

TELFORD & WREKIN COUNCIL**CABINET - 26 JULY 2012****STATION ROAD, NEWPORT – UPDATE AND APPROPRIATION****REPORT OF ASSISTANT DIRECTOR: DEVELOPMENT, BUSINESS & HOUSING****LEAD CABINET MEMBER - CLLR CHARLES SMITH****PART A) – SUMMARY REPORT****1. SUMMARY OF MAIN PROPOSALS**

To provide an update regarding the progress of the sale of the Station Road, Newport site (“the Site”) and seek decisions that the land is no longer required for its present purposes and that in principle it should be appropriated for planning purposes to facilitate its redevelopment.

2. RECOMMENDATIONS

- 2.1. That Members, resolve in principle, in accordance with section 122(1) Local Government Act 1972, that the Station Road, Newport Site is no longer required to be held by the Council for general land holding purposes.**
- 2.2 That Members decide in principle to appropriate the Station Road Site as identified in Appendix 1 for planning purposes subject to the consideration of representations as to the effect taking that step will have on affected landowners’ interests.**
- 2.3 That Members note that an advertising and consultation process will follow if approval to 2.1 and 2.2 above is given and a final decision on the above matters will be taken following that process and having regard to any objections received,**
- 2.4 That Cabinet note that the Leader will consider any representations received and make the final decision whether to appropriate the Site for planning purposes.**

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Protect and create jobs as a ‘Business Supporting, Business Winning Council’
	Will the proposals impact on specific groups of people?	
	Yes	This is an in principle decision only and will be subject to public consultation so that anyone affected by the decision will have the opportunity to object if the recommendations are approved.
TARGET COMPLETION/ DELIVERY DATE	The consultation process will commence shortly after Cabinet if the recommendations are approved.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	Legal and valuation advice has been taken which has resulted in no provision being deemed necessary currently to deal with any recommendations arising from this report. However, ongoing financial support and advice will be provided
LEGAL ISSUES	Yes	The Council has the power to make the decisions identified in the recommendation and ongoing legal advice will be provided.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	As this is an in principle decision only and will be subject to public consultation there are no risks that are associated with this report.
IMPACT ON SPECIFIC WARDS	Yes	Newport South Newport West Newport East Church Aston & Lilleshall

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

Planning

- 4.1 On 25 April 2012 Plans Board resolved to approve the planning application for a supermarket together with associated infrastructure and the application was referred to the Department for Communities and Local Government (“CLG”) to consider whether the application should be called in for determination. On 15 June 2012 CLG confirmed that the application had been called in and officers anticipate an inquiry during late autumn 2012.
- 4.2 Members will be aware that an application for a superstore at Audley Avenue, Newport was considered at a recent planning inquiry following an appeal by the applicant, Classic Furniture, against non-determination of the application. After the appeal against non-determination was lodged the Council’s Plans Board resolved that it would have refused the application had the appeal not been lodged.

Village Green application

- 4.3 On 16 December 2011 an application was made by Mr John Rudd to have the Site registered as a town or village green pursuant to Section 15(1) Commons Act 2006. This application was made on the basis that the land has been used by local inhabitants for more than 20 years as of right for lawful sports and pastimes. The Council (as landowner) has objected to this application on several grounds including on the basis that the land has not in fact been used as alleged for lawful sports and pastimes during the relevant qualifying period and that a substantial part of the land has been used for arable cultivation. A non-statutory inquiry is due to take place during the week commencing 24 September 2012. At this inquiry the evidence will be considered by an independent Inspector and a recommendation made as to whether the land should be registered.

Appropriation

- 4.4 As a necessary first step, and before the Station Road Site may be appropriated for planning purposes, the Council is required to consider whether the land is no longer required for the purposes that it is currently held used in accordance with section 122(1) Local Government Act 1972. The purpose for which the land was originally acquired is not clear. Officers have investigated historic material and no clear conclusions can be reached. The land has for a significant number of years been used for agricultural purposes and grazing land. It is therefore reasonable for that most recent use to be taken as being representative as the purpose for which the land is held. As part of the Council’s land management and asset disposal strategy the land has been identified for development and it is considered that more productive use can be made of the land. It is also considered that there is other land within the area that could be used for the purposes that the land is currently used for. The lawful footpath which presently exists within the land will be retained subject to some diversion within the proposed scheme. The land is no longer considered to be required therefore to be retained by the Council for those purposes.
- 4.5 Members will be aware that a conditional contract for sale was entered into with Sainsbury’s Supermarkets Ltd in December 2011.

