

## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

44 Heneage Road, Grimsby, North East Lincolnshire, DN32 9ES

The above property (as outlined red on the attached plan at Appendix One) is held by way of freehold title by North East Lincolnshire Council and comprises an office premises which has been declared surplus by the Council as part of a programme of rationalisation.

Prior to the building being marketed for disposal, the Property and Asset Board determined an internal use for the property in relation to supporting a Drug Rehabilitation programme. As a result, a 'less than best' proposal was put to cabinet on the 12 July 2016 and it was agreed that:

**DN.18 DISPOSAL OF PROPERTY AT LESS THAN BEST CONSIDERATION – LEASE OF 44 HENEAGE ROAD, GRIMSBY**

*Cabinet considered a report from the Portfolio Holder for Finance, Resources and Inclusion on the disposal of 44 Heneage Road, Grimsby at less than best consideration and to consider the lease of the land so that 44 Heneage Road, Grimsby can be brought back into effective use.*

**RESOLVED –**

1) That NEL VCSE Alliance ("the Provider") be granted a lease of the subject property for a term of 25 years at peppercorn rent (£1 per annum if demanded); and

2) That the Director of Finance, in consultation with the Portfolio Holder for Finance, Resources and Inclusion and the Chief Legal Officer, be delegated responsibility to ensure that all necessary actions are carried out in order to complete and approve the detailed terms of the disposal;

3) That the Chief Legal Officer be authorised to complete all requisite legal documentation in relation to the matters outlined in resolution (1) above.

Subsequently, after a further detailed review of this property, the adaptation and refurbishment work required and grant monies available, the project became unviable. As a result the property was again considered surplus to requirements and the Property and Asset Board agreed the property had no further internal use and as such should be disposed of by way of either a freehold sale or a leasehold disposal. As a result, the earlier cabinet decision was revised (as outlined above) and the property was placed on the open market in late 2016.

Following a period of marketing the following offers for the freehold have been received:

1. A cash offer of £115,000 from Mr Elliott & Mrs Pearson for change of use to residential for their personal use as a single dwelling. The only condition that has been placed on this offer is that the property is listed as Sold Subject To Contract (SSTC) should the offer be accepted.
2. An offer of £100,000 from a private investor. The offer is part funded by a mortgage.

The first cash offer of £ 115,000, which is not subject to planning permission and which carries less risk and uncertainty, should be progressed as recommended by ENGIE as being the best price reasonably obtainable.

### 2. Details of Decision

That the freehold of 44 Heneage Road be sold, generating a total capital receipt of £115,000 (less costs of sale), in accordance with the recommendations of ENGIE.

### 3. Is it a Key Decision as defined in the Constitution?

Whilst this proposal in itself does not constitute a key decision, due to an earlier cabinet approval at 'less than best' consideration, there was a requirement to present a revised proposal for approval to dispose of the property on the open market. Cabinet agreed to this proposal at its meeting of the 23 November 2016 as follows:

**DN.80 DISPOSAL OF 44 HENEAGE ROAD, GRIMSBY**

Cabinet considered a report from the Portfolio Holder for Finance, Resources and Inclusion on the disposal of 44 Heneage Road, Grimsby.

**RESOLVED –**

- (1) That the principle of marketing and freehold disposal of 44 Heneage Road be approved.
- (2) That the Director of Finance Operations and Resources in consultation with the Portfolio Holder for Finance, Resources and Inclusion be delegated responsibility to ensure that all necessary actions be carried out in order to complete and approve the detailed terms of the disposal.
- (3) That the Monitoring Officer for the Council be authorised to complete all requisite legal documentation in relation to the matters outlined in point 1 above.
- (4) That until disposal is ultimately achieved, the Council continues its commitment to maintaining the property.

**4. Has the principle of the disposal been approved by Cabinet**

Yes – as per section 3 above.

**5. Is it an Urgent Decision? If yes, specify the reasons for urgency**

N/A – it is not a Key Decision needed to be made urgently. However there is a risk the potential purchaser may withdraw if this decision is not made quickly.

**6. Anticipated outcome(s)**

The offer is not subject to any onerous conditions; therefore, pending exchange of contracts the Council will continue to manage the property as a void until the sale completes. The holding costs have been estimated at c. £7,500.

Completion of this disposal will realise a capital receipt of £115,000 (less costs of sale) which will contribute to the Council's capital programme.

**7. Have the Premises been marketed by advertising or by auction? (if not why not)**

Yes

**8. Background documents considered:**

None

**9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No

**10. Monitoring Officer Comments (Head of Legal Services or nominee)**

This property has been declared surplus and a decision made by Cabinet to release the property onto the open market with a view to achieving a sale.

The property has been marketed for sale through independent agents at an asking price of £115,000.00 and an offer of £115,000.00 (the asking price) has been received on an unconditional basis, subject to marketing considerations as outlined above.

The Council is statutorily bound to achieve the best price reasonably obtainable (s123 Local Government Act 1972). The Council has embarked upon an open marketing process properly conducted and has favoured the highest available offer which coincides with the asking price as advised by independent agents.

Clearly Legal will support the disposal process.

**11. Section 151 Officer Comments (Director of Finance or nominee)**

As outlined above, disposal of the property would generate a capital receipt that can be reinvested in the Council Capital Investment Programme.

Ongoing savings will also be achieved against the costs of maintaining the property.

**12. Human Resource Comments** (*Director of Governance & Business Support or nominee*)

There are no direct HR implications arising from the contents of this report.

**13. Risk Assessment** (*in accordance with the Report Writing Guide*)

**Crime and Disorder** – The property is in an established mixed residential/commercial location and whilst acts of crime and vandalism have so far been limited, the risk will potentially increase now the Council has vacated the property and it is held void. Disposal of this premise will ultimately remove any on-going risk to the Council.

**Diversity** – The potential sale provides the opportunity for the site to be refurbished which will ensure the street scene does not deteriorate as a result of a void building.

**Value for Money** – The recommendation to dispose of this property within this report will remove the costs associated with maintaining the void building and secure a capital receipt to support future capital projects.

**14. Notification of Ward Councillors**  
(East Marsh)

Cllr S Beasant  
Dated: **27/04/2017**  
Comments: **None Received**

Cllr T Walker  
Dated: **27/04/2017**  
Comments: **None Received**

Cllr K Rudd  
Dated: **27/04/2017**  
Comments: **None Received**

**15. Consultation with Portfolio Holder:**

**Name:** Cllr M Patrick

**Title:** Portfolio Holder for Finance, Resources and Inclusion

\_\_\_\_\_  
Signed and Dated

**16. Decision maker:**

**Name:** Sharon Wroot


**Title:** Director of Finance, Resources and Operations

\_\_\_\_\_  
Signed and Dated

## **Appendix One - Location Plan**

### Location Map

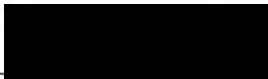



 University of Birmingham	<b>Details</b> 44 Haverage Road			<b>Row</b> No.	This product includes mapping data licensed from Ordnance Survey 2017. All other data is the property of Ordnance Survey. © Crown Copyright 2017. All rights reserved. Licence number 100001518
	<b>WLM</b> 10007541	<b>SEIM</b> 131220	<b>DPM</b> 21032015	North East Lincolnshire Council Civic Offices Kestrel Street Cleethorpe, DN35 8UN	
<b>File Path name / Project / Drawing No.</b>					



## Officer Decision Record – Property Transaction

<b>1. Subject and details of the matter</b>
<p><b><u>Acquisition of 31 Heneage Road, Grimsby, North East Lincolnshire, DN32 9ES</u></b></p> <p>The history to this property dates back to 2007 where the Council approved a Neighbourhood Renewal Grant to Capacity Buildings Limited who acquired the property, through the grant, from Shoreline Housing Partnership Limited.</p> <p>The original grant conditions set out the use of the property as a base for a Community project. However, there was limited appetite when engaging with partners to utilise the property and as a result, approval to an alternative use was granted and planning permission was obtained to change the use to residential in support of a Vulnerable Children's project.</p> <p>The Council has been in occupation of the property since 2012, whereby it has been subject to a lease, paying a market rent to Capacity Buildings Limited.</p> <p>The lease of the property is due to expire in February 2017 and the Council has been approached by Capacity Buildings Limited to acquire the freehold ownership of the property.</p> <p>As the Council still require a use from the property, a purchase price to acquire the freehold ownership has been agreed, which takes account of the investment made into the property since being occupied by the Council.</p> <p>Note also that the Council own and occupy the adjoining property at 29 Heneage Road.</p>
<b>2. Details of Decision</b>
<p>This decision record seeks approval to acquire the freehold interest of 31 Heneage Road for £30,000 (Thirty Thousand Pounds), which represents market value and is recommended by ENGIE. The Council will continue occupying the property in the same way as it does now.</p>
<b>3. Is it a Key Decision as defined in the Constitution?</b>
<p>No – the decision:</p> <ul style="list-style-type: none"> <li>• will not result in a cost above the threshold definition of a Key Decision;</li> <li>• relates to and impacts solely on one Ward (East Marsh);</li> <li>• is not significant in terms of the number of residents / service users that will be affected in the ward; and</li> <li>• is not likely to result in substantial public interest</li> </ul>
<b>4. Has the principle of the disposal been approved by Cabinet</b>
<p>No – in accordance with Section 3 above.</p>
<b>5. Is it an Urgent Decision? If yes, specify the reasons for urgency</b>
<p>Yes – whilst it is not a Key Decision needed to be made urgently, Capacity Buildings Limited have indicated the sale must complete by 28 February 2017.</p>
<b>6. Anticipated outcome(s)</b>
<p>That the Council acquire the freehold of 31 Heneage Road and undertake any subsequent works to the property, with minimal disruption to the service as possible, in order to secure the continued occupation of the property.</p>
<b>7. Have the Premises been marketed by advertising or by auction? (if not why not)</b>
<p>No – the property is being acquired from a private owner.</p>

<b>8. Background documents considered:</b>			
None.			
<b>9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>			
No.			
<b>10. Monitoring Officer Comments</b> <i>(Assistant Director Law &amp; Solicitor to the Council or nominee)</i>			
<p>The acquisition is seen as operationally favourable given the continuing need for the property by Children Services and current ownership of the adjoining property.</p> <p>Legal Officers will support the acquisition process and completion by 28<sup>th</sup> February 2017 will not present an issue.</p>			
<b>11. Section 151 Officer Comments</b> <i>(Director of Finance or nominee)</i>			
<p>The lease on this property is currently £13,000 per annum. By purchasing the property at £30,000 the annual lease rental will no longer apply. These annual savings will result in the Council recouping its purchase costs in 2 – 3 years of completion and it will also hold an asset of value.</p>			
<b>12. Human Resource Comments</b> <i>(Assistant Director Strategic Business Support or nominee)</i>			
There are no direct HR implications arising from the content of this report			
<b>13. Risk Assessment</b> <i>(in accordance with the Report Writing Guide)</i>			
<p><b>Crime and Disorder</b> – There are no Crime and Disorder issues identified as part of this proposal.</p> <p><b>Diversity</b> – There are no Diversity issues identified as part of this proposal.</p> <p><b>Value for Money</b> – The purchase price of £30,000 takes in to account the previous investment made by the Council, represents market value and is recommended by ENGIE</p>			
<b>14. Notification of Ward Councillors</b> (East Marsh Ward)	Cllr. S. Beasant Dated: <b>23/02/2017</b> Comments: <b>"I welcome this decision .... positive news."</b>	Cllr. K. Rudd Dated: <b>23/02/2017</b> Comments: <b>None Received</b>	Cllr. T. Walker Dated: <b>23/02/2017</b> Comments: <b>None Received</b>
<b>15. Consultation with Portfolio Holder:</b>	Name: Cllr M. Patrick Title: Portfolio Holder for Finance, Resources and Inclusion.  <div style="text-align: right;">  <i>23/2/17</i>          Signed and Dated       </div>		
<b>16. Decision maker:</b>	Name: Sharon Wroot Title: Director of Finance, Resources and Operations.  <div style="text-align: right;">  <i>23/2/17</i>          Signed and Dated       </div>		

Appendix One – Location Plan







## Officer Decision Record

### 1. Subject and details of the matter

This is a record of the delegated decision to enter into the necessary legal agreements to progress the lease in respect of the Associated British Ports (ABP) development of a new Border Inspection Post (BIP) facility in Immingham and the installation and occupation of temporary cabin/office accommodation to operate the current BIP in Grimsby.

NELC and Associated British Ports (ABP) have been working together for some time to realise a transition in how and where the Food Health Team carry out the necessary functions of a Border Inspection Post (BIP) and other Port Health functions, to better facilitate running of the Food Health service and ABP operations, as well as allow for possible expansion in local trade.

It has been agreed that subject to the necessary legal agreements and relevant internal risk assurance the Food Health Team will transfer office premises from their existing leased premises on Fish Dock Road to a temporary Port Health office (the existing BIP building will actually remain in place for the time being) and a new purpose built BIP and associated office in Immingham will be developed as soon as practicably possible.

#### Strategy and Rationale

Key points to note:

- ABP want to move NELC into a temporary office in order to facilitate the potential growth of DONG operations in the port of Grimsby.
- The Council want to be supportive of move to temporary accommodation to allow the benefits to the port and wider benefit related industry.
- ABP (as port operator) are legally obliged to provide a BIP in order for the port(s) to receive imports of 3<sup>rd</sup> Country (i.e. non EU or EEA) products of animal origin (POAO), which includes fish products.
- Any BIP facility must be operated by the local port health authority.
- The current BIP does not fully comply with EU Regulations in that it is 'out of curtilage' from Immingham Port. Essentially, produce should not leave the port of arrival until it has been cleared through a BIP for entry into the country. The regulatory authority (DEFRA, at the behest of the EU) has stated that whilst it notes controls are in place at the existing facility, it is nonetheless non-compliant and has indicated that this is not an appropriate practice.
- As a point of entry to the EU Single Market, any BIP facility needs to be approved by DEFRA and ultimately by the European Commission. This will only be finally confirmed post completion and on confirmation of the arrangements for the BIP operation.
- The current facility is only approved to receive one category of POAO, namely frozen products intended for human consumption. Approval for 3 further categories will be sought at a new facility (ambient products for human consumption, frozen and ambient products not intended for human consumption).
- The relocation is therefore intended to both secure existing trade through Immingham Port and allow for new trade to be imported through this route.
- The building will be procured by ABP and be leased to NELC on a peppercorn rent.

#### Background.

The Legal agreements have been prepared in early 2017 and are agreed by both parties in principle.

NELC reached a position in February 2017 where the design and performance specification of the building was agreed as acceptable by the Food Health Service, IT and ENGIE colleagues.

The Food Health Manager (Neil Beeken) has sought clarity in terms of the process and costs as result of the way new facility will work. Neil sees increased operational costs and practical difficulties in terms of required labour and cleaning arrangements and it is clear that there will be increased "running costs" such as utilities, rates, etc.

The service sees elements of 'lift & shift' in terms of moving the operation to Immingham and occupying a new building, however there will also be unavoidable differences to the process flow, which, depending on who takes responsibility for what, may have an impact on both practical and financial aspects for the authority and the various parties involved in importing relevant products.

The new facility will result in changes in the service operation including but not limited to, increased manual duties such as removing security seals and the physical opening of containers, unpacking of consignments (and occasional full turnouts of entire containers), the use mechanical lifting equipment, (possibly a pallet truck or forklift truck), and associated operative training and equipment maintenance costs. This is calculated to result in approximately £12k of additional staffing resource and £55K of other operational costs (see table below).

### **Brexit**

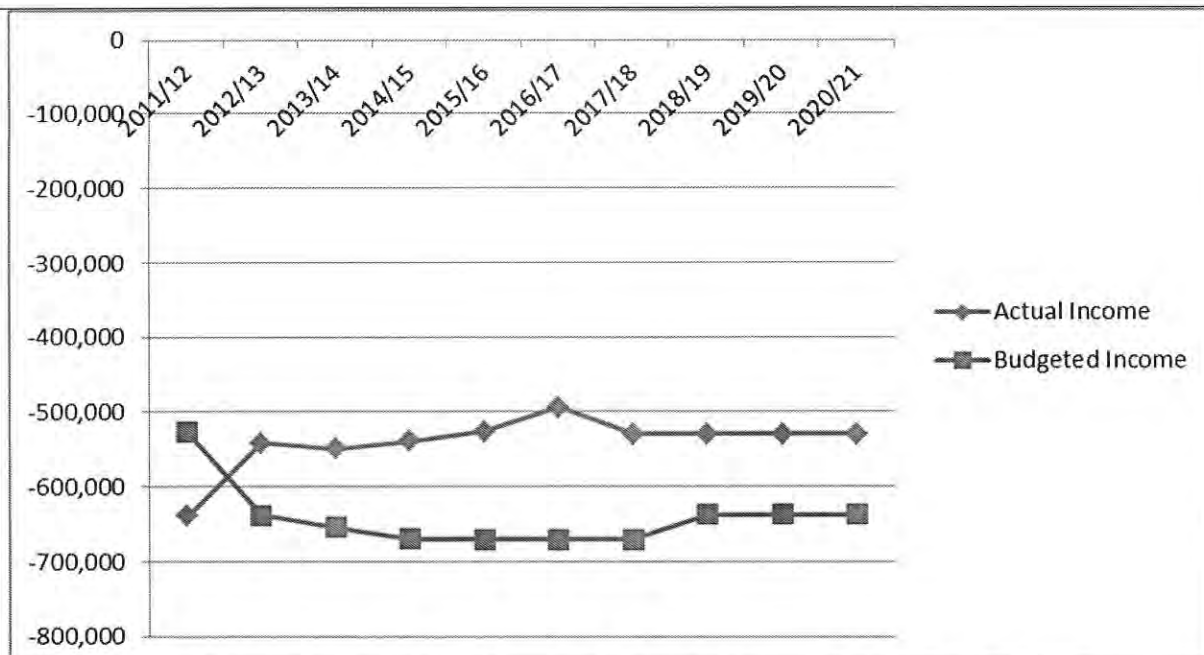
The project to relocate the BIP facility pre-dates the UK referendum on EU membership and the subsequent decision for the UK to leave the EU. The Brexit deal, in particular the terms and conditions governing the UK's future access to the EU Single Market and Customs Union will have a direct impact on all Points of Entry including BIPs. In addition, future trade deals between the UK and 3<sup>rd</sup> Countries are also likely to impact on border controls for international freight. It is not known at this stage what the collective impact will be, however it the intention of the current government to replicate all relevant EC legislation in national law, which would result in all existing controls initially remaining in place.

