

**REPORT TO:** Executive Board

**DATE:** 8th February 2007

**REPORTING OFFICER:** Strategic Director, Environment and Strategic Director, Corporate and Policy

**SUBJECT:** Halton Borough Council (Widnes Waterfront Economic Development Zone) Compulsory Purchase Order 2006

**WARDS:** Riverside and Halton View (however, as a result of the subsequent development the employment creation could have a major impact on the rest of the borough)

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To seek approval to use Halton Borough Council's ("the Council") statutory powers of compulsory purchase to assist with the comprehensive land assembly needed to achieve the successful development of the Widnes Waterfront Economic Development Zone in order to benefit the wider community as soon as possible.

## **2.0 RECOMMENDATIONS**

**It is recommended that: -**

- 2.1 **The Council makes a Compulsory Purchase Order under Section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of all interests in the land (the Order Land) shown edged red on the attached plan Appendix E for the purposes of facilitating its development, redevelopment or improvement to secure a comprehensive and integrated scheme thereby achieving the promotion and improvement of the economic social and environmental well-being of the area;**
- 2.2 **The Council makes a Compulsory Purchase Order under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to acquire new rights over the land shown edged blue on the attached plan Appendix E in order to secure the comprehensive redevelopment of this run down zone (further details will be reported to members at the Executive Board meeting);**
- 2.3 **Authority is given to the Strategic Director, Environment and the Strategic Director, Corporate and Policy, in consultation with the Portfolio holders for Planning, Transportation, Regeneration and Renewal and for Corporate Services, and with the Council Solicitor, to take all necessary steps to secure the making and confirmation of the Compulsory Purchase Order and for any other**

**actions necessary to give effect to the land acquisition and the implementation whether on a voluntary basis or otherwise;**

- 2.4 The Strategic Director, Environment, and the Strategic Director, Corporate and Policy, in consultation with the Council Solicitor, be authorised to enter into an Indemnity Agreement with Widnes Regeneration Limited (WRL) which will indemnify the Council in respect of all external expenditure concerned with the making and implementation of the Compulsory Purchase Order and thereafter provide for WRL to develop those sites to implement the Widnes Waterfront Economic Zone in accordance with the principles of the Masterplan;**
- 2.5 The CPO will not be entered into until the Indemnity Agreement has been completed to the satisfaction of the Council Solicitor and the Strategic Director, Environment and Strategic Director, Corporate and Policy.**
- 2.6 Authority is given to the Strategic Director, Environment and the Strategic Director, Corporate and Policy, in consultation with the Portfolio holders for Planning, Transportation, Regeneration and Renewal and for Corporate Services, to implement the Widnes Waterfront Relocation Strategy (Appendix A);**
- 2.7 Authority is given to the Strategic Director, Environment and the Strategic Director, Corporate and Policy subsequent to the approval of the Executive Board but prior to making the Compulsory Purchase Order, to make such changes as might be necessary to the Order in the light of varying circumstances and information relating to properties/businesses which might be affected by the CPO including if necessary the authority to expand the Schedule 2 rights.**

### **3.0 SUPPORTING INFORMATION**

#### **Background**

- 3.1 Widnes Waterfront Economic Development Zone (“the EDZ”) comprises 80 hectares of low quality former industrial land located on the banks of the River Mersey to the south of Widnes Town Centre. The site currently includes 44 hectares of vacant and derelict land, the legacy of the area’s declining chemical industry sector. Large quantities of chemical wastes were dumped indiscriminately in the area and this still blights the area today.**
- 3.2 The EU, Central Government, North West Regional Development Agency (NWDA) and Halton Borough Council have designated the EDZ as a regeneration site of high priority. Funding to bring this land back into full economic use is available until March 31st 2009 using European Funding under Priority 3 of the North West England Objective**

2 Programme, Northwest Development Agency Funds plus Halton Borough Council monies.

- 3.3 The redevelopment proposals are to assemble and secure land for a mixed-use development suitable for new uses, primarily the construction of new commercial floor space to create significant employment generation in the industrial, commercial, technological and tourism/leisure sectors without undue delay. It will also enable the reclamation and improvement of rundown land, provide substantial infrastructure improvements to service the area with roads, cycle and pathways, new utilities, new auxiliary facilities, improved landscaping, provision of a linear park and general enhancements to the public realm ("The Scheme"). The scheme outline plans are contained in Appendix D.
- 3.4 In order to address these problems the Widnes Waterfront Masterplan, which was approved by Executive Board on 22<sup>nd</sup> May 2003, set out the vision and objectives for the EDZ.

