

Executive Board – 19 September 2023

Subject:	Sale of the former Elms Primary School, detached playing field and caretakers house, Cranmer Street, St Anns
Corporate Director(s)/Director(s):	Sajeeda Rose – Corporate Director for Growth and City Development
Portfolio Holder(s):	Cllr Steve Battlemuch – Portfolio Holder for Skills, Growth, Economic Development and Property
Report author and contact details:	Emma Wilcock, ext 63077 / emma.wilcock@nottinghamcity.gov.uk
Other colleagues who have provided input:	James Christian, ext 65681 / james.christian@nottinghamcity.gov.uk Tom Straw, thomas.straw@nottinghamcity.gov.uk
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Type of expenditure:	<input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital
If Capital, provide the date considered by Capital Board Date:	
Total value of the decision:	Exempt
Wards affected:	St Anns
Date of consultation with Portfolio Holder(s):	10 August 2023
Relevant Council Plan Key Outcome:	
Green, Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Living Well in our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input checked="" type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>The subject primary school was closed in 2008 following a school re-organisation and, although the site was retained for potential reuse for the purpose of secondary education, an alternative site was later identified to meet that need. By 2019 a prospective purchaser was identified for the Elms site and an Option Agreement completed with that party. For a variety of reasons that Option was not operated and the site remains with the City Council; as a result of some of these reasons, the disposal boundary has been altered with further advice then being taken from planning officers as regards to potential delivery from the site. In spring 2023, Strategic Assets and Property procured an independent valuation reflecting the up-to-date opinion of market value for the new disposal boundary.</p> <p>The site is surplus to all Council operational requirements, available to contribute towards the Council's ambitions for Better Housing and available to achieve a capital receipt to be used by the Council as set out in the Capital Strategy principles.</p>	

Does this report contain any information that is exempt from publication?

An appendix to the report is exempt from publication under paragraphs 3 and 5 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of the authority holding the information and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because disclosure of the information will compromise the Council's negotiation strategy in the event of a disposal, and this may adversely impact the capital the Council could receive.

It is not in the public interest to disclose this information because it includes valuation figures and the anticipated price achievable for the property which, if disclosed, will prejudice the Council's position in negotiations relating to the proposed sale. It also contains confidential legal advice in respect of the proposed transaction and disclosure could prejudice the Council's position.

Recommendation(s):

- 1** To authorise the disposal of the Council's freehold interest in the subject site, for best consideration, to the previous holder of the Option Agreement (subject to agreement of terms) - note Recommendation 3 in respect of approval to the precise terms of sale.
- 2** If sale terms satisfactory to the Council cannot be agreed as referred to under Recommendation 1, Executive Board authorise the disposal of the Council's freehold on the open market – note Recommendation 3 in respect of approval to the precise terms of sale.
- 3** To delegate authority to the Corporate Director of Growth and City Development to determine the method of sale and sale terms (including price)
- 4** To delegate authority to the Corporate Director of Growth and City Development to authorise any expenditure in connection with the site, which in addition to concerning matters of health and safety, shall otherwise be with a view to maximising value on sale.
- 5** To note that approximately 0.425ac of the site is to be retained due to restrictions made by the Nottingham Corporation Act 1883 and in respect of this, the Corporate Director of Growth and City Development shall identify the appropriate service to implement a suitable management and maintenance plan.

1. Reasons for recommendations

- 1.1 The subject property is surplus to all operational property requirements of the Council.
- 1.2 The disposal will generate a significant capital receipt which can be used by the Council as considered appropriate. Disposal will also release the Council from its ongoing risk and financial liabilities.
- 1.3 The disposal will encourage re-development of the heavily dilapidated buildings and extensive site, which will not only benefit the immediate neighbours to the site but, given the planning allocation, will most likely also contribute to the new homes target for the city.
- 1.4 Delegation of authority in respect of method of sale, agreeing sales terms and associated expenditure is with a view to placing the Council in an advantageous position for making timely decisions and enabling the ability for officers to act promptly, in best interest of the Council, in what is a fast changing marketplace.
- 1.5 Due to the restrictions imposed by the Nottingham Corporation Act 1883, approximately 0.425ac of the site cannot be disposed of – there will be an ongoing obligation to the Council in respect of the maintenance and up keep

of this land, for which budget must be identified. The level of budget required will be dependent on the use or allocation of the land and associated, appropriate maintenance regime – depending on value, this matter may become the subject of a further Decision.

2. Background (including outcomes of consultation)

- 2.1 Since the schools closure in 2008 there has been no reuse – the site has remained vacant and increasingly subject to vandalism, theft and anti-social behaviour.
- 2.2 Demolition of the school building will not be permitted until Planning Officers are satisfied that the impact of demolition outweighs any harm to the Conservation Area, and they are able to make a sufficient assessment of the contribution of any new scheme to the area, on the merits of a detailed application.
- 2.3 In 2019 the principle of selling the building and grant of an Option to a purchaser were approved by the Portfolio Holder for Finance, Resources and Commercial Services. Due to the value of the site in today's market (in excess of the £750,000 threshold), this further Decision is requested of Executive Board.
- 2.4 In respect of the land to be retained, Strategic Assets and Property will work closely with Legal Services and Parks and Open Spaces, to inform future use options and recommendations, costs and appropriate management. All services are already in communication regarding the subject land, but a final solution may occur subsequent to achievement of Recommendations 1 or 2 of this paper – identification of the appropriate solution should not be allowed to hold up disposal of the remainder of the site.