### **Finances**

ENGIE provided NELC with a BIP revenue budget estimate. The following table has been created by NELC officers to detail the additional costs:

Item	(£) Cost
Staff	11,500
Electricity	10,700
Water	1,400
Cleaning	2,400
Premises Insurance	1,500
Repairs and Maintenance (internal)	15,800
Rent	100
Refuse Collection	900
Equipment Maintenance	5,000
Rates	18,000
Total	£67,300





Graph to show historical and projected Actual and Budgeted income for Food Health Team

### **Finance Summary**

The expenditure budget can cover the operating costs, as provision for running costs have been built into the budget in recent years (and not yet utilised) and currently partially offsets the service area not achieving the budgeted income target.

The income budget has historically been set at an existing (unachievable) level. The budgeted level of income has only been achieved once in the last 6-7 years. There are various chargeable port health services provided by the Food Health Team which contribute to the levels of income. The largest single income stream results from statutory charges linked to the BIP operation, however it has declined in recent years. The factors which influence charging levels and importation of relevant products through Grimsby-Immingham ports are complex and largely outside of the authority's control.

Therefore the increased expenditure puts further pressure on the likely outturn, due to the previously unspent budgets now being used, (if income levels remain the same). However if income increases the outturn position will improve.

The Food Health team operation is largely separated between Port Health and 'Inland' regulatory functions, hence two cost centres. However operational officers have mixed regulatory responsibilities and contribute to both disciplines.

## **2. Details of Decision**

It should be noted that Cabinet agreed in 17<sup>th</sup> July 2015 to acquire the new Border Inspection Post in Immingham. Cabinet Delegated the authority to agree the property acquisition to Section 151 Officer, Director of Economy and Growth and the Director of Environment (provided that they jointly satisfied that charges or rental is considered "nominal" and the detailing leasing and maintenance arrangements are approved).

£100K has been allocated to the service to cover the future revenue costs of a new border inspection post. The estimate of the running costs of the BIP are within this allocation, and notwithstanding the income pressures (which are not technically related to the £100K budget allocation).

Therefore it is decided that NELC should proceed to enter into the necessary legal agreement to acquire the properties on the following basis;

1. The risk and opportunities are noted
2. NELC and ABP sign the legal documents for new BIP
3. On the basis of above, it is also decided that NELC will sign the agreements which will allow the NELC to proceed to temporary accommodation as soon as practicably possible.

## **3. Is it a Key Decision as defined in the Constitution?**

Yes, previously stated t It should be noted that Cabinet agreed in 17<sup>th</sup> July 2015 to progress the Border Inspection Post. Cabinet Delegated the authority to agree the property acquisition to Section 151 Officer, Director of Economy and Growth and the Director of Environment (provided that they jointly

satisfied that charges or rental is considered “nominal” and the detailing leasing and maintenance arrangements are approved).
<b>4. Has the principle of the disposal been approved by Cabinet</b>
Not applicable
<b>5. Is it an Urgent Decision? If yes, specify the reasons for urgency</b>
Not applicable the decision was made
<b>6. Anticipated outcome(s)</b>
<p>NELC should proceed to enter into the necessary legal agreement to acquire the properties on the following basis;</p> <ul style="list-style-type: none"> <li>• The risk and opportunities are noted</li> <li>• NELC and ABP sign the legal documents for new BIP</li> <li>• On the basis of above, it is also decided that NELC will sign the agreements which will allow the NELC to proceed to temporary accommodation as soon as practicably possible.</li> </ul>
<b>7. Have the Premises been marketed by advertising or by auction? (if not why not)</b>
Not Applicable
<b>8. Background documents considered:</b>
Cabinet Report 17 <sup>th</sup> July 2015
<b>9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>
No.
<b>10. Monitoring Officer Comments (Monitoring Officer &amp; Chief Legal Officer)</b>
<p>The Service currently occupy the BIP site in Grimsby under the terms of a lease which will be surrendered voluntarily.</p> <p>A tenancy agreement has been settled but not yet completed permitting the BIP to temporarily occupy a site on the Port of Grimsby so as to enable continuity of service whilst the new BIP is constructed and commissioned at Immingham.</p> <p>The Council has settled (but not yet completed) an agreement to lease with ABP concerning the new site at the Port of Immingham. Therefore ABP will be committed to lease the earmarked site to the Council, and the Council will be committed to take the lease once the new BIP facility has been constructed and received adequate accreditation through appropriate agencies (DEFRA/EU Commission etc.).</p> <p>For clarity, Cabinet made the following recommendations on 15<sup>th</sup> July 2015::</p> <p>(1) <i>That the principle of property acquisition by way of lease or other arrangement (provided that the charge or rental for the building is considered by the section 151 officer to be no more than nominal in the context of delivering a new BIP) and on the basis that the detailed leasing arrangements and/or maintenance obligations be approved by the Director of Economy and Growth in consultation with the Assistant Director Environment, be agreed.</i></p> <p>(2) <i>That the use of a negotiated procedure, authorised by the Assistant Director Law under rule 11.1 of the Contract Procedure Rules, be approved for the procurement of a BIP on the Immingham Dock Estate.</i></p> <p>(3) <i>That the Assistant Director Law complete the necessary legal documentation.</i></p> <p>It is right that the decision made by Cabinet pre-dates the EU Referendum and the “Brexit” formalities. Whilst it is not known how these issues will impact on the operation of a BIP it will nevertheless be impacted. We cannot know at this stage in what way. However, it is more than likely the case that cross border cargo and consignments either way will have to be inspected and go through a process. That process will be met by the service and may well present income generation opportunities. Clearly those opportunities cannot be known or anticipated to any great degree at this time.</p> <p>To operate as a port authority ABP are obliged to facilitate the BIP and its re-location to the Port of Immingham has the effect of releasing land so as to permit commercial extension and also assists the Council in being able to fully meet its regulatory obligations as outlined above.</p>
<b>11. Section 151 Officer Comments (Director of Finance or nominee)</b>
The operational and legal reasons for the new border inspection post are outlined within the decision

record.

From a financial perspective, the ongoing revenue costs of £67k can be met within the existing spend budget of £100k. The surplus budget of £33k can then be used to partially mitigate the income shortfalls within the service.

It is also hoped that the new facility will provide some additional income generation opportunities by facilitating a greater range of imports.

## **12. Human Resource Comments** *(Director Strategic Business Support or nominee)*

Whilst there are no direct HR implications arising from the property transaction, the movement of the staff from Grimsby to Immingham on a permanent basis may incur excess mileage costs for a period of 4 years from the start of the relocation depending on where the individual employees currently reside.

## **13. Risk Assessment** *(in accordance with the Report Writing Guide)*

### **Risks, Issues and Opportunities**

#### **Operational Risk.**

1. The current BIP is non-compliant and outside the curtilage of the port of entry, so non-Customs cleared consignments travel on the public highway.
2. It is possible that the relevant authorities (DEFRA & EU Commission) do not tolerate this position in future and BIP approval is revoked.
3. Current BIP location creates logistical inefficiencies for industry.

#### **Strategic Risk**

1. North East Lincolnshire is an international hub for food processing, storage and distribution, with a heavy focus on fishery products. Without a BIP, an important supply route for such products would disappear and weaken the strategic importance of the 'Place' in terms of the food industry.
2. Removal of the BIP would not be consistent with ABP's recent announcement on planned investment into Immingham's container terminal infrastructure.

#### **Opportunities.**

1. Increase the attraction of Immingham as a point of entry by allowing a greater range of imports to be received and removing existing logistical inefficiencies.
2. Related 'knock-on' economic development opportunities for borough through handling new trade locally.
3. Provision of a new larger facility will allow for expansion of existing trade requiring BIP examination

## **14. Notification of Ward Councillors (PORT)**

Cllr.

Dated:

Comments

**NOT APPLICABLE:**

Cllr.

Dated:

Comments:

**NOT APPLICABLE**

Cllr.

Dated:

Comments:

**NOT APPLICABLE**

## **15. Consultation with Portfolio Holder:**

**Name:** Cllr M. Patrick

**Title:** Portfolio Holder

Signed and Dated

**Name:** Cllr D Watson

**Title:** Portfolio Holder

Signed and Dated

**Name:** Cllr P Wheatley

**Title:** Portfolio Holder for

Signed and Dated

	<p><b>Name:</b> Cllr Bolton</p> <p><b>Title:</b> Portfolio Holder for</p> <p>_____</p> <p>Signed and Dated _____</p>
<p><b>16. Decision maker:</b></p>	<p><b>Name:</b> Sharon Wroot</p> <p><b>Title:</b> Director of Finance, Resources and Operations.</p> <p>_____</p> <p>Signed and Dated _____</p>
	<p><b>Name:</b> Angela Blake</p> <p><b>Title:</b> Director of Economy and Growth</p> <p>_____ <u>1/6/17</u></p> <p>Signed and Dated _____</p>





## Officer Decision Record

### 1. Subject and details of the matter

The Cleethorpes' Carnival has been running for 41 years, and has been one of the mainstay events in the resort's calendar. Last year's event, which took place in July, saw in excess of 70 charity and community floats make their way through Cleethorpes, and it attracted around 25,000 people along the traditional route.

For the last ten years, external organisers from the community and private sector, have run the Carnival, but when it was confirmed that this was no longer possible, the Council, stepped in to put the organisation of the 2017 event out to tender. Unfortunately, there were no successful external bids and other options considered, such as the Council running the event, were also deemed to be unfeasible. In view of the fact that the 2017 Carnival could not proceed, the focus is now on securing a suitable external organiser to deliver a successful and safe event for 2018.

In order to give maximum time for the delivery of the event, which includes the securing of sponsorship etc., it is important that the procurement of an external organiser for the 2018 Carnival is issued as soon as possible. It is therefore the intention to urgently go out to tender. Authorisation will then be sought from Cabinet (at their next scheduled meeting on 28 June) to delegate the award of a contract for the delivery of the 2018 Cleethorpes' Carnival, to the Director of Economy and Growth, in consultation with the Portfolio Holder with responsibility for Safer Communities, Public Protection and the Visitor Economy, and completion of documentation to the Monitoring Officer.

### 2. Is it a Key Decision as defined in the Constitution?

Yes, this is a Key Decision.

### 3. Details of Decision

That Officers approve the commencement of procurement for an external organiser to deliver the 2018 Cleethorpes' Carnival. Such process to be commenced post-purdah once the General Election is held on 8<sup>th</sup> June 2017. The subsequent decision, for consideration by Cabinet, on 28 June will be to:

1. Delegate authority to the Director of Economy and Growth, in consultation with, the Portfolio Holder with responsibility for Safer Communities, Public Protection and the Visitor Economy, the decision to award a contract for the delivery of the 2018

Cleethorpes' Carnival.
2. That the Monitoring Officer be authorised to complete legal documentation in connection with the award.
<b>4. Is it an Urgent Decision ? If yes, specify the reasons for urgency</b>
This is considered to be an urgent decision. The timeframe is not only critical in order to ensure that the organiser will have the maximum time available for fund raising and securing corporate sponsorship etc., but also to give as much time as possible during the procurement procedure to ensure that suitably well qualified, and experienced external event organisers are given the opportunity to bid for this tender.
<b>5. Anticipated outcome(s)</b>
<p>The anticipated outcomes are to:</p> <ul style="list-style-type: none"> <li>- Urgently go out to tender to procure an external events organiser to deliver the 2018 Cleethorpes' Carnival;</li> <li>- Deliver a safe and successful event, thereby increasing community engagement;</li> <li>- Increase visitor numbers to the resort, and visitor spend for the local economy;</li> <li>- Increase commercial opportunities for local businesses;</li> <li>- Positively raise the profile of Cleethorpes locally, regionally and nationally.</li> </ul>
<b>6. Details of any alternative options considered and rejected by the officer when making the decision</b>
An alternative option was considered, which was to wait until Cabinet on 28 June to ask permission to go out to tender. This option was rejected because of the need to give the successful tenderer maximum time to secure funds and sponsorship etc. once the contract award is made and also to allow applicants as much time as possible to respond to the tender brief.
<b>7. Background documents considered:</b>
Not applicable.
<b>8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>
Not applicable.
<b>9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)</b>
There are no conflicts of interest related to this decision.
<b>10. Monitoring Officer Comments</b> (Strategic Director – Governance & Transformation or nominee)
<ol style="list-style-type: none"> <li>1. The decision is a key decision as the Carnival directly affects a number of wards.</li> <li>2. There are sensitivities around the Carnival and its delivery as there is a general expectation of it being delivered on an annual basis. Therefore it is appropriate that activity in connection with tender be postponed until after the General Election.</li> <li>3. The delegations that will be sought from Cabinet on 28th June are consistent with an exercise of this nature.</li> </ol>



**11. Section 151 Officer Comments**  
(Head of Finance & Assets or nominee)

The planned procurement exercise will identify the cost to the Council in 2018 of awarding a contract to run the event. The bidders are also required to outline plans beyond 2018, with the aim of the event becoming self-financing.

The Council does not have an existing budget to cover any costs, so funding will need to be identified from earmarked reserves or contingencies.

**12. Human Resource Comments**  
(Head of Governance & Business Support or nominee)

There are no direct HR implications arising from the contents of this report.

**13. Risk Assessment (in accordance with the Report Writing Guide)**


There is a potential reputational risk to the Council in procuring an external organiser to deliver the 2018 Carnival. This relates to the potential lack of interest in delivering the event and the Council therefore being unable to appoint a suitable organisation. If this is not possible then the delivery of the event in 2018, and for future years, will be jeopardised.

Risks, which are directly related to the delivery of the Carnival, will be addressed within the tender brief and applicants will be expected to comprehensively cover this requirement as part of their tender application.

**14. Decision maker(s)**

Name: ANGELA BLAKE

Title: DIRECTOR OF ECONOMY  
& GROWTH

Signed: 

Dated: 1/6/17

**15. Consultation carried out with Portfolio Holder(s):**

Name: Cllr Patrick

Title: PFM Finance, Community Assets, GOVERNANCE,  
Tourism

 2/6/17  
Signed and Dated

**16. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor**

Name: KEITH BROOKES

Title: CHAIR

 5/6/17



## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

#### Re-siting of electrical substation to allow access to Footpath 72

Footpath 72 has a complex history spanning previous administrations. A petition was received at the June 2015 Planning Committee, Members and Officers alike were keen to see the issue moved forward. To enable this to happen on 7 October 2015 Planning Committee resolved to enforce the line as awarded through the Definitive Map Modification Order 2010. This report details the Council's current position in terms of Footpath 72 and the requirement to allow the relocation of an electricity substation (the "substation").

On 2 December 2015 Planning Committee resolved to give a fee waiver for three months to allow landowners to apply for a diversion order to the legal line of Footpath 72. This relied upon landowners collaborating to make an application for path diversion which was compliant within Section 119 of the

Highways Act 1980. This waiver ended at midnight on 2 March 2016, by which time a number of applications had been received.

Any order made in support of the diversion applications received would have to be executed under Section 119 of the Highways Act 1980. Section 119 (6) states that *"The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or as the case may be, they are satisfied that the diversion to be effected by it is expedient, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion"*.

The line of Footpath 72 is lawfully recorded upon the Definitive Map as corrected by the Definitive Map Modification Order 2010. The public therefore have a right to pass and repass along the line of the footpath as a public right of way. The Council has a statutory duty to maintain, assert and protect such rights as are within its administrative area as the local highway authority under the auspices of the Highways Act 1980 (s.130).

The Council is entitled to consider applications for diversions of such a footpath as long as such application meets the legislative criteria as outlined above. Where the line of a footpath is obstructed, the Council must ensure that such steps are taken to remove the obstruction and to ensure that the public are free to exercise the right to use the footpath.

The Definitive Map Modification Order 2010 was a result of further evidence being found as to where the actual route of the legal line of Footpath 72 sits. This had been disputed for several decades. As a result of this it became apparent that the Substation was actually on the legal line of Footpath 72.

The location plan attached at Appendix One shows the existing site to the west of No 127, Barnoldby Road, Waltham, DN37 0DR. An alternative substation site is also shown on the location plan, situated to the west of a footpath (on the north side of Barnoldby Road) and to the south of No 10, Muirfield. A site that has been identified by Northern Powergrid. This site would have placed upon it a pre-fabricated (brick effect) substation. The specification of this substation is as per the plan of the standard type of substation as attached at Appendix Two.

The relocation is at the cost of YEDL and whilst it could be argued that due diligence should have been carried out when first locating, it is ambiguous as to whether they could have known about the definitive route at that time. Potentially the Council could be legally liable for the relocation costs if a court ruled against.

However, the above the land (subject to various assumptions including planning permission for the use) could be offered to the adjoining residential property to incorporate into their boundary for garden land. It is anticipated that the market value in this scenario is c. £4,000. If Northern Powergrid approached the Council for a similar scheme notwithstanding the reasoning for the need to relocate the substation, then a premium payment of between £2,000 to £3,000 would be expected. It is therefore considered that by granting the lease to Northern Powergrid it could be argued to be an

undervalue transaction.

The Constitution includes a Protocol on Disposal of Land for Less than Best Consideration ("the Protocol"). The report must contain a valuation, undertaken by a Chartered Surveyor (Valuer) setting out the restricted and unrestricted values of the property concerned. The Valuer is required to assess the unrestricted value in capital terms. The unrestricted value should be assessed by valuing the authority's interest after the lease had been granted, plus any premium payable for its grant. In other words, it will be the value of the right to receive the rent and any other payments under the lease, plus the value of the reversion when the lease expires. The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is calculated in the same way as unrestricted value. The council's partner in the provision of estates and valuation services, ENGIE Services Limited, has provided a valuation report from a qualified Chartered Surveyor which contains the following key information. This represents the undervalue of the lease disposal:

(i) A valuation report, undertaken by a Chartered Surveyor (Valuer), setting out the restricted and unrestricted values of the property

The council's partner in the provision of estates and valuation services, ENGIE Services Limited, has provided a valuation report from a qualified Chartered Surveyor which contains the following key information.

VALUATION	TOTAL
Unrestricted Value	£4,000 (four thousand pounds)
Less Restricted Value	£900 (nine hundred pounds)
Equals Discount	£3,100 (three thousand one hundred pounds)

The above figures are based on the current market value and the market value under the terms of the proposed transaction and is the amount that will not be received by the council if it is approved.

As this land is currently Council owned and classed as public open space (non-Highways) land, a decision is required approving the use for the land for the new substation.

## 2. Details of Decision

That the Council grant Northern Powergrid a 60 year Lease at nil rent for the subject site to have placed upon it a standard substation, relocated from its current position which is obstructing footpath 72.

## 3. Is it a Key Decision as defined in the Constitution?

No – the decision:

- will not result in a receipt above the threshold definition of a Key Decision;
- relates to and impacts solely on one Ward (Waltham);
- is not significant in terms of the number of residents / service users that will be affected in the Ward; and
- is not likely to result in substantial public interest

## 4. Has the principle of the disposal been approved by Cabinet

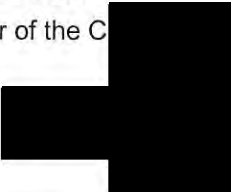
No – in accordance with Section 3 above and Section 5 below.



