

CABINET

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| DATE | 22 nd June 2022 |
| REPORT OF | Councillor Philip Jackson, Leader of the Council and Portfolio Holder Economy, Net Zero, Skills, and Housing |
| RESPONSIBLE OFFICER | Sharon Wroot, Executive Director Environment, Economy and Resources |
| SUBJECT | Freshney Place Acquisition and Investment (shown for information purposes on the attached plan) |
| STATUS | Open Report. Closed Appendix NOT FOR PUBLICATION Exempt information within paragraph 3 of Schedule 12A to the Local Government Act 1972 (as amended) |
| FORWARD PLAN REF NO. | Not included on the Forward Plan therefore, to be considered under the General Exception provisions of the Constitution. |

CONTRIBUTION TO OUR AIMS

The acquisition of Freshney Place together with the delivery of the planned leisure scheme will contribute to the Council's "Stronger Economy" and "Stronger Communities" priorities by securing a strategic economic and community asset which is critical to the town centre's success. The scheme aligns with the ambitions of the Local Plan, the Grimsby Town Centre Masterplan, and the £20.9m Grimsby Town Investment Plan. The importance of developing the town centre to enhance and diversify its current offer, increase footfall and boost both the day and evening economy is widely acknowledged.

EXECUTIVE SUMMARY

It is proposed that the Council acquire Freshney Place and deliver the cinema and leisure space, food and beverage provision, improved market space, and new public realm scheme, as envisaged under the Future High Streets Fund award. This would protect the centre and its contribution to the town centre and wider North East Lincolnshire economy, whilst retaining provision to develop the scheme that will support the wider transformation of the town centre. This report provides an outline of the proposal and rationale behind it for consideration.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Authorises the Executive Director Environment, Economy & Resources in consultation with the Leader of the Council to seek approval from the Department of Levelling Up, Housing & Communities (DLUHC), for a project adjustment request to realign the residue of the £17.3m of Future High Streets Fund for the purposes set out in this report.

2. Supports the principle of acquiring Freshney Place and refers the matter to Full Council for debate and ultimate decision, commending the following recommendations to Full Council:
 - a. *That Cabinet be enabled without further formality to authorise the Executive Director Environment, Economy & Resources, in consultation with the Leader of the Council, to conclude negotiations with the Freshney Place receivers and their agents, and to acquire Freshney Place for market value as supported by independent advice.*
 - b. *That in the event of negotiations not concluding satisfactorily then Full Council supports the Cabinet decision to proceed via statutory compulsory purchase powers.*
 - c. *Full Council accepts the vagaries of negotiation for an asset of this nature and agrees to the principle of any further special meeting of Full Council being called under the terms of the Constitution.*
3. Subject to the approval of Full Council to so acquire, authorises the Executive Director Environment, Economy & Resources, in consultation with the Leader of the Council, with support from appropriate specialist external advice, to undertake and conclude negotiations with the Freshney Place receivers and their agents, and acquire Freshney Place.
4. Subject to the approval of Full Council to so acquire, and if negotiations to acquire Freshney Place do not conclude successfully, authorises the Executive Director Environment, Economy & Resources in consultation with the Leader of the Council to take all preliminary actions regarding the exercise of the Council's statutory compulsory purchase powers.
5. Authorises the Executive Director Environment, Economy & Resources, in consultation with the Leader of the Council, to seek borrowing which would, in the Director's reasonable opinion, enable acquisition of Freshney Place and development of the proposed leisure scheme, subject to the retention of Future High Streets Fund monies.
6. Authorises the Executive Director Environment, Economy & Resources, in consultation with the Leader of the Council to commence a procurement exercise to appoint professional asset management, property management, and any other key professional appointments and to carry out all activity including award, implementation and mobilisation.
7. Delegates authority and responsibility to the Executive Director Environment, Economy & Resources in consultation with the Leader of the Council to deal with all matters arising from and ancillary to the above.
8. Authorises the Assistant Director Law, Governance and Assets (Monitoring Officer) to execute all documentation arising from the above.
9. Instructs the Executive Director Environment, Economy & Resources to

update Cabinet by report in six months' time or within two months of the date of acquisition, whichever shall be the earlier and thereafter engage with the Economy Scrutiny Panel

REASONS FOR DECISION

To safeguard a critical part of Grimsby town centre's economic and community infrastructure, to halt decline through the commencement of regeneration of the centre and help safeguard up to 1700 full time equivalent jobs within Freshney Place and Top Town Market. In addition, to enable successful implementation of the Freshney Place leisure scheme, including submission of grant applications and acceptance of the funding.