### **Finance**

- 3.5 The necessary resources for delivering the infrastructure proposals are currently available until December 2008. These projects are funded jointly by approved funding applications from ERDF and NWDA. The required land acquisitions will also be partly funded by HBC monies from within existing allocations from the capital allocations.
- 3.6 The maintenance cost of areas acquired will be met by future Section 106 contributions.
- 3.7 The Council intends to enter into a CPO Indemnity Agreement with Widnes Regeneration Ltd. (WRL), which will provide for WRL to indemnify the Council in respect of all external costs arising out of the compulsory purchase process and site acquisition. Any subsequent development/redevelopment of the sites will be funded by WRL. The CPO will be made only after the Indemnity Agreement is in place.

### **Details of the Scheme**

- 3.8 There is a compelling case for making the Order in the public interest. The current owners of the remaining sites covered in the Compulsory Purchase Order have either been unable or unwilling to bring the land back into economic use since the EDZ was designated in 2001 and/or the uses do not conform to the Widnes Waterfront EDZ Masterplan and/or Supplementary Planning Document (SPD) and/or the uses affect the comprehensive redevelopment of the site.
- 3.9 The Order Land has been divided into 27 different plots within the Schedule to the Order and on the Order Plan, Appendix C. The Order seeks the acquisition of all interests in the Order Land.

3.10 The order is subdivided into eight discrete areas. Development proposals for each area are outlined in Section 3 of the Statement of Reasons, Appendix F and the Overlay Plans, Appendix D.

#### **4.0 LAND REQUIRED AND NEGOTIATIONS TO DATE**

4.1 Detailed land referencing has already taken place, and is currently being reviewed by Terraquest to ensure it is completely up-to-date, to identify the interests to be acquired and the full schedule of owners, lessees, tenants and occupiers is currently being finalised. This schedule, which identifies all of the interests to be acquired for the development, will form part of the CPO.

4.2 The Council and/or its joint venture partners, WRL, have contacted and sought to commence negotiations with all the known freeholders and leaseholders in the land.

4.3 A significant proportion of the land is in third party ownership, which is required to enable the development to proceed.

4.4 To date progress has been made in discussions with the some of the landowners and occupiers of the land required for infrastructure improvements and the Council is confident that terms will be agreed with the majority.

4.5 However, it is unlikely that agreement will be reached with all interested parties within a reasonable timescale despite some lengthy discussions. Therefore, the Acquiring Authority has legitimate, deep-seated concerns that it will be unable to comply with the timetable set for the delivery of the Scheme unless it pursues a compulsory purchase order to assemble the land required.

4.6 Evidence of these discussions and negotiations are contained in the Proof of Evidence files for each site, which are held in the Major Projects Department.

#### **5.0 THE NEED FOR THE CPO TO ACHIEVE THE REQUIRED LAND ASSEMBLY**

5.1 As previously stated, having carried out preliminary negotiations with the affected parties the Council are of the opinion that it is unlikely that all of the sites can be assembled by agreement. The CPO will not only help to achieve the comprehensive land assembly required within a realistic timescale, but also help to make clear the Council's intentions to secure ownership of all the sites. However, negotiations will continue with a view to acquiring the properties voluntarily even after the CPO has been made.

- 5.2 National Policy Guidance supports the use of CPO powers, where they are necessary to assemble sites for new development.
- 5.3 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) enables the compulsory acquisition of land where the Council thinks that “the acquisition will facilitate the carrying out of development, redevelopment or improvement in relation to the land, and that its development, redevelopment or improvement will contribute to the achievement of the objective of the promotion or improvement of the economic, social or environmental well-being of the area”. Further details of the case for the CPO are provided below.

## **6.0 DELIVERY AND FUNDING**

- 6.1 The development/redevelopment of the sites is intended to be carried out by and at the cost of WRL under the terms of the Joint Venture.
- 6.2 WRL is proposing to tender the construction contracts required to deliver the leisure and economic elements of the Scheme.
- 6.3 WRL has immediately available internal resources and full Board Approval in place to fund the CPO and land acquisition in accordance with the terms of the indemnity agreement.
- 6.4 The anticipated development programme is dependant on resolving contamination and service issues. It should, however commence within 6 months of the CPO order being successful. This timetable is allowed for in the Relocation Strategy (Appendix A).
- 6.5 The Scheme’s landscaping and infrastructure projects are to be carried out by Halton Borough Council. All projects will be tendered under the Council’s Standing Orders. Resources have been secured from ERDF and NWDA to complete these projects.

