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**REPORT OF THE DIRECTOR OF DEVELOPMENT**

**REPORT TO: EXECUTIVE BOARD**

**DATE: 16 AUGUST 2005**

**SUBJECT: REPORT - FORMER BLACKGATES PRIMARY SCHOOL, TINGLEY  
DEPUTATION TO FULL COUNCIL 19 JULY 2006**

**APPENDIX - To be circulated at the meeting  
Exempt under Exemption 1 (Commercial Interests)**

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| <p><b>Electoral Wards Affected:</b></p> <p style="text-align: center;"><b>ARDSLEY AND ROBIN HOOD</b></p> | <p><b>Specific Implications for:</b></p> <p>Ethnic Minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled People <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p> |
| <p>Executive Board Decision <input checked="" type="checkbox"/> Eligible for call in</p>                 | <p><input checked="" type="checkbox"/> Not Eligible for call in (details contained in the report) <input type="checkbox"/></p>   |

Summary

This report has been prepared at the request of Council following a deputation to Full Council on 19 July 2006 by local residents opposed to the sale, demolition and redevelopment of the redundant Blackgates Infants School, Bradford Road, Tingley.

The report provides information relating to the closure of the school and the chosen method of disposal. Responses to questions raised by the deputation are contained in the report. The report concludes that the Council is acting correctly and recommends that Executive Board supports the proposed disposal as approved by the Director of Development.

**1.0 INTRODUCTION**

1.1 Local residents made a deputation to Full Council at its meeting on 19 July 2006 “against the sell off, demolition and redevelopment of the redundant Blackgates School, Tingley.” This report details the concerns of the deputation and contains responses to those concerns. The main points that were brought to the Council’s attention are contained in section 2.

**2.0 THE DEPUTATION**

2.1 The main points raised by the deputation are listed below:

- i) “Why isn’t the school being offered for sale freely on the open market to be tendered for and why has this developer been allowed by the City Council to apply for planning permission to demolish the school and infill the space with housing you may well be asking.”

- ii) "Requests have been made to the City Council for information relating to the property disposal and some of the requests made under the Freedom of Information Act have been turned down, so much for transparency!"
- iii) The developer's planning application was rejected. "What now disturbs us Tingley residents now is that the Council has given this developer the opportunity to consider appealing against the refusal of the planning application. We have now been informed by the Development Department that the builder has now considered the Council's suggestion and has decided to lodge an appeal."
- iv) "This appeal is going forward against the wishes of the public and it flies in the face of the decision made in February this year to reject the planning application by the Plans Panel East."
- v) "Whilst we understand that the Council has an obligation to obtain 'best consideration' for the redundant school we feel that the Council have poorly consulted with the local community regarding how this could be achieved without upsetting and distressing our community. The school has now become a target for vandals, substance misuse and yobbish antisocial behaviour and Tingley residents deserve some answers."
- vi) "We would like to see the Development Department agree a planning brief detailing that all traffic enters and exits the site via the school gates. We ask that this Council places the safety of our children before the profits of any future development taking place at the site."
- vii) "We request that this matter is referred to Scrutiny Board for development and that an inquiry is set up which will allow local residents to make representations to. Provide local residents the proper, decent, meaningful and transparent consultation regarding the disposal of this redundant community property and allow them to jointly agree the remit into this Scrutiny inquiry."

2.2 A copy of the deputation paper is attached as appendix 1 to this report. This report will address the items detailed above and provide Members with other information.

### **3.0 BACKGROUND**

3.1 In delivery of its 'Making the Most of People' corporate objective, the Council has invested over £68 million upgrading and replacing primary school facilities across the district under the Primary School Review and Leeds Primary Schools PFI programmes. On 16 October 2002 and 21 July 2004 Executive Board approved the disposal of the surplus school properties which are being replaced and the ring fencing of capital receipts to the scheme as part of the funding package.

3.2 Blackgates Infants School was declared surplus to requirements by the Chief Education Officer in the Department of Learning and Leisure on 31 January 2005. The school closed at the end of the summer terms 2005. The school comprises a building of approximately 784sqm (8,436sqft) situated within a site extending to approximately 0.32 hectares (0.8 acres) as shown edged black on the attached plan.

