

# Acquisition of mines and minerals interests in East Leeds

Date: 11 October 2021

Report of: Land and Property

Report to: Director of City Development

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

- Acquiring mines and minerals interests in East Leeds to facilitate development of Council owned land as part of the East Leeds Extension (ELE).
- As part of the CPO process, the payment for the acquisition of mines and minerals interests in relation to East Leeds Orbital Route.
- Delivery of ELE will provide new homes, meeting housing needs as the city grows, boost the local economy, deliver new social and physical infrastructure and improve travel and access to new employment opportunities
- This will contribute to the Council's Best Council Plan ambition for a Strong Economy and Compassionate City and to the outcomes it seeks to achieve regarding delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around.

## Recommendations

That approval be given to acquire mines and minerals interests under Council owned land in East Leeds as set out in this report.

That approval be given to the payment for the compulsory acquisition of land and property interests in relation to East Leeds Orbital Route as set out in this report.

## Why is the proposal being put forward?

- 1 The purpose of this report is to seek approval to (a) acquire mines & minerals interests under Council owned land in East Leeds and (b) make a payment in relation to the acquisition of interests to facilitate the construction of East Leeds Orbital Route (ELOR). Executive Board has previously approved entering into arrangements to facilitate the development of the Council's land within the East Leeds Extension (ELE) (February 2021) and to make a Compulsorily Purchase Order (CPO) for the acquisition of land and other interests for the construction of ELOR (June 2017).

- 2 The Council owns land within East Leeds Extension which has been earmarked for development. This includes land at Red Hall, which is under offer from Redrow, and three other sites where options have recently been granted to Redrow and Taylor Wimpey. Planning applications are being progressed for all of the sites.
- 3 In the case of all of the subject development sites, the Council does not own mines and minerals underneath the land. This could mean that development of the sites could be frustrated and/or that the receipts which the Council will receive for the disposal of them will be reduced to reflect this.
- 4 Mines and minerals under some of the Council's land are owned by HJ Banks Limited, part of the Banks Mining Group. Whilst their ownership was known in the case of some of the Council's land, it has only recently come to light in relation to other areas. This was as a result of HJ Banks applying to the Land Registry to have the mines and minerals concerned registered in their name. There is nothing in the Council's deeds to indicate that the mines and minerals were owned by anybody other than the Council.
- 5 HJ Banks have extensive mines and minerals ownerships in the area and the Council has previously acquired mines and minerals from them in relation to the East Leeds Orbital Route (ELOR).
- 6 Prior to Executive Board authorising a CPO being made for ELOR, officers had identified that there were mines and minerals in unknown ownership. Executive Board were appraised of this and that payments would be payable to the true owners. It has now come to light that HJ Banks claim ownership of those mines and minerals which have been vested in the Council pursuant to the CPO and associated General Vesting Declaration which were made to facilitate the construction of ELOR.
- 7 The standard process is that the Council has to pay the owner of the mines and minerals referred to in paragraph 6 for their acquisition pursuant to the GVD. Subject to being satisfied that HJ Banks are the true owner of those mines and minerals it is recommended that a payment is paid to them as set out in this report.
- 8 Officers also believe that it would be advantageous to acquire HJ Banks' interests in relation to the development sites referred to above. In consultation with the Director of City Development and the Executive Member for Resources officers have entered into negotiations with HJ Banks and are now recommending that the Council acquire their interests on the terms set out in the Confidential Appendix to this report.
- 9 Notwithstanding the matters referred to in this report, ownership of mines and minerals is complex and there is the possibility that a third party may subsequently claim to be the owner of some of them. It is therefore also recommended that indemnity insurance is obtained to cover the Council and successors in title should this eventuality arise. Details are set out in the confidential appendix. A waiver of Contracts Procedure Rules is also sought as required to facilitate this.

### What impact will this proposal have?

**Wards Affected:** Crossgates & Whinmoor; Harewood

Have ward members been consulted?

Yes

No

- 10 It will facilitate the continued development of the East Leeds Extension as well as progress an outstanding claim for compensation in relation to East Leeds Orbital Route.