1. BACKGROUND

- 1.1 The 2018 Town deal set the strategic context, amongst other socio-economic priorities, for a clear regeneration focus on Grimsby Town Centre.
- 1.2 This led to the acquisition of the Garth Lane site from ABP, acquisition of subsequent stabilisation and repair works to West Haven Maltings and the delivery of the new footbridge and public realm around Alexandra Dock. The Onside Youth Charity are now at an advanced stage in the tendering of the works for West Haven Maltings to deliver the Horizon Youth Zone which, subject to confirmation, will see a capital development of over £10m.
- 1.3 On 15th July 2020, Cabinet reviewed and approved proposals for a leisure scheme in Grimsby Town Centre, which secured a Future High Streets Fund (FHSF) grant of £17.3m, as set out in the background papers for this report. The scheme was to be supplemented by £10m of match funding, split between the Council and the owners of Freshney Place. The main purpose of the leisure scheme was to follow the previous public realm improvement works and begin the process of diversification of the town centre offer. Subsequently, Cabinet has reviewed and approved the various stages of progress regarding the scheme, including acceptance of the FHSF grant, Council match funding, partnership arrangements with the Freshney Place Shopping Centre owners, arrangements to secure additional land and properties required for the scheme, and appointment of a professional delivery team.
- 1.4 The Grimsby Town Centre masterplan, which sets the strategic context for town centre regeneration was approved by Cabinet on 14 October 2020. This also provided the basis for the Town Investment Plan submission to the Towns Fund initiative which subsequently secured £21.9m including £1m Advance Towns Fund.
- 1.5 The borough has also secured Heritage Action Zone status, over £3m of Cultural Development Funding and has recently completed the redevelopment of St James Square where funding has also been approved, as part of Towns Fund, to support E-Factor to reimagine St James House into a business centre.
- 1.6 The leisure scheme is an essential part of this holistic approach which seeks to both slow down and reverse the challenges being experienced in Grimsby Town Centre. One of the key challenges for the town centre is its over-reliance / over-supply of retail against other uses, most notably leisure.

- 1.7 Property specialists, Montagu Evans (ME) and Oxford Retail Consultants have advised that Grimsby Town Centre suffers lower consumer spend. Research highlighted that in the central Grimsby area (town centre plus 10-minute drivetime area), the average household spend on leisure is £747 compared to a UK average of £2,183. This is exacerbated by a lack of a complementary leisure offer to supplement and enhance spend. Furthermore, this research shows that Grimsby Town Centre is undersupplied in terms of the town's family leisure provision. Finally, research by Savills and the Leisure Property Forum, shows that leisure uses bring a wide variety of benefits to town centres, helping make them more resilient to a rapidly changing retail environment, including increased dwell time, improved footfall, improved night-time economy, amongst other benefits. Given the changes in retail habits both before and since the pandemic, it is essential that steps are taken to rebalance this otherwise Grimsby Town Centre will likely see further decline.

Future High Streets Fund Leisure Scheme

- 1.8 Progress had been made on matters with the development of outline designs, detailed survey work, the appointment of prominent development managers, Queensbury, together with architects and cost consultants.
- 1.9 The Council and principal lender to Freshney Place have a good relationship and when FHSF opened for bids, officers met the principal lender who was open to receiving robust strategies. A proposed scheme was discussed, and support was indicated due to the clear mutual benefits that could be realised if funding were secured. This would assist by providing wider added value to the centre as well as supporting the community of North East Lincolnshire by creating a more diverse town centre.
- 1.10 The agreed position was that both parties would invest £5m alongside a grant ask of £25m. As referred to above, £17.3m was ultimately secured.
- 1.11 The pandemic then arrived and this had a severe impact on the retail asset sector. Within that context the lender made the decision to appoint Fixed Charge Receivers in January 2022. Their brief is to dispose of the asset which means the original leisure scheme is at risk and consequently, the Council has had to re-evaluate its approach to the scheme

Delivery Options

- 1.12 When the Receivers were appointed, the Council sought professional advice from the shopping centre team at Montagu Evans an internationally recognised property consultancy.
- 1.13 To safeguard the Council's position, an interest in Freshney Place was registered and the Council was then required to sign a Non-Disclosure Agreement in order that it could receive detailed commercial information on the centre.