### **4.0 NEGOTIATIONS FOR THE DISPOSAL OF BLACKGATES INFANTS SCHOOL**

4.1 Prior to the school becoming surplus the adjoining site (shown on the plan) was being purchased by Minton Homes (a residential development company). The company proposed a residential development. In order to achieve satisfactory access arrangements Minton Homes had to achieve sight lines to provide unrestricted visibility along Bradford Road for drivers leaving the site. One of the sight lines fell across the front

garden of the Blackgates Infants School caretaker's house. Minton Homes approached the Council (acting in its capacity as landowner) requesting whether agreement could be reached for Minton Homes to acquire the sight line. Negotiations took place and it was agreed that the Council would make the sight line land available if Minton Homes undertook certain works. The works comprised: setting back the boundary wall, construction of a vehicular drive into the caretaker's house from the proposed Minton housing estate and construction of a drive and turning area within the curtilage of the house. The house did not have vehicular access and construction of such an access would increase the value of it at no cost to the Council. At that time the house was shortly to be vacated and could then have been disposed of independently of the school and be much more attractive to the market with a vehicular access.

- 4.2 During negotiations, Minton Homes enquired about the availability of Blackgates School. At that time there were no proposals to close it. Consideration was, however, given by the Development Department to the development potential of the property if it ever became available. This was undertaken as good estate management of the Council's property portfolio. As Minton Homes proposed a residential development on adjoining land with an access point onto Bradford Road positioned very close to the school site a situation could arise where a second vehicular access point into the school site would not have been permitted due to inadequate junction spacing. In these circumstances it would have been advisable to object to any planning application submitted by Minton Homes to protect the Council's interest.
- 4.3 Enquiries with Highways Officers revealed that a vehicular access was unlikely to be achieved to the school site due to the presence of a pedestrian crossing in front of the school. A limited number of cars (equivalent to the number currently parking at the school) may be permitted to use the current school access point on to Bradford Road if the use of the building changed in the future. This limited amount of traffic movement would restrict the level of development that could be accommodated on the site if the school building were to be demolished.
- 4.4 Minton Homes was aware of the Council's enquiries regarding access arrangements and suggested that if the company was granted an option to acquire the school then vehicular access could be provided through the housing estate on their adjoining land. This was an acceptable arrangement to Highways Officers and the road could be designed to a standard appropriate to serve additional houses on the school site.
- 4.5 In circumstances where vehicular access can only be achieved to a development site across third party land it is usual practice for the third party to be paid between one third and one half of the development value of the site which would benefit from the access being provided. This payment is known as a 'ransom'. Minton Homes would have been justified in requesting such a payment to provide such an access to the Council's school site. Minton Homes, however, advised that a ransom would not be charged. The Council could achieve the full value for its property. It was further agreed by Minton Homes that if after having had the opportunity to purchase the property the company decided not to proceed then unrestricted vehicular access rights would be granted across its new estate road into the school for use by any other party the Council chose to sell the property to.
- 4.6 On 15 March 2005 the Chief Asset Management Officer (by way of authority delegated by the Director of Development) approved that the school be disposed of:
- i) By way of one to one negotiations under the terms of an option agreement agreed between the Council and Minton Homes for the acquisition of the property,
  - ii) In the event of negotiations not being concluded under the terms of the Option Agreement then the property should be advertised for sale on the open market by

informal tender.

- 4.7 The school subsequently became surplus to requirements and negotiations took place between the Council and Minton Homes for the sale. A redevelopment scheme was proposed by the company which was considered by Planning and Highway Officers. Agreement was reached in principle as to the content of the scheme and negotiations took place for the purchase price that would be paid by Minton Homes.
- 4.8 A purchase price was provisionally agreed with Minton Homes. An independent valuation was commissioned by the Council due to the high value of the site and the nature of the disposal being on a one to one basis. The independent valuation was undertaken on 2 bases, for redevelopment of the property and for refurbishment for residential use. These valuations are detailed in section 1 of the confidential appendix to be circulated at the meeting. The appendix is designated Exempt under Exemption 1 (Commercial Interests) as disclosure of the information is commercially sensitive and may jeopardise the current transaction. The purchase price agreed with Minton Homes is the same as the independent valuation for a redevelopment scheme.
- 4.9 It was proposed that the terms of the disposal be reported with a recommendation that the property be sold to Minton Homes. The sale being conditional on the company obtaining a satisfactory detailed planning permission for residential redevelopment in the form provisionally agreed with Council officers.
- 4.10 A detailed planning application was then submitted by Minton Homes for redevelopment of the school site for residential use (including demolition of the school) with vehicular access being taken across the Minton Homes' newly constructed adjoining housing estate (Shancara Court).

