

CABINET

DATE	20 July 2022
REPORT OF	Cllr Phillip Jackson – Leader and Portfolio Holder for Economy, Net Zero, Skills and Housing
RESPONSIBLE OFFICER	Sharon Wroot – Executive Director Environment, Economy, and Resources
SUBJECT	Housing Delivery Update – Former Matthew Humberstone Playing Field and Former Western School and Playing Field Sites
STATUS	Open
FORWARD PLAN REF NO.	CB 07/22/07

CONTRIBUTION TO OUR AIMS

The recommendations within this report support the delivery of the Council's priorities "stronger economy and stronger community". The Council have ambitious plans to meet the housing needs of local people, providing quality homes for households, looking to live, work and stay in the borough, as well as creating employment opportunities within the construction sector, generating economic growth and economic prosperity.

EXECUTIVE SUMMARY

The recommendations in this report react to changing market conditions and current procurement regulations, whilst continuing to meet the Council's core objectives.

The Council received funding from Homes England, from the Accelerated Construction Fund, to provide enabling works at the Western and Matthew Humberstone sites. The works included spine roads, drainage, connection of services and a hybrid planning application, providing outline planning for housing on the sites.

The funding has several conditions within the grant funding agreements, which the Council must continue to meet. These include pace of delivery, type of construction, and number of units. In addition, the sites must be sold through a build lease agreement. A build lease agreement is a contract whereby a private sector organisation builds/finances a project on land owned by the Council. The agreement means the Council can retain a level of control, to ensure contractual obligations are met (for example pace of delivery and type of construction). Cabinet have previously agreed to dispose of the sites, using a build lease which allows the Council to pass on the grant conditions.

The Council sought independent external legal and procurement advice to support the procurement of a developer and enter into an agreement. This report provides clarity on how the sites will be disposed.

Western will be disposed through a procurement process, known as competitive dialogue. This will allow the Council to enter negotiations with developers, before reaching an agreement with the developer that best suits the Council's aims and objectives.

As the Matthew Humberstone is a much smaller site, and competitive dialogue exercise would be cost prohibitive to developers. To ensure we engage with all developers, including local SME's, it was agreed to dispose of the site through the open market. This means that whilst the Council can enforce grant conditions, they are unable to impose further requirements, for example additional affordable housing. If the Council decide to impose additional conditions (for example additional affordable housing), it would need to enter into a potentially less attractive procurement process, reducing the number of interested buyers.

The Matthew Humberstone site will provide 10% affordable housing and over 55 accommodation, which is compliant with Local Plan requirements. Western will continue to provide above policy compliant levels of affordable housing, subject to any significant change in market conditions.

RECOMMENDATIONS

It is recommended that Cabinet.

1. Revokes the Cabinet decision of 8 September 2021, to procure and enter into an agreement with a developer for the Matthew Humberstone Playing Field Site and provide above policy compliant levels of affordable housing. This change of direction is required to ensure we remain within procurement rules provide a more open process, which is more accessible for all developers, including SME's.
2. Delegates authority to the Executive Director Environment, Economy, and Resources in consultation with the Leader and Portfolio Holder for Economy, Net Zero, Skills and Housing to dispose of the Matthew Humberstone site through an open market exercise and enter into an agreement with a developer.
3. Delegates authority to the Executive Director Environment, Economy, and Resources in consultation with the Leader and Portfolio Holder for Economy, Net Zero, Skills and Housing to dispose of the Western site through a competitive dialogue process, enter negotiations with developers and enter into an agreement with a developer.
4. Authorises the Assistant Director Law, Governance and Assets (Monitoring Officer) to execute and complete all requisite legal documentation.

REASONS FOR DECISION

The Cabinet report approved on the 8 September 2021, was based on external legal advice received at the time recommending the Council dispose of the Matthew Humberstone through a procurement process. External lawyers employed to support the Council through this process provided further advice confirming that the site could be disposed through the open market, if the Council

compromised on its ask for additional affordable housing. As informal feedback from the developers suggested that there was concern a procurement process would be complex and expensive for such a small site, and that they may be put off from submitting a tender. A change of approach is required to ensure all developers have a fair opportunity to purchase the site.

Western is a much larger site and to obtain the best deal for the Council, there needs to be flexibility to negotiate the best deal. Entering a competitive dialogue procurement process with developers for the Western School and Playing Field site will provide an opportunity to secure the best deal for the site and maximise the number of affordable houses.

1. BACKGROUND AND ISSUES

The Local Plan sets out ambitious growth targets for the Council, to increase the number of jobs and homes in the borough. The plan allocated these and several unused Council Assets for new Housing. The sites will be delivered in a phased approach, with Matthew and Western the first to be delivered. Matthew Humberstone will provide up to 58 new homes, and an extra care site, Western will provide up to 297 new homes with a 90 bed extra care sites.