- 1.14 Discussions were held with the Receivers and whilst they were productive, the Receivers felt unable to commit a future unknown owner to the FHSF leisure scheme, as this would necessarily commit the owner with a further funding requirement, over and above the acquisition.
- 1.15 ME advise that the UK shopping centre investment market has seen values fall to a level which is starting to attract investor interest. Active parties now perceive that the market has bottomed out and values are stabilising, reflecting the fact that in more resilient locations rents are now broadly rebased across the market, or alternative uses underpin existing value. Equally, it is clear a generational change of ownership is occurring. The sector's traditional landlords (UK institutions, Real Estate Investment Trusts, and pension funds) have now largely sold out or are exiting all but the best shopping centre assets. Consequently, nearly half of the deals conducted in 2021/2022 were by new entrants into the sector.
- 1.16 ME have advised that they would classify prospective purchasers into four groups:
- 1.16.1 **Regeneration/Repurposing:** Shopping centres where the EUV (existing use value) is perceived to be lower than the AUV (alternative use value). These assets are located in greater London, the southeast and major regional centres where values are conducive to redevelopment. Examples include Grafton Shopping Centre in Cambridge, Templars Shopping Centre in Oxford, and Riverside Erith.
- 1.16.2 **Strategic land acquisition:** Where Local Authorities have been concerned that the defensive/undynamic commercial purchaser may take control of the area's key town centre asset, and their ownership will not be conducive to the delivery of strategic ambitions. Many Councils have stepped in – c.30 in the last 5 years. Often these assets, like Freshney Place, are in the hands of banks or disenfranchised owners and have difficult leasehold titles (which prevent capital expenditure on the assets) or mid-market/county towns where the schemes (fashion based) relevance is dissipating. Covid has increased the rapidity of change in shopping habits in these locations. In other cases, Local Authorities have purchased key town centre assets to actively intervene in order to deliver regeneration. Examples include Exeter, Guildhall Shopping Centre (Exeter CC), Cleveland Shopping Centre in Middlesbrough (Middlesbrough Council), Haymarket Shopping Centre, Leicester (Leicester CC), Banbury (Cherwell DC).
- 1.16.3 **Resilient community and convenience, existing use buyers:** Centres that are deemed to have an ongoing purpose as key parts of town centres. Often these are community and convenience focused, supermarket anchored and with tenants that traded throughout Covid and paid when they are able. There are a wide range of purchasers in this space, and lot sizes vary from The Orchard Centre, Taunton - £8.5m, to The Liberty Centre in Romford - £87m and Yate Town Centre - £58 million.

- 1.16.4 **Opportunistic buyers:** ME have seen several new entrants to the market who they advise are attracted predominantly by perceptions that the market offers value and have bought prolifically, often simply considering assets on a value per sq ft basis. Their plan is focused purely on cutting costs and maintaining income. These buyers tend to buy distressed or neglected regional assets, like Freshney Place, which offer a relatively sustainable income profile for a low price. Minimal capital expenditure is included as part of business plans and assets do not benefit from landlord driven improvements.
- 1.17 Given the challenges faced in Grimsby Town Centre, the advice the Council has received from ME is that the most likely type of purchaser for Freshney Place would fall into the Opportunistic Buyers category. Such buyers will see this as a distressed receivership sale, where the investment required would yield high revenue returns (it should be noted that whilst the centre is in negative equity, there is still a material Net Operating Income for the time being).
- 1.18 ME advises that 2021 was in some ways a transformational year for the shopping centre investment market, driven by repurposing agendas, as well as a desire to capitalise on an oversold asset class. Compared to 2020 where the impact of Covid, Company Voluntary Arrangement's, rental arrears, closed shopping centres, over-valuation, and uncertainty about income levels, led to a full year investment turnover of just over £400m across 24 schemes, 2021 represented somewhat of a rebound. Whilst levels of turnover were somewhat off 'normal' levels, over 60 schemes were sold resulting in a turnover of £1.5bn. ME are predicting c. £2bn of transactions in 2022, with the vast majority of deals continuing to be smaller lot sizes (£5-£20m) bought by more opportunistic buyers. The aim of these income return vehicles is to acquire 6-8 schemes a year which has created competition and a widening of criteria.
- 1.19 The 2022 year to date position has seen £321m of shopping centre transactions, across eighteen deals and it is believed a further ten centres are under offer at a total volume of approximately £450m. It is understood there are three local authority acquisitions occurring across these deals.
- 1.20 Local Authorities were active buyers in their town centres throughout 2020 and 2021. These transactions continue to be motivated by a focus on wider town centre regeneration and redevelopment, with local authorities seeking to control development through ownership of key assets to implement their town centre masterplan. In Bury, for example, the Council recently released a statement regarding their purchase of Mill Gate stating: 'they wish to avoid the shopping centre being acquired by an income-investor, who would potentially extract surpluses from the centre for short term gain rather than re-investing in the estate.'
- 1.21 Councils who have purchased town centre schemes over the past 2-3 years have begun to make significant progress in implementing their masterplans. For example, at the site of the Spindles Shopping Centre in Oldham, plans are in place for 2,500 homes and a new development including public greenspace. In Wigan, the council have appointed Cityheart to regenerate the 8-acre site at the Galleries shopping centre. The scheme will deliver 460 residential units, a new

market and food hall as well as a mixed-use leisure destination to revitalise the town centre with an end Gross Development Value of £135m.