## **5.0 BEST CONSIDERATION**

- 5.1 The Council is under a statutory duty to obtain 'best consideration' (the highest price) when it disposes of property assets under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985). In relation to Blackgates Infants School the Council will realise best consideration in the event of the property being sold for residential redevelopment. The values for redevelopment and refurbishment are confirmed independently and reported in section 1 of the confidential appendix.
- 5.2 There are certain times when the Council can sell at less than best consideration, but only in exceptional circumstances. In the event of the building being sold for refurbishment a lower price would be realised than if it had been sold for refurbishment, and if the building is put to community use the Council would not realise any capital value.

## **6.0 CONSULTATIONS**

- 6.1 Prior to closure of the school a statutory consultation process must be undertaken by the Council. The process was undertaken which resulted in approval being obtained by the Council to the closure.
- 6.2 Ward Members were consulted on the proposal to dispose of the school. Two of the Ward Members advised that they wished to retain the school building and both favoured its retention for local community use. One Ward Member wished to see the building retained because of its visual merit and historic significance in the area.
- 6.3 The proposal to dispose of the school and the Planning Statement for the school prepared by Planning Officers were referred to the South (Outer Area) Committee on 14 February 2005 for consideration. Support was given to the Ward Members' comments that the building should be retained for community use, but recognition was given that Executive

Board had already taken the decision that the property should be disposed of.

## **7.0 PLANNING APPLICATION**

7.1 The detailed planning application submitted by Minton Homes initially showed vehicular access for all 11 proposed houses via the newly constructed Shancara Court. Shancara Court had been designed and constructed to adoptable standards and to a specification in accordance with the Council's West Yorkshire Highways Design Guide to be capable of serving this additional development.

7.2 The planning application was advertised and notices posted adjacent to the site. Objections were received and Planning Officers requested Minton Homes to reduce the number of houses that would be served from Shancara Court. The application was amended to show 5 houses being access directly from Bradford Road and 6 houses via Shancara Court. The application was presented to a meeting of the Plans Panel East on 9 February 2006 with a recommendation that it be approved. Members of the Panel did not accept the recommendation because of concerns of the impact on the street scene, over development of the site and detriment to highway safety. Members instructed that the application be brought back to Panel with details of reasons for refusal based on the Panel's considerations.

7.3 The planning application was then presented to a meeting of the Plans Panel East on 9 March 2006. The report, from the Chief Planning and Development Services Officer, detailed the reasons given by Members as to why the application should be refused. It also contained further advice that Members of the Plans Panel should consider prior to determining the application. The main points raised were:

- i) Mews Court cul-de-sac arrangements (such as Shancara Court) are designed in accordance with the Council's own West Yorkshire Design Guide and are suitable for use by up to 25 units. These mews court arrangements are common throughout Leeds and have been used since 1985.
- ii) The additional 6 extra dwellings accessed via Shancara Court would be likely to result in only an extra 4 vehicle movements in peak periods.
- iii) Design Bulletin 32 states that a study of local accident records for such mew court arrangements found that no accidents had been reported.
- iv) Shancara Court has only recently been built and was specifically laid out to enable access for future development of the school site.

7.4 The report concluded:

- i) Highways Officers are of the opinion that a highways safety reason for refusal could not be substantiated on appeal.
- ii) Members should have regard to advice of Circular 8/93 'Award of Costs in Planning Proceedings' where the circular states that an award of costs is likely when the Local Planning Authority has acted unreasonably; which could include an unreasonable refusal of planning permission.
- iii) Circular 8/93 also states that Members are not bound to adopt professional or technical advice by their Officers, but they will be expected to show that they had reasonable grounds for taking a decision contrary to advice, and be able to produce relevant evidence to support their decision in all respects. If they fail to do so, costs may be awarded.

- 7.5 Minton Homes planning application was refused by Members of the Plans Panel. The reasons for refusal being
- i) Loss of the Victorian School building and its replacement by modern detached two storey houses fails to reinforce local distinctiveness, and that the design, by reason of its modern, two storey, predominantly brick materials, is inappropriate in its context, and fails to take the opportunities available for improving the character and quality of the area. As such the proposal is considered to be contrary to policy.
  - ii) The proposal constitutes overdevelopment of the site, causing harm to the character and amenity of the area, contrary to policy.

