

East Leeds Extension Update and Progress on Land Disposal for the Southern Quadrant Primary School

Date: 19th April 2023

Report of: Director of City Development

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Appendix 3 Exempt Under Access to Information Procedure
Rule 10.4 (3)

Brief Summary: This report advises Executive Board as to progress made to date on the construction of the East Leeds Orbital Route (ELOR), the development of East Leeds Extension (ELE) and the next steps in relation to the proposed disposal of Council owned land at Leeds Road/Smeaton Approach for use as a new primary school and the related delivery of community infrastructure in the Middle and Southern Quadrants.

ELE, as the largest single area of allocated housing land in Leeds, is one of most important development areas in the city. At 232 ha it will accommodate up to 5,000 new homes when fully built out (c8% of the Local Plan's identified housing need), 2 new primary schools and new community infrastructure. Significant progress is being made on the infrastructure and planning activities that will deliver the housing growth across the four quadrants (Red Hall, Northern, Middle and Southern). These include the completion of the East Leeds Orbital Route (ELOR) which was formally opened on the 22nd August 2022; the Red Hall site proposals being submitted for planning approval by Redrow Homes in Spring; the Northern Quadrant which now has a reserved matters application under consideration through planning; outline planning granted for the Middle Quadrant with three subsequent reserved matters applications under consideration and the Southern Quadrant which has an outline planning submission which is currently being updated following feedback from the position statement at North and East Plans Panel.

Included within the Southern Quadrant is the Council owned land at Leeds Road/Smeaton Approach. The land was originally included in the Local Plan for housing, however due to the requirement for a new 2 Form Entry primary school to support the development of the Middle and Southern Quadrants, in February 2021 Executive Board, approved the principle of the use and disposal of the land to facilitate the construction of a new primary school as well as community infrastructure. Following on from Executive Board approval, officers have been in dialogue with the Department for Education (DfE) to explore the potential for the site to be brought forward as a free school as part of Free School Wave 14. Heads of Terms have been agreed in principle for the lease of the land to the Free School Operator (Ruth Gorse Academies Trust) on completion of the school construction, which will be delivered by the DfE.

The land is laid out with 3 grass playing pitches. For the site to be brought forward for a primary school and community facilities, to meet Sport England requirements, two of the three playing pitches are to be relocated to Council owned land at Whinmoor Grange. Executive Board in February 2021 approved this proposal and a subsequent planning submission as part of the ongoing implementation of the Whinmoor Grange Development Brief, along with the injection of £650,000 forward funding from the Southern Quadrant developers to support the delivery of the replacement pitches. This scheme has now secured planning approval and works are programmed for the construction of the pitches for Summer 2023.

Recommendations

It is recommended that Executive Board:

- a) note the continuing progress being made across the four quadrants that make up the East Leeds Extension alongside completion of the construction of the East Leeds Orbital Route;
- b) note the progress made to date in relation to the development of the Council's land at Leeds Road/John Smeaton Approach for a new 2 form primary school and community facilities, including the proposed new access road for the site;
- c) approve the disposal of c2 ha of land at the Leeds Road/Smeaton Approach site for the provision of a new primary school at less than best consideration and on the basis of the terms set out in the Exempt Appendix on a long lease at a peppercorn rent to the School Operator, noting the provisions of the Equalisation Agreement previously approved by Executive Board and entered into by the Council in relation to the site;
- d) delegate approval of the final terms for the disposal of the land to the School Operator at Leeds Road/Smeaton Approach to the Director of City Development;
- e) note the current position regarding the relocation of two existing sports pitches from the land at Leeds Road/John Smeaton Approach to land at Whinmoor Grange so as to facilitate the development of the Leeds Road/John Smeaton Approach site to support the development of the Middle and Southern Quadrants.

What is this report about?

