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Subject: Town Deal Intervention 2 - Strategic Regeneration of North Quay in Great Yarmouth

Report to: Policy and Resources Committee 12th July 2022

Report by: David Glason, Director of Planning & Growth
Tracey Read, Project Manager

SUBJECT MATTER

This report updates Members of progress in achieving the strategic development of North Quay in Great Yarmouth, including next steps for land acquisition and the potential development of the site.

RECOMMENDATION

That Policy and Resources Committee:

1. Note the latest position in project development, including: a Levelling Up Fund bid submission; Town Deal funding success; completion of Soft Market Testing; adoption of a North Quay Supplementary Planning Document; completion of a suite of supporting technical studies; and the latest position on land acquisition.
2. Approve in principle the use of compulsory purchase powers for the acquisition of land and rights required for the re-development of the land on the North Quay site identified in appendix 1 ("the Order Land") and to note that the making of any Compulsory Purchase Order ("CPO") will be subject to the Council being satisfied in all respects that the criteria set out in paragraph 9.10 have been met. Such a CPO may take place as a whole or in phases.

1. INTRODUCTION

- 1.1. As reported to Members in July 2018 and November 2019, the adopted Great Yarmouth Local Plan 'Core Strategy' establishes the spatial vision and objectives for the future development of the borough from 2013 to 2030. It also sets out a series of strategic policies and site allocations or 'key sites' that aim to deliver significant regeneration and growth.
- 1.2. Key site allocation policy CS17: The regeneration of Great Yarmouth's central riverside areas in the heart of the town remains a key ambition of the Council, especially North Quay, which complements the Great Yarmouth Town Centre Masterplan, adopted in June 2017.

- 1.3. The comprehensive redevelopment of North Quay would transform this key riverside and gateway site to Great Yarmouth and maximise the potential by creating a vibrant, high quality, new mixed use waterfront quarter, accessible by the public adjacent to the town centre.
- 1.4. The regeneration project will bring forward key infrastructure and land assembly to unlock and de-risk private sector-led investment to maximise the opportunity presented by this waterfront location. This development will also improve a key commuter/visitor point of arrival, enhance walking and cycling connectivity between Great Yarmouth rail station and the town centre
- 1.5. To strengthen this vision, a North Quay Supplementary Planning Document (SPD) was developed and adopted by P&R Committee in May 2020 which now forms a part of the statutory Local Plan and sets out the vision, objectives and planning considerations for the future development of the North Quay area of Great Yarmouth.
- 1.6. In July 2018 Policy and Resources Committee received and endorsed a report setting out the principle of land assembly of the North Quay area to facilitate redevelopment, as set out in the North Quay property acquisition strategy.
- 1.7. In November 2019 Policy and Resources Committee received and endorsed a report to commence land assembly and redevelopment of North Quay in Great Yarmouth. This report updates Members on progress to date with a recommendation to approve the next stages in the project.
- 1.8. North Quay was also included within the Town Investment Plan, approved by the Town Deal Board in December 2020, which formed the basis of a successful Towns Fund bid.
- 1.9. The project now has an overall budget allocation of £5,448,750 for land assembly. This is made up of £2.6m from the Town Deal, £2.5m from Great Yarmouth Borough Council's capital programme, £250,000 from the Invest to Save reserve and £98,750 from the Norfolk Business Rate Pool.

2. BACKGROUND

- 2.1. The North Quay site comprises 4.07 hectares of potentially very attractive but underutilised land west of North Quay, east of the River Yare and south of the River Bure. Fullers Hill roundabout is at the northern limit, with the site extending southwards to include 67 North Quay (see plan at appendix 1).
- 2.2. It comprises a mixture of light industrial and commercial buildings, yards and car parks, two areas of open or cleared land and a row of houses at 73-82 North Quay.
- 2.3. As set out in the Great Yarmouth Local Plan Core Strategy, the North Quay site is a fairly typical (in national terms) edge of town centre location in need of regeneration. It is traffic-dominated, turns its back on the rivers Bure and Yare (with attractive longer views towards Breydon Water and the Broads), does not make the most of its proximity to the railway station, or indeed connect particularly well to the town centre. There is a mix of residential, commercial and industrial uses, with numerous underutilised tracks of land.