1.22 A summary of the market and a breakdown of local authority activity since 2019 is included below:

| Year: | 2015 - high point of the market) | 2019 | 2020 | 2021 |
|--|----------------------------------|----------|---------|--------|
| Total Volume: | £4bn | £1.141bn | £404.6m | £1.5bn |
| Local Authority Purchase Volume: | £0 | £259.3m | £99.6m | £98.4m |
| Local Authority No of Transactions: | 0 | 12 | 8 | 10 |
| Percentage of Total Transactions- by volume: | 0% | 23% | 27% | 7% |
| Average value per sq ft: | £280 | £156 | £76 | £93 |
| Average Net Initial Yield | 6.41% | 9.08% | 12.07% | 11.53% |

1.23 If Freshney Place were to be acquired by a revenue driven “passive” owner who is unwilling to invest to deliver the FHSF leisure scheme and take steps to future proof the centre, its anticipated decline would accelerate, and the centre (including Top Town market) would undermine strategic initiatives to improve the town centre economy and deter inward investment.

1.24 As highlighted above, all the advice received indicates that Freshney Place would likely attract an opportunistic investor from the private sector, who would be unwilling to invest in a scheme to rebalance the town centre and more likely run the centre with an eye towards maximising revenue returns over a short number of years and then, potentially dispose.

1.25 Consideration was given to how the Council could partner with a new owner, along the same principles upon which the original FHSF bid was based upon. There are two key challenges here. At the time of bidding, there was a bigger picture for the owners (and indeed funders) of Freshney Place and provided the scheme did not lose money on their contribution, there was a beneficial way forward. That bigger picture does not apply to a revenue driven opportunistic investor and they would require a likely development return of minimum 20% and thereafter, an investment yield of up to 11%. The leisure scheme will not deliver returns close to these levels. The Council could of course seek to deliver the entire leisure scheme itself alongside a new owner. This would firstly require long and complex negotiations without any guarantee of success, secondly, there is insufficient time given the FHSF funding parameters the Council is bound by and thirdly, whilst not a driving factor, any associated increase to capital and/or rental values of Freshney Place would be enjoyed entirely by a third party.

1.26 Based on the above, if the Council wishes to realise the ambition for the leisure

scheme and arguably the wider town centre, consideration now needs to be given to the potential acquisition of Freshney Place.

Freshney Place

- 1.27 Freshney Place is Lincolnshire's largest shopping centre, constituting approximately 60% of Grimsby town centre's retail offer, occupying a dominant site in the heart of the town centre of 10.11 acres, being the principal driver of footfall (c.7.5million visits annually), and spending in the town centre, plus providing employment to c. 1,700 people, supporting 1 in 5 town centre full time equivalent jobs.
- 1.28 The original intention of the FHSF leisure scheme was to help sustain Freshney Place by diversifying its offer from predominantly retail, in light of the changing national consumer trends within town centres and increased retail space vacancies, which has impacted on the commercial viability of traditional shopping centres such as Freshney Place. Moreover, it was intended to act as a catalyst for the wider regeneration of Grimsby town centre. The delivery of a cinema anchored leisure scheme has been an ambition for many years and is viewed by many as being vital if an evening and family orientated destination is to be generated in the town centre.
- 1.29 The continued decline of Freshney Place would have a catastrophic impact on Grimsby town centre, which is North East Lincolnshire's principal retail centre. Grimsby town centre serves a wide retail catchment population of 306,000 and retains an above average level of shoppers compared to other smaller town centres, according to national retail data, reflecting the lack of a competing centre locally. Therefore, Grimsby town centre plays a vital role, providing a focal point for the North East Lincolnshire area.
- 1.30 As outlined above, Freshney Place is a core component of Grimsby's economic and community infrastructure and critical to the success of the town centre. Its demise would not only have a significant economic impact on the town centre and wider area but would also undermine delivery of the masterplan and wider town centre investments planned or underway.
- 1.31 Freshney Place is a significant asset within the Grimsby town centre, but the Council has not been able to utilise it fully to enact the transformational change it seeks within the town centre. Therefore, besides safeguarding against the longer-term impacts of potential closure, the acquisition of Freshney Place would enable the Council to consider longer term asset management objectives and utilise the centre as a core component of wider town centre transformation.

Freshney Place Acquisition

- 1.32 Discussions have taken place with the lender and Receivers supported by a valuation completed by ME on behalf of the Council. This has formed the basis of initial 'subject to (democratic) approval' discussions which have thus far not found favour. Despite some discussions that indicated an off-market transaction could be entered into direct with the Council provided it was supported by two independent valuations, the Receivers decided to take the property to the

market in May and have issued a deadline for offers week commencing 13 June 2022.

- 1.33 Initial information provided by the Receivers has proven insufficient to provide assurance on key building matters and the Council has therefore commissioned further survey work. Other due diligence has been undertaken and the Council has also identified external legal support should a decision be made to acquire.
- 1.34 As mentioned, the marketing process is likely to be concluded during the week commencing 13th June 2022. The Council has been very open, subject to approval, that it believes the acquisition of Freshney Place is of strategic importance to deliver transformational regeneration. The Council will of course submit an offer which would be subject to Cabinet and Full Council approval. However, if, having sought to negotiate terms (two subject to contract offers rejected without counter-proposals) and having previously raised the potential for compulsory purchase with the principal lender, the Receivers and the agents, the Council is not able to reach agreement for the acquisition, it is recommended that the commencement of compulsory purchase proceedings are approved in order to safeguard the ability to deliver the leisure scheme in the context of the wider town centre. This would supplement Cabinet approval on 15th July 2020, which enabled prospective Compulsory Purchase Order proceedings related to third party land ownership required for the FHSF leisure scheme, though action has not been required to date.
- 1.35 If terms can be agreed, then the Receiver and the lender will reasonably expect swift progress. In this regard, detailed due diligence will continue and there would be an aim to complete matters in a timely fashion.