- 1 This report advises Executive Board as to progress made on the construction of the East Leeds Orbital Route (ELOR), the development of the East Leeds Extension (ELE) and the next steps in relation to the proposed disposal and development of Council owned land at Leeds Road/Smeaton Approach for use as a new 2 form entry primary school and the related delivery of new community infrastructure in the Middle and Southern Quadrants.
2. Executive Board has previously noted the importance of ELE as the largest single area of allocated housing land in the city, estimated to accommodate up to 5,000 new homes by the time it is fully built out. The Board has received a series of reports since 2013 on the provision of ELOR as part of a wider East Leeds transport package to underpin and unlock the full development of the area, as well as on the progression of housing development plans in each of the four quadrants of the ELE (Red Hall, Northern, Middle and Southern) and on the progression of the closely related mixed use development of Thorpe Park. Taken together with adjoining development sites at Manston Lane, this represents one of the largest areas of economic and housing growth in the north.
3. Rapid cross sector progress is now being made across all areas of the ELE including ELOR, Red Hall, Northern, Middle and Southern Quadrants.

4. East Leeds Orbital Route (ELOR)

- 4.1 The first phase of ELOR completed in December 2019 with the main project starting in January 2020. Construction works have now been completed and ELOR officially opened to traffic on Monday 22nd August 2022 with landscaping and other ancillary work due to complete in Spring 2023. ELOR provides a new vehicular route around the whole of NE/East Leeds. It has created 20km of new pedestrian and cycle routes, a 7km equestrian route, 8.8

ha of new woodland and shrub planting, 0.15ha of scrub planting, 21.4 ha of species rich mix and 9 ha of marginal & wetland, which will result in planting of over 35,000 no. trees.

- 4.2 The completion of ELOR enables developers and the Council to bring forward development proposals across the whole of the ELE including Red Hall and the Northern, Middle and Southern Quadrants. The detailed planning framework for development in these quadrants is set through an ELE Supplementary Planning Document (SPD) which ensures delivery is in accordance with the Local Plan allocation.

5. East Leeds Extension SPD

- 5.1 The Unitary Development Plan (UDP) allocated land for housing in the East Leeds Extension. The housing allocation has been carried forward into the Site Allocation Plan (SAP) under ref HG1-288. The detailed planning framework for the Northern, Middle and Southern Quadrants is set through an ELE Supplementary Planning Document (SPD) developed to deliver the development in accordance with the allocation.
- 5.2 The SPD envisages a high-quality place-making approach to this urban extension, with best practice in provision for walking and cycling, integration of accessible and attractive green spaces, connectivity with adjoining communities and countryside walking routes, and a co-ordinated approach to the delivery of new community facilities such as schools, health facilities and sports pitches. It sets out the main requirements and expectations to be met by the developers of the ELE and the key principles of collaboration to ensure comprehensive masterplanning and phasing of development.
- 5.3 Development proposals for each quadrant of the ELE must come forward in their entirety and demonstrate that they will not compromise the delivery of the other quadrants. A single outline planning application per quadrant is presumed with reserved matters applications to follow.

6. Red Hall

- 6.1 The Red Hall site extends to approximately 49.5 acres (20 ha) net of the land required for ELOR and comprises the Council's former commercial nurseries, listed buildings and former playing fields.
- 6.2 The site is allocated for housing within the Council's adopted Site Allocation Plan and is located within a highly sustainable, prime area of north Leeds. As such, the site is identified as a key, high value asset within the Council's Capital Receipts Programme. Following the site being advertised for sale and the preferred bidder being appointed (Redrow), the scheme has been under design development and a planning application submitted. This is expected to be referred to Panel for determination in the course of the next few months.

7. Northern Quadrant

- 7.1 The Northern Quadrant lies south of the route of ELOR, between the A58 and the A64. The land is being developed by a consortium of housebuilders, notably Persimmon and Vistry. Outline planning approval was granted in July 2022 for up to 2,000 dwellings plus retail, health, community care and primary school provision. In addition, a new country park is planned between Thorner Lane and ELOR along with several areas of woodland, open space and play areas.
- 7.2 A reserved matters application was received in August 2022 from Persimmon for Phase A of the Northern Quadrant (423 dwellings) and is currently under consideration. Further reserved matters applications are anticipated shortly.