## 5. Is it an Urgent Decision? If yes, specify the reasons for urgency

It is not a Key Decision needed to be made urgently. However it is a less than best disposal and so the Protocol applies which stipulates that a less than best disposal should go to cabinet. However in the case of urgency the Protocol allows the decision to be taken by the Chief Executive in consultation with the Leader and relevant Portfolio Holder.

The Council has a duty to ensure that Footpath 72 is available for use as soon as possible. A land deal for the removal and re-siting of the substation fell through and Northern Power Grid have identified Council land that would be suitable. It is hoped that an urgent decision will mean that there will be no delay to the timeframe of ensuring Footpath 72 can be fully open.

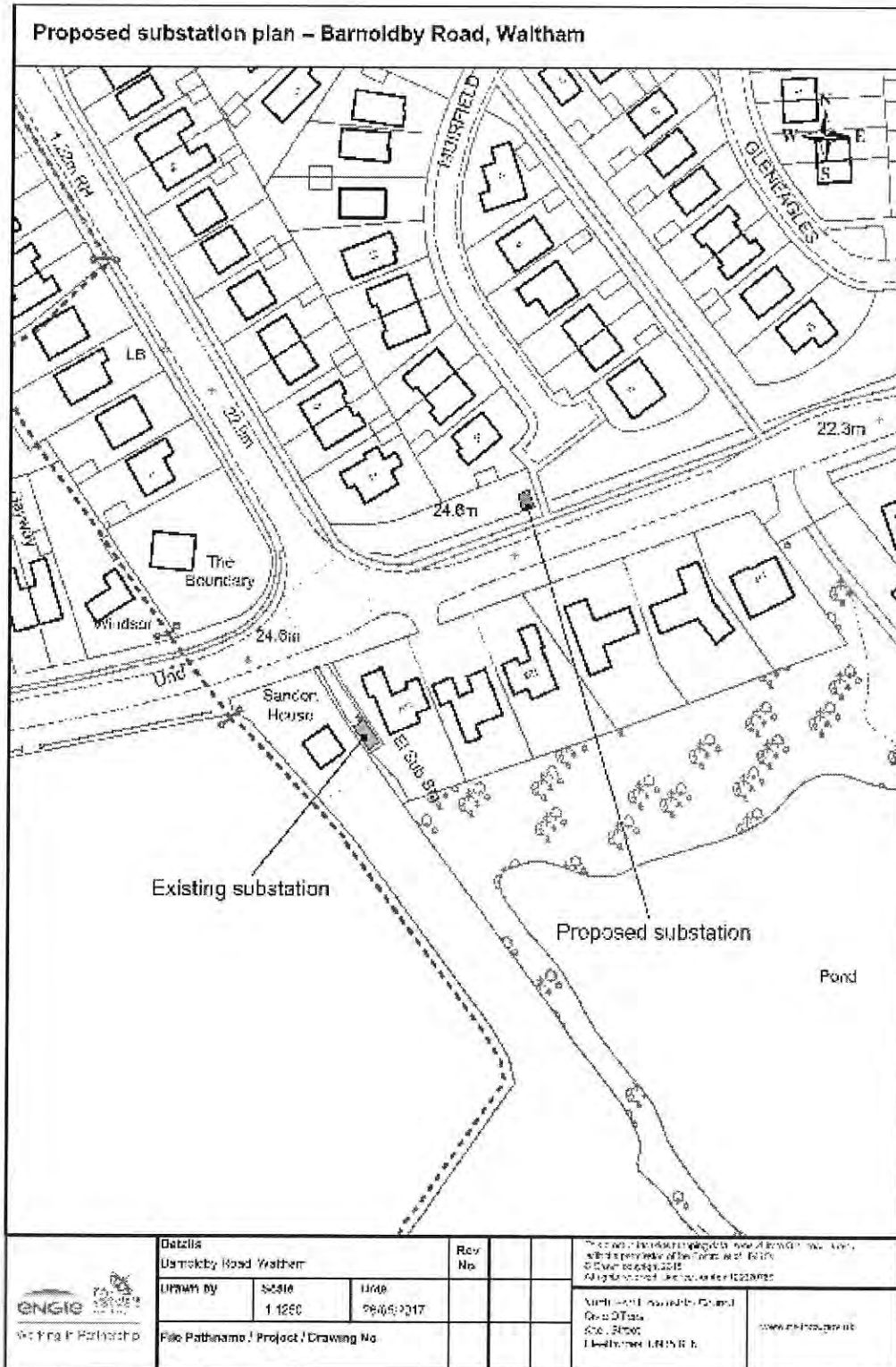


<b>6. Anticipated outcome(s)</b>		
That the Council grant Northern Power Grid a Lease and a standard electricity substation be built upon it.		
<b>7. Have the Premises been marketed by advertising or by auction? (if not why not)</b>		
No – there is no other requirement to dispose of the land and this is a specific		
<b>8. Background documents considered:</b>		
There are no background documents to be considered.		
<b>9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>		
No.		
<b>10. Monitoring Officer Comments</b> ( <i>Head of Legal Services or nominee</i> )		
<p>The Council's Constitution includes a Protocol on Disposal of Land for Less than Best Consideration. This protocol requires a statement from the Monitoring Officer on whether it is considered that the disposal is capable of falling within the terms of the General Disposal Consent. It is confirmed that the disposal in question is considered capable of falling within the terms of the General Disposal Consent.</p> <p>The Protocol also allows for urgent decisions of less than best to be taken by the Chief Executive in consultation with the Leader and relevant Portfolio Holder.</p>		
<b>11. Section 151 Officer Comments</b> ( <i>Director of Finance or nominee</i> )		
Although the leasing of the land at nil rent results in the loss of a potential sale, the value of the land at approximately £3k is relatively and is outweighed by the benefits from relocating the sub-station and allowing unrestricted public access to the footpath.		
<b>12. Human Resource Comments</b> ( <i>Director of Governance &amp; Business Support or nominee</i> )		
There are no HR implications arising from the content of this report.		
<b>13. Risk Assessment</b>		
<p><b>Crime and Disorder</b> – There has been no reported incidents of vandalism to this equipment previously and no reason to suggest re-siting the equipment in appropriate housing will result in any. The proposed location is within an established residential location and visible from the main highway.</p> <p><b>Diversity</b> – The potential lease will ensure the Council satisfies the public to be free to exercise the right to use footpath 72 with the relocation of the electricity substation to land in Council ownership. This will ensure the local community benefit from opening of the footpath, but not at the detriment to the street scene.</p> <p><b>Value for Money</b> – The recommendation to dispose of a section of land to house the substation is considered to outweigh the potential costs associated with action taken against the Council for not complying with the Highways Act. However to ensure transparency and compliance a disposal at less than best valuation report has been undertaken as outlined above.</p>		
<b>14. Notification of Ward Councillors</b> (Waltham Ward)	Cllr. Iain B Colquhoun Dated: <b>08/06/2017</b> Comments: <b>Received and attached at Appendix 3</b>	Cllr. Philip Jackson Dated: <b>12/06/2017</b> Comments: <b>None received</b>
<b>15. Consultation with the Leader of the Council and Portfolio Holder:</b>	Name: Cllr R. Oxby Title: Leader of the C  <hr/> Signed and Dated	

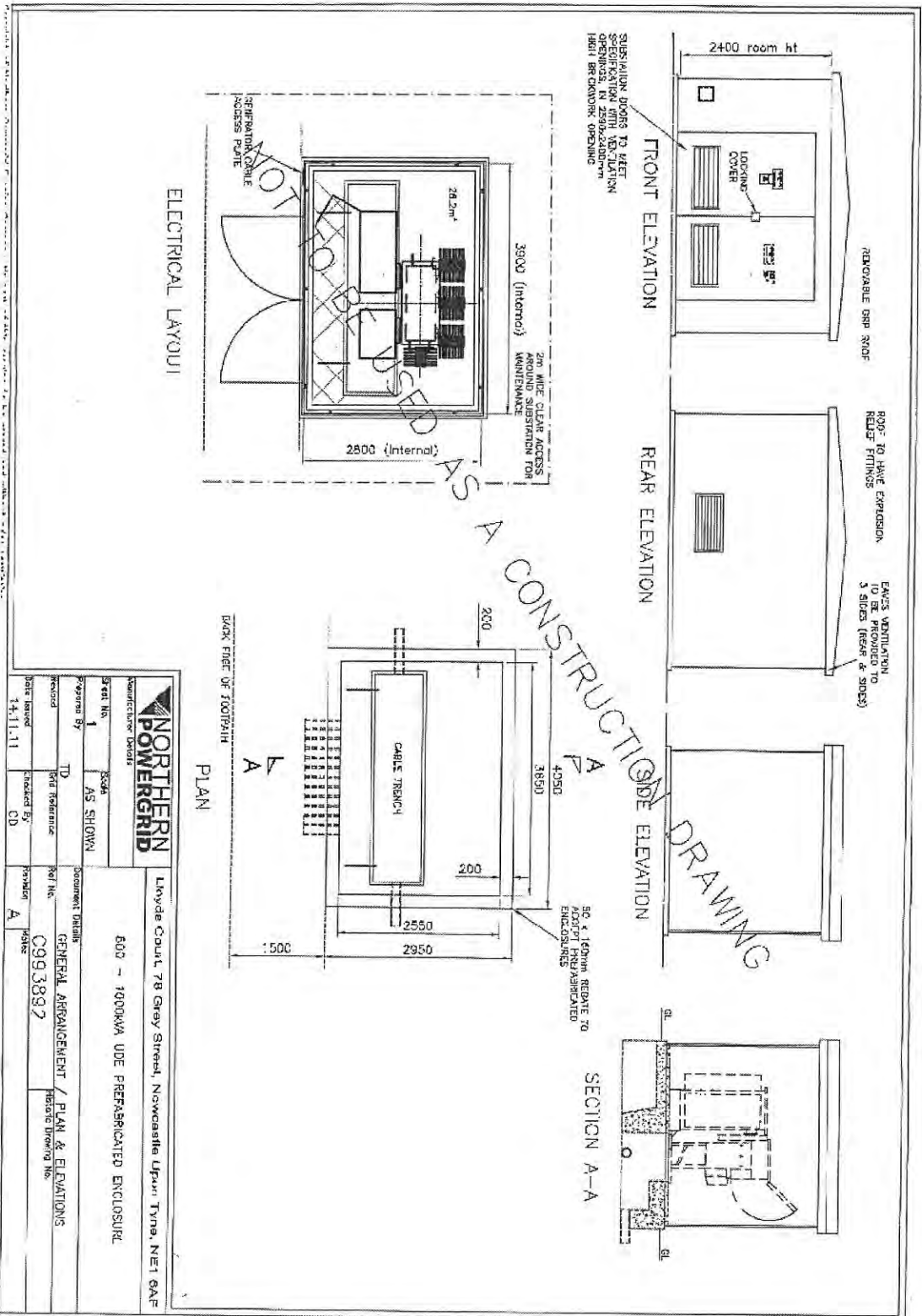
	<p><b>Name:</b> Cllr M. Patrick</p> <p><b>Title:</b> Portfolio Holder for Finance, Community Assets, Governance and Tourism</p> <p></p> <p>_____ Signed and Dated</p>
<p><b>16. Decision maker:</b></p>	<p><b>Name:</b> Rob Walsh</p> <p><b>Title:</b> Chief Executive</p> <p> 14/06/17</p> <p>_____ Signed and Dated</p>



# Appendix One - Site Plan



# Appendix Two – standard substation



### Appendix Three - Ward Councillor comments

**From:** Cllr Iain Colquhoun (NELC)  
**Sent:** 08 June 2017 12:39  
**To:** Jack Fox (NELC); Cllr Philip Jackson (NELC)  
**Cc:** Cllr Matthew Patrick (NELC); Wendy Fisher (NELC)  
**Subject:** RE: Footpath 72 - lease of land at 'less than best consideration' for re-siting electricity substation

Good afternoon. I have reviewed the proposal and proposed new site location, and can confirm that I have no objection to it. In fact, I warmly welcome this as a suitable way of completing the ongoing case of Footpath 72.  
Regards. Iain

**From:** Jack Fox (NELC)  
**Sent:** 07 June 2017 14:15  
**To:** Cllr Iain Colquhoun (NELC); Cllr Philip Jackson (NELC)  
**Cc:** Cllr Matthew Patrick (NELC); Wendy Fisher (NELC)  
**Subject:** Footpath 72 - lease of land at 'less than best consideration' for re-siting electricity substation

Good Afternoon Councillors

You will be aware Footpath 72 has a complex history spanning previous administrations.

Further to a petition being received at the June 2015 Planning Committee, Members and Officers alike were keen to see the issue moved forward. To enable this to happen, on 7 October 2015, Planning Committee resolved to enforce the line as awarded through the Definitive Map Modification Order 2010.

The line of Footpath 72 is lawfully recorded upon the Definitive Map as corrected by the Definitive Map Modification Order 2010. Therefore the public have a right to pass and repass along the line of the footpath as a public right of way. The Council has a statutory duty to maintain, assert and protect such rights as are within its administrative area as the local highway authority under the auspices of the Highways Act 1980 (s.130).

I am writing to advise you that as a section of Footpath 72 has sited upon it an electricity substation, in order to comply with the above, there is the requirement for the substation to be relocated. The proposal, which Northern Powergrid will bear all associated costs of, will result in a new substation (as per the attached specification) to a Council piece of land adjacent to the Highway - as shown on the attached plan. The Council intend to grant a 60 year lease at nil rent for the subject site.

If you have any objections to this proposal, it would be appreciated if you could inform me by Friday 9 June 2017 so these can be included within the ODR. If not, the ODR will be presented for signature on Monday 12 June 2017 to the Leader, Portfolio Holder (Cllr Matthew Patrick), and Rob Walsh.

Whilst this decision is not a key decision required by cabinet, the protocol on disposal of land for less than best consideration states the matter should be referred to cabinet. This will be picked up at the next available cabinet.

Regards

**Jack Fox, Assets Advanced Practitioner (Corporate), North East Lincolnshire Council**  
Municipal Offices, Town Hall Square, Grimsby, North East Lincolnshire, DN31 1HU  
01472 323388 | 07730 014287 | [jack.fox@nelincs.gov.uk](mailto:jack.fox@nelincs.gov.uk) | [www.nelincs.gov.uk](http://www.nelincs.gov.uk)

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## Officer Decision Record

### 1. Subject and details of the matter

Most of North East Lincolnshire Council's main insurance policies were required to be re-procured by 30<sup>th</sup> September 2017. On 28<sup>th</sup> June 2017 Cabinet acknowledged the commencement of a procurement exercise in connection with the provision of an Insurance Services Contract commensurate with the needs of the Council, and provided the Director of Finance, Resources and Operations with delegated authority to approve the new contracts in consultation with the Portfolio Holder for Finance, Resources and Inclusion.

### 2. Is it a Key Decision as defined in the Constitution?

Yes. As mentioned above a Cabinet decision was made in support on 28<sup>th</sup> June 2017.

### 3. Details of Decision

The process for determining the decisions to award were as follows:

#### Lotting:

The awards were based on 6 lots

#### Lot 1

- Property Damage,
- Balance of Perils,
- Property Owners,
- Business Interruption,
- All Risks

#### Lot 2

- Employers' Liability
- Public / Products Liability,
- Officials' Indemnity

#### Lot 3 - Motor Fleet

#### Lot 4 – Crime

#### Lot 5 - Engineering Insurance and Statutory Inspection

#### Lot 6 – Computer

#### Process:

The procurement process was compliant with the requirements of the Contract Procedure Rules and Public Contracts Regulations, and a further competition is being run under the Insurance Services II (RM3731) framework.

**Length of Contract:**

5 years

**Assessment method/basis of award :**

Most Economically Advantageous Tender as described in the published tender documentation.

**Evaluation:**

The evaluation was carried out on 8 September 2017. This involved an assessment of compliance of the returned tenders with the tender documentation together with costing and quality information received.

**Award:**

Following the completion of the evaluation and the required stand still period the lots have been awarded as follows and contracts commenced from 1 October 2017

**Lot 1**

Risk Management Partners Ltd, 67 Lombard Street, London, Greater London, EC3V 9LJ, United Kingdom,

**Lot 2**

Zurich Municipal, East Parade, Leeds, West Yorkshire, LS1 2AA, United Kingdom

**Lot 3**

Zurich Municipal, East Parade, Leeds, West Yorkshire, LS1 2AA, United Kingdom

**Lot 4**

Zurich Municipal, East Parade, Leeds, West Yorkshire, LS1 2AA, United Kingdom

**Lot 5**

Zurich Municipal, East Parade, Leeds, West Yorkshire, LS1 2AA, United Kingdom

**Lot 6**

Risk Management Partners Ltd, 67 Lombard Street, London, Greater London, EC3V 9LJ, United Kingdom,

**4. Is it an Urgent Decision ? If yes, specify the reasons for urgency**



No
<b>5. Anticipated outcome(s)</b>
<b>6. Details of any alternative options considered and rejected by the officer when making the decision</b>
Only one other option was considered as part of the Cabinet Report, and this was the decision not to commence a procurement and ultimately make an award, but this would be adverse and not in the interests of the Council
<b>7. Background documents considered:</b>
The detailed evaluation documentation was considered when making this decision
<b>8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>
Not applicable
<b>9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)</b>
No conflicts of interest
<b>10. Monitoring Officer Comments</b> (Monitoring Officer or Deputy Monitoring Officer)
<p>10.1 Constitutionally the Director of Finance Operations and Resources is responsible for the management of financial resources including insurance, hence the delegation by Cabinet to such Director to reach a decision in consultation with the Portfolio Holder for Finance, Resources and Inclusion.</p> <p>10.2 The issue of insurance also forms an intrinsic part of the Council's risk management policy statement. This is promoted throughout the Council. The Director Finance, Operations and Resources has the responsibility of advising on proper insurance cover where appropriate.</p> <p>10.3 For the Council to operate within the bounds of the law and of prudence it must have adequate insurance cover in place covering the range of issues as highlighted within this decision record. Not to do so would expose the Council to clear and unacceptable risk in terms of meeting its obligations and liabilities, impacting on its capability to deliver proper services and functions.</p>

**11. Section 151 Officer Comments**  
(Deputy S151 Officer or nominee)

It is good practice to re-procure insurance services on a periodic basis in order to demonstrate that the Council is achieving value for money. This most recent tendering process has enabled the Council to generate efficiency savings against its current premiums.