## **7.0 A SUMMARY OF THE CASE FOR THE CPO**

- 7.1 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) provides that a local authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area if they think that the acquisition will facilitate the carrying out of development, redevelopment or improvement in relation to the land. The power should only be exercised if the authority thinks that its development, redevelopment or improvement will contribute to the achievement of the object of the promotion or improvement of the economic, social or environmental well being of the area.
- 7.2 ODPM Circular 06/04 Compulsory Purchase provides guidance to authorities on the use of their CPO powers. It emphasises that CPO

powers are an important tool for local authorities and that authorities should consider using their powers proactively to ensure that real gains are brought to the residents and the business community without delay. Appendix A to Circular 06/04 provides more detailed guidance on the use of CPO powers under s. 226 of the Town and Country Planning Act 1990.

- 7.3 The following documents are attached as Appendices to this report:
- (1) Relocation Strategy; (APPENDIX A)
  - (2) Draft CPO (in the Form numbered One in the Prescribed Forms (Ministers) Regulations 2004); (APPENDIX B)
  - (3) Draft Order Schedule; (APPENDIX C)
  - (4) CPO Overlay Plans; (APPENDIX D)
  - (5) Indicative Land Ownership Drawing; (APPENDIX E) and
  - (6) Draft Statement of Reasons. (APPENDIX F)

## **8.0 POLICY IMPLICATIONS**

- 8.1 The Council formally adopted the Widnes Waterfront Masterplan, on the 22nd May 2003. The Masterplan was subsequently translated into a Supplementary Planning Document (SPD), which was adopted by the Council on the 21<sup>st</sup> April 2005.
- 8.2 The Widnes Waterfront SPD is linked to the policy RG3, 'Widnes Waterfront', within the Halton Unitary Development Plan, which identifies Widnes Waterfront as a priority Action Area. The Halton Unitary Development Plan was formally adopted on 7 April 2005 as the new statutory development plan, replacing the Halton Local Plan.
- 8.3 All of the aforementioned policy documents align with the guiding principles of Halton's Corporate Plan 2006-11, Halton's Community Strategy 2002/06, Urban Renewal, Economic and Tourism, Waterfront and all other related Halton Strategies.

## **9.0 THE COMPULSORY PURCHASE PROCESS**

- 9.1 If the Council decides to proceed with the making of the CPO, the Council will seal the Order. Once the Order is made, the Council must serve statutory notices on those included in the Order informing them that it has been made and setting out the procedure for making the Order. The Council must also serve the Statement of Reasons setting out the case for making the Order on all those included in it.
- 9.2 The Council must also publish statutory notices in the local press on two consecutive weeks and formally submit the Order and related documentation to the Secretary of State for confirmation. If there are no objections, the Secretary of State may return the CPO to the Council for confirmation.

- 9.3 If there are objections to the CPO these will be sent to the Secretary of State. If these cannot be resolved by agreement a Public Inquiry will be ordered to consider the case for confirming the Order in light of the objections. It is estimated that such an Inquiry will take place as soon as possible after receipt of the papers by Government Office North West. In certain circumstances objections may be considered by written representations, which would require the agreement of all the objectors.
- 9.4 After considering the Report of the Inspector conducting the Inquiry or considering the written representations, the Secretary of State will consider whether to confirm the Order. If the Order is confirmed, the Council must publish notice of its confirmation in the local press and serve notice of confirmation on each person entitled to receive a notice of making the Order.
- 9.5 Statute provides a period of 6 weeks from the publication of the notice of confirmation for an interested person to challenge the validity of the CPO, as confirmed by the Secretary of State. If the CPO is confirmed, the Council may then exercise the CPO powers either by serving a “notice to treat” and a “notice of entry” on those included in the CPO, or by executing a “General Vesting Declaration” in respect of the land.