Proposed Future Management

Asset Management

- 1.36 The Asset Management of Freshney Place concerns the management of the centre to derive the optimum use and income through the management of leases, tenancy arrangements and commercial use of the space available. The function is currently undertaken by agents acting on behalf of the owners of Freshney Place. Future asset management would be an appointment in its own right although it is of benefit if it aligns closely with the Property Management element, outlined below, so the two are collaborative with a common goal. The Asset Management team would agree and implement the business plans for Freshney Place, with and on behalf of, the Council. They would focus on keeping the centre occupied, ensuring future income generation is planned for, and helping enable delivery of the leisure and market hall development, and other major asset management initiatives. This is a separate consultancy fee that is not covered by the service charge of Freshney Place and will be procured by the Council.
- 1.37 To all intents and purposes, Freshney Place would be run as an arm's length asset. The asset would be managed by experienced professionals with the remit to make day to day decisions. It is anticipated a senior board would be established with appropriate governance within the Council and the Asset Management team would report to and advise this on a regular basis.

Property Management

- 1.38 Property Management is a different discipline but closely aligned to that of Asset Management. Freshney Place is currently managed by a company appointed by the owners, who carry out the day to day running of the centre such as security maintenance and on-site teams. This arrangement will not continue after the acquisition, although a short-term retainer arrangement of four to eight weeks could be put in place to allow handover to a new provider. However, the majority of the centre property management arrangements/contracts should change at the time of the acquisition and therefore the Council will seek to commence the procurement of a new property management provider immediately, to ensure any interim arrangements can be concluded and a new property management team put in place, subject to acquisition.
- 1.39 The annual cost of property management forms part of the service charge budget of Freshney Place. Therefore, this does not need to be budgeted for by the Council.
- 1.40 The Asset and Property Management functions are usually separate appointments but can be awarded jointly as there are potential financial and reporting benefits of both roles being undertaken by the same provider.
- 1.41 The Council will commence procurement of both Asset Management and Property Management providers (potentially joint) should Heads of Terms be agreed regarding the acquisition of Freshney Place Shopping Centre.

2. RISKS AND OPPORTUNITIES

- 2.1. The key risks associated with purchasing Freshney Place are:
- additional costs relating to the condition and ongoing maintenance of the building may arise.
 - future income generated by Freshney Place may not be retained.
 - reputational risk to the Council, should the acquisition not be successful; and,
 - reputational risk to the Council, should it acquire Freshney Place, but not be successfully managed.
- 2.2. Specialist structural, mechanical & electrical, concrete and building surveyors have been undertaking further surveys, which will be reported back to the Council regarding any potential additional costs that might arise.
- 2.3. A critical risk assessed projection of future income that Freshney Place may generate has been made. However, future market, economic and occupational changes may still affect future income generation from the centre. However, specialist asset management support will be procured for Freshney Place, which will support promotion of the centre and seek to retain/attract tenants to it.

- 2.4. In addition to the projections and asset management elements highlighted above, the development of a successful leisure scheme would help dilute the current over-reliance on retail space within Freshney Place and provide a more diverse offer, which would enable it to tap into the leisure and food & beverage market and open it up to different tenants, therefore providing greater opportunity to attract and retain tenants.
- 2.5. As highlighted in paragraphs 1.16 and 1.17, should Freshney Place not be acquired by the Council then it could likely be, by an opportunistic investor. This would impact upon the wider regeneration initiatives underway within Grimsby Town Centre and risk losing momentum in creating public pride in our place. Therefore, this report sets out the opportunity to acquire Freshney Place and how this would support the wider regeneration of the town centre.
- 2.6. If the Council acquires Freshney Place, but robust management is not put in place then reputational risk to the Council could ensue. As highlighted paragraphs 1.36 to 1.41, it is intended that the Council will procure specialist management support, who would run the centre as an arm's length operation, reporting into the Council. This will ensure appropriate management expertise is in place.
- 2.7. The key risks associated with the leisure scheme development are:
- additional costs relating to the condition of existing buildings and construction costs for proposed buildings.
 - future income generated by the leisure scheme may not be retained.
 - reputational risk to the Council, should the leisure scheme development not be successful; and,
 - reputational risk to the Council, should leisure scheme development not be successfully managed
- 2.8. The original scheme had undertaken specialist survey work, which had supported the original FHSF bid and had been updated subsequently. Further survey work has also been undertaken in support of the latest plans and the scheme has been modified to reflect the outcome of these.
- 2.9. Further building surveys have been undertaken, which are also exploring additional income generation opportunities that could be developed within the scheme.
- 2.10. The Council, through its regeneration partner, EQUANS, already runs the Top Town Market operation and has developed extensive management expertise.
- 2.11. Having secured significant regeneration funds to deliver transformative projects across the town centre, the loss of the leisure scheme could be perceived by the public as the Council promising improvements, but not delivering and therefore risk losing the momentum in creating public pride in our place. Therefore, this report sets out the opportunity to develop the leisure scheme development and how this would support the wider regeneration of the town centre.