8. Middle Quadrant

- 8.1 The Middle Quadrant planning application extends over circa 40.58 ha (100.28 acres) of land falling within various land ownerships. The Council owns circa 3.28 ha (8.11 acres) of land within this quadrant primarily made up of existing woodland. The house builders leading on development within the Middle Quadrant are Taylor Wimpey and Persimmon.
- 8.2 Outline planning permission was granted in August 2022 for up to 875 dwellings. To date, three reserved matters applications have been submitted for 814 dwellings in total and are currently under consideration by planning.

9. Southern Quadrant

- 9.1 The Southern Quadrant planning application extends over circa 45.86 ha (113.32 acres) of land either owned or held under Option by the Council, Redrow and Taylor Wimpey. In total the Council owns approximately 14.32 ha (35.38 acres) across three separate plots, whilst Redrow and Taylor Wimpey either own or have options to acquire 9 ha (22.24 acres) and 22.54 ha (55.70 acres) respectively.
- 9.2 The SPD sets a need for three new primary schools to be provided across the Northern, Middle and Southern Quadrants of the ELE to be secured by land being made available within each quadrant for a school (min 1.7ha) and developers making financial contributions towards the cost of provision. Notwithstanding the requirements of the SPD, which had been based on forecast development capacity in each quadrant, it is now anticipated that the needs of both the Middle and Southern Quadrants can be met via a single Primary School located on Council owned land within the Southern Quadrant, as more recent detailed planning and design work in each quadrant shows the development capacity to be less than originally thought and therefore the school place demands generated are lower.
- 9.3 Developers are also expected to assess the need for new community, health, retail and other facilities. The setting aside of land for such use and the programme for delivery will be dealt with via s106 legal agreements attached to planning approvals. It is anticipated this requirement will be met for both the Middle and Southern Quadrants through the development of community facilities located on Council owned land within the Southern Quadrant.
- 9.4 In January 2020, Executive Board approved the Director of City Development entering into formal one-to-one discussions with Taylor Wimpey and Redrow, for the disposal of Council owned land within the Southern Quadrant. In addition, Executive Board also approved that the Director of City Development would negotiate and enter into an Equalisation Agreement with the developer consortium for the Middle and Southern Quadrants, to facilitate the development of coherent masterplans and planning applications for those quadrant and to address land value depreciation resulting from providing infrastructure.
- 9.5 The Equalisation Agreement relates to each of the Council's land parcels (A, B and C) contained within the Southern Quadrant and the existing woodland in the Middle Quadrant as shown in Appendix 1.
- 9.6 An outline planning application for the development of the Southern Quadrant for up to 925 dwellings plus a community hub has been submitted and a position statement was presented to North and East Plans Panel on the 22nd September by the developer consortium. Following detailed feedback from Panel, designs are being updated and draft planning conditions prepared ready for resubmission in April/May 2023. This includes the Council owned land referred to in paragraph 9.7 below.