7.6 The refusal was considered by the Development Department Departmental Management Team. A report containing options was considered. The options were:

- i) As Minton Homes did not achieve a satisfactory planning permission the Council could withdraw from the sale and market the property. Marketing literature could contain an explanation of the planning history and specify that access has to be taken from Bradford Road and the building retained. This would result in the Council realising a lower capital receipt. Also, it is likely that offers would be received for demolition and redevelopment with access being taken in numerous different locations. These schemes would be accompanied by higher offers than those for refurbishment.
- ii) English Heritage could be requested to consider listing the building. If listed, the only possible scheme would be refurbishment. The sale price in these circumstances, although lower than a redevelopment scheme, would be considered to be best consideration. Any scheme proposing demolition could be rejected.
- iii) To continue to pursue the best consideration option through further negotiations with Minton Homes. Minton Homes had expressed an interest in appealing the refusal of the planning application. As the applicant this is a right available to the Company.

7.7 It was agreed that for reasons of best consideration the Council would continue to negotiate with Minton Homes to see if the Company could secure an appropriate planning consent. One course of action available to the Company is to appeal against the refusal of the planning application and the Company has subsequently confirmed that it does wish to appeal the decision. Minton Homes is now preparing to lodge the appeal, which the Council has requested should be conducted by written representations.

## **8.0 FURTHER CONSULTATION**

8.1 Local residents are aware of the situation, which is clearly demonstrated through the deputation to Full Council on 19 July 2006. Ward Members are also aware.

8.2 Ward Members advise that local groups are interested in the building for community uses. A meeting was held with two of the Ward Members on 17 May 2006. On a confidential basis these Members were advised of the sale price that had been agreed with Minton Homes. The Members advised that they would have further discussions with some known community groups and return to officers. Following the meeting a member of one of the groups had a brief discussion with an officer who was involved in the meeting with the Ward Members. No further contact has since been made by Ward Members or the representative of the community group.

## 9.0 ADDRESSING THE POINTS RAISED BY THE DEPUTATION

9.1 Section 2 of the report detailed the concerns raised at Full Council by the Deputation. This section will summarise how the Council can respond to those concerns:

- i) Concern - "Why isn't the school being offered for sale freely on the open market to be tendered for and why has this developer been allowed by the City Council to apply for planning permission to demolish the school and infill the space with housing you may well be asking."

Response – A sale directly to Minton Homes for redevelopment of the site with vehicular access being taken via Shancara Court will result in the Council meeting its statutory obligation to achieve best consideration from the disposal of its property asset.

- ii) Concern - "Requests have been made to the City Council for information relating to the property disposal and some of the requests made under the Freedom of Information Act have been turned down, so much for transparency!"

Response – Access has been given to the files in accordance with the terms of the Freedom of Information Act. The only information that was withheld was that relating to the valuation and to the terms agreed with Minton Homes. This information is exempt from disclosure under section 43 of the Act as information likely to prejudice commercial interest. The refusal by the Council to disclose this information was appealed. The decision was reviewed at a senior level in accordance with the Council's procedure and the original decision was upheld. The applicant was also notified at that time that an application may then be made to the Information Commissioner for a decision as to whether the request had been dealt with in accordance with the requirements of part 1 of the Act, and contact details for the Commissioner were given.

- iii) Concern - The developer's planning application was rejected. "What now disturbs us Tingley residents now is that the Council has given this developer the opportunity to consider appealing against the refusal of the planning application. We have now been informed by the Development Department that the builder has now considered the Council's suggestion and has decided to lodge and appeal."

- iv) Concern - "This appeal is going forward against the wishes of the public and it flies in the face of the decision made in February this year to reject the planning application by the Plans Panel East."

Response to iii and iv – The initial recommendation of the Chief Planning and Development Services Officer was that the application should be approved. It was at the direction of Plans Panel Members that the application was re-presented with reasons for refusal. The scheme proposals were unchanged. An appeal against the refusal can be made by the applicant with or without the landowner's consent. In this case the developer is prepared to take the matter further at its own risk.

- v) Concern - "Whilst we understand that the Council has an obligation to obtain 'best consideration' for the redundant school we feel that the Council have poorly consulted with the local community regarding how this could be achieved without upsetting and distressing our community. The school has now become a target for vandals, substance misuse and yobbish antisocial behaviour and Tingley residents deserve some answers."