**12. Human Resource Comments**  
(Strategic Workforce Lead or nominee)

There are no Human Resources issues related to this report

**13. Risk Assessment (in accordance with the Report Writing Guide)**

Adequate insurance cover contributes to the mitigation of the risk of financial loss

**14. Decision maker(s)**

Name: Sharon Wroot

Title: Director of Finance Operations and Resources

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

27/9/17

**15. Consultation carried out with Portfolio Holder(s):**

Name: Cllr. Mathew Patrick

Title: Portfolio Holder for Finance, Resources and Inclusion

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

27/9/17

## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

#### Acquisition of freehold – Land off South Marsh Lane, Stallingborough

The acquisition a collective total of 98.811 acres (48.77ha) off South Marsh Road, Stallingborough, comprised of two separate ownerships.

The land is specifically required to enable the delivery of the Strategic Ecological Mitigation scheme, which forms a key part of the Economic Strategy. Specifically, the use of the land for mitigation purposes will unlock development constraints along the South Humber Bank, and subsequently promote economic growth.

The proposals for this site also include two further areas of land which will be negotiated separately and subject to a separate decision. Whilst the additional negotiations are being progressed, tenants have been identified who would be willing to lease the sites to continue farming operations for a period of 18 months. This will generate a small income to the Council.

### 2. Details of Decision

The decision confirms that the Council will seek to acquire 98.81 acres (48.77ha) of land off South Marsh Road, comprising sites in two separate ownerships, the Lincoln Diocesan Trust and Board of Finance Ltd (57.947 acres(23.45ha) and The Riby Estate (37.864 acres (15.32ha). The agreed acquisition price of the sites are as follows:

Lincoln Diocesan Trust and Board of Finance Ltd £1,738,410

The Riby Estate £1,135,920 (+VAT at £227,184.00)

Appropriate Stamp Duty will also be required to be paid.

The acquisition price equates to an equivalent of £30,000 per acre, which is above market value. However, on account of there being advantages to the Council which enable the delivery of Strategic Mitigation project and the securing of wider benefits of future economic growth, the transaction is being progressed on the basis of the Council being a Special Purchaser, i.e.

*“a particular buyer for whom a particular asset has a special value because of advantages arising from its ownership that would not be available to other buyers in a market”*

Independent Valuation Reports have been prepared by JLL, which reflect the market value of the site, but also confirm that the price agreed reflects an appropriate uplift in value given the special circumstances of the case.

The decision also confirms the leasing of the sites to tenant farmers for a period of 18 months (i.e. January 2017 to June 2018). The lease terms will be reviewed and where possible reflect the earlier terms on which the site was tenanted. This will generate an income of circa £10,000 - £12,000 per annum for the Council.

### 3. Is it a Key Decision as defined in the Constitution?

Yes. The Director of Economy and Growth has delegated powers to progress all matters in relation to the SHIIP programme in conjunction with the Portfolio Holder for Regeneration, Skills and Enterprise as determined by the approval given by Cabinet at its meeting of 13<sup>th</sup> January 2016 (DN94):

**That delegated authority be given to the Director of Economy and Growth in conjunction with the Portfolio Holder for Regeneration, Skills and Enterprise to undertake all actions necessary to secure the implementation of the South Humber Industrial Investment Programme, including; land acquisitions/leases, delivery of environmental and infrastructure programmes, negotiation and delivery of joint ventures with private operators, and the implementation of the**

<b>Marketing and Communications Strategy;</b>
<b>4. Has the principle of the acquisition been approved by Cabinet</b>
Yes, as per above.
<b>5. Is it an Urgent Decision? If yes, specify the reasons for urgency</b>
N/A – it is not a Key Decision needed to be made urgently.  However, additional public sector funding has been secured through LGF and ERDF funding, for which support for acquisitions has been secured. Failure to comply with programmed timescales for delivery may put at risk the potential for grant to be reclaimed.
<b>6. Anticipated outcome(s)</b>
Acquisition of 95.811 acres (48.77ha) of land off South Marsh Road to facilitate the implementation of the Strategic Ecological mitigation scheme at a total cost of £2,8734,330 (excluding Stamp Duty).  Lease income from the above land not extending beyond June 2018
<b>7. Have the Premises been marketed by advertising or by auction? (if not why not)</b>
No.  The sites have been identified through the due diligence required to support the Strategic Ecological Mitigation scheme and selected for their contribution overall to its provision. The landowners have indicated a preference to sell the sites directly to the Council to aid the economic development of the area.
<b>8. Background documents considered:</b>
Cabinet Decision 16 <sup>th</sup> January 2016
<b>9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>
No
<b>10. Monitoring Officer Comments (Chief Legal Officer &amp; Solicitor to the Council or nominee)</b>
The acquisition of the Strategic Mitigation Sites are consistent with the Council's ambition to stimulate investment and economic growth and are seen as a precursor to enabling that.  The advantages to the Council in realising wider investment and growth potential are reflected in the price of the land and the fact that the Council is deemed a "Special Purchaser" as addressed above.  In completing the purchase of the mitigation sites in advance of any binding agreement with landowners having an interest in the wider sites does present a risk but it is understood that the risk is deemed manageable due to engagement and negotiation with appropriate stakeholders.  Further, adequate funding is in place to permit the acquisitions which if not defrayed would put further funding in jeopardy.  The decision is consistent with the delegations given by Cabinet on 13 <sup>th</sup> January 2016.
<b>11. Section 151 Officer Comments (Director of Finance or nominee)</b>
The Strategic Ecological Mitigation scheme is a major project within the South Humber Infrastructure and Investment Programme (SHIIP) and forms a key part of the Council's Economic Strategy. The project is expected to contribute to increased business rates for the Council which will be available to reinvest into the area. The financial assumptions in relation to SHIIP have been subject to external validation and are subject to ongoing monitoring and review via the programme board.  In relation to the acquisition price of the land at £30,000 per acre, this valuation is supported by an external professional assessment. Whilst the valuation is above market value for agricultural land, this is offset by the wider economic advantages on offer to the Council. Hence the reason why the transaction is being progressed on the basis of the Council being a Special Purchaser.



**12. Human Resource Comments** *(Director of Strategic Business Support or nominee)*

There are no direct HR implications arising from the contents of this record.

**13. Risk Assessment** *(in accordance with the Report Writing Guide)*

**Crime and Disorder** – The land is located in an established agricultural area where there is very little human activity other than that in relation to the operation of the land. Whilst the potential for trespassing exists, the leasing of the sites to tenant farmers for an interim period until development is secured will reduce the risks associated with this.

**Diversity** – The acquisition will ultimately lead to the implementation of the Strategic Ecological Mitigation scheme, which will ultimately unlock current constraints to economic development within the South Humber Bank area. This will generate opportunities for employment for all members of the community.

**Value for Money** – The recommendation to acquire the freehold of the land within this report will result in the Council receiving a small income for a period of 18 months..

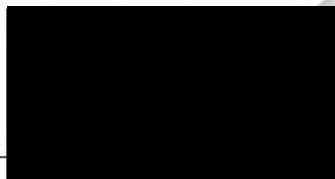
**14. Notification of Ward Councillors**  
**(Freshney Ward)**

No engagement has taken place with ward members as the decision was taken by Cabinet on the 16<sup>th</sup> January 2016

**15. Consultation with Portfolio Holder:**

**Name:** Cllr P. Wheatley

**Title:** Portfolio Holder for Regeneration, Skills and Enterprise



9-2-17

Signed and Dated

**16. Decision maker:**

**Name:** Angela Blake

**Title:** Director of Economy and Growth .



7/2/17

Signed and Dated

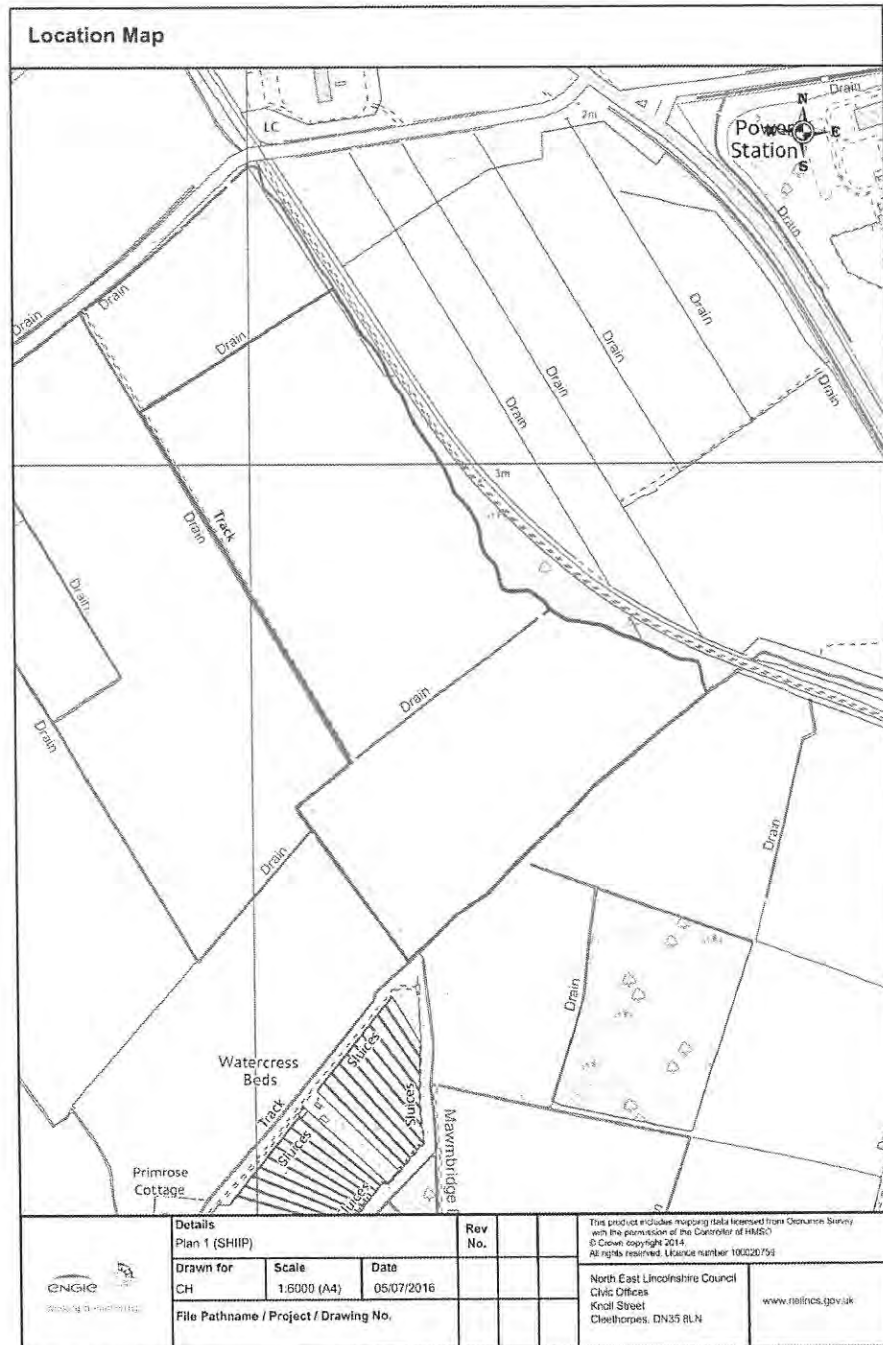


Appendix One - Site Plan

Land off South Marsh Road  
(Lincoln Diocesan Trust and Board of Finance Ltd)

DRAFT

## Site Plan



Not to Scale

Land off South Marsh Road  
The Riby Estates

## Site Plan



Not to Scale

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## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

#### Lease of Guildford Street Cleared Site – Phase 3

In 2012, cabinet approved the transfer of half of the land cleared by demolition to a Registered Provider of Social Housing (Longhurst & Havelock Homes Limited (L&H Homes)), to enable the development of thirty five new dwellings as part of a phased approach to redeveloping the site. There was insufficient funding to redevelop the whole site which is in a low value housing market area with high level flood risk incurring higher building costs for flood mitigation. All thirty five properties are social housing.

In 2013, cabinet approved the transfer to L&H Homes of a further quarter of the original vacant site for an additional sixteen dwellings for social rent to complete the housing development following the re-allocation of further gap funding secured by L&H Homes.

There was insufficient funding available at that time to develop the last quarter of the cleared site situated between the new homes on the renamed Orchard Drive and the refurbished Guildford Street area. The Neighbourhood Renewal Area Action Plan for the East Marsh identified the need for additional green space and suggested a community orchard which was considered an effective use of the remaining land.

In December 2014, cabinet approved the undertaking of a selection process to identify a suitable community organisation to design, develop and maintain a community orchard on the remaining 0.80 acres of vacant land and capital funding was approved to create and implement the orchard.

In early 2015, a selection process was undertaken to engage and select a suitable community group but without success. Feedback identified long term organisational sustainability for specialist voluntary organisations as a barrier to taking on long term responsibilities for maintenance and management of such a provision. The land has since remained unused and is subject to fly-tipping and requires ongoing maintenance.

In June 2015, cabinet approved a report following a proposal from L&H Homes that due to provided access to further gap funding to deliver seventeen additional new homes on the remaining land. This number of dwellings still provides adequate space for a much reduced integrated community orchard of 0.18 acres which would be implemented and maintained by the Council, enabling the whole site to be utilised.

Since the decision, the number of proposed homes has increased to nineteen which will leave a community orchard of 0.06 acres, which will be planted and maintained by the Council. Neighbourhood Services have provided provisional costings for a period of 5 years' at £9,500, which will be charged against the approved budget of £15,000 set aside for the community orchard.

The developer has agreed that this area of land will be cleared and finished with topsoil on completion of the development/agreed time for access to enable planting.

### 2. Details of Decision

This report seeks to confirm the revised details of the proposal and seek approval to the disposal of the final part of the cleared Guildford Street site (now known as Orchard Drive) to L&H Homes.

This is the last quarter of the site which was cleared of 100 poor quality terraced homes by the Council in order to achieve regeneration. The proposal seeks to match the terms agreed on the previous two phases through the agreement of a long lease at peppercorn rent (£1 per annum, if demanded) to enable the delivery of an additional and final phase of nineteen new homes.

The completion of this final phase utilises the whole of the cleared site in line with the redeveloped

Orchard Drive. This is in line with the Development Brief as adopted by the Council in April 2010 by providing a total of 68 new homes for social rent delivered and managed by L&H Homes on the renamed 'Orchard Drive'.

The Council will retain a small section of land (0.05 acres) to be maintained as a community orchard.

### **3. Is it a Key Decision as defined in the Constitution?**

Yes – the in principle decision to dispose was taken by cabinet at its meeting of the 9 December 2015, as set out below:

- 1. Longhurst & Havelock Homes Limited be granted a lease of the remaining part of the land for a term of 125 years at a peppercorn rent (£1 per annum, if demanded) as outlined in red on the plan (as attached at Appendix One) to enable the final phase three construction of a further seventeen new homes for social rent.*
- 2. the Director of Economy and Growth, in consultation with the Leader of the Council and Portfolio Holder for Regeneration, Skills and Enterprise be delegated responsibility to ensure that all necessary actions are carried out in order to complete and approve the detailed terms of the disposal.*
- 3. Approval is given for the development and maintenance of a community orchard, as outlined and shaded blue on the plan (as attached at Appendix One) on a small section of land retained by the Council, yet integrated within the final phase of the housing development on Orchard Drive, Grimsby.*

### **4. Has the principle of the disposal been approved by Cabinet**

Yes – in accordance with Section 3 above.

### **5. Is it an Urgent Decision? If yes, specify the reasons for urgency**

Yes – proposals have been submitted and the Homes and Communities Agency (HCA) funding deadline requires a start on site by February 2017.

### **6. Anticipated outcome(s)**

That the site known as Guildford Street Cleared Site – Phase 3 is disposed of by way of a lease to L&H Homes, in accordance with the recommendations of cabinet and valuation advice from ENGIE. The disposal enables redevelopment of the site to create an improved street scene and provide nineteen new Affordable Homes.

### **7. Have the Premises been marketed by advertising or by auction? (if not why not)**

No – the Council initiated discussions with the three largest Registered Providers that also have a developing arm who operate in this area to secure a suitable design solution for the site. Those discussions resulted in only one offer being received, from L&H Homes.

### **8. Background documents considered:**

There are no background documents to be considered.

### **9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No.

### **10. Monitoring Officer Comments (Monitoring Officer & Chief Legal Officer)**

The decision is consistent with the previous cabinet decision as set out in part 3 above.

The decision also supports the Council's stated high priority strategy of housing creation and through that the support and implementation of Stronger Economy and Stronger Communities.

The leasehold disposal is consistent with the disposal of previous phases of this development.

The urgency of the decision sought is supported due to the constraints on funding availability.

### **11. Section 151 Officer Comments (Director of Finance or nominee)**

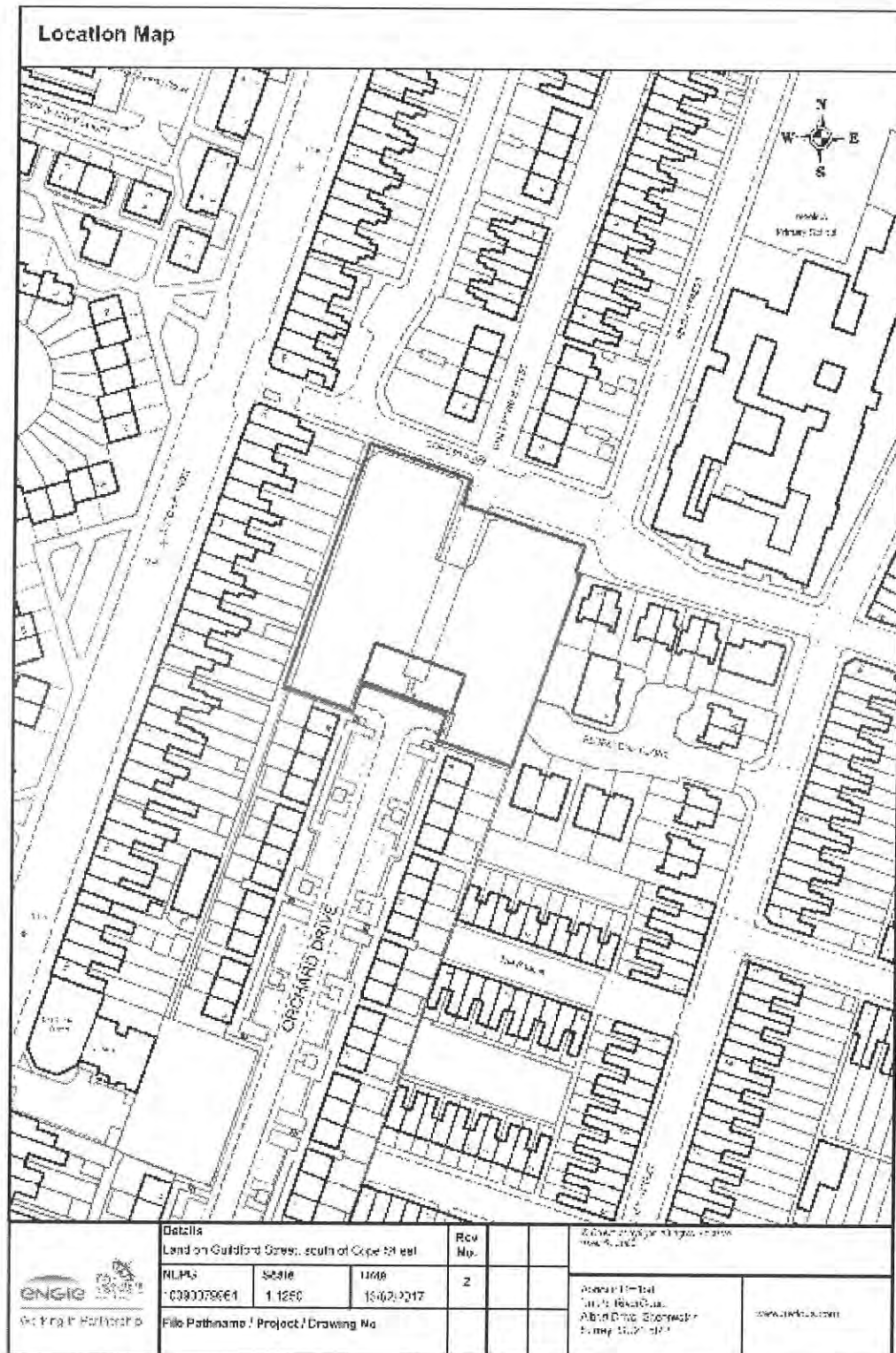
The proposal supports the Council's key financial objective to create long-term financial sustainability by utilising vacant land to deliver new affordable homes, providing additional council tax income and new homes bonus funding.