- 2.4. In order to comprehensively redevelop the site approximately 72 land interests, held by approximately 62 different owners need to be assembled. This is extremely unlikely to be deliverable through a private sector initiative alone, and so the Council (either alone or working with a private sector development partner), using its powers of compulsory purchase where necessary, will need to assemble the land. In July 2018, Policy and Resources Committee received and endorsed the land acquisition strategy for the site.
- 2.5. The North Quay area forms a key gateway to the town as it is approached by multiple modes of transport and has previously benefitted from significant public realm improvements identified through the Town Centre Initiative, supported by the Local Growth Fund (New Anglia Local Enterprise Partnership). This included: The Conge, North Quay, right turn out of the rail station on to Acle New Road, and the rail station forecourt improvements.

3. LEVELLING UP FUND OPPORTUNITY

- 3.1 The competitive, capital-only Levelling Up Fund (LUF) was announced at the 2020 Spending Review, with an initial £4 billion committed for England up to 2024-25. A March 2021 prospectus set out the approach for the first round of the Fund, for single bids and package bids (of up to 3 complementary projects representing a coherent set of interventions) for 'shovel-ready' capital projects with at least some LUF expenditure in 2021-22 and completing by the end of March 2024.
- 3.2 LUF Round 2 was announced in the Spring 2022 with a hard deadline date of 6th July for bid submissions (now extended by 2 weeks).
- 3.3 Unlike the Future High Streets Fund (FHSF) and Town Deal, LUF is a single-stage application process. Although, similar to the two previous funding streams, LUF bids must apply Treasury Green Book methodologies on the presentation and appraisal of policies, programmes and projects and use of monitoring and evaluation before, during and after implementation.
- 3.4 Local authorities can apply for up to £20m funding to support a single or package bid (as set out in item 3.1). A package bid will be submitted which comprises the North Quay and inter-related rail station site with the North Quay funding earmarked for: site preparation, remediation, key infrastructure and public realm works. The sites have a direct inter-relationship with the wider Waterfront Regeneration Area and form a key gateway into the town, the area provides a significant opportunity to deliver high-quality waterfront development and better connections in order to complement the wider town centre offer.

4 PROJECT PROGRESS TO DATE

LAND ACQUISITION, SOFT MARKET TESTING AND COMPULSORY PURCHASE ORDER (CPO)

- 4.1 Consultation and direct engagement with property owners has taken place since July 2019 and continues to take place via appointed consultant Harvey & Co, in partnership with the Council's Property & Assets Department.