- 9.7 Council owned land at /Leeds Road/John Smeaton Approach (Parcel A) has been identified as the appropriate site for the provision of the new 2Fe primary school, as well as retail and community facilities. The land currently accommodates three sports pitches (two full size and one junior size) two of which, until recently, were used by Whinmoor Junior Football Club. The masterplanning work has been finalised and has identified a proposed mix of uses for the site – a 2 form entry primary school (including a sports pitch which will be made available for community use), together with retail and community facilities as per Appendix 2.
- 9.8 Following approval to the masterplan, in February 2021 Executive Board approved the use and disposal of the land at Leeds Road/John Smeaton Approach to facilitate the development of the site for the purposes outlined above.
- 9.9 Since that time officers have been in dialogue with the Department for Education (DfE) to explore the potential for part of the site to be brought forward as a free school as part of Free School Wave 14, and Heads of Terms have been agreed in principle for the construction of the school and subsequent disposal of the land to the Free School Operator (the Ruth Gorse Academies Trust). The school will be delivered by the DfE who will be responsible for all design development and planning submissions for the scheme. The draft Heads of Terms are attached at the Exempt Appendix.
- 9.10 The draft Heads of Terms identify the land that would be let to the Ruth Gorse Academies Trust on a 125 year lease which would provide that the land could only be used for Education purposes.
- 9.11 In order to bring the Leeds Road/John Smeaton Approach site forward development an access from Leeds Road needs to be provided into the site. The access is included within the Southern Quadrant outline planning application and discussions are ongoing with the Southern Quadrant developers as to how and when it is going to be delivered and paid for (it is anticipated that the Council will construct the access – together with other works required to be carried out to Leeds Road - under a s278 agreement with the costs being met by the Middle and Southern Quadrant developers).
- 9.12 In addition, there is a need for an access road to be constructed beyond the new site entrance to provide access to the new primary school and community facilities. This road will need to be provided before the school opens and it is intended that it will be constructed by the Council with costs recovered from the Middle and Southern Quadrant developers either via the Equalisation Agreement or from their s106 education payments.
- 9.13 As stated in paragraph 8.6, the land at Leeds Road/John Smeaton Approach is currently laid out as three playing pitches. It is included in the Southern Quadrant outline planning application as the location of a new school and community infrastructure. Sport England originally objected to the application as development of the Leeds Road/John Smeaton site would mean that the existing sports pitches would be lost.
- 9.14 Sport England has subsequently agreed that the Leeds Road/John Smeaton Approach site can be developed subject to replacement sports pitches being provided. Proposals have been developed and agreed with Sport England for the relocation of two pitches at Whinmoor Grange (as set out in paragraph 10) with a third pitch to be provided on-site as part of the primary school. Planning conditions have now been agreed to the effect that no development can take place at the site until the off-site pitches have been provided and are available for use and that alternative provision must be made in relation to the third pitch until such time as that has been re-provided on site after which it must be made available for community use.
- 9.15 In addition, Sport England are concerned that the combination of curriculum and community use of the on-site pitch could have a detrimental impact on the quality of that pitch and have requested measures to ensure that it will be of sufficient quality to support both

uses. It is proposed that this concern be addressed by way of a planning condition to be imposed on the outline planning permission for the Southern Quadrant whereby the on-site pitch must be provided to a standard approved by Sport England.

9.16 Notwithstanding the above, there remains a risk to the Council that any delay in the provision of either the on-site pitch, or the pitches at Whinmoor Grange, could prejudice the Council's ability to develop the remainder of the John Smeaton site. Officers are therefore seeking further discussions with Sport England as to whether a level of development could be carried out in advance of the replacement pitches being available for use. In addition, it is proposed that the arrangements for the development of the school site will be subject to the Council being able to construct the on-site pitch in default of the DfE doing so at the DfE's cost.

10.0 Whinmoor Grange – Pitch Relocation (2 pitches)

10.1 In order to bring forward the Council's land at Leeds Road/John Smeaton Approach for development, two of the existing grass pitches require reprovision in order to overcome Sport England's objection to the Southern Quadrant outline application and to meet planning policy requirements. Sport England's position was fully anticipated and proposals for the relocation of the pitches have been in development for some time.

10.2 At its meeting of October 2011, Executive Board approved an Informal Planning Statement as a guide for future development proposals for Council owned land at Whinmoor Grange, which set the scope for delivery of future potential land uses including a new cemetery (which has now been built), a new Parks and Countryside nursery (subsequently delivered as the Arium) and new sports pitches envisaged as providing for needs arising from the development of the East Leeds Extension.

