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## **NORTH AYRSHIRE COUNCIL**

**27 June 2018**

### **North Ayrshire Council**

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**Title:** **Car Park, New Street, Stevenston – Compulsory Purchase**

**Purpose:** To approve the compulsory purchase of land required to provide parking places in Stevenston town centre; relieving and preventing congestion.

**Recommendation:** That the Council resolves to make a Compulsory Purchase Order to be called "The North Ayrshire Council (Car Park, New Street, Stevenston) Compulsory Purchase Order 2018" as detailed in the proposals section of this Report

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### **1. Executive Summary**

- 1.1 The closure of the car park at New Street, Stevenston has had an adverse impact on Stevenston town centre. Attempts to reach agreement with the owner to purchase the land have been unsuccessful.
- 1.2 To secure the use of the car park in the long term, the acquisition of the land is considered the preferred option and a compulsory purchase order is necessary to achieve this.

### **2. Background**

- 2.1 The car park at New Street, Stevenston is owned by Europe & Jersey Estates Limited (the "Owners") and is situated to the south of Main Street between New Street and Afton Street, adjacent to a shopping development. This area has been used for car parking since, in or around, 2000 when the development was completed.
- 2.2 At that time the Council entered into a Section 75 Agreement with the Owners in connection with this development which provided that the Owners would construct a car park and car park access road with adjacent footpaths. In terms of the Agreement, the Council had the option for a period of one year following completion of the development to enter into a licence agreement with the Owners in relation to the car park but this option was not exercised and has now expired.
- 2.3 The car park has, since 2000, been available for use in connection with the development and for members of the public visiting Stevenston town centre, but access has been prevented by the Owners since February 2018. As a result, there has been a significant adverse impact on tenants and customers of the development as well as the public.

- 2.4 A Motion was passed by the full Council at its meeting on 9 May 2018 which condemned the decision to close the car park in New Street Stevenston, noted the significant impact the closure had on Stevenston and instructed officers to
- i) examine parking provision within Stevenston to identify the extent of any shortfall;
  - ii) explore whether reasonable terms can be agreed with Europe and Jersey to acquire the car park
  - iii) identify whether there is alternative car parking provision elsewhere in the areas; and,
  - iv) investigate the potential to improve disabled car parking to support the most vulnerable.

The Motion also called on the Owners, in the interim, to show good faith by re-opening the car park pending such investigation. The Owners did not do this.

### **Progress since the Council Meeting on 9<sup>th</sup> May 2018**

- 2.5 A review has been carried out of other car parking options within Stevenston town centre but no other area of ground has been identified which would provide satisfactory parking sufficient to relieve congestion in the town centre. The New Street car park provides the main off-road car parking provision within the town centre area, particularly for less able and disabled users. The Town Centre Parking Strategy identifies it as the most frequently used car park within the town centre on weekdays and the second most frequently used car park on weekdays.
- 2.6 The remaining car parks within or near to the town centre are predominantly within private ownership with the exception of the Council owned car park in Afton Road. These car parks are less accessible to less able and disabled users due to the topography of the town. It is accordingly considered essential that the use of this area of land for car parking is secured.
- 2.7 Since the Council meeting in May Council officers have continued to be in regular contact with the Owners with a view to securing the reopening of the car park and the potential purchase or lease of the site.
- 2.8 As part of this process, the Council instructed the District Valuer to prepare an independent value for the site. The Owners seek a price which is four times this valuation, well outwith the range of valuations which could be certified as representing fair market value. Due to these differences in valuations of the site, the Council proposed a lease and issued draft Heads of Terms to the Owners. The Owners have responded to the effect that a number of the items in the Heads of Terms are unacceptable to them. Currently it appears unlikely that suitable lease or licence terms can be agreed which would safeguard the value of the capital investment in the car park which would be required to bring it up to standard
- 2.9 It has, accordingly, not been possible to reach an agreement with the Owners on the acquisition or lease of the car park on satisfactory terms and, while negotiations are ongoing, it is considered that these are unlikely to result in a positive outcome. In all of these circumstances, compulsory purchase is the appropriate means to proceed. If the dispute is solely over value, this also provides a means whereby the Lands Tribunal can determine the value.

- 2.10 It is also recognised that there are significant benefits to purchasing the car park rather than leasing it from the Owners as this would secure its long term future use as a car park for the community of Stevenston.
- 2.11 In addition, the purchase would secure value for money and an appropriate level of return for the public purse for (i) any expenditure required to bring the car park up to an adoptable standard and (ii) any on-going expenditure in relation to the car park including maintenance costs.