- 4.2 Negotiation with landowners has been increasingly difficult with landowners' expectations of value far exceeding the current land values. As a result, the number of sites assembled for the purposes of onward development has been limited. There is no certainty that the remaining legal interests required for the re-development of the Order Land can be acquired by private treaty. Current Government guidance set out in "Guidance on Compulsory Purchase Process and the Crichel Down Rules" dated July 2019 ("the CPO Guidance") expects the acquiring authority to have taken reasonable steps to acquire all the land and rights needs for the Order Land by agreement. It is however recognised in the CPO Guidance that good practice in schemes involving the acquisition of a number of interests, is to continue to run negotiations in parallel with the CPO procedures.
- 4.3 The North Quay Officer Working Group agreed for a best and final formal offer to be sent to all property owners in November 2021.
- 4.4 Consultants Montagu Evans were appointed in December 2021 to undertake soft market testing for the North Quay development opportunity.
- 4.5 The soft market testing contract is split into three stages:
- Stage 1: Masterplan for the site and viability testing
 - Stage 2: Soft Market Testing – engagement with potential developers, evaluation report and recommendations
 - Stage 3: Procurement of developer partner
- 4.6 The Stage 1 report including a masterplan and viability were received in February 2022 and presented to the Officer Working Group. The report included key considerations, constraints and development opportunities for a mixed use regeneration scheme that could work for the North Quay site. A full suite of technical studies commissioned to better understand: ground conditions; flood risk, highway and air quality matters have also been commissioned, completed and factored into this appraisal.
- 4.7 The Stage 1 report also included recommendations for soft market testing including a list of target developers based on the masterplan and viability.
- 4.8 Stage 2: Soft market testing commenced in April 2022. Montagu Evans provided each targeted developer with an information pack which outlined the opportunity at North Quay, asking the developer several key questions and requesting feedback on the proposed masterplan scheme. Responses were received from 17 developers ranging from commercial and residential developers, retirement/care homes and hotels.
- 4.9 The stage one masterplan and outcomes of the soft market testing are being used as the basis for the Levelling Up Fund (LUF) bid. Montagu Evans are working very closely with appointed LUF consultants, AMION, to provide all required information to inform the bid, which reflects some of the viability challenges and market reaction from the soft market testing that is influencing the need for more financial support to bring a scheme forward.
- 4.10 The LUF funding will be used for site preparation, remediation and essential infrastructure and site assembly as well as facilitating the public realm works to enable a regeneration scheme.

- 4.11 The next steps following the soft market testing will be to have follow up meetings with selected interested parties.
- 4.12 A further detailed report and the proposed Statement of Reasons would come forward to Members in due course setting out the justification for the making of the CPO if it proves necessary to make the CPO.
- 4.13 The main benefit of the use of compulsory purchase is the certainty of being able to obtain vacant possession to enable the Council to deliver the scheme in accordance with the planned programme.
- 4.14 The Project Team will prepare all the required CPO documentation to seek a second resolution to formally make the CPO, subject to a successful Levelling Up Fund bid. The CPO documentation will be prepared over the coming months with a view to seeking Committee approval in October 2022.

5 FINANCIAL IMPLICATIONS

- 5.1 Policy and Resources Committee approved a budget of £2.5m in July 2019 to be funded within the capital programme to be financed from borrowing to begin the process of proactive acquisition of the properties. £250,000 revenue was also identified from the invest to Save reserve. A successful bid for £98,750 was also made to the Norfolk Business Rate Pool for the project.
- 5.2 At the Town Deal Board meeting held on 17 May 2021, it was agreed that the Town Deal allocation to this project would be £2.6m, bringing the total land assembly budget to £5,448,750.
- 5.3 The total Levelling Up Fund bid for both the Rail Station and North Quay will be for £20m which, if successful, will strengthen the position in relation to project delivery. The total budget will be used for land acquisition, site preparation, key infrastructure and public realm works.
- 5.4 NP Law has also been commissioned by the Council to prepare a subsidy control document for the project for inclusion in the LUF bid.
- 5.5 At this stage the Council is being asked to agree to make an “in principle” commitment to use compulsory purchase powers. A full and more detailed assessment of the financial aspects and costs of making the and exercising the CPO will be prepared and presented to the Committee in a further report should it prove necessary to make the CPO.

6 LEGAL IMPLICATIONS

- 6.1 Work continues with nplaw to ensure the compliance of the soft market testing of the proposed development opportunity. It is essential that all developers have the same opportunity to view information and documentation as part of the process.
- 6.2 The use of compulsory purchase powers requires a compelling case in the public interest to be made. Therefore, this report explains the context and justification for recommending that the Committee agrees an ‘In Principle’ recommendation to use such powers in this case.