- 4.6 It is proposed that the land is to be redeveloped for use as a superstore and associated development. The form of development proposed and which is the subject of the application for planning permission referred to above is shown on the plan accompanying this report. It is considered that appropriation for planning purposes would facilitate and indeed is necessary for the carrying out of that development and the development and therefore the appropriation will contribute to the promotion and improvement of the economic, social and environmental well-being of the Council's area as the proposed retail development is expected to deliver some 300 jobs, together with a major contribution to investment in Newport Town Centre, public transport and leisure provision. The development of the employment land which is part of the wider scheme is anticipated to create a further 200 jobs. The residential development will deliver a full range of housing including the provision of affordable homes. These matters provide a proper basis for appropriation of the land for planning purposes as provided for within section 226 of the Town and Country Planning Act 1990.
- 4.7 Additionally the proposed new use as a superstore is restrained by a number of restrictive covenants which affect the Site. To avoid the effect of these restrictive covenants the Council is likely to wish to rely on Section 237 of the Town and Country Planning Act 1990. This provides that where a local authority has appropriated land it holds from one statutory purpose to planning purposes the appropriation is effective to overcome restrictive covenants and other rights that would otherwise affect the use or redevelopment of the land.
- 4.8 Before the land is transferred pursuant to the above contract and before it is developed, planning permission will need to have been granted. That is now a matter for the Secretary of State. However, that does not mean that the Council is not entitled or should not appropriate the land at this stage and to do so will ensure that the land is properly held to allow the sale and development to take place if planning permission is granted.
- 4.9 Furthermore, appropriation of the land for planning purposes at this stage would mean that in the event that the land or any part of it is registered as a town green (notwithstanding the Council's objection), its status as such would not prevent development taking place in accordance with planning permission through the operation of section 241 of the Town and Country Planning Act 1990. This provides an additional reason why appropriation would facilitate the carrying out of development and why appropriation should take place at this stage, albeit that for the reasons set out above appropriation of the land is justified independently of this factor.
- 4.10 Section 122(2A) of the Local Government Act 1972 provides that where land proposed for appropriation is "open space" a public consultation is required before appropriation takes place. The definition of "open space" within the 1972 Act is wide, relying as it does on the definition in the Town and Country Planning Act 1990. It includes "land which is used for public recreation". There is one lawful public footpath within the land which is likely to be used for recreational walking as well apparently as some other informal walking routes which are not included on definitive map. On a broad interpretation of the definition of "open space" the likely use of these routes may be contended to lead to a conclusion that part of the land proposed for appropriation is used for public recreation. Furthermore, in support of the town green application it is claimed that more extensive use has been made of the land for recreation. That this is the case is not accepted by the Council. However, the existence and likely use of the lawful footpath and potential other routes as described is such that on balance it is considered that the consultation requirements of the Local Government Act 1972 should be followed. Moreover, it is felt that to do so would give an opportunity for public participation in the decision concerning appropriation before it is made. Before any final decision is made, the Council intends to place a notice of its intention in a local newspaper in two consecutive weeks and thereafter consider any objections which may be made.

- 4.11 The decision concerning appropriation which the Cabinet is asked to make at this stage will therefore be provisional and concerns the principle of appropriation. Before any final decision is made, the matter will need to be considered again following completion of the consultation exercise and after consideration is given to any objections received.
- 4.12 It is intended that any representations be considered by the Leader. The final decision to whether the land should be appropriated for planning purposes (as opposed to the in principle decision) is not being taken at this stage and will only be taken after consideration of all objections received during the proposed consultation.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 None as this is an in principle decision only and the impact of the final decision will be considered as part of the decision making process at that time.