3. OTHER OPTIONS CONSIDERED

- 3.1. **Not Acquire** – Not acquiring Freshney Place would mean the Receivers being reliant on securing a purchaser for the centre, which in the current opportunistic climate is likely. This would mean that a likely purchaser could seek to minimise costs, reduce fresh investment, and take maximum income from the centre. It would likely lead to a prolonged period of little or no investment in the centre, leading to further decline in its attractiveness to tenants, which would result in further vacancies, an unappealing destination for consumers, decreased footfall in the town centre, and a deterioration in the wider town centre economy. In addition, the original leisure scheme would not be deliverable in its current form, should an opportunistic investor acquire the centre. This would negatively impact on the Council's transformational regeneration ambition for Grimsby town centre, including the impact of projects already underway or planned.
- 3.2. **Fund from Council Resources** – The Council could retain its original FHSF allocation for the leisure scheme and consider funding the acquisition of Freshney Place from its own resources. This is possible but would significantly increase the level of borrowing undertaken by the Council and lead to service pressures. However, given there is currently an opportunity to reutilise FHSF grant towards the acquisition of Freshney Place and bid for LUF to fund the leisure scheme, it is considered prudent to pursue this as, if successful with both FHSF and LUF funding, the impact on the Council's own finances and borrowing commitments would be significantly reduced.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 4.1. As outlined above, the decline of Freshney Place and Top Town Market would have a significant impact on the North East Lincolnshire economy and community. This would have a negative impact not only on the Council but the whole area, reinforcing impressions that the area is being left behind, or not receiving adequate investment.
- 4.2. Although the Council is operating in a challenging financial environment, the acquisition of Freshney Place and subsequent delivery of the leisure scheme, generation of an evening economy and improved income from car parks, and an improved Market Hall offer, would be a positive intervention to not only safeguard the centre, but also generate positive reputational and communications impacts, enhancing the Council's reputation with residents and stakeholders.
- 4.3. Visible investment in Grimsby town centre would enhance the wider transformational regeneration projects currently ongoing, or in development, providing benefits for residents, businesses, investors, and visitors.
- 4.4. A communications plan has been developed which identifies all stakeholders including those who will be directly impacted by the scheme. Subject to support of this report, the key stakeholders, including Freshney Place tenants, the market traders, Old Market Place and Flottergate retailers, and property owners will be presented with information on the acquisition of the centre, plus a point of contact for further enquiries will be established. Further engagement is planned as the scheme progresses, with plans for a focus group to be set up to

allow for more regular detailed discussions and input. The professional delivery team will be part of future stakeholder engagement.

5. FINANCIAL CONSIDERATIONS

5.1. The financial considerations are further explored in the CLOSED appendix.

Freshney Place Acquisition

5.2. Officers have been in liaison with the Department for Levelling Up Housing & Communities (DLUHC), which is responsible for FHSF, to keep them up to date with matters appertaining to the Receivership and have been open with them about the challenges. Recently, officers have explored whether it would be feasible to reallocate the funding to support the acquisition of Freshney Place and a project adjustment request has been submitted to DLUHC in this regard.

5.3. The remaining Grimsby FHSF allocation is £16.5m. Some funds have already been utilised on developing the leisure scheme, primarily on design, cost consultant and surveys fees.

5.4. It is proposed that subject to DLUHC approval, this remaining allocation be used towards acquiring Freshney Place Shopping Centre. The reallocation of FHSF monies will still require the Council to undertake prudential borrowing to cover acquisition and on-costs. The detail of proposed prudential borrowing is set out within the CLOSED appendix to this report.

Leisure Scheme Costs

5.5. As referenced, the original concept for the leisure scheme was for the Council to partner with Freshney Place in a £25m scheme whereby both parties would contribute £5m each of match funding. The Council ultimately secured £17.3m. Queensberry, acting for the Council, have undertaken a cost appraisal of the leisure scheme and the current advice, given the information available, is that the scheme will cost £30.9m. The original business case anticipated a net cost, before match, of £27.3m. This is largely due to the well documented challenges to construction costs brought about by the pandemic and which have since been exacerbated with general inflationary pressures.

5.6. Given the Council is seeking to acquire Freshney Place, the private match from the owners of Freshney Place would obviously not be forthcoming.