10.3 The proposed ELE Pitch Relocation Strategy is consistent with the Whinmoor Grange Informal Planning Statement, which is to focus any required pitch relocations from the ELE - and in this case from the Southern Quadrant - on replacement high quality provision at Whinmoor Grange. The proximity to the Arium provides the potential to take the access arrangements and close management and maintenance from the Parks and Countryside depot facilities there.

10.4 The minimum timescale for the creation of fully drained grass playing pitches is 18 months. This is based on a construction start in early Spring in the first year, with completion in Autumn the following year. Whilst the construction of grass playing pitches is seasonal and weather dependant, the Council have progressed proposals for the relocation of the grass pitches in advance of any other planning submissions related to the Leeds Road/Smeaton Approach site. This was to ensure that the relocated playing pitches would be constructed and available for use prior to the loss of any existing playing pitches.

10.5 The Whinmoor Grange planning application for the playing pitch relocation was submitted and was awarded planning approval on the 3rd January 2023. The project proposals are attached at Appendix 4. Vacant possession of the site has also been achieved and subject to discharging pre-commencement planning conditions, tender documents are being prepared for contract award and it is anticipated that the works will commence on site in April/May this year.

What impact will this proposal have?

11 The proposal would see the Council entering into a conditional agreement with the Secretary of State for Education for the construction of a new two-form entry primary school on the Council's land and for the grant a 125-year lease of the site to an academy. The construction of the school will be funded and undertaken by the Secretary of State with a target opening date of September 2026. This would be preceded by the Council

constructing a new access road to serve both the school site and the adjoining land of the Council.

- 12 The target date for completion of the school is based on current estimates from the Director of Children and Families of anticipated demand for school places from the Middle and Southern Quadrants of the ELE as they are built out, coupled with anticipated capacity of other schools in the area.
- 13 The proposed transaction is conditional on planning permission being obtained for the construction of the school and the new access road, as well as the Council constructing the access road and providing the replacement sports pitches at Whinmoor Grange.
- 14 Proposals for the new school are being developed with the Department for Education who will work with the Council towards delivery of the school by September 2026.
- 15 The Council's proposed contribution is the provision of the land for the development at nil consideration together with contributions towards the cost of groundworks and infrastructure. This is a less-than-best consideration disposal for the Council. The cost of constructing the school will be met by the Department for Education, who will seek planning approval, and design and construct the school. This will be undertaken in conjunction with the Council relocating two of the existing sports pitches and creating the new shared access road for the school and the community facilities in order to meet the planning requirements for the Middle and Southern quadrants. Officers are continuing to develop proposals for the development of the community facilities in line with the approved masterplan.
- 16 An Equality, Diversity, Cohesion and Integration (EDCI) Screening Form has been completed with no specific issues identified and is attached as Appendix 5.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

17 Inclusive Growth

Entering into the agreements and taking forward the actions referred to in this report will help to facilitate the delivery of up to 1,800 new homes in the East Leeds Extension as a key component in delivering the housing requirements of the Local Plan. It will also facilitate the delivery of key physical and community infrastructure in the area, thereby helping to build a thriving and resilient community.

Delivering the ELE is key in realising ambitions in the Best City Ambition regarding sustainable infrastructure, housing and inclusive growth and meeting the city's housing needs through this major plan-led development is a key component of the Council's Inclusive Growth Strategy – delivering on the Big Ideas for place, including 21st century infrastructure, supporting places to respond to economic change and creating jobs close to local communities.

18 Climate Emergency

The delivery of new homes and infrastructure in the ELE is a crucial component of the plan-led approach to growth across the Leeds district, taking a balanced view of housing need and the allocation of sites to meet the diverse requirements of all residents and communities. The Local Plan and the Site Allocations Plan have been subject to sustainability appraisal and the Core Strategy has a raft of policies to ensure development

comes forward to address carbon reduction, air quality, local environmental benefits and biodiversity gain. The development of the ELE will take place within this framework.

