

Land at Stanks Gardens, Swarcliffe LS15 - Reverter Settlement

Date: January 2023

Report of: Head of Asset Management

Report to: Chief Officer Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Confidential under Access to Information Procedure Rule 10.4.3

Brief summary

The subject site was formerly owned by the Roman Catholic Diocese of Leeds who acquired the site from the City Council in 1973 for the provision of a primary school.

Provision was made at that time within the transfer of the site to the Diocese that upon closure of the school, ownership of the property is to revert to the Council with the Council to legally bound to acquire the site at value.

The school closed in 2009 and pending resolution of valuation issues the site, which included the school, was conveyed back to the Council.

This report proposes terms for a settlement of the payment due from the council to the Diocese and seeks authority to the incurring of the necessary expenditure to settle the Council's financial liabilities following legal consideration of those liabilities.

The report also proposes settlement of outstanding security costs incurred by the Diocese between the school use ending and the transfer back of the property to the Council.

Recommendations

a) It is recommended that approval:

- is given to the making of the financial settlement to the Diocese as detailed in the confidential appendix in settlement of the reverter requirements and related site security costs and
- is given to the incurring of the expenditure required to settle the amount due.

What is this report about?

- 1 This report relates to the settlement of a financial obligation that the City Council carries relating to the subject site which the Council re-acquired from the Diocese of Leeds pursuant to reverter provisions contained within the title to the site. These provisions set out a contractual liability on the Council, which date from its transfer of the site shown on plan to the Diocese in 1973, to take a transfer of the site back at a commercial value upon closure of the school.
- 2 The site itself forms part of a larger area of Council ownership currently under contract for sale to a third party for housing development which is also indicated on plan. Completion of the sale is due in early 2023, at a value which exceeds that due to the Diocese.
- 3 Following some protracted discussions over the period between school closure and the transfer of the site the Diocese incurred security costs holding the property whilst discussions around value and legal issues took place with the Council having agreed to meet the Diocese costs.
- 4 The subject property was transferred back to the Council in 2010 ahead of settling the level of the outstanding payment and remains to be settled. By way of an agreement approved and entered into in 2021 the period for settlement has been extended.
- 5 The purpose of this report seeks authority to approve the level of the settlement, together with interest and to authorise the re-imbursement of the outstanding security charges incurred by the Diocese.

What impact will this proposal have?

- 6 Approval to the proposal of this report would settle the Council's financial obligations in full in respect to the reverter provisions.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 7 The proposal relates to an existing and binding contractual obligation and does not directly impact on Best City Ambitions. The reverting of the site to the Council has however allowed for its inclusion within a housing development site which is being advanced for sale for affordable housing development. New housing will be built to comply with current environmental requirements and will support health and wellbeing by meeting, as a minimum modern housing construction standards.

What consultation and engagement has taken place?

Wards affected: Crossgates & Whinmoor

Have ward members been consulted?

Yes

No

- 8 The proposal relates to existing contractual matters and in these circumstances, it is considered unnecessary to consult ward members. The broader housing development site disposal, which incorporates most of the subject site was the subject of separate ward member consultation

What are the resource implications?

- 9 A significant proportion of the site lies within a wider site, as shown on plan, contracted for sale and which lies within the capital receipts programme with an anticipated completion in the financial year 2022/2023. The reverter payment can be met from this payment. Discussions with finance officers have also confirmed that should the receipt from the sale of the land be delayed into the following financial year then an appropriate adjustment can be made to the capital receipts programme to reflect the delayed capacity to recover the payment.
- 10 The settlement figure is based on a pro-rata proportion of the receipt due on the site with interest calculated until a settlement date of 31 March 2023.
- 11 The Diocese have evidenced the security costs incurred in holding the property for the extended period between the school use is ceasing and the property transferring to the Council and this figure is detailed in the confidential appendix.

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

- 12 No specific risks arise from the proposal. A financial receipt as detailed within the confidential appendix should be realised from a sale of the land as a part of the housing development site sale early in 2023. The level of this receipt is detailed in the confidential appendix and exceeds that required to discharge the payment at the level indicated.
- 13 There is a small risk that the development site sale does not complete prior to the payment date proposed for the reverter payment or, possibly, that the sale does not complete with the current purchaser requiring remarketing of the site. The risk of the former is considered to be low/medium and the risk of the latter is considered to be low. In either circumstances however finance officers have advised that an adjustment can be made to the capital receipts programme slipping the re-imbursement of the settlement payment from a sale of the land into the following financial year so that the payment can be cash flowed if necessary ahead of achieving the capital receipt.

What are the legal implications?

- 14 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.
- 15 The Chief Officer Asset Management and Regeneration, Head of Asset Management and 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.
- 16 The proposal constitutes a Significant Operational Decision.
- 17 The information contained in the appendix to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in relation to certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the purchase of the land/property referred to then it is not in the public interest to disclose this information at this point in time. Also the release of such information would or would be likely to prejudice the Council's commercial interests in relation to and undermine its attempts to acquire by agreement similar properties in the locality in that owners of other similar properties would be aware 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, much of this information will be available from the Land Registry following completion of the purchase and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. 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?

- 18 The Council could resist making the reverter payment. Legal advice including Counsel's opinion, has however confirmed that the contractual liability continues to subsist and also, on a balanced view, that the Council is unlikely to be successful in resisting payment.
- 19 The Council could seek to resist the valuation of the land however the approach adopted between the parties is considered to be reasonable and linked to proven values demonstrated by the marketing of the site which incorporates the majority of the reverter land.
- 20 In these circumstances it is considered that the Council has limited reasonable options for the land and so the proposal is to take forward the proposed level of settlement on the basis detailed within the confidential appendix with a view to its re-imburement from the capital receipt obtained from the sale of the wider development site.

How will success be measured?

- 21 Success will be measured by the discharge of the financial obligation to make the reverter payment in a timely manner following any approval to the proposal of this report.

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

- 22 The proposal is to make the payment within the timeframe detailed in the confidential appendix. The payment will be instigated and documented through Legal and Finance Officers.

Appendices

- Site plan no.12022AA
- Confidential appendix detailing financial proposal

Background papers

- None