controlled through project board for mitigation.

Risk	Mitigating Action	Impact
Construction/refurbishment is delayed resulting in savings not being realised according to plan.	This will be managed through the programme management arrangements that have been put in place to support project delivery.	Medium
There is a risk that the vacant Market is not developed promptly leading to additional costs, e.g., business rates, security, etc	Developments and relocations will be phased. A Relocation Plan will be designed in accordance with this ensuring that buildings are made available at the appropriate stages during transition.	Medium
Unexpected events or unknown constraints adversely impact costs and potential viability of any site or phase.	This will be managed through:  Programme governance arrangements, e.g., Reporting and control mechanisms, ongoing risk and issue management, etc.  Sensitivity analysis on the financial calculations. Ensuring that surveys are accurate.  Contingency costing is undertaken as part of cost planning	Medium

Risk of lots of voids	Good Marketing campaigns Reasonable Rent charges Selection of good tenants	Medium
Planning Permission	Consideration required around 'change of use' & including 'Heritage statement'	Medium

- 7.2 A programme Risk Register will be maintained over the development lifecycle. This will be updated throughout the process lifecycle in order to assist the Council in identifying, controlling and managing risk. This will report within the Council's Corporate Risk Management structure.
- 7.3 The final date for FHSF spend has not been extended and remains as March 2024. To mitigate any risk of not delivering and spending within this timescale Committee is asked within this report to authorise the Director of Regeneration to progress the recommendations including sign-off and commencement of delivery.

## 8.0 ENGAGEMENT/CONSULTATION

- 8.1 Full engagement with traders has commenced and will continue throughout the lifecycle of the project. The Development proposals will also go through a series of engagement and consultation stages as part of the statutory approval and planning process as appropriate and traders will be fully engaged throughout.

## 9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 An EIA has been produced in support of the temporary market solution, there is no material change from the previous submission.  
<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

## 10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The legal requirements for the procurements of Energy Performance Certificates and the implementation of the recommendations of the certificate will lead to improvements in sustainability and reductions in CO2.

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## APPENDICES

Appendix 1 - Birkenhead Temporary Market Full Business Case. (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

Appendix 2 - Redline Boundary - (Site plan edged with a red line to distinguish itself from the rest of the site)

Appendix 3 - HOTs & Lease (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

Note: The main principles of this lease are agreed, details regarding the repairing obligations will be finalised during the drafting of the lease

Appendix 4 - Stage 1 design document (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

Appendix 5 - New Birkenhead Market Employers Requirements (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

## BACKGROUND PAPERS

Wirral Growth Company Partnership Business Plan (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

Birkenhead Market acquisition Full Business Case Council 2019 (This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

Birkenhead Market Full Business Case ((This appendix is exempt from publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.)

## SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
Council decision	December 2018
Cabinet decision and Leader Decision (Birkenhead Market Full Business Case)	March 2020
ERD/P+R decision – Future High Street Fund	March 2021