

19 April 2022**Agenda Item: 12****REPORT OF THE SERVICE DIRECTOR, INVESTMENT AND GROWTH****PROPOSED SALE OF LAND AT BRAMCOTE PARK TO WHITEHILLS PARK
FEDERATION TRUST – AMENDED TERMS****Purpose of the Report**

1. The purpose of this report is to:
 - a. update Committee of the increase in demand for pupil places in Bramcote which impacts on terms previously approved for the sale of Council land to White Hills Park Federation Trust (“the Trust”);
 - b. seek approval to the amended terms of the sale of land to the Trust which reflect the change in circumstances as set out in this report;
 - c. to provide authority to the Service Director Investment and Growth to seek confirmation that the Secretary of State’s consent for the Council to dispose of land for less than the best consideration that can reasonably be obtained applies to the proposed amended terms; and
 - d. provide delegated authority to the Service Director, Investment and Growth in consultation with the S151 Officer and Group Manager for Legal Services approve detailed terms of the necessary legal documentation to give effect to these revised terms.

Information

2. At its meeting on 9th December 2020, Policy Committee received a report outlining proposals for the Council to work with the Trust to bring forward respective surplus land holdings to fund the building of a school to replace the current school at Bramcote. Policy Committee approved the sale of the Council’s land to the Trust for a price of £1. This amounted to an undervalue from the valuation which the Council had received. At the time of the report to Policy Committee, the Council expected that the Trust would sell the land for residential development and use the receipts to fund a replacement school on their existing site of the same pupil capacity as the current school built in accordance with school design guide BB103. The Council has not procured a public works contract from the Trust and therefore does not impose obligations on the Trust to construct works to the Council’s specification. However, the terms of the arrangements between the Council and the Trust are structured so that the funds released to the Trust can only be used to build a school that is compliant with the requirements of school design guide BB103 and with the Council’s planning requirements. The Council considered that this sufficiently mitigated any risk that the Trust would not construct the school which both the Council and the Trust were expecting. Contracts have not yet been exchanged.

3. At the time of the Policy Committee report, the Council's freehold land interest was valued excluding any value arising from sale to a special purchaser. The land interests will be revalued and if there is an increase it will be reported, as appropriate, in accordance with the Council's Financial Regulations.
4. The attached plan indicates the residential land to be sold comprising plots 1 and 4. The Trust's retained site is shown coloured dark grey.
5. The terms were subject to the Council receiving Secretary of State's consent to sale at an undervalue, which was received in April 2021, and section 77 consent for the sale of school land which is still awaited. The Secretary of State's consent was obtained based on an application which described in detail the Council's proposed arrangements and provided details of the valuation of the land.
6. Since the terms were agreed there has been a significant influx of secondary-aged children into this area, and pupil place planning projections are showing that a larger school will be needed into the future and it has been agreed with the Trust that the agreed terms will be amended so that they are required to build a school one form of entry larger than existing.
7. There is increasing focus on the environmental sustainability of the school estate and since the terms were agreed the Council has declared a climate emergency. Also the Department for Education has issued a Draft Strategy on sustainability and climate change requiring all new schools to be built to be carbon neutral in operation. While this scheme is not being delivered directly through DfE funding it does make sense that a replacement school at Bramcote follows this ethos and the Trust has confirmed this intention. In addition, in accordance with Council policy for its own new schools the Trust has agreed to include sprinklers within the new school. For the avoidance of doubt, the total agreed scheme will include the demolition of existing buildings, decant and furniture/internal fit-out costs.
8. Since Policy Committee gave approval to the proposed sale of land to the Trust on terms which were presented to Policy Committee, the market for residential land has changed. It is likely that in the light of the current market for residential land a significantly higher receipt will be received than was considered likely at the time of the report. The Council and the Trust anticipate that the construction by the Trust of a proposed new, larger school with improved environmental standards will be achievable from the capital receipt and there is potential for the Council to share in any surplus.
9. The current agreement between the parties allows for any surplus of capital receipt not used in the construction scheme or for paying the Council's and Trust's identified qualifying costs to be held in an Escrow account, against which the Trust may draw down costs to spend on education purposes to include capital works to buildings, IT infrastructure or the provision of sports facilities. Any surplus remaining in the account after a period of four years would revert to the Council.
10. In order to provide certainty to the Trust and the Council as to allocation of costs and the use of surplus funding, the following key contract terms are now proposed:
 - When the contract build cost is known the Trust is to have included a 10% contingency for use as contract contingency for any remaining risk items and on the educational purposes to include provision of Trust offices. Any part of this contingency sum not spent by the Trust after four years will revert to the Council.

