

**POLICY RESOURCES COMMITTEE****WEDNESDAY, 10 NOVEMBER 2021**

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

**REPORT SUMMARY**

This report seeks approval to enter into a development agreement between the Council and the Wirral Growth Company LLP (WGC) to develop the new Birkenhead Market. Included within the original procurement of the WGC partnership and incorporated within the original WGC masterplan.

Having regard to timing constraints attached to the delivery of the Future High Streets programme and informed by additional consultation undertaken with members, officers, and market traders it is considered that there is a sound basis for accommodating the permanent facility, to the former House of Fraser demise.

To facilitate this location a new Site Development plan (SDP) has been formulated and agreed at the WGC Joint Venture Board on 21 October 2021.

The Future High Streets Fund (FHSF) will be used to bring forward early designs and cost plans before a final design is brought back to the Economy, Regeneration & Development Committee for sign off.

Appendices 1, 2, 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.

This matter affects the ward of Birkenhead and Tranmere

This is a key decision owing to the significance in terms of being more than £500,000 in monetary value.

## **RECOMMENDATION**

**Policy and Resources Committee is recommended to:**

- 1. Approve the revised Wirral Growth Company stage 2 Site Development Plan for Birkenhead Town Centre (Appendix 4).**
- 2. Authorise the Director of Regeneration and Place to progress directly to a permanent market.**
- 3. Authorise the Director of Regeneration and Place to award the Wirral Growth Company LLP a development agreement to undertake the design and cost modelling to RIBA Stage 5 for the new permanent market and negotiate terms with WGC in accordance with the outline terms and specification attached at appendices 2 and 3, including any associated infrastructure and demolition works to support the new market facility on the site of the former House of Fraser building, adjacent to St Werburgh's Square.**
- 4. Authorise the Director of Regeneration and Place to engage with the Liverpool City Region Combined Authority and agree, if required, any necessary changes to the grant funding agreement consequentially to the inclusion of a new market on the House of Fraser site.**
- 5. Authorise the Director of Regeneration and Place to adopt the preferred option, to demolish, design and develop the former House of Fraser site, the cost of which to be met from within the planned Future High Street Fund and Wirral Growth Company Surplus resources allocated.**

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 The Future High Street Fund (FHSF) is time limited to March 2024 and will support the Council by enabling access to significant funding to support the regeneration of Birkenhead.
- 1.2 The general look, feel and operation of Birkenhead Market has become tired externally and internally, costly to operate and requires a major transformation to make it more appealing and fit for modern market trading conditions. Its attraction 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.
- 1.3 Timescales of the FHSF and Wirral Growth Company's development proposals for the town centre mean an alternative site needs to be developed.
- 1.4 The current market structure will need to be demolished to facilitate a new development site in accordance with a resolution of Cabinet of 24 March 2020. Furthermore, a new Site Development Plan needs to be agreed to rehouse the market on the House of Fraser site

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Not developing a new market site has been considered but has been rejected as it would not enable the development of the Birkenhead Commercial District as agreed by Cabinet when it approved the Partnership Business Plan and Site Development Plan in February 2020.
- 2.2 Part of the original 90,000sq ft market demise was identified to build a new c35,000sq ft market and allow for consolidation of the current site. However due to constraints such as site location, suitable servicing, and Central Government financial time constraints, an alternative site has now been identified that can be brought forward and align itself better to co-inside with the FHSF timescales set by the Department for Levelling up Housing and Communities (DLUHC).

### **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 has been developed and the focus covers 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 of the above themes. Most specifically, it will contribute significantly towards the ambitions for a thriving and inclusive economy, creating jobs and opportunities for all.

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

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) and the oncosts are growing significantly.
- (iii) FHSF financial timescale of March 2024 prohibits spend thereafter.

3.5 In February 2020 Cabinet resolved to approve that the development of the Birkenhead Commercial District take place as detailed in the Wirral Growth Company Partnership Business Plan.

3.6 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. 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. 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 to create a 'go-to' destination.

3.7 The development of a new market has always been central to WGC's proposals for the redevelopment of Birkenhead town centre. Following a review of several location options for the market and extensive public consultation it was agreed at a point in time that the preferred location for the new market would be on the site of the existing market, albeit smaller in size. This proposal formed part of WGC's major planning application for the town centre and was granted consent in August this year.

3.8 Having regard to timing constraints attached to the delivery of the Future High Streets programme and informed by additional consultation undertaken with members, officers, and market traders it is considered that there is a sound basis for accommodating the permanent facility, to the former House of Fraser demise and dispensing with proposals for a temporary market.

3.9 The heads of terms for a development agreement to bring forward a design and costed model is set out in Appendix 2 to this report.

