



**AGENDA ITEM: 6(i)**

**CABINET: 1<sup>st</sup> July 2014**

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**Report of: Assistant Director Housing and Regeneration**

**Relevant Managing Director: Managing Director (Transformation)**

**Relevant Portfolio Holder: Councillor A. Fowler**

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**SUBJECT: COUNCIL LAND AT WHITEMOSS**

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Wards affected: Skelmersdale South Ward

**1.0 PURPOSE OF THE REPORT**

1.1 To seek authority to resist the Compulsory Acquisition of land owned by the Council at Whitemoss, shown stippled on the plan in the Appendix (the Land).

**2.0 RECOMMENDATIONS TO CABINET**

2.1 That the current position be noted.

2.2 That the Assistant Director Housing and Regeneration in consultation with the relevant Portfolio Holder be authorised to take all necessary steps to conduct the Council's case in relation to resisting the Compulsory Acquisition of "the Land" by Whitemoss Landfill Ltd. and all matters incidental thereto having regard to paragraph 4 of the report.

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**3.0 BACKGROUND**

3.1 Whitemoss Landfill Ltd. wish to extend their business venture at Whitemoss, Skelmersdale (the Project). "The Project" has been designated a Nationally Significant Infrastructure Project by the Secretary of State under the Planning Act 2008. A motion relevant to "the Project" was considered at the Council meeting in April 2014 when it was determined that :

- A. That Council notes that Whitemoss Landfill has applied through the national infrastructure plan to extend the size of the Whitemoss Landfill site.
  - B. That Council is concerned about the detrimental impact that any extension will have on the future regeneration of the town and the health and well-being of its residents
  - C. That Council supports the concerns that have been raised by the residents, businesses and Elected Members in relation to the extension of this site.
  - D. That the Managing Directors be asked to write to the Secretary of State, with a request to allow the decision, in relation to this matter, to be determined locally.
- 3.2 When projects are designated as Nationally Significant Infrastructure Projects powers are available to the Applicant which allow him to seek to Compulsory Acquire land where he considers the land is required for the development or is required to facilitate, or is incidental, to the Development. This will be determined by the Planning Inspector following the Compulsory Acquisition Public Inquiry.
- 3.3 To facilitate this development, Whitemoss Landfill Ltd. are seeking to acquire land in the area and this includes “the Land”. Despite robust resistance by the Council, Whitemoss Landfill Ltd have already successfully claimed part of the Council’s land at Whitemoss through a claim via the Land Registry for Adverse Possession and this is shown hatched on the Appendix.

#### **4.0 CURRENT POSITION**

- 4.1 Whitemoss Landfill Ltd. (WLL) has identified “the Land” as being required to facilitate, or which is incidental to, their development under Section 122(a) of the Planning Act 2008. This follows a rejection by the Council of their recent request to sell the land voluntarily.
- 4.2 Officers are preparing a case to resist the Compulsory Acquisition. External specialist advice and support has been sought to ensure that the case made is robust, in order to protect the Council’s other landholding in the WhiteMoss area.
- 4.3 The Statement of Reasons submitted by WLL as part of the application do not in the view of officers demonstrate that the statutory grounds for compulsory acquisition of “the land” are met. This will form part of the presentation to the Planning Inspector.
- 4.4 Other matters being considered which may form part of the Council’s argument are the drainage position of the land and its contribution to the SUDS system which the Council installed when the WhiteMoss Business Park was built.

4.5 The impact of Whitemoss Landfill Ltd. acquiring this land could lead to ongoing issues in the area and because of this, an urgent decision was taken by the Assistant Director Housing & Regeneration in consultation with the Leader and Portfolio Holder to take initial steps to defend the Council's position and not to be compelled to sell "the Land". The initial steps comprise engagement of specialist advice and submission of the written representations.

## **5.0 WAY FORWARD**

5.1 This report brings Members up to date. Members are asked to confirm that they wish to continue to defend the position and incur the relevant costs.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 To date existing budgets have been utilised in resisting the adverse possession claim. It is estimated that a budget of £10,000 will be required to defend the remainder of the land against a claim for Compulsory Acquisition.

7.2 The value of the land is difficult to value precisely. The initial offer received from Whitemoss Landfill Ltd was for £14,000 inclusive of costs. Any residual costs would be met by the major projects reserve. The specialist Solicitor now acting for the Council in this matter has confirmed that the applicant's costs of the compulsory acquisition process will only be payable by the Council if the Council acts unreasonably and that behaviour results in the aggrieved party incurring unnecessary costs.

## **8.0 RISK ASSESSMENT**

8.1 If action to resist the claim is not taken it is likely that the Planning Inspector will make a Compulsory Acquisition Order in respect of "the Land".

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices**

Appendix – Site Plan