- Any capital receipts in excess of the build cost, the qualifying costs (the cost to each party of delivering this project) and the Trust's 10% contingency (the "Surplus") will revert to the Council at the point of entering into the lump sum contract with the Contractor.

11. Whilst all this has the potential to achieve positive effects for the Council and the Trust, it needs to be recognised that this would be a different position from that which was considered by Policy Committee in December 2020 when it gave approval to the proposed sale and from that which was presented to the Secretary of State when he gave consent to disposal of land for less than the best consideration than can reasonably be obtained. The approval of the Committee is therefore necessary for officers to proceed to complete the sale of land to the Trust on amended terms and to approach the Secretary of State for confirmation that the consent previously provided for disposal of land for less than the best consideration that can reasonably be obtained applies to the disposal on the proposed amended terms.

Other Options Considered

12. To continue with the terms as previously agreed which would not address increasing pupil place demands and not provide better environmental quality.

Reason for Recommendation

13. To enable the Council and the Trust to complete a proposed disposal of land on terms which are different from those which have been approved by Policy Committee.

Statutory and Policy Implications

14. 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.

Financial Implications

15. It is expected that the expanded school, improved environmental standards and other amendments will be deliverable within expected capital receipts.

Implications for Service Users

16. The proposed new school will provide a significantly improved environment for learning.

Implications for Sustainability and the Environment

17. It is intended to build to net zero carbon in operation which will be a significant improvement on the existing school and at the cutting edge of school design.

RECOMMENDATION

It is recommended that Committee approval be given to:

- 1) The following amendments to previously agreed terms with the Trust such that:

- a) the new school which the Trust is expected to use its receipt of funds to build will be one form of entry larger than existing;
 - b) the school will be built to comply with the DfE Draft strategy on sustainability and climate change and include sprinklers; and
 - c) changes to use of any surplus receipts as outlined in the report.
- 2) Authorise the Service Director Investment and Growth to approach the Secretary of State for confirmation that the consent that has been provided for the Council to dispose of land for less than the best consideration that can reasonably be obtained applies to the proposed amended terms.
 - 3) Delegated authority to the Service Director, Investment and Growth in consultation with the S151 Officer and Group Manager for Legal Services approve detailed terms of the necessary legal documentation to give effect to the revised terms.

Matthew Neal
Service Director, Investment and Growth

For any enquiries about this report please contact: Matthew Neal, Service Director for Investment & Growth, Place Department, Tel: 0115 9773822

Constitutional Comments (SSR 07/04/2022)

18. The recommendation falls within the remit of Economic Development and Asset Management Committee under its terms of reference.

Financial Comments (NS 06/04/2022)

19. The report sets out a number of factors that potentially increases the cost of the building and the anticipation that greater than expected capital receipts will lead to an excess above the funding required for the school build. At the date of the report the costs nor the value of the capital receipt are known for certain. The report proposes key contract terms in anticipation that the capital receipt will be significantly in excess of the revised build cost. As set out in the December 9th report, the risk surrounding the values of the capital receipt and build costs will need to be closely monitored to ensure its continued viability.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Report to Policy Committee on 9th December 2020 titled 'Proposed sale of land at Bramcote Park to Whitehills Park Federation Trust.

Electoral Division(s) and Member(s) Affected

- Bramcote and Beeston North – Councillor Steve Carr.