The costs of providing the orchard will reduce as a result of the reduced plot size required.

### **12. Human Resource Comments (Assistant Director Strategic Business Support or nominee)**

There are no direct HR implications arising from the content of this report.

# Appendix One – Location Plan



**13. Risk Assessment (in accordance with the Report Writing Guide)**

**Crime and Disorder** – The disposal enables the site to be redeveloped which will improve the current street scene and remove the risks associated with derelict land, which could attract anti-social behaviour.

**Diversity** – The disposal provides the opportunity for the redevelopment of the site, improved street scene and for the area to benefit from new Affordable Housing which in turn will result in an improved area which will enhance the local community.

**Value for Money** – The Council, through the disposal, will enable L&H Ltd to redevelop the site and provide for new Affordable Housing units. The disposal will remove ongoing maintenance liability of the land and result in increases in Council Tax.

**14. Notification of Ward Councillors (East Marsh Ward)**

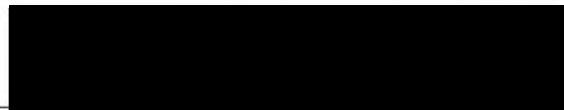
Cllr. S Beasant  
Dated: **24/02/2017**  
Comments: “**I welcome this decision .... positive news.**”

Cllr. K Rudd  
Dated: **24/02/2017**  
Comments: **None Received**

Cllr. T Walker  
Dated: **24/02/2017**  
Comments: **None Received**

**15. Consultation with Portfolio Holder:**

**Name:** Cllr M. Patrick  
**Title:** Portfolio Holder for Finance, Resources and Inclusion.



Signed and Dated

**16. Decision maker:**

**Name:** Sharon Wroot  
**Title:** Director of Finance, Resources and Operations.



Signed and Dated



## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

Fryston House, 65 Bargate, Grimsby, DN34 5BB (the 'Property')

The Property (as outlined red on the attached plan) has been tenanted by The Grimsby Institute of Further and Higher Education ('GIFHE') since 1<sup>st</sup> April 2008. GIFHE no longer physically occupy the Property and sought a surrender of their lease which will be agreed subject to a disposal which was authorised by Cabinet on 12 August 2015. Until such point they are obligated to continue to maintain and repair the Property. The Council's retained agent was instructed to market the Property for disposal in September 2015 at a guide price of £500,000. They were also marketing the Council Property known as 'The Elms'.

An offer of £320,000 was received from an interested party in August 2016 but was rejected as being too low.

An offer of £700,000 was received from a Mr Mark Hare (the 'Purchaser') in February 2016 for both The Elms and the Property. As both properties were being marketed for offers in excess of £450,000, this offer was rejected. Mr Hare has since increased his offer on both; £420,000 for the Elms and £410,000 for the Property, the latter subject to planning permission.

The Purchaser intends to convert the Property to a boutique hotel. The Conservation Officer has indicated that a proposed hotel is an acceptable use for the building and the Purchaser has instructed architects to engage with planners formally.

The Council currently do not have any holding costs as the property is still leased to GIFHE. The ultimate sale price of £410,000 would be less costs providing a capital receipt for the Council. This offer is recommended by the Council's retained agent and ENGIE Services Limited ("ENGIE") as the highest offer received since marketing commenced. The Purchaser is also understood to be an experienced developer who can deliver a scheme.

### 2. Details of Decision

That the freehold of the Property be sold generating a capital receipt of £410,000 (less costs of sale) - in accordance with the recommendations and valuation of ENGIE.

### 3. Is it a Key Decision as defined in the Constitution?

Yes – the decision:

- will result in a capital receipt above the threshold definition of a Key Decision;
- relates to and impacts solely on one Ward (Park);
- is not significant in terms of the number of residents / service users that will be affected in the ward;
- is likely to result in substantial public interest; and
- will not incur a significant social, economic or environmental risk.

### 4. Has the principle of the disposal been approved by Cabinet

Yes - approval to dispose was approved by cabinet, at its meeting of 14 August 2015, as set out below:

*DN.39 UPDATE ON GIFHE PROPERTY MATTERS AND DISPOSAL OF FRYSTON HOUSE  
Cabinet received a report from the Portfolio Holder for Finance and Resources providing the current*



position regarding negotiations between the Council and Grimsby Institute of Higher and Further Education.

**RESOLVED –**

(1) That the principle of the surrender of the lease, marketing and disposal of Fryston House ("the site") for the best price reasonably obtainable, be approved.

(2) That the Director of Finance and the Monitoring Officer in conjunction with the Portfolio Holder for Finance and Resources, be authorised to approve the detailed terms of the lease surrender and disposal.

(3) That until recommendation two above is resolved; GIFHE continues its commitments under the terms of the current lease.

**5. Is it an Urgent Decision? If yes, specify the reasons for urgency**

N/A – it is not a Key Decision needed to be made urgently. However there is a risk the potential purchaser may withdraw if this decision is not made quickly.

**6. Anticipated outcome(s)**

The Property is disposed of to the Purchaser and GIFHE's lease co-terminously surrendered upon completion.

**7. Have the Premises been marketed by advertising or by auction? (if not why not)**

Yes.

**8. Background documents considered:**

None.

**9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

Open.

**10. Monitoring Officer Comments (Assistant Director Law or nominee)**

The Council is under a statutory duty (s123 Local Government Act 1972) to obtain the best price reasonably obtainable in the event of the disposal of an asset. The subject asset here (Fryston House) has been subject to an open and appropriate marketing process which has produced the price of £410,000. Although the guide price was set at a figure of £500,000 the market has dictated a lower price.

The retention of the covenants of GIFHE, in that they remain bound to fund void costs and be liable for repairs and maintenance is demonstrable of good estate management on part of the Council.

It is intended that the disposal to the proposed buyer be subject to planning consent via a conditional contract. This means that although the buyer will commit to the purchase, this will be subject to planning consent for the intended use being secured prior to completion. If such planning consent cannot be secured then the buyer will not be bound to complete and may withdraw. As the current tenant continues to be liable for costs and maintenance then there is no disadvantage to the Council.

**11. Section 151 Officer Comments (Director of Finance or nominee)**

The disposal of the property will generate a capital receipt which will be reinvested into the Council's capital investment programme to support housing related priorities. The proposal to develop a boutique hotel at the site will also contribute towards the Council's strategic aim of stronger economy.

**12. Human Resource Comments (Assistant Director Strategic Business Support or nominee)**

There are no HR implications arising from the contents of this report.

**13. Risk Assessment (in accordance with the Report Writing Guide)**

**Crime and Disorder** – The property is within an established residential location and acts of crime and vandalism have so far been limited, disposal of this premise will ultimately remove any on-going risk.

**Diversity** – The potential sale provides the opportunities for the site to be redeveloped and will ensure the local community benefit from the same quality or an improved street scene.

**Value for Money** – The recommendation to dispose of this property as outlined within this report will secure a capital receipt to support future capital projects.

<b>14. Notification of Ward Councillors (Park)</b>	Cllr A De Freitas Dated: <b>26/10/2017</b> Comments: <b>None Received</b>	Cllr I Barfield Dated: <b>19/10/2017</b> Comments: <b>Received and attached at Appendix 2</b>	Cllr C McGilligan-Fell Dated: <b>26/10/2017</b> Comments: <b>None Received</b>
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**15. Consultation with  
Portfolio Holder:**

**Name:** Cllr Matthew Patrick

**Title:** Portfolio Holder for Finance, Community Assets, Governance and Tourism

 27/10/17

Signed and Dated

**16. Decision maker:**

**Name:** Sharon Wroot

**Title:** Director of Finance, Resources and Operations

 27/10/17

Signed and Dated

## Appendix One – Site Plan



**Appendix Two – Ward Councillor comments**

**From:** Cllr Ian Barfield (NELC) [mailto:ian.Barfield@Nelincs.gov.uk]  
**Sent:** 19 October 2017 13:53  
**To:** Jack Fox (NELC)  
**Subject:** Re: Disposal of Fryston House, 65 Bargate, Grimsby, DN34 5BB

Dear Jack,

Unless the plan is to demolish or deface the current building I would be happy to see it brought back into use.

Ian

Sent from Samsung tablet

----- Original message -----

From: "Jack Fox (NELC)" <Jack.Fox@nelincs.gov.uk>  
Date: 19/10/2017 13:12 (GMT+00:00)  
To: "Cllr Andrew DeFreitas (NELC)" <Andrew.DeFreitas@nelincs.gov.uk>, "Cllr Ian Barfield (NELC)" <ian.Barfield@Nelincs.gov.uk>, "Cllr Christina McGilligan-Fell (NELC)" <Christina.McGilliganFell@nelincs.gov.uk>  
Cc: "Cllr Matthew Patrick (NELC)" <Matthew.Patrick@nelincs.gov.uk>, "Sharon Wroot (NELC)" <Sharon.Wroot@nelincs.gov.uk>  
Subject: Disposal of Fryston House, 65 Bargate, Grimsby, DN34 5BB

Good Afternoon Councillors

The above property (as per the plan attached – property boundary outlined red) has been tenanted by The Grimsby Institute of Further and Higher Education (GIFHE) since 1 April 2008. GIFHE no longer physically occupy the property and sought a surrender of their lease which will be agreed subject to a disposal which was authorised by Cabinet on 12 August 2015. Until such point, GIFHE are obligated to continue to maintain and repair the property.

The Council's retained property agent was instructed to market the property for disposal in September 2015. An offer for the property was received from an interested party in August 2016 but was rejected as being too low.

An offer was received from the prospective purchaser in February 2016 for both this property and The Elms, 22 Abbey Road. As the offer fell below the guide price for both properties, this offer was rejected. The prospective purchaser has since increased their offer for both properties. However, the offer in relation to The Elms has been rejected as the Council is withdrawing the property from the market to consider a possible part use of the site and an alternative disposal route.

The offer in respect to this property, which is subject to obtaining successful planning permission, is recommended by ENGIE as the highest offer received since marketing commenced and therefore represents market value. While the sale progresses, the Council will not incur holding costs as the property is still leased to GIFHE. At the point the property is disposed of to the prospective purchaser, GIFHE's lease will co-terminously be surrendered upon completion.

The Purchaser is understood to be an experienced developer who can deliver a scheme. The intention is that the property is converted to a boutique hotel, which the Conservation Officer has indicated to be an acceptable use for the building. The purchaser has instructed architects to engage with planners formally.

The purpose of my email is to advise you that the recommendation has been agreed in principle by the Director of Finance, Resources and Operations and Portfolio Holder for Finance, Community Assets, Governance and Tourism. A formal Officer Decision Record is being circulated to Monitoring Officers, and this is your opportunity to provide any comments you may wish to make. Any comments will be included in the Record and presented for approval and signature from both the above which will form the instruction to Legal to complete the sale.

Could I please ask that you provide any comments, by return, by no later than Thursday 26 October 2017.

Regards

**Jack Fox, Assets Advanced Practitioner (Corporate), North East Lincolnshire Council**

## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

#### Long leasehold disposal of Humberston Fitties, Humberston, North East Lincolnshire, DN36 4HG

The above site (as outlined red on the attached plan at Appendix One) is held by way of freehold title by North East Lincolnshire Council and comprises a holiday chalet park with 320 chalets. All chalets, with the exception of one, are leased to private individuals. The exception is a Council owned chalet used for short break holiday lets for Disabled Children, their Families and Carers. The current recorded addresses of Chalet Owners shows that 48.7% of tenants live within North East Lincolnshire, with 46.10% of those being registered at the Chalet address (which equates to 22.47% of the overall tenants registered addresses).

The Humberston Fitties has a Planning condition relating to a closed season which prohibits overnight occupation for 8 consecutive weeks between November and March. The Council chose the months of January and February as these months depicted the highest probability of flooding. This is a strict clause contained in the leases held by the chalet owners.

As a result of a petition received by the Council asking for the Closed Season to be reduced to two weeks a year Select Committee hearings were held during October 2012. Ten recommendations were made to cabinet from the policy, performance and resources scrutiny panel as outlined below which were approved at a cabinet meeting of 14 January 2013.

- a. That the closed season is no less than eight weeks per year;
- b. The Council should strengthen specific clauses within the lease;
- c. The Council should continue to enforce the clauses within the lease;
- d. Leases be harmonised to expire on the same date (31 March 2021);
- e. A working group is established to explore other opportunities for the management or disposal of the site;
- f. That the Council review the budget allocation for the maintenance of the coastal defence;
- g. That there is an urgent need to implement site specific emergency evacuation arrangements;
- h. That a copy of the Humberston Fitties conservation area chalet design guide is circulated to all chalet owners to ensure consistency with planning issues and that consultation take place with interested parties as to possible amendments;
- i. That regular quarterly meetings resume between the Council, chalet owners and their representatives;
- j. That the Council explores the options for improving the tourism offer at the Humberston Fitties in collaboration with chalet owners;

The Council continually reviews its property holdings and determines whether the contribution to the Councils commercial estate substantiates the reason for holding property. In this case, the working group given the mandate 'to explore other opportunities for the management or disposal of the site' concluded with the recommendation to dispose of the site for a fixed sum payable as a premium payment and a long leasehold interest for 125 years.

This was approved by cabinet on October 13, 2014. Specifically, the decision agreed that:

#### **DN.59 HUMBERSTON FITTIES - FUTURE MANAGEMENT AND DISPOSAL**

Cabinet considered a report from the Leader of the Council and Portfolio Holder for Assets and Special Projects seeking to update Cabinet on the exploration of opportunities for the management or disposal of the Humberston Fitties, as required by Cabinet on 14 January 2013, and on other



unsolicited but related events.

**RESOLVED –**

(1) That the principle of a disposal by way of lease of the Fitties, the Humber Mouth Yacht Club and the adjoining car park area be approved.

(2) That the Director of Finance, in consultation with the Portfolio Holder for Assets and Special Projects and the Monitoring Officer, be authorised to approve terms of a lease to Bourne Leisure (subject to the existing lease to the Humber Mouth Yacht Club and subject also the existing leases of the Fitties' plots to chalet owners) in accordance with professional advice and recommendations of the Council's strategic regeneration partner.

(3) That if terms for a leasehold disposal to Bourne Leisure cannot be agreed, the Director of Finance be authorised to market the site and in consultation with the Portfolio Holder for Assets and Special Projects and the Monitoring Officer, to approve terms for a leasehold disposal (subject to the existing leases to the Humber Mouth Yacht Club and also to the chalet owners).

(4) That the unsolicited offer received for the purchase of the freehold of the Fitties be declined.

(5) That the Solicitor to the Council be authorised to complete all requisite legal documentation for a leasehold disposal.

(6) That prior to the conclusion of any transaction authorised within the resolutions above, a report be taken to full Council for final decision on whether to proceed.

**REASONS FOR DECISION** - The Council holds property to support its key priorities of "Stronger Economy, Stronger Communities." Given this focus, continued ownership of the Humberston Fitties does not align to these priorities and disposal is considered appropriate. Additionally, it is prudent to include ancillary land and buildings in any disposal in the interests of good property management. Having considered representations made at this meeting, Cabinet further agreed that the final decision on whether to proceed with any transaction as set out in the recommendations of the report should be taken at a meeting of full Council.

**OTHER OPTIONS CONSIDERED** - A disposal of the freehold would leave the Council with no regulatory role in terms of uses of the site apart from the Planning system. This site is strategically placed in the resort between the foreshore and the adjoining Thorpe Park (the freehold of which is retained by the Council subject to a lease to Bourne Leisure) and the protection of its leisure and recreational use is significant both to the management and development of the resort and to the Council as the Local Authority in terms of provision of services.

Reliance on the Planning system, with its changing regulations and appeals mechanisms is not considered to be sufficient for the protection of the established uses on the site. The remaining alternative was to do nothing and continue to hold the Fitties. However, there would be continuing management implications in adopting this approach and the asset would not support Council priorities.

Further to this mandate, the Council undertook a procurement exercise to select a specialist agent with expertise in marketing and disposing of Holiday Chalet Parks.

Sanderson Weatherall were successful in this undertaking and marketed the site, seeking offers and expressions of interest in relation to the opportunity to acquire this unique asset holding.

All expressions of interest were considered by the Council against set criteria which was issued to each of the parties submitting a full and final offer and which could be evaluated on the same basis.

The criteria is set out below:

1. The name in which the purchase will be made along with the principal point of contact, address, email address and contact telephone number.

2. Offers should be a fixed sum payable as a premium to acquire the long leasehold interest.

Please also state the amount in words. Any offers made that are calculable only by reference to another offer will not be considered.

3. Offers should be subject to contract only but if subject to any other conditions such as sale of an existing property, mortgage, planning permission, surveys etc. this should be clearly stated along with details.