### **Compulsory Purchase Order**

- 2.12 The Compulsory Purchase Order will require to be advertised and notified to the Owners and any other person with an interest in the affected land. Thereafter there is a period for objection and any objections which cannot be resolved will in due course be determined at a public inquiry before a Reporter appointed by the Scottish Ministers. If the Order is confirmed there requires to be a further advert period prior to title being completed.
- 2.13 Disputes in relation to compensation can also be referred to the Lands Tribunal for Scotland. The estimated timescale for an opposed Compulsory Purchase Order is in the region of 18 months or more and officers therefore propose that the Council commence the compulsory purchase procedures as soon as possible. In the meantime, negotiations will continue with the Owners in the hope of reaching an earlier resolution of the matter.
- 2.14 The rights of the owners of land or property under the Human Rights Act 1998 must be considered before deciding to make a Compulsory Purchase Order. In this connection, it is considered there is a compelling case in the public interest for acquisition of the ground to secure car parking in Stevenston town centre and a compulsory purchase order would strike an appropriate balance between public and private interest.
- 2.15 If the Order is promoted in terms of the legislation the Owners and any other person having an interest in the land have a right to object to the proposed Order at a fair, independent and public hearing and are also entitled to statutory compensation in respect of their interest in the land. In the absence of agreement, compulsory purchase is accordingly considered to be both necessary and proportionate in the circumstances.

## **3. Proposals**

- 3.1 The Proposal is that the Council make the following resolution:

"That The North Ayrshire Council resolves in exercise of the powers conferred by Sections 32 and 40 of the Road Traffic Regulation Act 1984 and in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to make a Compulsory Purchase Order to be called "The North Ayrshire Council (Car Park, New Street, Stevenston) Compulsory Purchase Order 2018" to purchase compulsorily ALL and WHOLE the area of ground extending to 1,609.94 square metres or thereby at New Street, Stevenston being property which is required to provide suitable parking places for vehicles in Stevenston town centre to relieve or prevent congestion of traffic, authorise and instruct the Senior Manager, Legal Services to sign the Order and Plan on behalf of the Council; affix thereto the Common Seal of the Council, submit the Order and Plan to the Scottish Ministers for confirmation; give the appropriate notice to the owners and occupiers of the

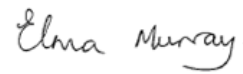
subjects; insert the appropriate notice in the local press and certify to the Scottish Ministers that the subjects (a) do not belong to the local authority; (b) have not been acquired by statutory undertakers for the purposes of the undertaking; (c) do not form part of a common or open space (d) are not held inalienably by the National Trust for Scotland; and (e) are not listed as being of special historical or architectural interest under Section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and take all steps necessary to complete the compulsory purchase procedures".

#### 4. Implications

<b>Financial:</b>	The cost of compensating the land owner will be met from existing budgets including the Town Centre Parking Strategy budget. The cost of the on-going maintenance of the car park will be met from the existing Place budget for car park maintenance.
<b>Human Resources:</b>	There are no human resource implications arising from this report.
<b>Legal:</b>	A compulsory purchase order is the only way to complete title to land where the owner is unwilling to agree a voluntary transfer, or where the Owner seeks a payment significantly in excess of the value determined by the District Valuer. The process can take some time to complete, but commencing the procedure does not preclude continuing negotiations with the owner.
<b>Equality: Children and Young People:</b>	Securing the car park for public use will ensure that less able and disabled users are able to access town centre facilities, services and shops.
<b>Environmental &amp; Sustainability:</b>	There are no environmental or sustainability implications
<b>Key Priorities:</b>	<p>The purchase of the car park to secure it for town centre parking will contribute to the delivery the Town Centre Parking Strategy. It will also contributes to the delivery of the Council Plan's mission to improve the lives of North Ayrshire people and develop stronger communities by:</p> <ul style="list-style-type: none"> <li>• Growing our economy, increasing employment and regenerating towns through sustaining town centre parking.</li> </ul>
<b>Community Benefits:</b>	There is no potential to include a community benefit clause within this process however its purchase will directly benefit the residents of and visitors to Stevenston.

## 5. Consultation

- 5.1 Consultation has been undertaken with the Elected Members for the Stevenston Ward. All Elected Members are in support of securing the long term future of the car park.
- 5.2 Consultation has been undertaken with Place Services on the long term maintenance of the car park. Place has agreed to adopt the car park for maintenance purposes and meet the cost of the works associated with this from existing resources.



