

**REPORT TO:** Executive Board

**DATE:** 9<sup>th</sup> September 2010

**REPORTING OFFICER:** Chief Executive

**SUBJECT:** Borough of Halton (Ashley Park Retail Centre, Widnes) Compulsory Purchase Order 2010.

**WARD:** Riverside

## **1.0 PURPOSE OF THE REPORT**

This report seeks authorisation to make the Borough of Halton (Ashley Park Retail Centre Widnes) Compulsory Purchase Order 2010 under Section 226 (1) (a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981. The purpose of the Compulsory Purchase Order ("the Order") being to facilitate land acquisition and acquisition of land and new rights in land (together referred to as "the Order Land") for the redevelopment of the Ashley Retail Centre for the reasons set out in detail in this report.

## **2.0 RECOMMENDATION: That**

**Subject to:**

- (a) the prior completion of an appropriate indemnity agreement with the Developer**

**The Executive Board is asked to resolve as follows:**

- 1.1 To make the Borough of Halton (Ashley Park Retail Centre Widnes) Compulsory Purchase Order 2010 ("the Order") under Section 226(1)(a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981 for the acquisition of all interests in the Order Land and the acquisition of new rights within the Order Land;**
- 1.2 The Order Land shall (subject as provided otherwise in this resolution) comprise the areas shown coloured pink and blue respectively on the plan attached for the purpose of redevelopment of the Ashley Park Retail Centre comprising of demolition of existing buildings, construction of new retail unit together with associated provision for access, servicing, parking and landscaping; and**

- 1.3 That delegated authority be given to the Strategic Director Environment and Economy (whether acting personally or through any other person nominated by him) to:**
- 1.3.1 Take all necessary steps as soon as is reasonably practical to finalise the Order map and schedule, (including the exercise of powers of requisition) secure the making, confirmation and implementation of the Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry.**
- 1.3.2 Negotiate to acquire and acquire all interests in the Order Land and new rights within the Order Land either by agreement or compulsorily including prior to the making of the Order and where appropriate to agree terms for relocation.**
- 1.3.3 To reduce (but not increase) the area of the Order Land and/or any interests therein should the said negotiations make the inclusion of such land and/or such interests unnecessary.**
- 1.3.4 Make arrangements for the relocation of owners and occupiers, where appropriate.**
- 1.3.5. Approve agreements with the owners of any interest in the Order Land and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order including, where appropriate, seeking inclusion in and/or exclusion from the Order of land or new rights.**
- 1.3.6 In the event that a question of compensation be referred to the Lands Tribunal to take all necessary steps in relation thereto including advising on the appropriate compensation payable and to appoint appropriate consultants if necessary to assist and advise in this regard.**

### **3.0 SUPPORTING INFORMATION**

- 3.1** Planning permission for this important regeneration proposal is already in place (Application 09/00101/OUT). The permission is for the redevelopment of a prominent site, that has been left largely vacant, with a proposed new foodstore and petrol filling station.

### **4.0 POLICY IMPLICATIONS**

- 4.1** The proposed scheme is in accordance with national planning policy for town centres, which seeks, amongst other things, to increase the vitality and viability of existing centres.
- 4.2** The Halton UDP was adopted in 2005. The adopted UDP identifies Widnes as one of the Borough's town centres and the Ashley Park Retail Centre as being located immediately adjacent to its historic Primary Shopping Core. The UDP also seeks to identify new locations within Widnes Town Centre for additional non-food retail provision.
- 4.3** The proposal, which already benefits from planning consent (09/00101/OUT) complies with the emerging town centre strategy.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 The main financial implications of any compulsory purchase order relate to the obligation to pay compensation to existing landowners. In addition compulsory purchase orders can give rise to substantial administrative, legal and technical costs. The Council must demonstrate that financial implications have been addressed and that funds are available to finance a successful compulsory purchase.
- 5.2 Morbaine Ltd ("the Developer") will indemnify the Council's costs in seeking to obtain the Order. In addition, if as a result of objections to the Order being made, there is a Public Inquiry then the Council will recover all costs relating to the Inquiry from the Developer. Compensation payable to occupiers/owners as a result of the Order (including possible blight notices and acquisitions by agreement) is a development cost and, as such, will be borne in its entirety by the Developer as part of the Indemnity Agreement. The Developer has demonstrated that it has ample funds (including access to funding) to discharge its indemnity. The Developer has agreed to fund all capital payments in advance. This means that the Council does not have to make any capital provision in its capital budget.

## **6.0 OTHER IMPLICATIONS**

None

## **7.0 RISK ANALYSIS**

- 7.1 The primary risk to the Council is financial. This has been addressed in section 5 above. There is also a risk associated with not acting. This relates to the possible non-implementation (or least, indefinite delay) of the development without the existence of the Order.

## **8.0 LIST OF BACKGROUND DOCUMENTS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document Officer</b>	<b>Place of Inspection</b>	<b>Contact</b>
Planning File CPO File	Rutland House Legal Services	Phil Watts John Tully

## **Borough of Halton (Ashley Park Retail Centre Widnes)**

### **Compulsory Purchase Order 2007**

#### **Background and justification**

##### **Redevelopment Background**

Widnes Town Centre had in recent years experienced decline as a result of changing shopping patterns and increased competition from other centres. The Town Centre does, however, remain an important focus point for the local community, providing essential shops and services and a range of community and leisure facilities. The Centre has in more recent times enjoyed a renaissance as a consequence of concerted and focused regeneration activity between the Council and its partners.