## **10.0 HUMAN RIGHTS**

- 10.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way, which is incompatible with the European Convention of Human Rights. Various Convention rights may be engaged in the process of making and considering a CPO, including Articles 1, 6 and 8.
- 10.2 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. Both public and private interests are to be taken into account in the exercise of the Council’s powers and duties as a local planning authority. Similarly, any interference with Article 8 rights must be “necessary in a democratic society” i.e. proportionate.
- 10.3 The Council is of the view that in pursuing this CPO, it has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Widnes Waterfront. Interference with Convention Rights, if there are any, is considered to be justified in order to secure the economic regeneration and public benefits which, the redevelopment proposals will bring.
- 10.4 The Convention Rights applicable to the making of the CPO are Articles 6 and 8 and Article 1 of the First Protocol.

10.5 Article 6 provides that:

*“In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”*

10.6 The proposals have been extensively publicised and consultation has taken place with owners/occupiers who will be affected by the CPO.

10.7 As stated above, all those affected by the CPO will be informed and will have the right to make representations to the Secretary of State and be heard at a Public Inquiry. Those directly affected by the CPO will also be entitled to compensation proportionate to any losses that they may incur as a result of the acquisition. The statutory procedures, taken with the right to object and judicial review, satisfy the requirements of Article 6.

10.8 Article 8 states that:

*“Everyone has the right to respect for his private and family life, his home and his correspondence...interference is justified however, if it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for its prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.”*

10.9 It is considered that such interferences as may occur with the pursuance of the CPO are in accordance with the law, pursue a legitimate aim and are proportionate having regard to the public interest in the proposals referred to in this Report.

10.10 Article 1 of the First Protocol states that:

*“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “(N)o one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...”*

10.11 Whilst occupiers and owners will be deprived of their property if the CPO is confirmed, this will be done in accordance with the law. It is being made in the public interest as required by Article 8 and Article 1 of the First Protocol. The reasons for this are set out in this Report. It is considered that the CPO will strike a fair balance between the public interest in the implementation of the redevelopment proposals and those private rights, which will be affected by the CPO.

10.12 Article 2 of the First Protocol states that:

*“Everyone’s right to life shall be protected by law.”*



10.13 The Council is satisfied that the redevelopment proposals will have a positive impact on the social, environmental and economic well being of the local residents of Widnes Waterfront as redevelopment will provide an improvement in the social, economic and environmental conditions as is explained in detail in this Report. Compulsory acquisition of individual's property situated within the Order Land is necessary to allow this comprehensive redevelopment to proceed and for these benefits to be delivered.

## **11.0 RISK ANALYSIS**

11.1 A risk analysis has been completed and will be included on the Council's Risk Register.

## **12.0 EQUALITY AND DIVERSITY ISSUES**

12.1 The recommendations within this report will not have any identifiable equality and diversity implications.

## **13.0 REASON(S) FOR DECISION**

13.1 The draft Statement of Reasons (APPENDIX F) outlines the case and details the reasons for making the Widnes Waterfront Economic Development Zone Compulsory Purchase Order. In summary this is to facilitate the comprehensive redevelopment of the area. More specifically the Order is being made to: -

- Tidy up the covenant and title clarification on Venture Fields in order to dispose of the site for the proposed leisure development.
- Bring derelict vacant land back into beneficial use including new commercial floor space.
- To redevelop semi-derelict and non conforming sites.
- To implement landscaping enhancements.
- To improve and upgrade infrastructure.

## **14.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

14.1 The Council and/or its joint venture partner have contacted and sought to commence negotiations with all the known freeholders and leaseholders to purchase land covered in the Order by agreement. These discussions are continuing however, it is unlikely that agreement will be reached with all parties within a reasonable timescale unless a compulsory purchase order to assemble the land required is made.

## **15.0 IMPLEMENTATION DATE**

15.1 It is likely that the Compulsory Purchase Order will be made within 3 months of the Executive Board decision.

**16.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
Widnes Waterfront , Supplementary Planning Document, Consultation Draft;	Planning Department, Rutland House Runcorn	Andrew Pannell Planning 0151 9078381
Widnes Waterfront Action Area, Supplementary Planning Document;	Planning Department, Rutland House Runcorn	Andrew Pannell Planning 0151 9078381
Widnes Waterfront Masterplan	Major Projects Department, Municipal Building, Widnes	Sara Munikwa Widnes Waterfront Programme Team, 0151 907 8381
Indemnity Agreement (Documents in the process of being finalised)	Property Services Department, Municipal Building, Widnes	Rob Barnett Legal Services 0151 9078381
Development Agreement (Documents in the process of being finalised)	Property Services, Municipal Building, Widnes	Rob Barnett Legal Services 0151 9078381