

Disposal of land at Dawson's Corner by The Calverley Charity

Date: 23 June 2021

Report of: Chief Officer of Asset Management and Regeneration

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- Leeds City Council (LCC) is the sole trustee of The Calverley Charity – The Workhouse Allotment (charity number 504497) ('the Charity').
- The Charity currently has a small cash reserve and owns approximately seven acres of land at Dawson's Corner, Pudsey. The land is unused other than for the occasional grazing of horses and generates very little income for the Charity.
- LCC acting in its capacity as Highways authority has approached the Charity to purchase the land. The Charity is prepared to dispose of the land to LCC generate funds for the Charity. The proceeds of the sale will be used to fulfil the objectives of the Charity.
- This report is on behalf of the Charity and the City Council acting in its capacity as sole trustee is requested through Executive Board to approve the terms of the sale.
- The land is privately owned by the Charity and this report is specifically for the purpose of Executive Board approving the transaction in its capacity as sole trustee.

Recommendations

- A) Executive Board is asked to approve, on behalf of the Council acting as sole trustee of the Calverley Charity, the terms of the disposal of the Charity's land at Dawson's Corner, and delegate the approval of any variation to the final terms to the Chief Officer of Asset Management and Regeneration in consultation with the Executive Member for Resources in so far as there is no conflict with the regard to the delegation and the respective interests of the parties.
- B) Executive Board is invited to note the officers responsible for this matter are Daniel Slater (Land & Property) and Shazia Ali (Legal). Upon approval of the sale terms by Executive Board the sale will be progressed and completed in timescales to suit the Charity and the purchasing Highway Authority (aim to complete by end of 2021).

Why is the proposal being put forward?

- 1 The Charity has been asked to sell its land to facilitate highway improvements to the A647 Dawson's Corner roundabout. It is proposed that the Charity sells the land and Leeds City Council acting as sole trustee through Executive Board is asked to approve the sale terms.
- 2 Elsewhere in the agenda to this meeting is a report from the Director of City Development entitled "*Acquisition of land for the A647 / A6120 Dawson's Corner junction improvement scheme*" outlining recommendations for the acquisition of the land.
- 3 The Charity intends to use the proceeds of sale on the objects of the Charity. The objects of the Charity are 'the relief of hardship and need of the residents' of the Consent will need to be sought from Commission consent to the disposal of the land to Leeds City Council and it will be approached once the consultation has completed at the end of June 2021.
- 4 As Leeds City Council is acting as sole trustee in the disposal and is also purchasing the land stringent measures to mitigate any potential conflict of interests have therefore been put in place.
- 5 An independent RICS Red Book valuation of the land was undertaken on 10 April 2017 by Cushman & Wakefield with a further update dated 18 May 2021. The May 2021 report concludes that the Market Value of the land is £1,400,000.
- 6 The freehold interest in the land is to be transacted at the Market Value determined by the Cushman & Wakefield May 2021 update.

What impact will this proposal have?

Wards Affected: Calverley & Farsley

Have ward members been consulted?

Yes

No

- 7 The sale of the land will generate income required for the Charity to fulfil its objectives.
- 8 Equality, diversity, cohesion and integration was considered throughout this process. The additional capital received from the proceeds of this disposal will enable the Charity to provide assistance to a wider section of the community.

What consultation and engagement has taken place?

- 9 At the time of writing a consultation is being prepared by appointed consultation experts WSP, the outcome of which will be reported at the meeting if the consultation results are available at that point.
- 10 If the consultation results are not available by the time the meeting occurs, a return to Executive Board will be required to report if there have been any significant objections.
- 11 This report has been prepared with the support of Ward Members for the Calverley and Farsley ward. Ward members have been kept fully up to date on all issues relating to the disposal.

What are the resource implications?

- 12 Disposal of the land will enable the Charity to fulfil its objectives more effectively and will also relieve the charity of any liability to maintain the land.

What are the legal implications?