5.7. Subject to the FHSF being reallocated as described above, this opens up the opportunity to seek funding to support the delivery of the leisure scheme. On that basis, a Levelling Up Fund (LUF) bid is being developed, utilising the plans contained within the original FHSF submission and previously approved by Cabinet. This is referenced in the separate Cabinet report on LUF.

5.8. Part of the evaluation of LUF is evidence of project deliverability. Consequently, it is imperative that the Council has, or is in the process of securing, control of Freshney Place, as this is critical to the delivery of the leisure scheme.

- 5.9. The deadline for LUF bids is noon on 6 July 2022, and Genecon, who supported the original FHSF bid and project adjustment process, has been appointed to support the Council in preparing this bid, via the LUF Capacity Fund grant, secured in 2021.
- 5.10. If this bid were unsuccessful, then the Council would have to assess how it would deliver the leisure scheme utilising alternative funding sources.
- 5.11. The maximum grant that the Council can bid for is £20m and if successful, would substantially contribute to the costs of the leisure scheme.
- 5.12. The table below outlines the priority funding options regarding Freshney Place acquisition and the Leisure Scheme development.

| | Option | Freshney Place (FP) Acquisition Requirements | Leisure Scheme Development Requirements |
|---|---|---|--|
| A | FHSF Adjustment and Levelling Up Fund bid successful. | FHSF plus prudential borrowing to acquire FP. | LUF plus prudential borrowing to fund the leisure scheme. |
| B | FHSF Adjustment approved but Levelling Up Fund bid unsuccessful | FHSF plus prudential borrowing to acquire FP. | No LUF – alternative funding required to develop the leisure scheme. |
| C | FHSF remains allocated to the Leisure scheme. | Alternative funding required to acquire FP. | FHSF and balance funded through prudential borrowing. |

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

- 6.1. Acquisition of the site will support the longer-term strategic future of Freshney Place Shopping Centre, which will provide improved amenities for children and young people in the North East Lincolnshire area.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

- 7.1. The scope to minimise the impact on the environment is considered in all capital schemes.

8. CONSULTATION WITH SCRUTINY

- 8.1. There has been no pre-decision Scrutiny engagement, but the recommendations envisage full engagement with the Economy Scrutiny Panel following acquisition.

9. FINANCIAL IMPLICATIONS

- 9.1. The precise financial implications of decision to acquire and invest in Freshney Place would be dependent on a range of factors, including the agreed purchase price, professional fees, the final design and cost of the proposed leisure development, the level of external funding obtained, and future income streams generated from the overall scheme. In any event, the Council will be required

to undertake a level of additional borrowing in order to deliver the whole scheme.

- 9.2. The Council has broad discretion over its capital spending and finance plans to achieve its local priorities. There are a range of financing options available to the Council although it is anticipated that this development would largely be funded via a traditional external borrowing route. Whilst capital investment such as that proposed is necessary to deliver the Council's key priorities and ambitions, any investment needs to be guided by the Prudential Code which requires Council borrowing to be affordable, sustainable, and prudent.
- 9.3. It is important to note that the Government has become increasingly concerned that there has been an upwards trend of PWLB loans being used by Local Authorities to buy investment properties, with the "primary aim" of generating yield, which is not considered an appropriate use of the loans. It is not considered that the primary aim of this development is to generate yield.
- 9.4. At present the Council's Capital Investment Strategy requires that capital financing costs will not exceed 10% of the net revenue budget over the life of the capital programme. In the event the LUF bid is not successful the Council would have to undertake additional borrowing which it is likely would add to the Council's capital financing costs and in the short term take the Council above this current internally defined threshold. However, it is anticipated that once the development was complete it will generate revenues which bring this indicator back into line.
- 9.5. Financial modelling and sensitivity analysis undertaken suggests that the scheme would in any event deliver a surplus for the Council. The level of the surplus would be primarily dependent on the level of external funding generated, rental income and the success of the leisure scheme.

Section 151 Statement

- 9.6. As Section 151 Officer, my view is that the proposed acquisition and development is consistent with the Council's financial strategy which focuses on achieving financial sustainability through funding and supporting economic and housing growth.
- 9.7. Based upon the financial analysis undertaken to date, the additional borrowing is considered to be affordable, sustainable, and prudent. Whilst the additional borrowing would add to the Council's capital financing requirements, the additional revenues generated from the scheme would more than offset these costs once fully developed.
- 9.8. Any further investment in the scheme over and above that outlined in this report would need to be subject to a separate business case development and appraisal process.
- 9.9. It is my view that proposed investment in the scheme is not being undertaken with the "primary aim" of generating yield and therefore is an appropriate use of loans and does not contravene Government guidance which could otherwise

restrict the Council's future access to public sector borrowing.