4. Source of funding for the purchase along with details and proof of funding.

5. Indicative timescales to exchange a contract and complete a purchase of the long leasehold interest.

6. The vendors also wish to have an understanding in outline of the purchaser's future intentions and proposals for the property and this should be included within your offer. The following link to the North

*East Lincolnshire website states:*

*For example this may include the proposed level of investment, future plans for the site, business plan (including the management arrangements for the tenants on site) in addition to the details of the proposed terms of the lease. The council is interested to understand the social, economic and environmental benefits of all offers and how any community benefit would be translated in to a monetary value, if applicable.*

<https://www.nelincs.gov.uk/culture-events-and-tourism/humberston-fitties/disposal-humberston-fitties/>

*7. We are obliged to highlight that the vendors are not committed to accept the highest, or indeed any offer.*

*8. The vendor may require further clarification on offers, therefore we would request that you are contactable on the 1st and 2nd December 2016 to provide this if required.*

Upon advice from the appointed agents, taking into account the nature of the site and in compliance with the Council's statutory obligations to obtain the best price reasonably obtainable (s123 Local Government Act 1972) no conditions were placed upon the disposal and a closed bid process was adopted. A total number of five closed bids were received and considered.

The bids were subject to robust assessment against uniform criteria. Cabinet expressed its preference to a particular bid and this preference was debated at Full Council (8<sup>th</sup> February 2017) and further tested at a joint meeting of the Regeneration, Environment and Housing Scrutiny Panel and Tourism, Leisure & Culture Scrutiny Panel (21<sup>st</sup> February 2017).

The Joint Scrutiny Panel made certain recommendations and at Cabinet on the 16 March 2017 it was agreed that:

#### **DN.134 HUMBERSTON FITTIES**

*Cabinet considered a report from Portfolio Holder for Finance Resources and Inclusion providing an update following the Scrutiny meeting on the 21st February 2017 and recommending the offer be approved.*

#### **RESOLVED –**

*(1) That the offer from the preferred bidder, as outlined in section 1.17 of the 18 January 2017 report and subject to the observations of Scrutiny as per recommendation 2; which will result in the disposal of the Fitties site (as per the plan outlined at Appendix One of the report now submitted) for a fixed sum payable as a premium payment and a long leasehold interest (125 years), be approved.*

*(2) That the observations of Scrutiny as outlined in section 6.1 of the report now submitted, be noted.*

*(3) That the Director of Finance, Resources and Operations in consultation with the Portfolio Holder for Finance, Resources and Inclusion be authorised to approve the detailed terms relating the disposal.*

*(4) That the Solicitor to the Council be authorised to complete all requisite legal documentation in relation to the matters outlined in the points above.*

**REASONS FOR DECISION** – *The Council is following up on the previous decision of cabinet of the 18 January 2017 where an in principle disposal to a preferred bidder was agreed. The decision was subject to approval by Full Council and on the 8 February 2017 the matter was referred to the Regeneration, Housing and Environment and Tourism, Leisure and Culture scrutiny panels. Further to the meeting of Scrutiny of the 21 February 2017, recommendations to cabinet are set out at section 6 of this report.*

#### **OTHER OPTIONS CONSIDERED** – *As per the report to cabinet of 18 January 2017.*

Following the above decision, the Council have been in negotiations with Tingdene, the preferred bidder, as to the detail of the lease and have entered into an Exclusivity Agreement and a side letter confirming the previous cabinet mandate of agreeing to lease renewal for a term of at least 5 years of those leases that have expired.

The Council is also fully aware of the position regarding the outstanding rent review which has been triggered and an arbitration process that followed as the rent level proposed by the Council's Chartered Surveyors was not agreed by some parties. The matter was referred to independent arbitration; however this process has not been completed in full. It is likely however that the result would have seen an increase to the ground rent as proposed. There is also a further rent review due which has not been triggered by the Council which again could result in increases to the current rent. The impact of this is that any proposed increase from Tingdene from the current rental level is now disproportional compared to having completed the rent review.

Tingdene have provided assurances that any increase to rent or annual charges are all in line with Market Rents for Holiday Accommodation. The rent review process for the duration of the lease will be documented within the lease, this is usually an upwards only Yield provision linked to RPI. Any



premium linked to a future lease to a Tenant will be a matter for Tingdene and we have assurances that this will be independently assessed and regulated under the Mobile Home Act, the Landlord & Tenant Act and the Financial Conduct Authority.

## **2. Details of Decision**

That agreement is provided to the disposal of the aforementioned site, for a fixed sum payable as a premium payment and a long leasehold interest (125 years') of The Humberston Fitties, generating a total capital receipt of £2,165,000.00 (Two Million, One Hundred and Sixty Five Thousand Pounds) (less costs of sale), in accordance with the recommendations of the appointed agents (Sanderson Weatherall), and cabinet of the 16th March 2017.

## **3. Is it a Key Decision as defined in the Constitution?**

Yes - three decisions have been taken by cabinet leading to the disposal. The first was part of ten select committee recommendations, the relevant one being to establish a working group to explore 'other opportunities for the management or disposal of the site' which was agreed by cabinet on the 14 January 2013. The second recommendation to dispose of the site by way of a leasehold transaction was approved by cabinet on October 13, 2014. Following marketing and the receipt of five bids, a preferred bidder was identified and was recommended to cabinet on the 16 March 2017 after a robust assessment and analysis subject to full governance at all tiers of the democratic process where it was agreed that the detail of the terms of the transaction would be delegated to the Director of Finance, Resources and Operations and Portfolio Holder for Finance, Resources and Inclusion as outlined in this ODR.

## **4. Has the principle of the disposal been approved by Cabinet**

Yes – as per section 3 above.

## **5. Is it an Urgent Decision? If yes, specify the reasons for urgency**

N/A – it is not a Key Decision needed to be made urgently. However there is a risk the potential purchaser may withdraw if this decision is not made quickly.

## **6. Anticipated outcome(s)**

The offer is not subject to any onerous conditions; therefore, pending exchange of contracts the Council will continue to manage the site until the sale completes. The costs have been budgeted for in the current programme.

Completion of this disposal will realise a capital receipt of £2,165,000.00 (Two Million, One Hundred and Sixty Five Thousand Pounds) (less costs of sale) which will contribute to the Council's capital programme.

## **7. Have the Premises been marketed by advertising or by auction? (if not why not)**

Yes

## **8. Background documents considered:**

None

## **9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No

## **10. Monitoring Officer Comments (Head of Legal Services or nominee)**

The process leading to the decision to dispose of the Fitties to Tingdene has been one of vigorous scrutiny at all tiers of the democratic process.

The Council is required by statute (as set out in this Officer Decision Record) to achieve the best price reasonably possible for an asset and the depth and scope of the process this particular asset has been subject to gives absolute confidence that the Council has conducted itself as stringently as possible.

The principle of disposal of the Fitties has been agreed and ratified at Cabinet level after engagement at Full Council and a joint scrutiny panel.

The decision recorded is consistent with the expectations of Cabinet and the delegations given in its decision of 16<sup>th</sup> March 2017.

## **11. Section 151 Officer Comments (Director of Finance or nominee)**

Upon approval of the principle to dispose of the Fitties the revenue impact of this decision was factored into the Council's medium term financial plan.

Also, as outlined in section 6 above, the sale will generate a capital receipt for the Council of £2.165m (less costs of sale) that can be reinvested into the Council's Capital Investment Programme.

**12. Human Resource Comments** (*Director of Governance & Business Support or nominee*)

There are no HR implications arising from the contents of this report.

**13. Risk Assessment** (*in accordance with the Report Writing Guide*)

**Crime and Disorder** – The site is in an established mixed residential/commercial location and whilst acts of crime and vandalism have so far been limited, the risk is still considered low. The majority of Chalets are in private ownership and occupied during the months of March-December as well as during the daylight hours over the closed season (January & February) The areas within the responsibility of the Council will continue until disposal of this site which will ultimately remove any on-going costs and risks to the Council.

**Diversity** – The potential disposal provides the opportunity for the site to benefit from investment in which will ensure the overall site will be improved and will not negatively impact on the street scene and not deteriorate as a result of lack of funds.

**Value for Money** – The capital receipt to be generated from the leasehold disposal of £2,165,000 is significantly in excess of the £1,500,000 guide price valuation indicated by the specialist property agent within the sales particulars. It should be noted that the guide price was established based upon specialist sector knowledge and conventional business valuation techniques. The marketing exercise generated significant interest and four bids were received in excess of the guide price. This provides assurance that the Council is achieving appropriate consideration and value for money for the leasehold.

In addition it should be noted that continued management of this type of asset is not considered a core function of the Council and in particular given the historic and limited investment of the site is extremely resource intensive for the Council in terms of officer time to deal with day-to-day information requests, legal issues and complaints. Disposal of the leasehold will free up officer time to focus on other significant challenges the Council is facing at the current time.

**14. Notification of Ward Councillors**  
(Humberston & New Waltham)

Cllr J Fenty  
Dated: 11/09/2017  
Comments: None Received

Cllr S Harness  
Dated: 11/09/2017  
Comments: None Received

Cllr S Shreeve  
Dated: 11/09/2017  
Comments: None Received

**15. Consultation with Portfolio Holder:**

**Name:** Cllr M Patrick

**Title:** Portfolio Holder for Finance, Community Assets, Governance and Tourism

 11/9/17  
Signed and Dated

**16. Decision maker:**

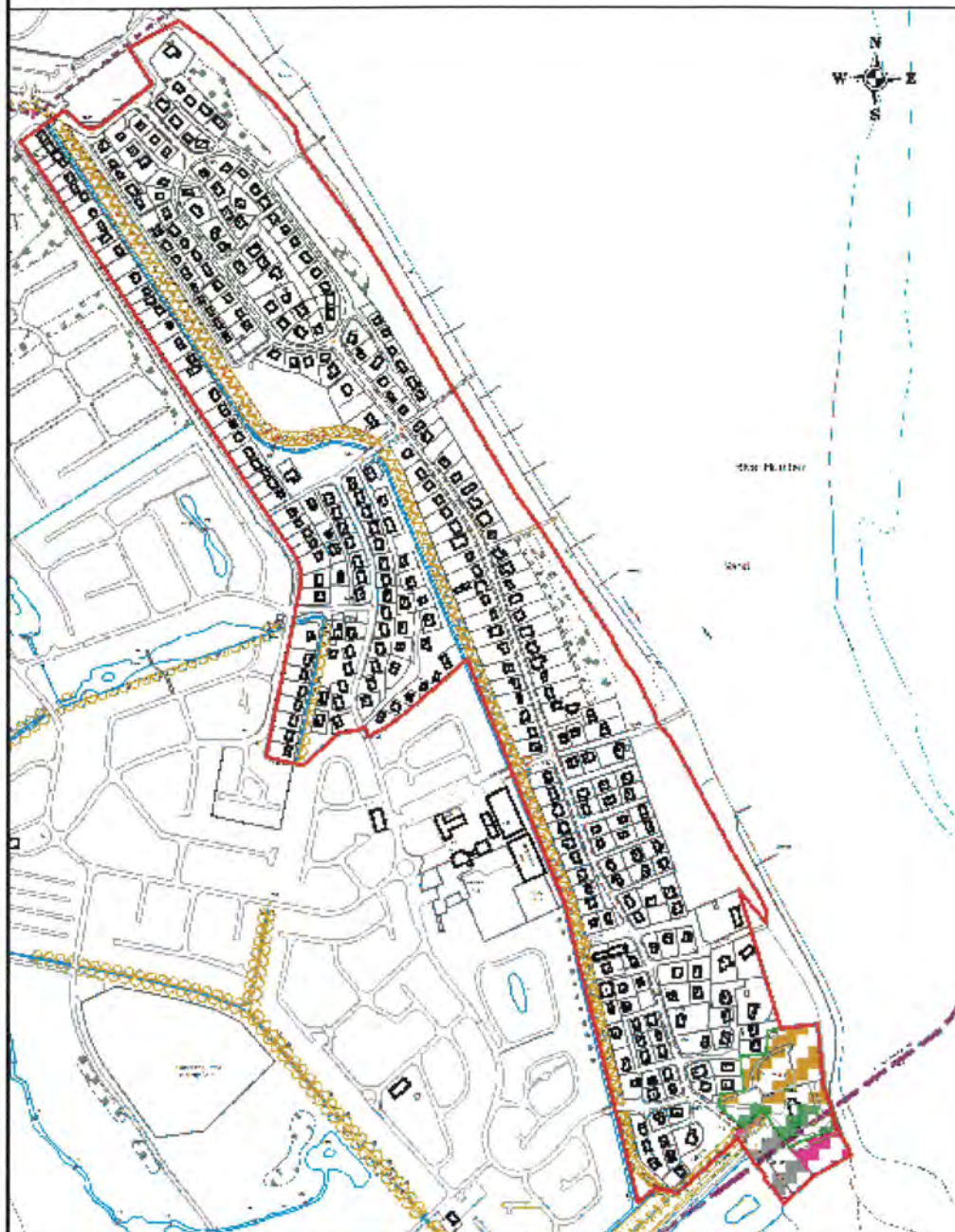
**Name:** Sharon Wroot

**Title:** Director of Finance, Resources and Operations

 11/9/17  
Signed and Dated

## Appendix One - Location Plan

### Location Map

[illegible]



## Officer Decision Record – Property Transaction

### 1. Subject and details of the matter

Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX (the 'Property')

The Property (as outlined red on the attached plan) was previously occupied by North East Lincolnshire Council (the 'Council').

In September 2014 Cabinet approved the disposal of the Property for development. Ashley House initially approached the Council with interest to purchase the site, however once discussions did not advance, the Council's retained agent was instructed to market the Property - April 2017.

An informal tender process was undertaken with a deadline for best bids by the 30 June 2017.

Following the deadline, four offers were received, which are summarised below and detailed in Appendix Two. The Council and ENGIE Services Limited ('ENGIE') as regeneration partner met with the interested parties and after discussions, three final bids were received.

All parties met to discuss their bids in outline and deliverability. The parties were given an opportunity to reconsider their offers in light of the new information regarding a potential call of a secondary education contribution.

- Bid 1 offered £800,000 for a part redevelopment and new build with a delivery anticipated of 47 homes. It was clear that the parties themselves would not be delivering the anticipated development but would engage with a development partner or perhaps dispose of the site, once acquired at a later stage. This was not anticipated by the Council whose imperative was to dispose on the basis of swift development. A potential development partner was mentioned with whom there have been issues around compliance with planning criteria. Further the density of units proposed caused surveyors concern and the resultant risk that negotiations would need to be re-opened should the planning process limit the number of units to a level below that anticipated by the parties.
- Bid 2 offered £700,000 on the basis that a secondary education Contribution is levied. If no secondary education contribution is levied then their offer is £825,250. This is for the delivery of 42 homes in a period of 18 to 24 months.
- Bid 3 offered £655,250 delivering 42 homes within 24 months.

Although Bid 1 is £100,000 higher than the second offer from Bid 2, the preference is that this Bid, from Land Developers (Lincs) Limited, offers the fundamental assurance of delivery based upon their business model and decades of historic development throughout the borough.

Under section 123 (2) of the Local Government Act 1972 the deliverability or credibility of a bid, or the care with which it has been prepared, are commercial factors which are relevant to an assessment of whether the 'consideration' offered is the best reasonably obtainable. Likewise the highest offer on the table need not represent the best 'consideration'. Land Developers (Lincs) Ltd have a strong track record in delivery – a key Council priority – as shown in Appendix 3 which further supports the recommendation of ENGIE to proceed with this offer.

### 2. Details of Decision

That the freehold of the Property, be sold to Land Developers (Lincs) Ltd generating a capital receipt of £700,000 (less costs of sale) in accordance with the recommendations and valuation of ENGIE.

### 3. Is it a Key Decision as defined in the Constitution?

Yes – the decision:

- will result in a capital receipt above the threshold definition of a Key Decision;
- relates to and impacts solely on one Ward (Croft Baker);
- is not significant in terms of the number of residents / service users that will be affected in the ward;
- is likely to result in substantial public interest; and
- will not incur a significant social, economic or environmental risk.

#### **4. Has the principle of the disposal been approved by Cabinet**

In September 2014 Cabinet approved the disposal of the site.

**DN.50 DISPOSAL OF LAND AND BUILDINGS KNOWN AS THE THRUNSCOE CENTRE, HIGHGATE, CLEETHORPES**

*Cabinet considered a report from the Leader of the Council and Portfolio Holder for Assets and Special Projects seeking approval to dispose of the Thrunscoe Centre site which is planned to become surplus to requirements as part of the Council's property rationalisation programme.*

**RESOLVED –**

*(1) That the principle of disposal of land and buildings known as the Thrunscoe Centre, Highgate, Cleethorpes, as shown edged red on the plan at Appendix 1 in the report now submitted, be approved.*

*(2) That the Strategic Director for Place in conjunction with the Monitoring Officer be authorised to agree terms for the sale of the land and buildings as referred to above.*

**REASONS FOR DECISION** - *The disposal of the site would release land that is due to become surplus to the Council's requirements and potentially facilitate new development. Any transaction would be at market value and on this basis a capital receipt would be realised.*

**OTHER OPTIONS CONSIDERED** – *One option was to do nothing and continue to occupy the site. However, as part of the Council's drive to reduce costs and improve efficiencies, alternative locations for service delivery are currently being developed.*

#### **5. Is it an Urgent Decision? If yes, specify the reasons for urgency**

N/A – it is not a Key Decision needed to be made urgently. However there is a risk the potential purchaser may withdraw if this decision is not made quickly.

#### **6. Anticipated outcome(s)**

The disposal of the Property to Land Developers (Lincs) Ltd for £700,000 (less costs of sale) for development.

#### **7. Have the Premises been marketed by advertising or by auction? (if not why not)**

Yes.

#### **8. Background documents considered:**

None.

#### **9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

Open.

#### **10. Monitoring Officer Comments (Assistant Director Law or nominee)**

The Council is under a statutory duty (s123 Local Government Act 1972) not to dispose of land for a consideration less than the best that can reasonably be obtained. This is the statutory embodiment of the fiduciary duty the Council owes in dealing with public assets in the manner of a trustee. The Thrunscoe site has been subject to an appropriate marketing process which has resulted in several interested parties coming forward with terms of offers.

In considering "best consideration" the Council is permitted to take account of commercial factors and imperatives in reaching its decision on the basis that the best consideration doesn't necessarily mean the highest price.

The Council's imperative is to release surplus assets for development (or otherwise) so as to realise a capital return and to secure, where possible, softer streams of revenue for the future. Whilst the decision is to award to the second highest offeror there are demonstrable commercial reasons as to why this is the case as outlined in the body of the report.

Therefore the Council has clearly considered its statutory obligations and the decision maker has had regard to factors other than price being:

- assurance around capability;
- assurance around deliverability;

- no reliance on having to secure a third party delivery partner; and
- reasonable density calculations consistent with those of another developer.

In so doing it is clear that the decision maker has focused on the assessment of the experience and historic delivery of the developers bidding in order to form a view and the decision is consistent with the Council's imperative of securing timely development.