- 6.3 In order to compulsorily acquire land, the Council must have a relevant statutory power that authorises such acquisition. In addition, the Council must use the most specific and appropriate power available to it. In the case of a CPO in connection with the regeneration of the Order Land it has been decided that the Council's planning powers under section 226(1)(a) of the Town and Country Planning Act 1990 (TCPA) are the most appropriate, as the proposals would facilitate development and make a major positive contribution to the economic, social and environmental well-being of the area. At the time of making the CPO it would need to be ensured that the proposal meets with the requirements of this statutory power.
- 6.4 The Council is empowered under section 226(1)(a) of the Town and Country Planning Act 1990 as amended, to acquire any land in its area if it is satisfied that the proposed acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council may utilise its compulsory purchase powers under section 226 of the TCPA:
- a) if it thinks the acquisition will facilitate the carrying out of development, or redevelopment or improvement on, or in relation to the land or
 - b) which is required for a purpose which is necessary to achieve in the interests of the proper planning of an area in which the land is situated
- 6.5 In order to make an acquisition under section 226 (1)(a) of the TCPA, the Council must also consider that the development, redevelopment or improvement will contribute to the promotion or improvement of the economic social or environmental well-being of its area.
- 6.6 In this case the proposal is to seek in-principal approval to make a CPO for the purpose of facilitating the comprehensive redevelopment of the Order Land to enable the delivery of the redevelopment. The redevelopment is overall considered to make a major positive contribution to the economic, social and environmental well-being of the area.
- 6.7 The Acquisition of Land Act 1981 governs the procedures which apply to compulsory acquisition. The Compulsory Purchase Act 1965 governs post-confirmation procedures and the Land Compensation Act 1961 governs the amount and assessment of compensation. The Local Government (Miscellaneous Provisions) Act 1976 governs the granting of new rights. Further implications relating to requirements of the CPO Guidance are as set out above and would need to be considered by Members in detail at the time of making a CPO.
- 6.8 The CPO Guidance provides helpful information on the matters which the Secretary of State will take into account when considering whether or not to confirm a CPO, so should be fully considered by Members now in relation to the 'in principle' use of its compulsory purchase powers and later with reference to the making and implementing of the CPO that may be considered in future.
- 6.9 The CPO Guidance states that in considering whether or not to confirm a CPO, the Secretary of State will have regard to the extent to which the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and National Planning Policy Framework (NPPF).

- 6.10 The CPO Guidance states that the Council must demonstrate a 'compelling case in the public interest', and that the public benefits that will arise from the purpose for which the land is to be acquired (i.e. the scheme) outweigh the impact on those affected. The Council must demonstrate both the need for the scheme in principle and in general and the need to acquire each and every parcel of land included in the CPO. Based on the Guidance the officers are of the view that the regeneration of the Order Land would facilitate development and make a major positive contribution to the economic, social and environmental well-being of the area.
- 6.11 Part of the justification for obtaining confirmation of a CPO would involve demonstrating that compulsory acquisition powers are necessary because the land required cannot be acquired by agreement. Compulsory purchase is seen as a last resort (although the Guidance acknowledges it can be progressed in parallel with negotiation) and the acquiring authority must be able to show that it has made genuine attempts to acquire the land by negotiation. The Council has made significant efforts to acquire all interests by voluntary agreement. These efforts will continue and further details on land acquisition will be reported to the Committee at the time of seeking authority to make a CPO.
- 6.12 The CPO will include all occupiers and all interests that are included within the Order Land as well as those that have any interest over that land including adjoining owners. All owners and occupiers will be written to as part of the land referencing process that precedes the making of the CPO, and all relevant names and addresses will be included in the final CPO. It is possible the extent of the Order Land may change to include additional areas as a result of further investigations into the proposed construction during the planning process and the land referencing exercise. Detailed information on funding will be provided to the Members in a further report at the time of seeking authority to make a CPO.
- 6.13 The Council may dispose of the land under section 233 of the TCPA for the purpose of bringing it forward for development or otherwise facilitating development. Any such disposal must be for the best consideration that can reasonably be obtained, unless the Secretary of State's consent is obtained. By a combination of sections 226 and 233 of the TCPA, it is open to the Council to compulsorily acquire land for planning purposes and then transfer it to a developer or Registered Provider partner.
- 6.14 Public Procurement Policy will be abided by when procuring a master developer partner for the site.
- 6.15 In addition to CPO powers the Council may need to exercise Section 203 Housing and Planning Act 2016 which provides for planning permissions on land acquired or appropriated to planning purposes to be implemented notwithstanding covenants or easements there may be in that land and converts such rights to compensation.