3. Other options considered in making recommendations

- 3.1 The option not to dispose of the land is not recommended, considering the significant holding costs and health and safety liabilities presented by retaining the site and the buildings, in particular. It is confirmed that there is now no alternative operational requirement for the site and therefore, continuing to hold the site would mitigate the opportunities that the site will otherwise present to an alternative owner – likely a developer with the ability to bring the site into a new use, beneficial to the city.
- 3.2 The option to take the site straight to the open market has been considered but is not the recommended decision, due to the continued interest of the earlier identified purchaser which has already completed significant due diligence in respect of the site and its redevelopment potential, including significant expenditure and the progression of a detailed planning application which was seemingly progressing positively. To first negotiate (within a limited, agreed timeframe) in attempt to agree sale terms with this interested party could bring in a capital receipt to the Council sooner than if the site were put to market and should result in redevelopment of the site within a shorter timeframe.

4. Consideration of Risk

- 4.1 The risks associated with not selling the site are considered high in terms of safety to unauthorised persons that access the site from time to time and the subsequent increase in risk that presents to authorised persons on site, further to vandalism by others. Furthermore, the financial risk to the Council is considerable, and ranges from potential claims from third parties to general maintenance (buildings and grounds), security, and more significant structural safety works should the buildings stand in their vulnerable state into the future. Timely disposal and redevelopment of the site will mitigate these risks.
- 4.2 The risks noted above will still apply to the retained land, but to a lesser degree, as this land does not include any significant property structures, only a games surface and various boundary features.
- 4.3 The current market is fast changing and less certain, which does present risk to the capital receipt to be achieved. With a view to mitigating this risk, Strategic Asset and Property have procured external, independent valuer opinion on current market value, and this will inform negotiations both with the existing interested party (subject to approval) and/or a subsequent marketing strategy, with a view to achieving best consideration under Section 123 of the Local Government Act 1972.
- 4.4 Other risks of note are as contained within the exempt appendix and are not suitable to share in the public domain, for reasons of commercial sensitivity.
5. **Best Value Considerations, including consideration of Make or Buy where appropriate**
- 5.1 Best Value considerations are detailed elsewhere in the report and in the exempt appendix.
6. **Finance colleague comments (including implications and value for money/VAT)**
- 6.1 This report and exempt appendices details the restriction in relation to the Council obtaining Best Consideration (i.e. Best Value) and finance are working closely with colleagues in Property on these points. As this receipt has not been ringfenced by the Secretary of State for reinvestment in Education any net receipt obtained from the disposal of this site will be applied as defined in the approved Capital Strategy (approved February 2023 Executive Board and Full Council March 2023), and aligned to Council priorities.
- 6.2 With regard to the 0.425ac being retained by the Council, no revenue budget exists in relation to the future management and maintenance. Once the service is identified, any pressure will have to be disclosed as part of the Council's budget process.
- 6.3 Please refer to the exempt appendices in relation to the respective exempt financial comments.

Tom Straw – Senior Accountant (Capital Programmes) 9th August 2023

7. **Legal colleague comments**

7.1 Comments provided within the Exempt Appendix, by James Christian, Senior Solicitor – Conveyancing 24th August 2023.

8. **Other relevant comments**

8.1 Strategic Assets and Property

The Elms site was declared surplus sometime ago and a sale agreed with a prospective purchaser in 2019. Legal issues, as detailed in the Legal Services advice, meant that the Option Agreement was not operated. The Disposals & Development Team have worked with Legal Services to resolve the title issues with the site and have now determined a new sale boundary which can be taken forward for disposal.

The option to work with the original party to the Option Agreement is prudent as it would most likely lead to a quicker sale therefore benefitting the Council's capital requirements but also limiting the Council's liabilities for the site which are extensive, problematic and costly.

The adopted Disposal Policy (September 2022) details that all sites should go to market in the first instance and if a Special Purchaser is being put forward, an independent valuation is required. This independent valuation has been secured in the event the Council sells to the current purchaser and if not, it will inform a marketing strategy for the site on the open market.

There are no property issues related to this decision. The decision will give Strategic Assets & Property authority to proceed with the timely sale of the site.

Comments provided by Beverley Gouveia, Disposals & Development Manager
31st July 2023.

9. **Crime and Disorder Implications (If Applicable)**

9.1 The sale of this surplus asset, leading to redevelopment of the site, will eventually mitigate anti-social behaviour and vandalism which currently impacts the site.

10. **Social value considerations (If Applicable)**

10.1 Not Applicable.

11. **Regard to the NHS Constitution (If Applicable)**

11.1 Not Applicable.

12. **Equality Impact Assessment (EIA)**

12.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the report does not relate to a new service or function.

Yes

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No
A DPIA is not required because the Decision will not involve the transfer of applicable data to any parties.

Yes

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No
A CIA is not required because the recommendations of this Decision will not directly have any impression on carbon impact.

Yes

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

15.1 Portfolio Holder Decision Ref.2859, June 2017 “Partial demolition of the former Elms Primary School, Cranmer Street, St Ann’s and to declare the site surplus to operational requirements”

15.2 Portfolio Holder Decision Ref.3455, March 2019 “Sale of the former Elms Primary School, detached playing field and caretakers house, Cranmer Street, St Anns”

16. Published documents referred to in this report

16.1 None.