The decision making process appears to be consistent and within the guidelines set out in *R (Faraday Development Limited) v West Berkshire Council (2016)*.

#### 11. Section 151 Officer Comments (Director of Finance or nominee)

The disposal of the property will generate a capital receipt which will be reinvested into the Council's capital investment programme to support other housing related priorities. The development of housing on the site will contribute towards the Council's housing delivery targets and generate financial returns in the form of council tax and potentially new homes bonus.

#### 12. Human Resource Comments (Assistant Director Strategic Business Support or nominee)

There are no HR implications arising from the contents of this report

#### 13. Risk Assessment (in accordance with the Report Writing Guide)

**Crime and Disorder** – The property is within an established residential location and whilst acts of crime and vandalism have so far been limited, disposal of the premise will ultimately remove any on-going risk to the Council.

**Diversity** – The potential sale provides the opportunities for the site to be redeveloped and will ensure the local community benefit from an improved offer.

**Value for Money** – The recommendation to dispose of the property within this report will remove the costs associated with maintaining the void buildings and secure a capital receipt to support future capital projects.

#### 14. Notification of Ward Councillors (Croft Baker)

Cllr A Darby  
Dated: **26/10/2017**  
Comments: **None Received**

Cllr K Wheatley  
Dated: **26/10/2017**  
Comments: **None Received**

Cllr M Brown  
Dated: **20/10/2017**  
Comments: **Received and attached at Appendix Four**

#### 15. Consultation with Portfolio Holder:

**Name:** Cllr Matthew Patrick  
**Title:** Portfolio Holder for Finance, Community Assets, Governance and Tourism

 27/10/17  
Signed and Dated

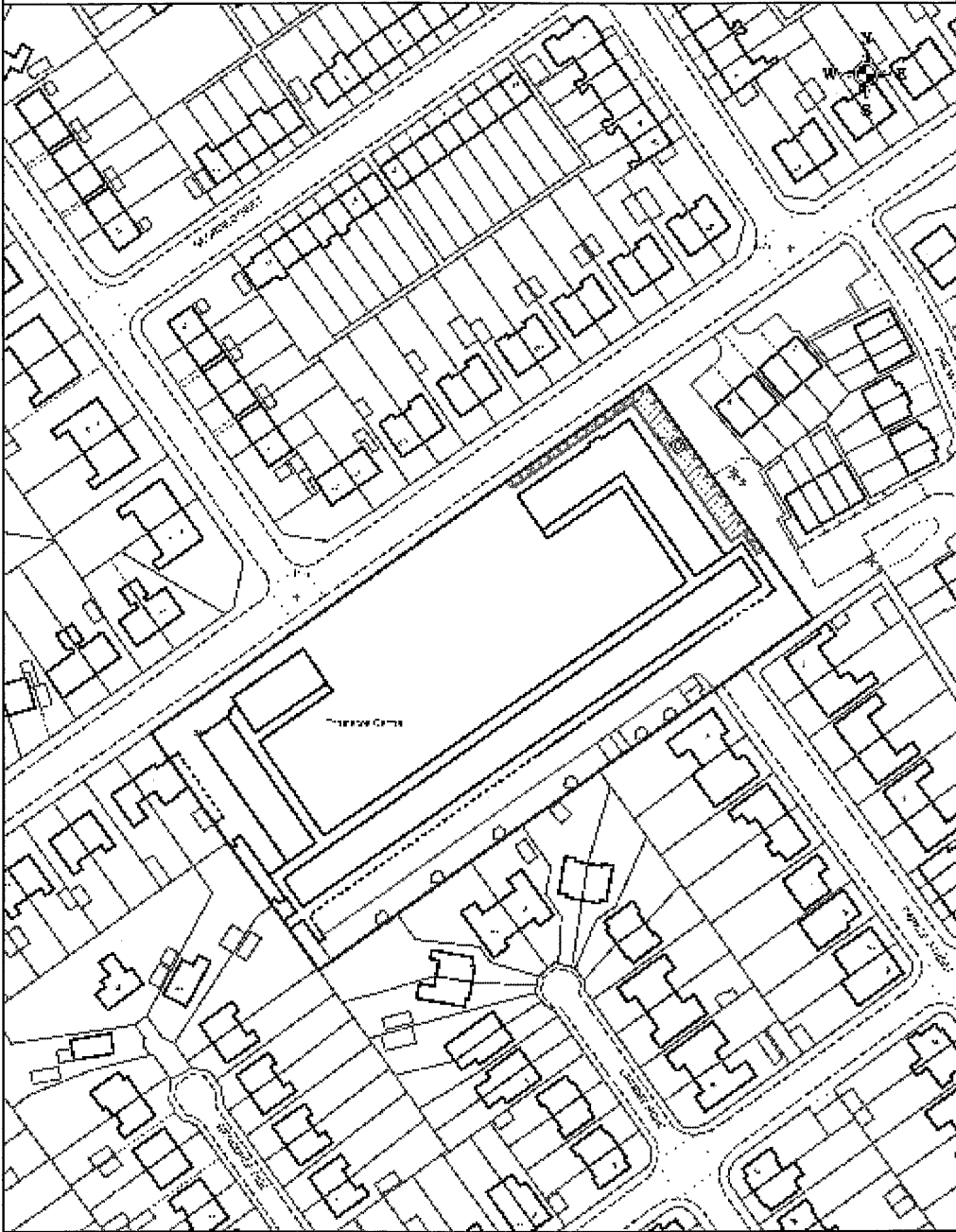
#### 16. Decision maker:

**Name:** Sharon Wroot  
**Title:** Director of Finance, Resources and Operations

 27/10/17  
Signed and Dated

2

## Location Map

[illegible]

## Appendix Two – Details of Offers

Name	Original Offer	Conditions	Amended Offer 1	Conditions	Amended Offer 2	Conditions	Amended Offer 3	Conditions
Bid 1	£1,000,000	PP for partial demolition and refurb of part to provide 47 dwellings	£1,000,000	PP for 51 new dwellings	£800,000	PP for partial demolition and refurb of some buildings		
Bid 2 (Land Developers (Lincs) Ltd)	£726,050	PP for residential development Clarification of telephone mast	£825,250	PP for residential development Assistance from NELC regarding mast leases	£825,250 or £700,000	PP for residential development Assistance from NELC regarding mast leases. Offer reduces to £700,000 if Secondary Education Contribution levied by NELC.		
Bid 3	£655,250	PP for residential development						
Bid 4	£900,000	PP for full demolition and construction of 51 dwellings	£900,000	PP for partial demolition and refurb of some buildings	£900,000	PP for full demolition and sustainable development	<b>Withdrawn</b>	



# LAND DEVELOPERS (LINCS.) LIMITED

Established 1960

## COMPLETED SITES

		Adopted Rd	Unadopted Rd	Nr of Units
1960 – 66	Springfield Estate			)
1961 – 67	Holton Farm Estate			)
1965 – 70	College Estate Cleethorpes (Chichester Road area)			)
1964 – 68	Clee Fields Estate (Middlethorpe Road area)			) 5000
1971 – 85	Wybers Wood Estate			)
1971 – 85	Barnoldby House Farm Estate			)
1974 – 81	Mount Pleasant Estate, Waltham			)
1985	Parklands, Gt Coates (Meadowbank)	-	-	90
1988 – 90 2005	Greenlands, New Waltham Phase 1, 2 and 3	-	-	150
1995	Howell Estate land	X	-	120
1998	Clee Beck extension	X	-	60
2004 – 06	Riverhead, Louth (acquired, obtained planning and sold to Persimmon Homes)	X	-	90
2003	Weelsby Street, Grimsby	X	-	16
2003	Barton land			
2000 – 04	Beverley Road, Humberston	X	-	22
2005	Bratton Court, Grimsby (Farebrother Street)			15
2007	West Street/William Street, Cleethorpes			12
2010	Alfred Bannister Mews, Laceby	-	X	15
2012	Priors Close, New Waltham	X	-	23
2014 – 16	Stallingborough Road, Healing	X	-	44
2015	Queen Street, Barton	X	-	15
2016	Yarborough Road, Keelby	-	X	5

# NEW SITES

	Adopted Rd	Unadopted Rd	Nr of Units
Station Road, Tetney – Ph 1	X	-	43
Thoresby Road, Tetney – Ph 2 (plus option on further 20 acres)	X	-	10
Helsenor, Cheapside, Waltham	-	X	7
Holton Road, Tetney	-	X	8
Healing Ph 2	X	-	3

**Appendix Four – Ward Councillor comments**

**From:** Cllr Matthew Brown (NELC) [mailto:matthew.brown@nelincs.gov.uk]  
**Sent:** 20 October 2017 15:19  
**To:** Jack Fox (NELC)  
**Subject:** RE: Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

I must not have spotted it.

**From:** Jack Fox (NELC)  
**Sent:** 20 October 2017 15:17  
**To:** Cllr Matthew Brown (NELC)  
**Subject:** RE: Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

Cllr Brown

Not as far as I am aware as the cabinet decision was taken in September 2014 and not called-in.

I will however ensure your comments are included on the Officer Decision Record and brought to the attention of Sharon Wroot and Cllr Patrick when the proposal is considered for approval.

Regards

**Jack Fox, Assets Advanced Practitioner (Corporate), North East Lincolnshire Council**

**From:** Cllr Matthew Brown (NELC) [mailto:matthew.brown@nelincs.gov.uk]  
**Sent:** 20 October 2017 15:14  
**To:** Jack Fox (NELC)  
**Subject:** RE: Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

Can this be called in then as I think it would be a disaster to lose the building.

Matt

**From:** Jack Fox (NELC)  
**Sent:** 20 October 2017 13:48  
**To:** Cllr Matthew Brown (NELC)  
**Subject:** RE: Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

Good Afternoon Cllr Brown

Many thanks for your email.

I believe the intentions of the preferred bidder is that none of the original school buildings will be retained. However as I stated, the completion of the sale is subject to obtaining successful planning permission and I do not believe discussions have commenced with Planners in this regard.

As there are no conditions on the sale, the Council as landowner has not stipulated any of the original building is retained.

Hope this helps

Regards

**Jack Fox, Assets Advanced Practitioner (Corporate), North East Lincolnshire Council**

**From:** Cllr Matthew Brown (NELC) [mailto:matthew.brown@nelincs.gov.uk]  
**Sent:** 20 October 2017 10:25  
**To:** Jack Fox (NELC)  
**Subject:** RE: Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

Hi Jack,

Will the bidder be retaining the school in its current form as I would hate to lose such a beautiful building.

Matt

**From:** Jack Fox (NELC)

**Sent:** 19 October 2017 12:46

**To:** Cllr Annie Darby (NELC); Cllr Kathryn Wheatley (NELC); Cllr Matthew Brown (NELC)

**Cc:** Cllr Matthew Patrick (NELC); Sharon Wroot (NELC)

**Subject:** Disposal of Thrunscoe Centre and Community Learning Centre, Highgate, Cleethorpes, DN35 8NX

**Importance:** High

Good Afternoon Councillors

The above property (as per the plan attached – property boundary outlined red) has until recently been in use by the Council to accommodate various services – including back up office functions, the Community Learning Service and Looked After Children in Education (LACE). The office part of the site has been used as a store for some time and LACE are the last remaining service planned to relocate from the site.

In September 2014 Cabinet approved the disposal of the property (subject to the relocation of services) for development and the Council's retained property agent was instructed to market the property in April 2017. An informal tender process was undertaken with a deadline for best bids by the 30 June 2017. Following the deadline, four offers were received, the Council and ENGIE as regeneration partner met with the interested parties and after discussions, final bids were received. The parties were given an opportunity to reconsider their offers in light of the new information regarding a potential call of a secondary education contribution.

Although the highest offer is £100,000 higher than the second offer, it was felt that the second bidder offered the fundamental assurance of delivery based upon their business model and decades of historic development throughout the borough. Under section 123 (2) of the Local Government Act 1972 the deliverability or credibility of a bid, or the care with which it has been prepared, are commercial factors which are relevant to an assessment of whether the 'consideration' offered is the best reasonably obtainable. Likewise the highest offer on the table need not represent the best 'consideration'. The second bidder has a strong track record in delivery – a key Council priority – which further supports the recommendation of ENGIE to proceed with this offer.

The sale is subject to obtaining successful Planning permission for a scheme of 42 homes, delivered in a period of 18 to 24 months.

The purpose of my email is to advise you that the recommendation has been agreed in principle by the Director of Finance, Resources and Operations and Portfolio Holder for Finance, Community Assets, Governance and Tourism. A formal Officer Decision Record is being circulated to Monitoring Officers, and this is your opportunity to provide any comments you may wish to make which will be included on the record and presented for approval and signature from both the above which will form the instruction to Legal to complete the sale.

Could I please ask that you provide any comments, by return, by no later than Thursday 26 October 2017.

Regards

**Jack Fox, Assets Advanced Practitioner (Corporate), North East Lincolnshire Council**

## Officer Decision Record – Property Transaction

<b>1. Subject and details of the matter</b>
<p><b><u>Plots 17 and 18 South Humberside Industrial Estate - Disposal of the freehold</u></b></p> <p>The disposal of the ground leases of the subject sites by way of a freehold disposal will enable the land, which has been vacant for some time, to be brought back into effective use. A disposal could create investment by a potential buyer that within two years, could double an established business of an existing footprint of 25,000 sq. ft. to 50,000 sq. ft., increasing employment of Full Time Equivalents (FTEs) to 200 and a targeted turnover of up to £50M.</p> <p>Crucially the move to a new custom built facility would also provide opportunity to move up the value chain from being a mainly second tier supplier to becoming a first tier supplier dealing directly with the major retailers.</p>
<b>2. Details of Decision</b>
<p>The disposal of Plots 17 and 18 South Humberside Industrial Estate for a price of £465,000 (four hundred and sixty five thousand pounds). Whilst the principle of the disposal was agreed by Cabinet, the purchase price in the accompanying report is below the threshold stated ("capital receipt range of between £508,000 and £675,000") and as such the revised price has been agreed during negotiations and is recommended as a market capital receipt by ENGIE which needs to be noted. Valuation advice, from qualified surveyors in ENGIE, has been provided to explain why a price lower than that stated to Cabinet has been provided, this is that:</p> <p><i>"The initial valuation in the cabinet report assumed a synergistic value over the Council's expected return of 5% on capitalised rents. Synergistic value is negotiable between parties dependent on what is perceived as the value of merging the interests. In this case, the initial report made an assumption as to the market rents achievable to calculate this, as well as an assumption that we had not acquiesced to demolition; this latter point is arguable. The initial report should have stressed the sensitivities in assessing synergistic value, and if indeed any was attributable. Negotiations with two agents led to the conclusion that whilst there was some attributable value to merging the interests, the amount was subjective in respect of market rents and yields. The transaction is considered market value; the anomaly with the Cabinet report is not clarifying the price with a revised synergistic value based on evidence considered during negotiations. The range should have addressed this initially to avoid the need for the further ODR."</i></p>
<b>3. Is it a Key Decision as defined in the Constitution?</b>
Yes – due to the overall value of the transaction.
<b>4. Has the principle of the disposal been approved by Cabinet</b>
Yes – meeting of Cabinet 12 July 2016
<b>5. Is it an Urgent Decision? If yes, specify the reasons for urgency</b>
N/A – it is not a Key Decision needed to be made urgently, however the matter has been ongoing for several months and further delays may risk the wider transaction.
<b>6. Anticipated outcome(s)</b>
Disposal of the freehold of the Premises for a Capital Receipt of £465,000 (four hundred and sixty five thousand pounds).
<b>7. Have the Premises been marketed by advertising or by auction? (if not why not)</b>
The Premises are held by way of two long ground leases. The tenant has been marketing the property through a local agent and has found an interested party. The Council would only be able to market the Premises as a ground lease interest however would not choose to do this in usual circumstances due to the retention of revenue income. However in this case this disposal would support the Council's key



objectives of a stronger economy and whilst it would remove an annual revenue income, the disposal would provide a market capital receipt, which would contribute to our determination to be an efficient and effective Council.

#### **8. Background documents considered:**

Cabinet Decision 12 July 2016;

Supplementary Briefing Paper October 2016.

#### **9. Does the taking of the decision include consideration of Exempt Information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No.

#### **10. Monitoring Officer Comments (Chief Legal Officer & Solicitor to the Council or nominee)**

As stated in the Cabinet report.

#### **11. Section 151 Officer Comments (Director of Finance or nominee)**

The freehold disposal of the land holdings would lead to reduced revenue income of £23,200 per annum. However the reduction in revenue income would be offset by the generation of a capital receipt estimated to be £465k, which is deemed market value. The capital receipt would reduce the amount the Council needs to borrow to fund its ongoing capital programme and therefore reduce its overall borrowing costs.

#### **12. Human Resource Comments (Director of Strategic Business Support or nominee)**

There are no direct HR implications arising from the contents of this record.

#### **13. Risk Assessment (in accordance with the Report Writing Guide)**

**Crime and Disorder** – The land is in an established industrial location and whilst acts of crime and vandalism or anti-social behaviour have so far been limited, there is a risk the longer the property remains unused it will become unkempt and a potential target for such acts. The disposal of the land will ultimately remove any on-going risk to the lessee.

**Diversity** – The potential sale provides the opportunity for the vacant land to be redeveloped into effective use which will ensure the street scene does not deteriorate as a result of a vacant and overgrown piece of land.

**Value for Money** – The recommendation to dispose of the freehold of the land within this report will result in the Council receiving a capital receipt at a price representative of market value.

#### **14. Notification of Ward Councillors (Freshney Ward)**

No engagement has taken place with ward members as the decision was taken by Cabinet on the 12 July 2016 and the revised price for the disposal continues to provide a market capital receipt as recommended by ENGIE.