19 Health and Wellbeing

The scheme requires the delivery of 2 replacement grass playing pitches which are being relocated from the Smeaton Approach/Leeds Road to ensure that the existing playing field provision of 3 pitches on the site is available continuously throughout the delivery of the development for use by local teams and clubs. One pitch will be retained on site as part of the school development.

What consultation and engagement has taken place?

Wards affected: Crossgates and Whinmoor, Harewood

Have ward members been consulted? Yes No

- 20 In February 2021, Executive Board approved the principle of the school site being appropriated/dedicated for use as primary school and to the Council disposing of the site for the provision of such a school. Executive Board also approved the Council entering into various agreements in relation to the development of the Middle and Southern Quadrants of the ELE (including an equalisation agreement relating to the provision of infrastructure within those quadrants).
- 21 The ELE has been subject to significant consultation at key stages of scoping and decision making since its inception as a programme in 2013. There has been specific consultation on the ELE SPD, and individual planning applications as well as ongoing community engagement through local neighbourhood fora, meetings with local interest groups and engagement with stakeholders on a range of issues.
- 22 The planning applications for the Middle and Southern Quadrants have been the subject of focused engagement through the ELE Consultative Forum (chaired by Cllr P Grahame, Ward Member for Crossgates and Whinmoor). In addition, ward members for Crossgates and Whinmoor, and Harewood, (in whose wards the Middle and Southern Quadrants of the ELE are located), have been engaged and briefed on both developments as matters have progressed, with any matters of detail arising, being considered and responded to. Current issues raised includes how the comprehensive development of the site including the school, retail and health facility will be delivered, and the detail of the community use agreement proposed for the school facilities.
- 23 Ward members and the Executive Member for Infrastructure and Climate have been consulted by officers from Asset Management and Regeneration through written and face-to-face briefings over proposals for the district centre which incorporates the school site and are supportive of the proposals. Ward members will be offered further briefings and opportunity to comment as the proposals progress.
- 24 The requirement to provide a site for a new primary school arises from the grant of planning permission for the development of the Middle and Southern Quadrants of the ELE. It will be a specific requirement of any outline planning consent for the Southern Quadrant that sufficient land is made available within the quadrant for a school and that the Southern Quadrant developers will be required to make financial contributions to the cost of providing it. Financial contributions have also been secured pursuant to the Middle Quadrant outline planning consent. As part of the evolving district centre proposals and the master-planning of the

Middle and Southern Quadrants of ELE, the Leeds Road/Smeaton Approach site has been identified as the most appropriate location for a school.

What are the resource implications?

- 25 The proposed disposal of the school site will be at nil consideration. The Council has however previously entered into an Equalisation Agreement with the Middle and Southern Quadrant developers. This provides a mechanism by which the Council will be compensated for the value forgone in relation to the disposal of the school site when compared to the amount that would have been realised on a market value disposal of the site.
- 26 Discussions with the Middle and Southern Quadrant developers are ongoing in relation to the provision of access into the Leeds Road/John Smeaton site but it is anticipated that the costs of providing such access will either be met by the Middle and Southern Quadrant developers or recovered from s106 contributions for the Middle and Southern Quadrants.
- 27 The costs of providing the school will be met by the Department for Education working in conjunction with the Academy who will be the ultimate occupier of the site. The current cost of providing a new 2 form entry primary school is estimated at between c£7 and £9m subject to site conditions, abnormalities, access and inflation rates. As set out in the Exempt Appendix the Council will be contributing towards abnormal costs which will be recovered from s106 contributions for the Middle and Southern Quadrants.
- 28 The other resource implication sits around the value foregone for the land which will be leased to the school. This is estimated at £1.64m however this is expected to reduce once more site condition information is available.

What are the key risks and how are they being managed?