- 3.10 A new Site development plan, agreed by the Wirral Growth Company Joint Venture board on (21st October 2021) and attached at appendix 4 reflects the proposed change of location for the market.
- 3.11 At RIBA Stage 3, prior to submission of a full planning application, the fully costed and designed scheme will be presented to ERD & P+R for final approvals.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 Financial provision for the redevelopment of the market has been made within the FHSF Business Plan approved by Committee in March 2021.
- 4.2 Estimated costs for the design stage of this project are set out in the Specification within Appendix 3.
- 4.3 The original proposal was to create a temporary market solution while the old market was demolished and redeveloped. However, the scope has now changed, and approval is sought to pursue an alternative option of developing a permanent market on the current House of Fraser site.
- 4.3 The House of Fraser site was acquired with funding from the Liverpool City Region Combined Authority using the Brownfield Land Fund and under the terms of that Agreement there is a requirement to deliver residential units across the footprint and in default of this there are provisions relating to the clawback of the grant funding by the Combined Authority, should any implications arise of this from the design of the new market it will be reported back to members.
- 4.4 A further report will be brought to Members for approval of the finalised designs, funding, and financial modelling for the new permanent market.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 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.
- 5.2 There will be a requirement for an amendment to the existing phase one BCD planning i.e., s106 and potentially a new planning application.

#### **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 External legal support will assist with the negotiations of the Development Agreement.
- 6.2 Officers will coordinate and manage all project related activities including legal, title investigations and conveyancing, financial modelling, monitoring, and reporting, this can be supplemented using external consultancy resources where necessary. Steps will be taken to appoint the WGC as the development manager to deliver the final scheme.

## 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 issues logs and the process will be supported by the Council's Corporate Risk Management structure and Regeneration Project Management Office.
- 7.2 All risks will be managed through the project governance route and managed and monitored via the project board.

<b>Risk</b>	<b>Mitigating Action</b>	<b>Impact</b>
Combined Authority reject this option as it does not accord with their original grant conditions for the House of Fraser site.	This will be managed through: Ongoing dialogue with the CA on the newly proposed plans and scope.	High
DLUHC do not approve the change control and withdraw funding	Early engagement and dialogue with DLUHC.	High
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 anchor tenants	Medium
That the WGC present plans which ERD Committee Members do not approve resulting in wasted time and aborted costs.	There will be active engagement in the design process with WGC and feedback to and from Members. The requirement for WGC to work in this manner will be included in the Development Agreement.	Low
Existing s106 for phase one BCD planning consent requires amendments and potentially a new planning application required	Barton Wilmore to discuss requirements with planning and agree best solution to support the requirements.	Low

for the outline elements of the original application		
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- 7.4 A programme Risk Register will be maintained over the development lifecycle. This will be updated throughout the process lifecycle to assist the Council in identifying, controlling, and managing risk. This will report within the Council's Corporate Risk Management structure.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 Full engagement with traders is ongoing 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 involved throughout.
- 8.2 Following further trader consultation events with members and officers, the Council revisited numerous options for the new market to establish if circumstances had changed. The result of this exercise was a desire not to have a temporary market and if possible, seek to move the market only once, which led to a consensus of exploring an alternative solution, the preferred option of the House of Fraser site.

## **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 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 design of the market will include reference to, and take influence from, the Council's Climate Change agenda.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 Regeneration of Birkenhead is the backbone of the Birkenhead 2040 Framework and emerging Local Plan. In this context this FHSF it is part of a wider regeneration programme to deliver a prosperous, inclusive economy to benefit local residents and communities.
- 11.2 Community Wealth Building reorganises local economies to be fairer and stops wealth flowing out of communities. The principles of the FHSF to deliver a diversified and mixed-use town centre, with a wider catchment of people living and working in the area and a major transformation of Birkenhead market to make it more appealing, sustainable and fit for modern market trading conditions will support economic, social and health outcomes, the community and many small and medium enterprises.
- 11.3 Within the FHSF programme Council land and assets are being used as a base to build community wealth, revitalising the town centre and maximising opportunities for local people. Future procurement exercises will build the wealth of our local

communities where we will strive to maximise social value activity through the creation of local employment/training opportunities and local labour/spend to maximise the Wirral pound.

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**APPENDICES**

Appendix 1 - 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).

Appendix 2 - Heads of Terms with WGC (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 3 - Specification of Works (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 4 - Site development 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).

Appendix 5 - Redline Boundary (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

Birkenhead Market Acquisition Full Business Case

Birkenhead Market Options Report

**SUBJECT HISTORY**

<b>Council Meeting</b>	<b>Date</b>
Cabinet decision and Leader Decision (Birkenhead Market Full Business Case)	24 March 2020
ERD/P+R decision - Future High Street Fund	March 2021