

Report to:	EXECUTIVE CABINET
Date:	25 September 2019
Executive Member/Reporting Officer:	Councillor Oliver Ryan, Executive Member (Finance & Economic Growth) Jayne Traverse – Director of Growth
Subject:	SALE OF FORMER HARTSHEAD HIGH SCHOOL SITE, LEES ROAD, ASHTON UNDER LYNE
Report Summary:	To approve terms agreed to sell the freehold interest in the land.
Recommendations:	That Executive Cabinet be recommended to: <ol style="list-style-type: none"> 1. Approve the sale of the land at the former Hartshead High School, Lees Road, to Taylor Wimpey UK Ltd for the sum of £9,450,000. 2. Acknowledge that an additional £174,997.26 is payable as a s106 receipt.
Policy Implications:	The site has outline planning permission for housing, a further full detailed application will be required. There is a policy requirement to provide 15% affordable homes on the site. The Council had regard to both its duty to achieve best consideration reasonably obtainable under s123 of the Local Government Act 1972, and its own Disposal Policy which takes into account s123.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	<p>The receipt from the sale of the former Hartshead School site has been budgeted and earmarked to be spent on contributing to the Council's approved capital programme, and forms a significant part of the £37m required in total from capital receipts to fund that programme. Failure to deliver on the sale of this site will result in either the programme having to be reviewed and schemes of a low priority being removed, or different assets will have to be identified to be sold in its place.</p> <p>The uncertainty around the housing market and outlook for the economy, alongside the length of time it takes to identify, market and dispose of sites mean that there would be risks to the financing of the capital programme if this site were not to be disposed of.</p> <p>The receipt of the full consideration on completion of the sale provides additional comfort to the Council on its ability to finance its capital programme.</p> <p>Costs incurred to date are approximately £186k which will need to be offset against the capital receipt. This will be in addition to other costs of £75k payable to Sport England and agent fees of £56k (0.6% of sale proceeds). The net capital receipt will therefore be approximately £9,133k to contribute to the Capital Programme. In addition, a s106 agreement which forms part of the sale should generate £175k which can be used to fund capital expenditure on Greenspace.</p>
Legal Implications: (Authorised by the Borough	Members should be satisfied that the process followed to ensure value for money and compliance with the Council's duty under section 123 of the Government Act 1972 has been followed, and

Solicitor)

that this is the best consideration it can reasonably achieve in these particular circumstances. Section 123 says 'a principal council may dispose of land held by them in any manner they wish. Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.' The approval to dispose of this land was agreed in 2006 as part of the BSF programme together with s77 consent being provided by the Secretary of State for the playing fields.

The section 123 certification in accordance with the technical note set out in government guidance and attached herewith at **appendix 1** has been provided and is at **Appendix 2**.

Risk Management:

Set out in report.

Background Information:

APPENDIX 1 – TECHNICAL GUIDANCE

APPENDIX 2 – S123 CERTIFICATION

Appendix 2 is Not for Publication: as it contains exempt information relating to paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). On balance, under paragraph 10 of Part 2 of Schedule 12A, it would not be in the public interest to disclose this information to the public because disclosure would, or would be likely to, prejudice the commercial interests of the Council and/or its agents which, in turn, could impact upon the interests of the local taxpayer.

The background papers relating to this report can be inspected by contacting Ian Coulson, Senior Estates Manager, Estates Team

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1. INTRODUCTION

- 1.1 This site comprises an irregular shaped parcel of vacant land extending to 6.1 hectares (15.07 acres).
- 1.2 The land was acquired in 2 conveyances, both from the Trustees of the Will of the 7th Earl of Stamford & Warrington on 8 November 1938 for the sum of £4,800 and on 19 August 1959 for the sum of £4,596. The second of these transactions included other land. The titles were eventually vested in TMBC having previously been in the ownership of Lancashire County Council in 1974.
- 1.3 The site was most recently occupied by Hartshead School which closed in July 2011 and was subsequently demolished later within the year. A section 77 consent permitting the sale of the former school playing fields in accordance with paragraph 1 of the Schedule to The School Playing Fields General Disposal and Change of Use Consent (No3) 2004, to proceed was obtained on 10 May 2007.
- 1.4 The Council appointed Knight Frank to represent the Council as selling agents. The land was offered for sale on the open market by informal tender via agents Knight Frank in 2017 with offers invited by Friday 19 January 2018. The best offer received was made by Taylor Wimpey in the sum of £11,950,000 on the basis of two payments being made (50% on completion and the remaining 50% 12 months later). This was subsequently reduced to £11,600,000 after it was discovered that a sewerage pipe which ran through the site would require diverting at a cost of £350,000.
- 1.5 Outline planning permission was granted in November 2018 to which several conditions were attached including a requirement to provide affordable homes for 15% of the total development and an obligation to enter into a section 106 agreement requiring a financial contribution to be made towards Greenspace in a total sum of £174,997.26. At the time that the site was initially offered for sale all bidders were advised that the Council had no requirement for the developer to provide any affordable homes and that there would be no requirement to enter into a section 106 agreement, as this policy was approved following the bidding process.
- 1.6 Knight Frank were instructed to negotiate a revised sale price to reflect the section 106 obligation and a new sum of £9,450,000 was agreed. Knight Frank have confirmed that in their opinion this reduced price reflects best value in accordance with section 123 of the Local Government Act 1972 for the land having regard to the increased cost obligations arising out of the conditions attached to the planning permission (a copy of this confirmation is appended to this report at **Appendix 2**). Concerns regarding risk of delivery and a deferred payment (50% on completion and the remaining 50% 12 months later), resulted in further negotiations and Taylor Wimpey has agreed to pay 100% of the sale price on completion.
- 1.7 Following the negotiation for 100% of the sale price to be paid upon completion, Knight Frank have provided further confirmation that the unconditional offer represents excellent market value and recommends to proceed without delay.

2. FINANCIAL IMPLICATIONS

- 2.1 Capital receipt of £9,450,000 to support the Council's capital programme.
- 2.2 Under the proposed terms the sale includes a commitment made by the Council to Sport England to refresh its playing pitch strategy and install all weather practice facilities at Ladysmith Cricket Club, Ashton the cost of which to be paid for out of the proceeds of sale estimated to cost approximately £75,000.
- 2.3 Agents fees 0.6% of the sale price (Approximately £56,000), to be paid out of the proceeds of the sale.
- 2.4 £174,997.26 s106 receipt which can be used to fund capital expenditure on Greenspace.

3. PROPOSAL

- 3.1 To proceed to complete a sale of the site unconditionally.

4. OTHER OPTIONS CONSIDERED

- 4.1 Remarket the site which is not a sensible option as the Council are unlikely to receive a higher offer.

5. RISK

- 5.1 There is a risk that the purchaser does not proceed with the development of the land. This is considered unlikely given the investment already made with regard to the payment of fees in carrying out site investigation tests, preparation of a further fully detailed planning application and 100% of the sale price to be paid upon completion.

6. CONCLUSION

- 6.1 To proceed with an unconditional sale of the land, subject to planning permission, to the risk of Taylor Wimpey UK Limited.
- 6.2 The Council had regard to both its duty to achieve best consideration reasonably obtainable under s123 of the Local Government Act 1972, and its own Disposal Policy which takes into account s123.

7. RECOMMENDATIONS

- 7.1 As set out at the front of the report.