- 29 The principal risk is that the school will not be constructed and ready to open by the target opening date of September 2026. Discussions are ongoing with the Department for Education in relation to this and assurances have been received that they and the academy will work with the Council to endeavour that such date is met. If it is not, and there is an impact on the Council's statutory duty to provide a sufficiency of school places, the Council will be able to use the s106 contributions received from the Middle and Southern Quadrant developers to fund alternative provision on either a temporary or permanent basis.
- 30 Preparatory work has already been undertaken in relation to certain preliminary matters, related to the development of Leeds Road/Smeaton Approach site including the design of the two replacement pitches which the Council is providing at Whinmoor Grange and obtaining planning permission for them, as well as master planning of the district centre and the new access road. Working with the Council, the Southern Quadrant developers have also submitted an outline planning application for the development of the Southern Quadrant (including the school site) and it is anticipated that this will be presented to Plans Panel for determination in Spring 2023. In connection with this, and in consultation with the Department for Education and the Southern Quadrant developers, the Council has agreed planning conditions with Sport England relating to the development of the Leeds Road/Smeaton Approach site and is also looking to enter into discussions with them in relation to the possibility of carrying out works on the site in advance of the replacement pitches at Whinmoor Grange having been constructed and being ready for use. These aspects of the project will continue to be monitored to anticipate and mitigate any risks arising.
- 31 A small risk exists that obtaining detailed planning permission for the school may be delayed or refused. As set out above, the principle of the school being provided on the Leeds Road/Smeaton Approach site has already been established and it is hoped that outline

permission will be forthcoming in the Spring 2023. It will then be for the Department for Education to apply for detailed permission for the construction of the school.

What are the legal implications?

- 32 Section 123 of the Local Government Act 1972 provides that unless the Secretary of State has otherwise consented, the Council must dispose of land at the best financial consideration reasonably obtainable.
- 33 The Local Government Act 1972: General Disposal Consent 2003 allows local authorities to dispose of land where the difference between (a) the unrestricted value of the interest to be disposed of and (b) the consideration payable for the disposal, is £2m or less, provided that the authority considers that the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social and/or environmental well-being of the whole or any part of its area or of all or any persons resident or present in its area.
- 34 As regards the proposed disposal of the school site, as detailed in the exempt appendix, the amount of value foregone by the Council will be less than £2m. In addition, it is believed that the construction of a new two-form entry primary school on the school site will improve both the economic and social well-being of the area. The school is a key element in making the ELE a desirable and attractive place to live in accordance with the ELE Supplemental Planning Document. It is required to ensure that sufficient places for children are provided in connection with the development of the Middle and Southern Quadrants of the ELE and the site has been identified as the most beneficial and appropriate location for a school. Unless the school is built, the Council will have to create additional capacity elsewhere. On that basis the disposal falls within the terms of The Local Government Act 1972: General Disposal Consent 2003.
- 35 However, the consideration payable for the proposed disposal of the school site is such that the amount of value foregone (£1.64m) exceeds the amount which the Director of City Development has delegated authority to approve (£100,000), and Executive Board must therefore approve the principle of the disposal at less-than-best consideration.
- 36 Notwithstanding the fact that the proposed disposal of the school site is at less-than-best consideration, there will not be any subsidy provided. As set out in the Government's "Statutory Guidance for the United Kingdom Subsidy Control Regime", education services organised within the national education system - and which are funded through public funds and supervised by the UK Government - are not considered to be economic activities for the purposes of the Subsidy Control Act 2022 and are not therefore subject to the subsidy control regime.
- 37 Whilst local authorities have a duty to ensure that there are enough school places for children in their area, they are unable to open new local authority run community schools. The Education and Inspections Act 2006 (as amended) provides that, where local authorities identify a need for a new school, it must be an academy.
- 38 The proposal constitutes a Key Decision and is subject to call in.
- 39 The information contained in the Exempt Appendix 3 attached to this report relates to the financial or business affairs of a particular person / company, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that, since this information has been obtained through one-to-one negotiations for the disposal of the school site, it is not in the public interest to disclose this information now. Also, it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would have access to information about the nature and level of consideration which may prove

acceptable to the Council. It is considered that, whilst there may be a public interest in disclosure, the public interest in maintaining the exemption outweighs the public interest in disclosing this information now. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

Options, timescales and measuring success

What other options were considered?