7 HUMAN RIGHTS AND THE CASE FOR COMPULSORY ACQUISITION

- 7.1 The Human Rights Act 1998 (HRA 1998) places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest and that the use of such powers is proportionate to the ends being pursued. The HRA 1998 incorporates the Convention Rights (European Convention on Human Rights). The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. The Convention Rights relevant to compulsory acquisition are as follows:

Article 8 (of the Convention)

This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.

Article 14 (of the Convention)

This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

Article 1 (of the First Protocol)

This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.

- 7.2 The above rights are qualified rights and may be interfered with provided such interference is prescribed by law, pursuant to a legitimate aim, necessary in a democratic society and proportionate. Compulsory purchase of land is permitted under the Town and County Planning Act 1990 and the Acquisition of Land Act 1981 and is subject to a statutory consultation and appeal procedure. In addition, compensation is payable, making the action fair and proportionate. When the Council decides to make a CPO, the Council will need to be sure that the purpose for which the land is required sufficiently justifies (or can be sufficiently justified in due course) interfering with the human rights of those with an interest in the land affected. It is acknowledged that the compulsory acquisition of the Order Land may amount to an interference with the human rights of those with an interest in the land.
- 7.3 When preparing the case for making a CPO, officers will keep in mind and in due course advise Members about the need to balance the public interest and the individual's rights and that any interference with these rights will be necessary and proportionate.
- 7.4 "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim. As part of the investigations that will be undertaken ahead of making any CPO, there will be an investigation into the effect on owners and occupiers to be included in the CPO, and this will be fully taken into account before a final decision is made as to whether or not to put forward a resolution for the making of a CPO.

8 EQUALITY IMPLICATIONS

- 8.1 The Council must have due regard to its Equalities Duties as specified under section 149 of the Equality Act 2010. In taking the decision to make the Order, the Council will need to be satisfied that the proposal is fully compliant with the Equality Act and compatible with the Public Sector Equality Duty
- 8.2 To ensure that the Council is acting in accordance with its Equalities Duties an Equalities Impact Assessment will be carried out prior to the making of the CPO. This will enable the Council to determine if the CPO will be compatible with the Public Sector Equality Duty and if it will have a significant negative impact upon protected groups. The assessment will consider whether any group would be disproportionately disadvantaged by the CPO or the development of North Quay and whether the site is currently used disproportionately by any group with protected characteristics. The Council will also consider whether any landowners or other interested parties for the purpose of the CPO have protected characteristics that need to be considered.
- 8.3 If any groups or individuals are identified with protected characteristics it will be considered what steps or action might be required to mitigate any inequality caused by the CPO or the development of North Quay.
- 8.4 It is recognised that The Public Sector Equality Duty is an ongoing duty and must be considered throughout the compulsory purchase process.

9 RISK IMPLICATIONS

- 9.1 Taking into account the multiple land ownership constraint to delivery, the following issues should also be recognised: low land values, flood risk, financial viability, potential contamination, poor ground conditions, archaeological heritage, and future property/land market downturns. It's been proven through soft market testing that there is limited appetite from regeneration developers unless risk is addressed through public sector assistance to address the viability gap
- 9.2 Land Values: Protecting against inflated values is covered in the Property Acquisition Strategy. Land valuation advice continues to be sought to ascertain the current market value of the whole site.
- 9.3 Flood risk: North Quay is in an area of flood risk, the Project Team are working closely with the Environment Agency to identify funded programmes of work for the site. Flood risks have been identified within the masterplan, viability and soft market testing.
- 9.4 If the LUF bid is unsuccessful the project funding gap will be too significant to secure a development partner to take the regeneration further in the short term. There is the risk that the site continues to be named as a key site allocation in the Local Plan Core Strategy with no proactive intervention or available opportunities being progressed to facilitate the development of the site.