- 9.10. The precise financial implications of a decision to acquire and invest in Freshney Place would be dependent on a range of factors, including the agreed purchase price, professional fees, the final design and cost of the proposed leisure development, the level of external funding obtained, and future income streams generated from the overall scheme. In any event, the Council would be required to undertake a level of additional borrowing in order to bring the development forward in the first instance.
- 9.11. The major factor influencing the actual level of borrowing is likely to be the success, or otherwise, of the Council's proposed Levelling Up Fund bid for Grimsby Town Centre. Whilst the additional borrowing would add to the Council's capital financing requirements, the additional revenues generated from the scheme would more than offset these costs once fully developed.
- 9.12. Financial modelling and sensitivity analysis undertaken suggests that the scheme would deliver a small surplus for the Council, which it is proposed would be ringfenced in order to reinvest in further enhancements to the asset. On this basis the additional borrowing is considered to be affordable, sustainable, and prudent.

10. LEGAL IMPLICATIONS

- 10.1. A range of statutory provisions enable the Council to acquire property through agreement or otherwise for either the delivery of its services and functions or for the benefit, improvement, or development of the borough (s120 Local Government Act 1972. S227 Town and Country Planning Act 1990).
- 10.2. From a constitutional and governance perspective, the availability of Freshney Place and its potential acquisition is an unplanned for opportunity. It does not feature in the Economic Strategy (Development and Growth), nor did it feature in the budget process supported by Cabinet and Full Council in February 2022. As such any decision to acquire would fall outside the Constitutional Policy Framework. The Constitution is clear that in such cases the decision falls to be a function of Full Council. That position is further reinforced by reference in the Budget and Policy Framework Procedure Rules which reflect that in the event of a matter falling outside the Policy Framework "the decision must be referred by that body or person to the Council for decision".
- 10.3. Therefore, the position of Cabinet in supporting the principle of acquisition, subject to referral to Council, is appropriate. The decision whether or not to acquire rests squarely with Full Council.
- 10.4. It is settled law that local authorities are able to acquire such assets either voluntarily or compulsorily, invest and borrow. This is on the basis that in doing so, the Council's primary purpose is regeneration and supporting growth of the local economy, as opposed to an acquisition merely to generate a commercial return. The content of the above report robustly sets out the context and landscape of Council intervention by a number of innovations and schemes in the town centre, designed to act as catalysts to local growth and resilience of the local economy.

10.5. In considering the acquisition of such an asset there are many legal implications that arise. Issues of title due diligence, lease analysis, income, and expenditure in terms of rental yield, service charge, taxation, employment, condition etc. Given recognised capacity issues it is proposed that external legal and other professional support be engaged with. This will be on the basis of a team approach with expertise across a number of disciplines, not to mention property professionals as mentioned in the above report, surveyors, auditors, and accountants.

Monitoring Officer Statement

10.6. In outlining the legal implications that arise, the Monitoring Officer is of the sound opinion that the Council is acting within its powers, that such acquisition (if supported) is lawful, and one which furthers the Council's stated ambitions and strategic aims of stronger economy, stronger communities. This opinion is supported by eminent and nationally recognised counsel. The content of the report provides assurance of the Council's motives and purposes, being those of regeneration and strengthening the local economy. Control of the key town centre asset as a route to regeneration and enablement of projects already in train, will be powerful in underpinning existing strategies and policies.

11. HUMAN RESOURCES IMPLICATIONS

11.1. Subject to the Property management procurement, there are no direct HR implications for the Council. This will be kept under review.

12. WARD IMPLICATIONS

12.1. Freshney Place is situated within the West Marsh ward.

13. BACKGROUND PAPERS

13.1. 15th July 2020 – Future High Street Funding Cabinet Report – <http://www.nelincs.co.uk/wp-content/uploads/2020/07/Future-High-Street-Funding-Cabinet-Report.pdf>

13.2. 17th February 2021 – Future High Street Funding Cabinet Report - <https://democracy.nelincs.gov.uk/wp-content/uploads/2021/02/3.-Future-High-Streets-Fund.pdf>

13.3. 16th June 2021 – Future High Street Funding Cabinet Report – <https://democracy.nelincs.gov.uk/wp-content/uploads/2021/05/12.-Future-High-Street-Fund.pdf>

13.4. 20th October 2021 – Future High Street Funding Cabinet Report - [5.-Future-High-Streets-Fund.pdf](https://www.nelincs.gov.uk/assets/uploads/2020/12/Grimsby-Masterplan-Report.pdf)

13.5. Grimsby Town Centre Masterplan - <https://www.nelincs.gov.uk/assets/uploads/2020/12/Grimsby-Masterplan-Report.pdf>

14. CONTACT OFFICERS

- 14.1. Damien Jaines-White, Assistant Director Regeneration
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- 14.3. Guy Lonsdale, Deputy S151 Officer
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COUNCILLOR PHILIP JACKSON

LEADER OF THE COUNCIL AND

**PORTFOLIO HOLDER FOR ECONOMY, NET ZERO, SKILLS AND
HOUSING**