- 40 Leeds City Council has a statutory duty to deliver a sufficiency of school places. The Leeds Road/John Smeaton site has for some time been identified through the ELE SPD as a site required for school provision as part of the Middle and Southern Quadrants. The mechanism through which it is delivered could either be through the Council running a free school presumption or the DfE opening a free school. It is the latter route that the school will be delivered through as the Council would have to seek DfE approval to run a free school presumption which, where a free school has already been approved by the DfE, would not be supported. This primary school will be provided at no cost to the Council. Therefore, the proposal to dispose of the site for the development of an existing approved free school provides the least risk option for the Council and the only option for consideration.
- 41 If the Council does not make the school site available, then the school may not be built or maybe built in a sub-optimal location. This is not favoured, and Executive Board has previously approved the principle of the site being made available for the school. The site has been identified by both the Department for Education (who have looked at many other potential sites in East and North-East Leeds) and the Council as the optimal site for the provision of a primary school to support the development of the Middle and Southern Quadrants of the ELE. Local Authorities are precluded by law from opening new schools themselves and the proposed disposal of the school site provides a delivery mechanism for addressing school place provision in Leeds consequent to increased anticipated demand on school places arising from the new housing proposals of the ELE.
- 42 If the Council were to dispose of the site at a premium and/or make no financial contribution, this may make the provision of a school at this location unviable. The disposal of the site for educational purposes, as provision to support development in the Middle and Southern Quadrants is though subject to an equalisation agreement between the Council and the Middle and Southern Quadrant developers which provides for financial recompense to the Council for any value foregone in relation to such a disposal. Similarly, the Council will have access to s106 contributions for education provision to support the housing development from the Middle and Southern Quadrant developers which can be utilised to fund capital support for the development of the school.

How will success be measured?

- 43 Success will be measured by entering into an agreement for the construction of the school and the subsequent disposal of the site, the successful discharge of the conditions precedent relating to the disposal of the site and the construction of the school to meet the target opening date of September 2026 (or such other date as maybe agreed by the Council).

What is the timetable and who will be responsible for implementation?

- 44 It is intended to enter into an agreement for the construction of the school and the disposal of the site at the earliest opportunity after finalisation and approval of detailed terms for the transaction by the Director of City Development and final approval by the Director of City Development and/or the Chief Officer – Financial Services of the funding for the

development costs set out in the exempt appendix to align with the target opening date for the school of September 2026. Officers from City Development and Legal Services will be responsible for this.

- 45 It is anticipated that outline planning permission for the development of the Southern Quadrant of the ELE (including the school site) will be granted in Spring 2023. After that responsibility for obtaining detailed planning permission for the construction of the school and delivering the school will lie with the Department for Education. Construction of the new access road will be undertaken by the City Council and officers from City Development will be responsible for progressing this in conjunction with the Southern Quadrant developers.
- 46 The target date for completion and opening of the school is September 2026. It is envisaged that the works to construct the replacement off-site pitches at Whinmoor Grange will start in Spring 2023 and that the new access road will be constructed to base course level by March 2025.

Appendices

- Appendix 1 – LCC land holdings in Middle and Southern Quadrant
- Appendix 2 – Land use allocations for the Smeaton Approach/Leeds Road site
- Appendix 3 - Exempt Appendix-detailing site valuation, proposed headline terms for the disposal and funding proposals for the access road and site preparation and supporting works. Exempt under Access to Information Procedure Rule 10.4(3).
- Appendix 4 – Whinmoor Pitches relocation proposals
- Appendix 5 - EDCI Screening Form

Background papers

None.