



REPORT OF THE LEADER OF THE COUNCIL

PROPOSALS IN RESPECT OF WHITE HILLS PARK FEDERATION TRUST AT BRAMCOTE

Purpose of the Report

1. To seek approval for a revised approach to disposing of land assets and a joint investment in a new Secondary School at Bramcote for the White Hills Park Federation Academy Trust. The revised approach will improve on the financial return to the County Council whilst still securing the redevelopment of a new high quality school facility and supporting the delivery of new homes in line with the emerging Broxtowe Local Plan.
2. The proposed revised approach is further to a previous report agreed by Policy Committee on 18th October 2017. The reasons for the revised approach are set out in the report.
3. To approve the revised approach as set out in the **Exempt Appendix**.
4. To vary the capital programme to establish a budget of £500K to undertake preliminary work in support of the prospectus, planning application and ancillary activities for the land assets, subject to the detail of costs being reported to the Corporate Asset Management Group.
5. For the Council to enter into any legal documentation that is necessary to give effect to these proposals, such terms to be in a form that is approved by the Group Manager for Legal, Complaints and Democratic Services

Information

6. On 18th October 2017 Policy Committee approved terms for the freehold disposal of land to White Hills Park Federation Trust (WHPFT) to support its aspirations for new school buildings.
7. Some information relating to this report is not for publication by virtue of Schedule 12A of the Local Government Act 1972 because the information relates the financial business affairs of the WHFT and the Council. Having regard to all the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because the information would add a limited amount to public understanding of the issues but would significantly damage the WHFT and the Council's commercial property position. The exempt information is set out in the **Exempt Appendix**.
8. The terms approved were for a complex land transaction involving freehold transfers.

The complexity of the structure of the legal transaction led to delays and as a result it was not possible for the full details of legal transaction to be negotiated and finalised for completion within 6 months. This is the maximum period to complete agreed land sales under the Council's Financial Regulations.

9. If the valuation indicates an increased value, then the Service Director is required to seek approval to either extend the period for completion, for further negotiation to take place or that sale proceedings be started afresh.
10. The 6 months period passed and a new valuation was commissioned. This valuation necessitated a review of the terms and structure of the arrangements approved.
11. The Council is under a statutory obligation to ensure it obtains the best consideration reasonably obtainable for the disposal of land, failing which it is required to seek the Secretary of State's consent or otherwise comply with the General Disposal Consent Order 2003. This is underpinned by the Council's Financial Regulations. To ensure that all land disposals comply with this statutory obligation, where property sales have not been completed within a maximum period of 6 months the Service Director for Property Services is required to arrange for a fresh property valuation to take place to ascertain any changes in land values.

The Revised Proposal

12. The revised proposal is simplified and confined to Plots 1 & 2 on the attached site plan.
13. The proposal is that the Council and WHPFT work together to release value from land held by each as freeholder and leaseholder respectively by disposing of land to a developer or developers with the benefit of planning permission for housing.
14. This enables the Council to realise a capital receipt to assist the development of public services generally in Nottinghamshire and for WHPFT to secure funding for replacement school buildings.
15. In respect of Plot 1 WHPFT will agree to surrender its lease and enter an agreement to jointly promote the site with NCC. Since both parties recognise that neither can move forward without the other each agrees to a share of the profits from the disposal.
16. The joint promotion agreement will enable the development of both Plots 1 and 2 to be brought forward together with an equitable distribution of infrastructure and other necessary costs based on gross area contributed.
17. It is proposed that the Council will apply for outline planning permission for both plots as the sites are allocated for development in the emerging Broxtowe District Council Local Plan.
18. The land leased by the Academy (Plot 1), which it would contribute to the development, requires the Secretary of State's consent under section 77 of the Schools Standards and Framework Act 1998 to dispose, or change use of school playing fields, which although likely, is not guaranteed. There is a risk this could cause delays to the project. However were this to arise, the Council could move to dispose of Plot 2 immediately and without delay.
19. Both parties acknowledge that the proceeds of disposal of Plot 1 for WHPFT will be

insufficient to achieve the full extent of its ambitions for a new school. The proposal are for the Council to make up a shortfall in funding and cash flow the building work provided that:

- WHPFT is willing to enter into an agreement in respect of Plot 1 such that all capital receipts pass to the Council to ensure its full recovery over time;
- The Council confirms it is satisfied with the proposed building and pupil numbers, size and facilities to ensure there is no duplication of or over provision;
- The Council confirms it is satisfied that WHPFT has no other funds or assets to contribute
- The Council enjoys sufficient security to ensure its financial contribution is used for the purpose intended and that such financial contribution does not give rise to any state aid issues; and
- WHPFT surrenders part of their leasehold to enable the future extension of the current Bramcote Primary School site as determined by the Council.

20. Both parties acknowledge that investment in new school buildings should not be delayed waiting for receipts from property sales. Provided that the Secretary of State's consent for a s.77 release is forthcoming and planning permission is secured for Plot 1, It is proposed that the Council will fund and cash flow the development on the understanding all receipts from Plots 1 and 2 are paid to the Council, together with the release to the Council of the adjacent old Bramcote School site.

21. In terms of the proposed next steps the Council would progress planning applications for the combined site the parties would begin the s.77 process for Plot 1.

22. An outline of the revised Heads of Terms is included in the attached **Exempt Appendix**.

Statutory and Policy Implications

23. There are no statutory and policy implications save in so far as NCC will comply with s.123 of the Local Government Act and will reduce surplus secondary school places.

24. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Other Options Considered

25. Details of other options explored are outlined in the **Exempt Appendix**.

RECOMMENDATIONS

- 1) To approve the revised structure of the proposed arrangements outlined above and the Heads of Terms contained in the **Exempt Appendix**.
- 2) To delegate approval to the Corporate Director of Place to negotiate and finalise

detailed terms of the legal agreements, to give effect to these proposals, with WHPFT to jointly promote Plots 1 and 2 to secure a capital receipt for the Council, facilitate new Secondary School buildings for WHPFT and extend the site for the Bramcote Primary School outlined in the **Exempt Appendix**.

- 3) To approve the Council's professional and technical support for and capped financial contribution to the WHPFT's new Secondary School development identified in paragraph 12 of **Exempt Appendix**, subject to a future update report to Policy Committee setting out the estimated timing of cash flows associate with the project.
- 4) To approve the preparation of an outline planning application in respect of Plots 1 and 2 and in any event to move forward with Plot 2.
- 5) To vary the capital programme to establish a budget of £500K to undertake preliminary work in support of the prospectus, planning application and ancillary activities for Plots 1 and 2, subject to the detail of costs being reported to the Corporate Asset Management Group.
- 6) For the Council to enter into any legal documentation that is necessary to give effect to these proposals, such terms to be in a form that is approved by the Group Manager for Legal, Complaints and Democratic Services or her nominee.

COUNCILLOR MRS KAY CUTTS MBE
Leader of the County Council

For any enquiries about this report please contact: David Hughes, Service Director Investment & Growth. Tel: 0115 9773825 / David Cox, Head of Property, (Growth & Development), Tel: 07843 569 367

Constitutional Comments [SSR 19/10/2018]

26. The recommendations of this report fall within the scope of decision that may be approved by Policy Committee. The department is required to comply with the Council's Financial Regulations.

Financial Comments [GB 24/10/2018]

27. The financial implications are set out in the report.

Background Papers and Published Documents

18th October 2017 Policy Committee (published)

Electoral Division(s) and Member(s) Affected:

- All