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Elma Murray OBE  
Chief Executive

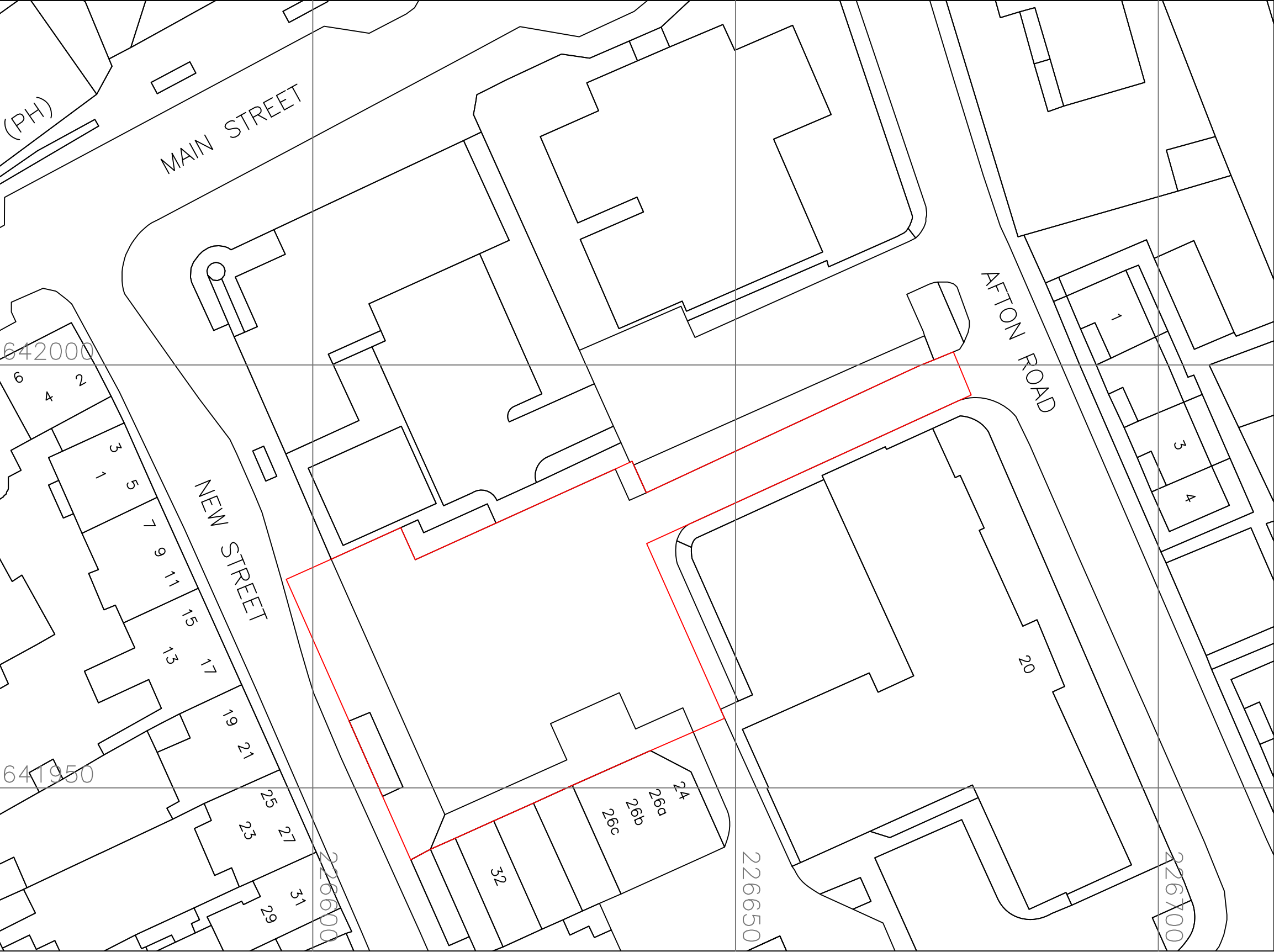
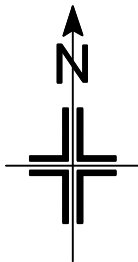
For further information please contact **Andrew Fraser** on **01294 324125**.


### **Background Papers**

**North Ayrshire Town Centre Parking Strategy 2014 - 2020**

Car Park, Afton Road, Stevenston

Area within red boundary = 1609.94m<sup>2</sup> or thereby





North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

DRAWN BY	Diane Wildridge
DATE	13/06/2018
DRAWING No	2634
SCALE	1:500
OS SHEET	NS264INE