## **What consultation and engagement has taken place?**

- 11 In order to support the delivery of ELOR and ELE, in June 2017 Executive Board authorised the Director of City Development to make the Leeds City Council (East Leeds Orbital Road) Compulsory Purchase Order 2017 ("the CPO") and to agree appropriate terms and acquire such land or interests in land that may be necessary to enable delivery of the ELOR scheme.
- 12 Since June 2017, detailed planning permission has been obtained for ELOR; the CPO has been confirmed by the Secretary of State for Transport; and a General Vesting Declaration (GVD) has been made to vest in the Council all the land and other interests it requires to facilitate the construction of ELOR.
- 13 The Executive Member for Resources was briefed on 15 July 2021 and is supportive of the proposals.
- 14 Notice of a forthcoming Key Decision was published on 6 August 2021. Ward members were subsequently sent a briefing note on 9 August 2021. In addition, several other members have asked for and been provided with details of the proposals. The Leader of the Conservative Group also requested and has been given an individual briefing. No objections have been raised.

## **What are the resource implications?**

- 15 In June 2017, Executive Board approved a provisional financing package for ELOR including a grant of £82.9m from the West Yorkshire Transport Fund as well as the Council underwriting all land assembly and compensation costs arising from the making and implementation of the CPO in the event that they exceed the available WYTF grant.
- 16 In addition, Executive Board also approved that the scheme and the estimated cost of land assembly be injected into the Council's Capital Programme. The payment of compensation for the acquisition of interests pursuant to the GVD will be met from this.
- 17 As regards the payment for the acquisition of mines and minerals under Council owned land officers from Financial Services have confirmed that funding will be made available from the existing Capital Programme. As a result of the development and disposal of the sites concerned, future receipts may be utilised within the capital programme as and when required.
- 18 Otherwise officers of the council will be the only resource required to undertake and complete the recommended transaction and this will be met as part of the on-going work by the current team engaged on the project.

## **What are the legal implications?**

- 19 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 20 The Chief Officer Asset Management and Regeneration, the Head of Asset Management and the Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme.
- 21 Parties adversely affected by Council schemes are, in certain circumstances, legally entitled to financial compensation. For compensation relating to acquisitions of land or property, or property rights, the Chief Officer Asset Management & Regeneration, the Head of Asset Management and the Head of Land & Property have authority to negotiate the

settlement of claims, under sub delegation from the Director of City Development where financial provision exists within the Council's Capital programme.

- 22 Section 120 of the Local Government Act 1972 authorises the Council to acquire any interest in and any rights in, to, or over land for any of its functions or for the benefit, improvement or development of the area.
- 23 The proposal constitutes a Key Decision and is subject to call in.
- 24 The information contained in the Appendix and plans attached to this report relates to the financial or business affairs of a particular company, and of the Council. 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 parties of other similar interests would have access to information about the nature and level of consideration which may prove acceptable to the Council. 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.

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

- 25 These are set out in the confidential appendix.

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

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 26 East Leeds Extension (ELE) is the largest single area of allocated housing land in the city, estimated to accommodate around 4,500 to 5,000 new homes by the time it is fully built out. This represents a significant proportion of the overall requirement for new homes across Leeds by 2028 as set out in the Core Strategy.
- 27 East Leeds Orbital Road (ELOR) is a 7.5km dual carriageway road that will link the A6120 at Red Hall to Junction 46 of the M1 at Thorpe Park via Manston Lane Link Road and will facilitate the development of the ELE.
- 28 The delivery of ELE will clearly benefit the Best Council Plan ambition for a Strong Economy and Compassionate City and to the outcomes it seeks to achieve regarding delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around. Delivery of ELE will provide new homes, meeting housing needs as the city grows, boost the local economy, deliver new social and physical infrastructure and improve travel and access to new employment opportunities.
- 29 The proposal contained in this report relates to the continued delivery of ELOR and the ELE which in turn supports both growth and investment in the city.

### **Options, timescales and measuring success**

#### **a) What other options were considered?**

- 30 If the Council did not acquire the mines and minerals under its land the development of that land could be frustrated and/or the value that the Council receives for it on a disposal could be compromised.

#### **b) How will success be measured?**

- 31 When the legal interests have been transferred to the council.

**c) What is the timetable for implementation?**

- 32 The council is seeking to exchange contracts and complete by the end of October 2021. The vendor had requested completion by 28<sup>th</sup> September 2021 but this has not proved possible to achieve.

**Appendices**

- 33 Confidential appendix - exempt under Access to Information Procedure Rule 10.4(3).  
34 Plans – exempt under Access to Information Procedure Rule 10.4(3).

**Background papers**

- 35 None.