RISKS AND OPPORTUNITIES

2.1 The programme is complex and there are a range of elements that pose risks to the Council, these include reputational and financial risk.

2.2 Risks include:

- I. Little or no interest is shown in the sites from developers and the sites must be re-marketed.
- II. The Council enter into an agreement with a developer who fails to deliver.
- III. The Housing Market slows down, due to changes in the economic climate and grant conditions cannot be met.

2.3 Opportunities include:

- I. This programme will generate a capital receipt through the phased sale of the land.
- II. This programme will generate revenue income through Council Tax.
- III. Provide an opportunity to increase the delivery of affordable housing through the Western Site.
- IV. Deliver outcomes for the green agenda.
- V. Support the local economy during challenging economic times, by supporting existing jobs, creating local jobs growth, apprenticeships, and training opportunities.
- VI. Delivery a strong communication plan ensuring residents are kept fully informed on progress.

2. OTHER OPTIONS CONSIDERED

- 3.1. The Council explored the option to progress with competitive dialogue for the Matthew Humberstone site. This was deemed an unnecessary resource intensive exercise for both the Council and developers, for a small site of around 58 units. Therefore, this option is not recommended.
- 3.2. The Council explored the option to offer both sites through other procurement options including, Open Tender, Restricted Tender, and Two Stage Tendering, however these would be less flexible and may not obtain the best price due to its rigid structure. Therefore, this option is not recommended.
- 3.3. Do nothing and just allow the sites to appreciate but risk claw back from Homes England for the Accelerated Construction Funding, putting the Council at risk of significant reputational damage with professional partners and the public. Housing need would not be met. Therefore, this option is not recommended.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are potential positive reputational implications for the Council resulting from the decision, as it will provide assurance that progress is being made to delivery new homes on these urban housing sites, and that the Council are keen to adapt to the changing local economy by supporting existing and creating new jobs, apprenticeships, and training opportunities.

5. FINANCIAL CONSIDERATIONS

- 6.1. The recommended delivery option proposed has minimal direct financial implications for the Council, as the developer will be required to fund construction on the site.
- 6.2. Entering into an agreement will see the Council receive a 5% deposit on conditional exchange of contracts, and the remaining land receipt in stage payments.
- 6.3. Entering into an agreement will include an overage clause, in the event the developer make super/abnormal profits.
- 6.4. The proposal carries less risk for the authority, whilst retaining a strong element of control, and enables the Council to work with the successful housing developer to meet the Council's grant funding obligations with Homes England.

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

The new homes will provide quality, energy efficient housing for families including children and young people.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

This recommendation supports the green agenda, providing a design guide requesting developers build quality homes which are energy efficient, and explore opportunities for renewable energy innovation. For example, air source/ground source heating, solar/photovoltaics, and insulation. The Western site has sufficient grid capacity, to allow for onsite electric vehicle charging points to properties.

8. CONSULTATION WITH SCRUTINY

8.1 There has been no consultation to date.

9. FINANCIAL IMPLICATIONS

9.1 The proceeds from the proposed agreement will generate capital receipts for the Council that can be re-invested into the Council's Capital Investment Programme.

9.2 The competitive process helps ensure the Council achieves best value for money from contractual arrangements.

10. LEGAL IMPLICATIONS

10.1. Local Government Act 1972, s123, provides that the Council may dispose of land in any manner it sees fit subject to the constraint that (except in the case of leases for less than 7 years) disposal must be for the best consideration reasonably obtainable. An open market disposal following a proper marketing exercise is a satisfactory mechanism to adopt so as to ensure that reasonable consideration is achieved.

10.2. Any procurement exercise will be conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 and supported by relevant officers.

11. HUMAN RESOURCES IMPLICATIONS

11.1. There are no direct HR implications

12. WARD IMPLICATIONS

12.1. Matthew Humberstone is in Croft Baker ward, while Western is in the South Ward.

13. BACKGROUND PAPERS

13.1. Copies of the Background Papers can be obtained by contacting the officers below or Democratic Services.

- Cabinet Report September 2021 – Housing Delivery Model - [10.- Housing-Delivery-Model.pdf \(nelincs.gov.uk\)](#)
- Cabinet Report March 2020 – Accelerated Construction Funding - Former Matthew Humberstone Playing Field Site
- Cabinet Report July 2019 – Delivery of Council-Owned Housing Sites
- Cabinet Report March 2019 – Accelerated Construction Funding for

Land at Former Western School and Former Lindsey Lower Playing Fields

- Cabinet Report January 2018 – Procurement of a Long-Term Delivery Partner for the Housing Zone sites via the HCA Delivery Partner Panel 3 Process.

14. CONTACT OFFICER(S)

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