

LAND MATTERS

**INVESTMENT & DEVELOPMENT (COUNCILLOR RUSSELL
GOODWAY)**

AGENDA ITEM: 9

Appendices C and D of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 of part 4 and paragraph 21 of part 5 Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To seek to delegate authority to the Director for Economic Development to agree all aspects of the acquisition of land at Pengam Green from the Welsh Government and to dispose of Council owned land in Llanishen as identified in this report.

Background

2. Cabinet is required to approve the disposal or acquisition of land transaction with a value over £1m.
3. The Council has entered into discussions with the Welsh Government regarding the potential acquisition of a strategic area of undeveloped land in east Cardiff in their ownership. The site comprises circa 59 acres and would allow various strategic objectives to be brought forward and progressed.
4. Additionally, the Council has recently secured vacant possession of a property in the Council's ownership of circa 26 acres at New House Farm, Llanishen. The Council intends to retain part of the site as potential cemetery expansion land. The remainder has been identified as surplus and available for disposal.
5. Valuations - The value of the land at Pengam Green and New House Farm have been assessed by external valuers. Valuation reports are attached as Confidential Appendices C and D.

Issues

Pengam Green

6. The site comprises circa 59 acres of undeveloped land on the east side of Cardiff as illustrated by the plan attached at Appendix A. The site is bounded by Rover Way to the south and east, and to the north and west by a mixture of commercial, retail, industrial, residential and grazing land. Approximately 20 acres of the land has previously benefitted from planning permission for industrial uses falling under Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order.
7. The land has been identified by NRW as a flood risk area and for development to take place the site would require two elements in order to mitigate flood risk. The first is the completion of flood defence works in the area. The second is for the site levels to be increased by importing appropriate materials. The costs of such work are significant and have been factored into the land valuation.
8. Additionally, due to the presence of natural vegetational growth on much of the Pengam Green site over a period of many years, areas had been assessed to be of interest due to the range of species of plants and wildlife and a proportion of the site has a "Site of Importance for Nature Conservation ["SINC"] designation. The valuation again considers this and other limiting factors, such as road realignments, in the context of the proportion of the site which could ultimately be developed.
9. The site currently undesignated in the Cardiff Local Development Plan. The Council wishes to acquire the land from the Welsh Government to allow it to progress various strategic objectives around economic activity on part of the site, eventual realignment of Rover Way and improvements to the Gypsy Traveller site to the south of the existing road. Flood defence work is also planned the area along the sea/river side of Rover Way. Over time, ownership of the land would facilitate and simplify the delivery of these objectives to the benefit of this area and Cardiff as a whole.

New House Farm

10. New House Farm, Capel Gwilym Road, Thornhill, comprises circa 26 acres of agricultural land on the north side of Cardiff, including an original residential farmhouse and entrance gate bungalow. A plan illustrating the site is attached at Appendix B. The site is located immediately to the north of the M4 Motorway and to the west is cemetery land associated with Thornhill Crematorium, whilst to the north and east is mainly open agricultural land.
11. The site comprises farmland, a four-bed detached farmhouse, a detached three-bed bungalow, a range of traditional and modern farm buildings, a purpose-built farm shop and café, and a five-pitch caravan site.

12. The previous Farm Business Tenant served a notice to quit the Farm Business Tenancy effective on 1st October 2023 and, following payment of Statutory Compensation in January, the Council now has unencumbered possession of the property.
13. External consultants valued the property (see Confidential Appendix D) as part of tenant settlement negotiation process. The property is able to be divided into separate lots depending on offers received. A sale of the property declared surplus is likely to be preferred to a lease, given the differential between the significant capital receipt (which could be re-invested) and the relatively low rental value of the property in its current condition.
14. The Council has earmarked an area of land comprising c.8.2 acres, as illustrated on the plan attached at Appendix B, to be retained by the Council to provide for the future expansion of Thornhill Crematorium. The land is separated from the built area of the estate by a service road and lends itself to form part of the current Crematorium site at a future date.
15. A process of disposal will take place via an appointed agent.
16. The property at New House Farm form part of the Council's Investment Estate; accordingly, any capital receipt will be ring-fenced for investment in property to ensure the Council continues to achieve its revenue income targets.

Local Member consultation

17. Appropriate local member consultation will take place on the terms of the transactions and any subsequent strategic plans for the properties acquired.

Reasons for Recommendation

18. Acquisition of land at Pengam Green would allow various strategic objectives to be brought forward and progressed. In particular, strategic objectives around economic activity on part of the site, eventual realignment of Rover Way and improvements to the Gypsy Traveller site to the south of the existing road would be simplified and achieved.
19. Disposal of the Council's freehold interest in land at New House Farm would result in a capital receipt for the Council during 2023/24 which can be re-invested to secure new income streams for the Council, whilst retaining strategic land for future cemetery expansion.

Financial Implications

20. The report recommends the freehold disposal of New House Farm land with part of the site retained for any future expansion of Thornhill Crematorium.