- 9.5 Any project adjustment may affect the scale/costs/scope and, therefore, impact of individual interventions and the overall Town Deal programme or require alternative funding to be identified and secured. Not adhering to the Town Deal Heads of Terms and reporting schedule could be reputationally damaging to GYBC and put at risk of the funding being withdrawn.
- 9.6 A comprehensive 'live' project Risk Register, which identifies specific project risks and the approach that will be used to mitigate each, is being maintained by the project team and will be reviewed monthly by the Delivery Team and updated with input from the Project Board when necessary.
- 9.7 A clear communications plan will need to be developed and implemented.
- 9.8 Failure to put a CPO in place could substantially damage the progress of the re-development, consequently allowing individuals to block the development, which would prevent the completion of the much needed regeneration. The required assurances that the council's development partner requires in order to proceed with the re-development scheme would not be in place so the schemes could not proceed.
- 9.9 The Project Team have approached negotiations with landowners, in the last three years, in line with the Council approved Acquisition Strategy and have been unsuccessful in acquiring enough land for the wider regeneration of the site. This report therefore seeks Members support for a resolution in principle for the use of CPO powers to assemble the land and rights to deliver the transformative regeneration of this gateway site should all reasonable attempts to acquire the land and rights by private negotiation fail.
- 9.10 It is acknowledged that before making any CPO the Council would require further justification that:
- that there was a compelling case in the public interest;
 - that there were no planning, funding or other legal impediments to the Order Land being delivered or where such impediments exists there are reasonable prospects for overcoming those within a reasonable timescale;
 - that all reasonable attempts to acquire all interests by agreement have not been successful;
 - interference with the human rights of those with an interest in the Order Land is necessary in the public interest and proportionate;
 - that any assessment of the impacts on landowners, residents, visitors and employees be measured and evaluated, with special focus on the likely effect of the proposals on those sharing protected characteristic (race, pregnancy, age, disability, gender reassignment, marriage/civil partnerships, religion/belief, sex, sexual orientation (as defined by the Equality Act 2010)) be made, in order for the Council to fully understand those impacts, and to consider measures to mitigate impact, make reasonable adjustment, and foster good relations between those sharing protected characteristics, and those who do not.

10 CONCLUSION

- 10.1 This report updates Members on the suite of activities that have been undertaken to progress the regeneration of North Quay, including: a Levelling Up Fund bid submission; Town Deal funding success; completion of Soft Market Testing; adoption of a North Quay Supplementary Planning Document; completion of a suite of supporting technical studies; and the latest position on land acquisition.
- 10.2 NP Law have been engaged and advice received in relation to the Compulsory Purchase Order Strategy. There is a requirement for Members to approve 'in principle' the use of CPO powers for the acquisition of land and rights required for the re-development of the land on the North Quay site identified in appendix 1.
- 10.3 Following the soft market testing evaluation and recommendations, a clear scheme for the site will need to be established and developer partner procured.
- 10.4 A Levelling Up Fund bid for the Rail Station and North Quay for £20m will be submitted to DLUHC by 6th July 2022 (a 2 week extension has now been confirmed). This will complement the successful Town Deal bid for £2.6m and the financial package as set out in this report.

Area for consideration	Comment
Monitoring Officer Consultation:	As part of the ELT process
Section 151 Officer Consultation:	As part of the ELT process
Existing Council Policies:	Great Yarmouth Local Plan Core Strategy (2015) North Quay Supplementary Planning Document (2020) Great Yarmouth BC Corporate Plan Great Yarmouth's Economic Growth Strategy (2020)
Financial Implications (including VAT and tax):	As outlined in the report
Legal Implications (including human rights):	As outlined in the report
Risk Implications:	As outlined in report
Equality Issues/EQIA assessment:	None – will be produced as part of the LUF submission.
Crime & Disorder:	None
Every Child Matters:	None

Appendix 1 North Quay site location



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