Response – The Council is attempting to achieve best consideration from the

disposal of this property. In terms of consultation:

- a) Ward Members were consulted on the Council's intention to dispose of the property, and
  - b) The proposed disposal and the Planning Statement relating to the property were referred to the South (Outer Area) Committee on 14 February 2005 for consideration. This committee is open to members of the public to attend.
- vi) Concern - "We would like to see the Development Department agree a planning brief detailing that all traffic enters and exits the site via the school gates. We ask that this Council places the safety of our children before the profits of any future development taking place at the site."

Response – Highways Officers have considered whether traffic could access the site directly from Bradford Road. It has been concluded that only the number of vehicles that used that access point whilst the school was operational could continue to access via that route. This will limit the development potential of the property to either refurbishment of the building to provide 10 apartments, or 5 new build properties. Both these options would result in the Council receiving less than best consideration, something which by law, it is required to achieve. In addition the restricted number of residential units would not assist in meeting the target for delivery of housing numbers set by central government.

- vii) Concern - "We request that this matter is referred to Scrutiny Board for development and that an inquiry is set up which will allow local residents to make representations to. Provide local residents the proper, decent, meaningful and transparent consultation regarding the disposal of this redundant community property and allow them to jointly agree the remit into this Scrutiny inquiry."

Response – The Full Council meeting on 19 July 2006 considered that it was appropriate that the matter be referred to a meeting of Executive Board.

## **10.0 PROPOSAL**

- 10.1 It is proposed and recommended that Members of Executive Board note the contents of this report and agree that the proposed disposal of the former Blackgates Infants School, Tingley should continue with Minton Homes in the way detailed.
- 10.2 The Director of Development confirms that the proposed method of disposal set out above is the method most likely to result in the Council achieving the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985).

## **11.0 OPTIONS**

- 11.1 There are other options available to the Council in dealing with the former Blackgates Infants School. These are detailed below:
- i) The Council could withdraw from the sale to Minton Homes and advertise the property for sale on the open market. The planning history could be provided in the marketing literature and a requirement that access only be taken directly from Bradford Road. This will severely reduce the value of the property due to the limited nature of the development that can be accommodated on the site. Should offers be invited on this basis then it is quite likely that schemes will be received indicating vehicular access via Shancara Court which will be accompanied by higher offers.



This option is not considered appropriate and should not be pursued.

- ii) The Council could market the building as a refurbishment opportunity only with vehicular access only being taken from Bradford Road. This would result in the Council receiving less than best consideration. Should the property be sold on this basis there is the possibility that the new owner could submit a planning application for demolition and redevelopment. The Council could be put in a position where it had sold the property for a price which then did not reflect the value of a site if a planning permission was granted for redevelopment, but the more intensive scheme opposed by the objectors still resulted.

This option is not considered appropriate and should not be pursued.

- iii) The property could be made available for community purposes. Neither the Department of Neighbourhoods and Housing nor the Department of Learning and Leisure have indicated a requirement for community facilities to be provided on the old school site. Should demand become apparent then these Council departments would have to sponsor any group's occupation of the property and identify a budget to provide financial support. There is no such budget available to enable support to be given. If the building was made available for community use the Council would not receive a capital receipt. The building has already been vacated by the Council as it is considered inappropriate as modern teaching accommodation and it will be more costly to occupy and maintain than any modern building.

This option is not considered appropriate and should not be pursued.

- iv) Continue with the sale to Minton Homes. This is the option that is most likely to achieve best consideration.

It is recommended that this option be pursued.

11.2 It is recommended that the sale to Minton Homes is continued.

## **12.0 RISK ASSESSMENT**

12.1 In continuing with the sale to Minton Homes the following risks have been considered:

- i) Costs may be awarded against the Council if Minton Homes' planning appeal is successful. The costs will have to be borne by the Council, however, in the event of a detailed planning permission for residential redevelopment being granted then the Council will achieve a higher capital receipt for the site which will more than off set the costs incurred.
- ii) The property will remain vacant and vulnerable to vandalism whilst it remains in the Council's ownership. The costs associated with continued maintenance will have to be borne by the Council. There is a risk that people may enter the property without authority and injure themselves. This risk is mitigated by regular inspections being undertaken and if any repairs or additional security is required then these are attended to.

## **13.0 RECOMMENDATION**

13.1 It is recommended that Members of Executive Board note the concerns of the deputation made to Full Council on 19 July 2006, but agree that the disposal of the former Blackgates Infants School, Bradford Road, Tingley should progress as detailed in the report.