21. Appendix D sets out various options to the Council for the New House Farm site including reletting, disposing part of the site and potential future use for Council operational needs. Cabinet needs to be satisfied that these options have been adequately considered to ensure best value both financial and non-financial will be achieved.
22. Any revenue implications will need to be managed within the existing Economic Development revenue budget, including any short-term rental income losses because of the disposal. However, the disposal would also result in removal of any holding costs and maintenance liabilities on the site and allow re-investment in an alternative asset to secure a longer-term equivalent income stream.
23. Any proceeds from the disposal of the site would be earmarked and available for further re-investment as part of the Councils Investment Property Strategy. The disposal process adopted should aim to secure best value for the site as recommended by valuation advice. The Council has in 2023/24 financial year made an independently agreed compensation payment under the terms of the Agricultural Tenancies Act 1995 to the former occupiers of the property.
24. The report proposes a potential future expansion of the Thornhill Crematorium site. Any development needs to be considered as part of a robust and financially viable business case. The business case needs to include consideration of the affordability to pay for and operate such facilities including an approved budget framework in place for such facilities and presented back to Cabinet for a further consideration where detailed financial implications can be provided.
25. **The report recommends a strategic freehold acquisition of land at Pengam Green**
26. The valuation report identifies the key risks to the valuation including the costs to be incurred in flood mitigation measures to ensure the valuation attributed to the site if the identified uses of the site can be realised. Where any cost estimates are considered in determining the valuation, due diligence should be undertaken in determining the reasonableness of the costs. No heads of terms are attached but will need to be considered as part of the heads of terms agreed as part of any delegation to be exercised on completion of the transaction. This will need to include any additional one-off costs to be incurred in the acquisition, including Land Transaction Tax and the VAT status of the transaction.
27. Owning the land whilst awaiting a beneficial use may result in revenue holding costs. Opportunities to determine holding costs should be identified as part of further due diligence required. And it will need to be determined as part of any delegation to be exercised whether an existing service revenue budget exists for the Management, maintenance, cleansing and security of the site or whether a gap exists and that any strategic acquisition will need to consider such a service or corporate budget in future, subject to operational experience in managing the site in the next few years.

28. The acquisition cost including any initial Land Transaction cost identified in this report will be met from two sources. An earmarked Capital receipt of £1.205 million from a previous disposal of the Medicentre which is being used as a recycling fund for various economic development regeneration activities. The balance will be met from Earmarked Reserves (Treasury Management Reserve). This may impact on resilience in short term but subject to effective and timely implementation of the benefits intended from the site; future grant funding opportunities and receipts may allow opportunities for both sources of funding to be repaid as Capital Receipts or result in reduced future costs.
29. The report highlights the synergy to existing Council land holdings and several strategic projects that the ownership of the land could facilitate. Any specific projects arising re use of land will need to be subject of a business case approved by Cabinet and be assumed to be fully grant funded at this stage These include facilitating improvements to the existing traveller site, Road re-alignment and widening and Economic Development and industrial activities. It is assumed that the estimated cost of additional flood mitigation on the site, identified in the report, will also be captured as part of such proposals.
30. Whilst this is a strategic acquisition, there needs to be a clearly identified timescale, reporting process and governance approach that seeks to extract the value from the site and recover the potential benefits of site ownership in financial or value terms.
31. The costs associated with development of master planning for the site, business cases will need to be identified by directorates, along with suitable funding sources prior to progressing with these pieces of work. The business cases and progress on developing any approved acquisition should be presented back to Cabinet to determine progress and for further decisions where detailed financial implications can be provided.

Legal Implications

32. Section 120 of the Local Government Act 1972 empowers a local authority to acquire land by agreement for the purposes of any of its functions under that or any other enactment; or the benefit, improvement or development of its area. A local authority may acquire land by agreement notwithstanding that the land may not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the council's functions.
33. Section 227 of the Town and Country Planning Act 1990 further empowers a local authority to acquire land by agreement for planning purposes if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land; or it is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the

land is situated. unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the promotion or improvement of the economic, social, or environmental well-being of its area;

34. Section 123 of the Local Government Act 1972 provides general power to dispose of any of its land.
35. The Council's Disposal and Acquisition of Land Procedure Rules requires the decision maker to have regard to advice from a qualified valuer, to ensure value for money. The decision maker should have regard to the valuation reports annexed to this report.
36. It is noted that this report seeks to delegate negotiation and agreement of heads of terms to the Director of Economic Development for Approval and it is anticipated that a further Officer delegation Report will be prepared setting out the detail of the terms upon which further legal advice can be provided.

Equalities & Welsh Language

37. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a) Age, (b) Gender reassignment, (c) Sex, (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation (i) Religion or belief – including lack of belief.
38. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
39. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment.
40. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

The Well-being of Future Generations (Wales) Act 2015

41. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The wellbeing objectives are set out in Cardiff's Corporate Plan 2020 -23.
42. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
43. The wellbeing duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- Look to the long-term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
44. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible on line using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

Policy and Budget Framework

45. The decision maker must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to Council.

Property Implications

46. The report covers the specifics of these transactions in detail. At a strategic level, it is noted that the Council is disposing of an investment property asset which has had a small income stream.

HR Implications

47. There are no HR Implications.

RECOMMENDATION

Cabinet is recommended to delegate authority to the Director of Economic Development (in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer and the Monitoring Officer) to negotiate and agree heads of terms and to deal with all aspects of the acquisition of land at Pengam Green and the disposals of the land and buildings at New House Farm, including appropriation of any land required for cemetery expansion purposes, as set out in this report within the parameters of the valuation advice provided at Appendices C and D.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director - Economic Development
	15 March 2024

The following appendices are attached:

Appendix A – Pengam Green Redline Plan

Appendix B – New House Farm Redline Plan

Confidential Appendix C – Valuation Report Pengam Green

Confidential Appendix D - Valuation Report New House Farm