The Ashley Park Retail Centre occupies a sizeable and prominent location within Widnes town centre. However, as currently configured it is poorly integrated with the town's retail core, and as a consequence, fails to take advantage of the opportunities this gateway site presents for significantly enhancing the retail offer within the town centre and improving pedestrian and visual linkages between the town centre and the Ashley Park shopping offer, in particular, creating a 'sense of entrance' to the town centre.

The Centre currently provides approximately 6,062 sq m (65,246 sq ft). The majority of the site is currently vacant, however, some units are still occupied. Some of the remaining occupiers include Comet and Tops Tiles .

If the Town Centre is to maintain its role as one of the main centres of Halton, it requires comprehensive redevelopment and reinvestment in its retail offer.

### **Redevelopment Site**

The purpose of seeking to acquire land compulsorily is to facilitate the comprehensive redevelopment of the Order Land, which comprises a part of the Site within Widnes Town Centre. The proposed scheme would provide a modern retail environment which would continue the Council's regeneration ambitions for the Centre and create a modern gateway to the town. This would add to the qualitative and quantitative improvement of shopping provision of Widnes Town Centre and a necessary step change in the status of Widnes in the retail hierarchy.

The Site extends to over 2.89 hectares (7.14 acres) and is situated in a strategic part of the Town Centre and its redevelopment presents an opportunity to provide a step change in qualitative and quantitative provision of retail for the Town Centre and its environs and greater linkage to transport.

The Developer has made reasonable enquiry and taken opportunity to determine lesser leasehold interests within the redevelopment area. The Council and the Developer will continue to seek to acquire the interests by negotiation.

### **Planning Status**

Planning permission for erection of retail unit(s) (Class A1) was given by the Council on 30/03/2010.

## **Justification for Making a Compulsory Purchase Order**

In summary the reason that the Order is required is to facilitate the comprehensive redevelopment of the Order Land, which comprises a part of Widnes Town Centre. The Ashley Park Retail Centre currently suffers from poor overall design and low quality retail accommodation, which fails to meet modern retailing requirements. Externally the appearance of the Centre is poor.

The aims and objectives for the improvements to the Town Centre are contained in the adopted UDP. In addition, the March 1997 Widnes Town Centre strategy goal is for Widnes Town Centre to be developed and enhanced by further retail, leisure and commercial investments so that it fulfils its role as a Town Centre. The proposed scheme, which necessitates the Order is in line with and seeks to deliver the policy objectives of National and Local Development Plan policy. The scheme promotes a retail redevelopment on previously developed land, which will promote the vitality and viability of the Town Centre.

The Local Plan Policies identify a need for improvements to Widnes Town Centre which this scheme can provide. The benefits that the redevelopment will provide accords with the following:

### **i) Strategic Aims of the UDP**

- a) to increase the vitality and viability of Halton's town centres;
- b) to increase the range and quality of the shops and improve the shopping environment;
- c) to ensure that new retail development reinforces the strength of the retail core of each centre and does not weaken it; and

d) to ensure that the location, scale and nature of retail developments reflect the hierarchy of shopping centres in the Borough.

The justification for making the proposed Order must meet tests set out in Section 226 (1) (a) of the Town and Country Planning Act 1990 for the compulsory acquisition of land. Those tests are that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land and that the Council thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the Council area. The ODPM Circular 06/2004 provides guidance to acquiring authorities on the use of the compulsory purchase powers. The Council is satisfied that it has met the Section 226 tests and that its proposed actions are in accordance with the Circular.

The current position is that whilst there have been acquisitions of third party interests by the Developer and these will continue to be actively pursued, it has not been possible to secure agreement or acquire all the necessary land interests and rights in land by agreement to date. Accordingly, it is considered appropriate and proportionate for the Council to use its compulsory purchase powers to facilitate the assembly of land and rights in land required for the redevelopment with certainty and in a reasonable timeframe and this approach is in line with the guidance in Circular 06/04 referred to above.

### Human Rights

The rights of owners of interest in the Order lands under the Human Rights Act 1998, in particular the rights contained in Article 6, Article 8 and Article 1 of the First Protocol, need to be taken into account by the Council when considering

whether to make the Order and when considering the extent of the interests to be comprised in the Order.

Any objections to the Order will be considered by an independent Inspector at a Public Inquiry. It is necessary, having regard to the Human Rights Act 1998 and in particular the specific rights referred to above, to take into account the interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest. In this context, the Council must carefully consider the balance to be struck between individual rights and the wider public interest.

The Council is satisfied for the reasons set out in this report that any interference with Convention rights will be justified in order to secure the economic, environmental and social benefits that the redevelopment will bring. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions. Consequently, if the Order is confirmed, it would strike an appropriate balance between public and private interests such that there is no breach of any human rights.

### Other Matters

The Developer was founded in 1985 and is a private family owned business specialising in retail development, investment and management. The Developer has successfully completed many retail projects. The Developer has wide ranging experience in all aspects of the project requirements and has a history of producing high quality retail development having recourse to its experience and financial backing/capability. The Council is therefore satisfied that such attributes coupled with a suitable indemnity will lead to the delivery of the Scheme and that the Scheme is economically viable.



The proposed CPO is not understood to affect any special category land (for the purpose of the Acquisition of Land Act 1981) but will be subject to further review as part of the preparation of the Order.

The proposal will necessitate the stopping up of existing adopted public highway by an associated Order. Any objections to the associated Order will be heard at a concurrent or co-joined public inquiry.

The Developer is in discussion with statutory undertakers for the relocation of their apparatus as a consequence of the proposals. Save as otherwise identified in this Report, the Council is not aware of any other material or insurmountable legal or physical impediments.