6. PREVIOUS MINUTES

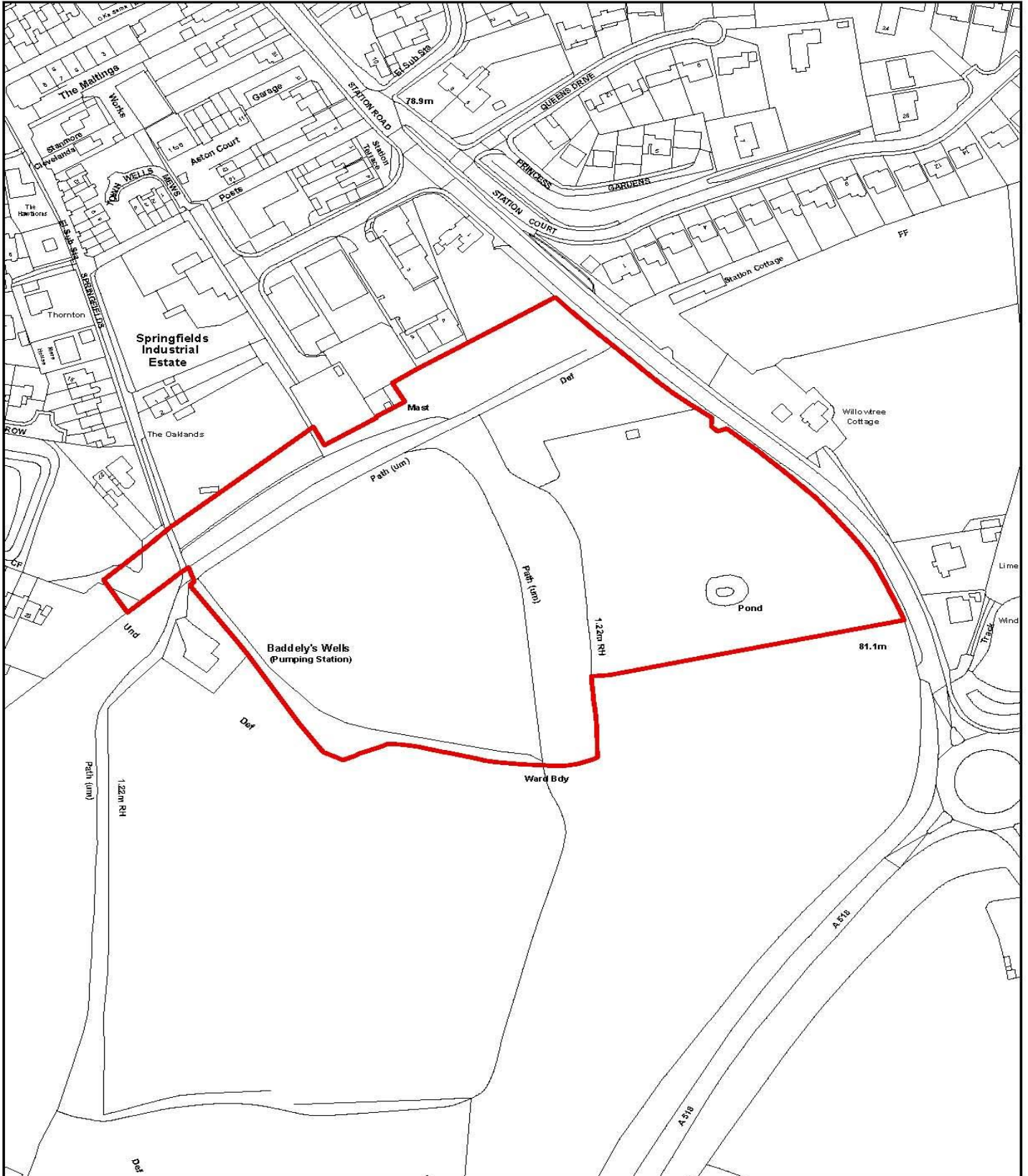
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7. BACKGROUND PAPERS

None

Report prepared by Emma Harvey, Commercial Solicitor, 01952 383255

Appendix 1 - Site



<p>Title Land off Station Road Newport Telford</p>	<p>Estates & Investments Wellington Civic & Leisure Centre Larkin Way Wellington Telford TF1 1LX</p>		
<p>Scale: 1:2,500</p>	<p>Drawn by: Arc/CVG</p>	<p>Date: 06/07/2012</p>	<p><small>Based on Ordnance Survey Mapping with the permission of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction in any form may lead to prosecution or Civil Proceedings. Borough of Telford & Wrekin Licence No. LA10001 9992 - 2012</small></p>