- 13 Disposal of the land owned by the Charity must comply with the requirements of the Charities Act 2011, otherwise an order of the Court or the Charity Commission will be required before the land can be disposed of.
- 14 Notwithstanding the provisions of Section 6 of the Trusts of Land and Appointment of Trustees Act 1996, in disposing of land, the trustees of a charity must comply with the provisions of Sections 117-120 of the Charities Act 2011 (in so far as they are applicable to the proposed disposal) and Section 1 of the Trustee Act 2000. In addition, the trustees must also have regard to the rights of the beneficiaries of the charity who are the residents of the wards of Calverley and Farsley.
- 15 Section 117 of the Charities Act 2011 provides that no land held by or in trust for a charity can be disposed of without an order of the Court or the Charity Commission unless:
 - the disposal is made to a person who is neither a trustee or a 'connected person' (somebody who is connected to the trustees in some way); and
 - (in the case of a disposal of the nature proposed by this report) the disposal complies with the provisions of Section 119(1) of the Act.
- 16 Section 119(1) of the Charities Act 2011 provides that, before disposing of any land, the trustees must:
 - obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity;
 - advertise the proposed disposal for such period and such manner as is advised in the surveyor's report (unless the surveyor's report advises that it would not be in the best interests of the charity to advertise the proposed disposal); and
 - decide that they are satisfied, having considered the surveyor's report, that the terms on which the disposal is proposed to be made are the best that can reasonably be obtained for the charity.
- 17 Section 1 of the Trustee Act 2000 provides that trustees must exercise such care and skill as is reasonable in the circumstances, having particular regard to any special knowledge or experience which they have or hold themselves out as having and (if they are acting as a trustee in the course of a business or profession) to any special knowledge or experience that it is reasonable to expect them to have as a result of that business or profession.
- 18 In respect of the sale price, this is being recommended for approval on the basis of an independent valuation commissioned under the terms of the Charities Act which represents market value.

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

- 19 Disposal of the land will provide funds for the Charity to fulfil their objectives more fully and provide greater/more/something for the community the charity serves. Should the land not be disposed of, the Charity will have very little money to make available for the benefit of

the local community. Additionally, if land is not disposed of the Charity will remain responsible for maintaining it. This risk is being managed via the disposal of the land.

20 The risks associated with the disposal of the Charity's land to LCC are as follows:

- if the land is not disposed of, the charity will remain responsible for maintaining it;
- the land is allocated for housing in the Site Allocations Plan and there would therefore be other willing buyers should LCC not acquire the land;
- although unlikely, LCC may withdraw their offer before exchanging contracts for the purchase of the land – this is a risk on any property transaction.

21 As the Council is the sole trustee of the Charity approving the terms of the sale, and acting in its capacity of Highway Authority purchasing the land any risk of a conflict of interests is being managed through multiple methods. These include: internal information barriers, meaning that the disposal and acquisition are being managed in separate capacities, using different surveyors and solicitors

22 The risk of a market value not being realised by the Charity for the sale of the land is being mitigated by ensuring that the price realised is determined by a RICS Red Book valuation, undertaken by an external third party professional valuers appointed by the Charity. The valuer was determined and selected via a competitive tendering process.

23 The Charity has access to internal legal support but to ensure they have independent legal advice it has also appointed external solicitors, Wrigleys, acting for it and advising it.

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

24 This is a report on behalf of the Charity, therefore the council's 3 Key Pillars are not applicable.

25 Albeit there is nothing in this report that is contrary to the Council's Key Pillars.

Options, timescales and measuring success

a) What other options were considered?

26 Other options are detailed below:

27 The Charity could retain the land however this would not help fulfil the objectives of the Charity and ownership liabilities would remain with the Charity.

28 The Charity to sell to another party on the open market or by other methods. The Charity has decided, however, to dispose of the land for the essential highway improvements at Dawson's Corner.

b) How will success be measured?

29 That the land is disposed at Market Value and the Charity realises funds to fulfil its objectives.

c) What is the timetable for implementation?

30 Upon approval of the sale terms by Executive Board the sale will be progressed and completed in timescales to suit the Charity and the purchasing Highway Authority. Once Executive Board approval is provided in relation to the disposal of the land, the consultation will be undertaken. At this point we will seek the consent of the Charities Commission to the disposal and advise them that we have undertaken a consultation. Once we have

Charities Commission consent we can then proceed to complete the disposal. The initial aim is to complete by the end of 2021.

Appendices

31 Plan - 11527L Calverley Allotment Land Pudsey PANEL.

32 Equality, Diversity, Cohesion and Integration Screening

Background papers

There are none.