#### **15. Consultation with Portfolio Holder:**

**Name:** Cllr M. Patrick

**Title:** Portfolio Holder for Finance, Resources and Inclusion.



Signed and Dated

3/1/16

#### **16. Decision maker:**

**Name:** Sharon Wroot

**Title:** Director of Finance, Resources and Operations.

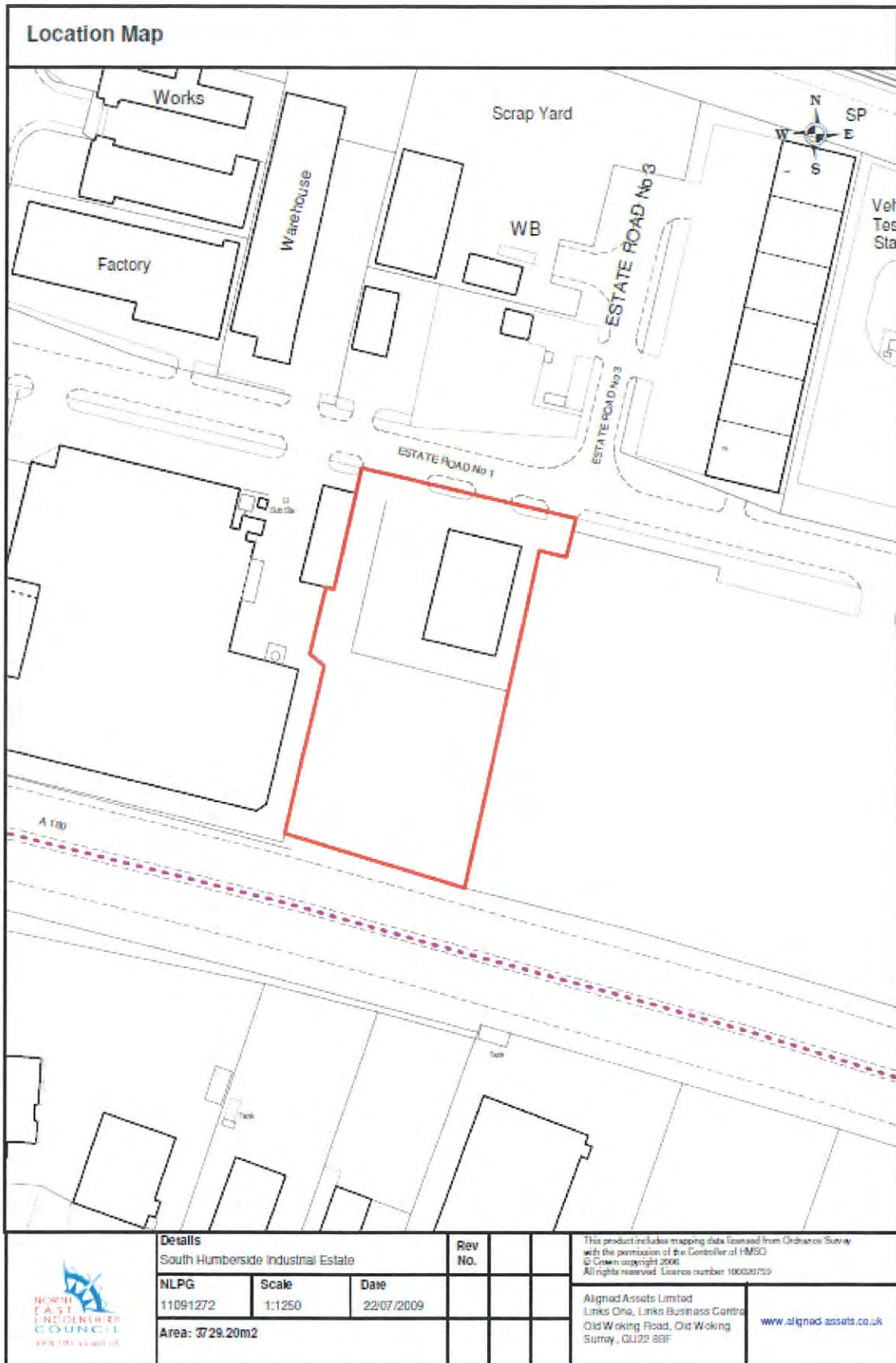


Signed and Dated

23/12/16

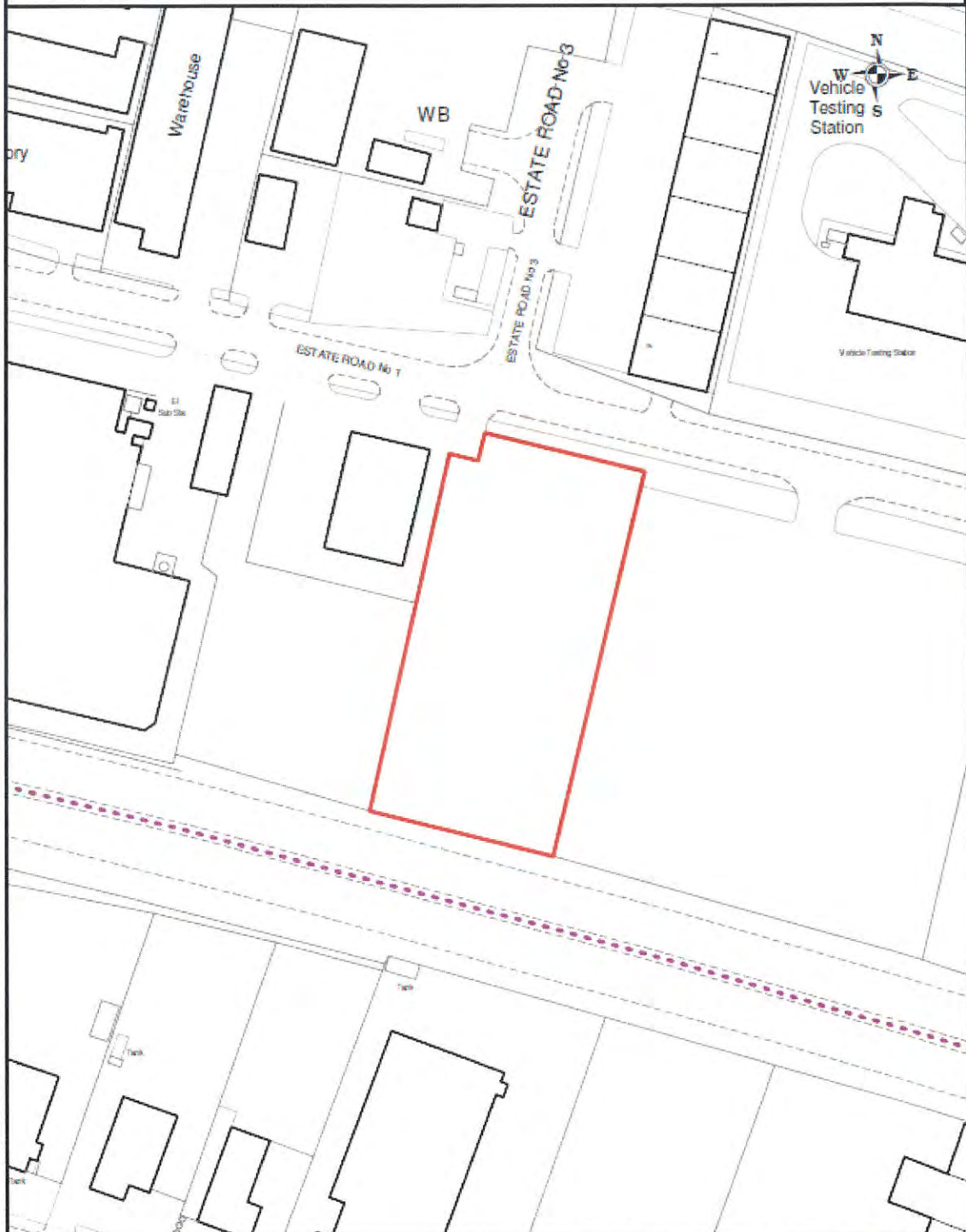
# Appendix One - Site Plan


## Plot 17



# Plot 18

## Location Map



 NORTH EAST LINCOLNSHIRE COUNCIL www.northeast-lincs.gov.uk	<b>Details</b> Plot 18, South Humberside Industrial Estate, Grimsby			<b>Rev No.</b>	This product includes mapping data licensed from Ordnance Survey with the permission of the Controller of HMSO. © Crown copyright 2006. All rights reserved. Licence number 100020250.	
	<b>NLPG</b> 11082244	<b>Scale</b> 1:1250	<b>Date</b> 12/11/2009		<b>Aligned Assets Limited</b> Links One, Links Business Centre Old Woking Road, Old Woking Surrey, GU22 8BF  <a href="http://www.aligned-assets.co.uk">www.aligned-assets.co.uk</a>	





## Officer Decision Record

### 1. Subject and details of the matter

The Council's main insurance contracts are due for renewal and the new insurance covers need to be placed by 1 October 2017 following a formal procurement process. If the process is not completed by 1 October 2017 then the Council will be without insurance cover.

To achieve the procurement deadline, a project team has been formed which includes colleagues from the Assurance People, Procurement People, and the Council's broker, Aon, and a project plan has been developed.

The role of the broker on the project team is to ensure the Council provides all the information required under the Insurance Act 2015, review the Council's risk profile and claims history, develop the market presentation, evaluate the tender submissions and submit an award recommendation report to the Council for approval.

During the review of the Council's risk profile and claims history, and to help inform development of the market presentation and risk analysis, consultation will be undertaken with the Council's current partners and service managers

The procurement process being followed is compliant with the requirements of the Contract Procedure Rules and Public Contracts Regulations, and a further competition is being run under the Insurance Services II (RM3731) framework.

The Insurance Service II (RM3731) framework was created through a collaboration between CCS, YPO, ESPO and NEPO, and complies with EU procurement legislation. Accessing this allows the Council to save time by not having to conduct a full OJEU procurement, and access to call-off contracts which all suppliers on the framework have signed up to, to further reduce unnecessary time and costs.

### 2. Is it a Key Decision as defined in the Constitution?

Yes- the cost of the contracts will be around £500K per annum for 3-5 years which is above the limit for which cabinet approval to begin a procurement process must be received

<b>3. Details of Decision</b>
To approve the beginning of the procurement process for insurance.
<b>4. Is it an Urgent Decision ? If yes, specify the reasons for urgency</b>
Yes- we need to have authority to start the procurement process by 9 June 2017 in order to place the necessary insurance covers by 1 October 2017
<b>5. Anticipated outcome(s)</b>
We will be able to formally begin the procurement process for the main insurance contracts
<b>6. Details of any alternative options considered and rejected by the officer when making the decision</b>
No alternative options were available. The timetable for the awarding of the insurance contracts included the cabinet meeting of 7 June 2017 to seek formal approval for beginning the procurement process and to give the Director of Finance delegated authority to make the award. Due to purdah this meeting was cancelled and the next meeting is to be held on 28 June 2017. Although we will seek delegated authority to the Director of Finance for making the award, this date will be too late to start the procurement process to ensure that the award is made by 1 October 2017 30 September
<b>7. Background documents considered:</b>
Original draft report seeking approval on 7 June 2017, and the amended draft report for 28 June 2017.
<b>8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>
N/A
<b>9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)</b>
None
<b>10. Monitoring Officer Comments</b> (Strategic Director – Governance & Transformation or nominee)
<p>Constitutionally the Director of Finance Operations and Resources (Chief Financial Officer) is responsible for the management of financial resources including insurance generally.</p> <p>The issue of insurance also forms an intrinsic part of the Council's risk management policy statement. This is promoted throughout the Council. The Director Finance, Operations and Resources (Chief Financial Officer) has the responsibility of advising Cabinet on proper insurance cover where appropriate.</p> <p>For the Council to operate within the bounds of the law and of prudence it must have adequate insurance cover in place. Not to do so would expose the Council to clear</p>



and unacceptable risk in terms of meeting its obligations and liabilities, impacting on its capability to deliver proper services and functions.  
Therefore a proper and lawful procurement exercise must be supported.

The approach recommended is a framework contract which has the benefits stated above. A framework contract is an agreement with suppliers establishing contracts that may be awarded during the life of the agreement. It sets out the terms and conditions for making specific purchases of goods and services – sometimes known as call-offs. This approach is considered good practice and efficient.

The process for procuring the framework contract is set out in the Public Contracts Regulations 2015 and the Council's CPRs. The Public Contracts Regulations 2015 set out statutorily timescales for the procurement of a framework contract.

**11. Section 151 Officer Comments**

*(Head of Finance & Assets or nominee)*

The outcome of the procurement exercise will identify the ongoing budget requirement for insurance premiums and the risks inherent in any new arrangement. At that point, a comparison will be made against existing revenue budgets to ensure adequate budget is available to cover ongoing costs

**12. Human Resource Comments**

*(Head of Governance & Business Support or nominee)*

There are no direct HR implications arising from the contents of this report.

**13. Risk Assessment (in accordance with the Report Writing Guide)**

Failure to have insurance cover in place by 1 October 2017 will represent a critical risk for the council as it will not be covered for any losses incurred leading to major financial loss and reputational damage should in the event of claims being made against the council

**14. Decision maker(s)**

Name: Sharon Wroot

Title: Director Finance Operations and Resources

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

21/6/17

**15. Consultation carried out with Portfolio Holder(s):**

Name: Cllr M Patrick

Title: Portfolio Holder: Finance, Community Assets, Governance and Tourism.

[Redacted Signature]

Signed

Dated

6/6/17

**16. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor**

Name: Cllr P Jackson

Title: Scrutiny Chair: Economy

[Redacted Signature]

Signed and Dated

5/6/17



## Officer Decision Record

<b>1. Subject and details of the matter</b>
Final approval of the Skills Action Plan – the plan was approved subject to any changes resulting from the public consultation.
<b>2. Is it a Key Decision as defined in the Constitution?</b>
Yes
<b>3. Details of Decision</b>
<p>The decision record from the 2<sup>nd</sup> August Cabinet meeting is as follows:</p> <ol style="list-style-type: none"> <li>1. That the approach of a Skills Action Plan be endorsed and indicative approval be given to the adoption of the plan subject to any changes post consultation and engagement.</li> <li>2. That authority be delegated to the Portfolio Holder for Regeneration, Assets, Skills and Housing and to the Deputy Chief Executive to agree the final Skills Action Plan post consultation unless there are any material changes which in the opinion of the Deputy Chief Executive will need to be agreed by Cabinet.</li> <li>3. That the Skills Action Plan be circulated to the Humber Local Enterprise Partnership and the Lincolnshire Local Enterprise Partnership for their information.</li> </ol> <p>I can confirm that there have been no changes as a result of the consultation and that the action plan has been shared with both LEP's and the Humber LEP has been engaged throughout.</p> <p>A delegated decision is now required to formally accept the Skills Action Plan.</p>
<b>4. Is it an Urgent Decision ? If yes, specify the reasons for urgency</b>
No
<b>5. Anticipated outcome(s)</b>
Final approval and adoption of the Skills Action Plan will allow the proposals outlined within the plan to be developed and delivered.
<b>6. Details of any alternative options considered and rejected by the officer when making the decision</b>
Options for issues to be included within the action plan were considered through the development of the action plan and were posed as questions as part of the consultation. No further options are presented at this time as the action plan has

taken into consideration all options.

**7. Background documents considered:**

Final version of the skills action plan, responses to the public consultation, feedback and minutes from meetings with key partners and partnership meetings as the action plan was being developed.

**8. Does the taking of the decision include consideration of Exempt information?**

**If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No

**9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)**

No declarations of interest were made at the Cabinet meeting at which the draft action plan was considered.

**10. Monitoring Officer Comments**

*(Monitoring Officer or Deputy Monitoring Officer)*

Monitoring officer comments on the Skills Action Plan were included in the report to Cabinet and were as follows:

There are no direct legal implications arising out of this report nor the recommendations sought.

The adoption of a Skills Action Plan is consistent with the stated strategic objectives of the Council as detailed more particularly in this report.

**11. Section 151 Officer Comments**  
(Deputy S151 Officer or nominee)

Finance comments were included within the report to Cabinet and were as follows:

Very close work between finance and the service over the past few years has resulted in a balanced budget being set for the current Medium Term Financial Plan period 2017-18 – 2019-20 and an appreciation that the services needs to live within its financial envelope, the grant funding received and be able to monitor performance and act accordingly to mitigate the risk of financial claw back. This approach fits with the current budget financial envelope approach and ensures that the services are clear of its funding to meet the wider skills agenda.

**12. Human Resource Comments**  
(Strategic Workforce Lead or nominee)

HR comments were included in the report to Cabinet and were as follows:

There are no direct HR implications arising from the contents of this report

**13. Risk Assessment (in accordance with the Report Writing Guide)**

An impact assessment has been undertaken for the action plan which shows both positive or neutral impacts. In addition to the impact assessment the risks identified include;

- Setting overly ambitious expectations which are not deliverable – we feel that the engagement activity undertaken mitigates this risk as all stakeholders have shaped our final proposals
- Resources required to achieve our outputs are not forthcoming – we feel that we have developed a deliverable and ambitious set of proposals within our action plan which will be attractive to a range of funders so that we can deliver the action plan.

There will be a need for investment from all partners on a place basis and early indications are that partners are willing to contribute to the delivery of the action plan. We also feel there are opportunities that the action plan could enable;

- A more active role for local employers in identifying the skills offer locally which could provide clearer career routes for our community
- An enhanced role for schools in the wider skills system that will better align the work of schools, the qualifications of our young people and the requirements of our employers for 'work ready' school leavers
- A different approach to learning which is learner focussed.

**14. Decision maker(s)**

Name: Joanne Hewson

Title: Deputy Chief Executive

Signed: \_\_\_\_\_

Dated: 18.9.17




<p><b>15. Consultation carried out with Portfolio Holder(s):</b></p>	<p>Name: Cllr Peter Wheatley</p> <p>Title: Portfolio Holder for Regeneration, Assets, Skills and Housing</p> <div data-bbox="778 297 1086 398" style="background-color: black; width: 193px; height: 45px; margin: 10px 0;"></div> <div style="text-align: right; margin-right: 50px;">18.9.17</div> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <p style="text-align: center;">Signed and Dated</p>
<p><b>16. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor</b></p>	<p>Name:</p> <p>Title:</p>  <hr style="border: 0; border-top: 1px solid black; margin-top: 20px;"/> <p style="text-align: center;">Signed and Dated</p>



## Officer Decision Record

<b>1. Subject and details of the matter</b>
The Councils Speech and Language Service (SALT) contract is ending on 31 <sup>st</sup> March 2018. On 2 <sup>nd</sup> August 2017, Cabinet approved the commencement of a procurement exercise for the SALT contract, and provided the Director of Prevention and Early Help in consultation with the Portfolio Holder for Children and Young People authorisation to award the contract
<b>2. Is it a Key Decision as defined in the Constitution?</b>
Yes. As mentioned above a Cabinet decision was made in support on 2 <sup>nd</sup> August 2017.
<b>3. Details of Decision</b>
<p>The process for determining the decisions to award were as follows:</p> <p><b>Process:</b> The procurement process was compliant with the requirements of the Contract Procedure Rules and Public Contracts Regulations, and an open tender process was followed.</p> <p><b>Length of Contract:</b> 3 years with options to extend by two x 12 months.</p> <p><b>Assessment method/basis of award :</b> Most Economically Advantageous Tender as described in the published tender documentation.</p> <p><b>Evaluation:</b> The evaluation was carried out on 31<sup>st</sup> October 2017. This involved an assessment of compliance of the returned tenders with the tender documentation together with costing and quality information received.</p> <p><b>Award:</b> Following the completion of the evaluation it is recommended the contract is awarded to Northern Lincolnshire &amp; Goole NHS Foundation Trust and for the contract to commence on 1<sup>st</sup> April 2018.</p>
<b>4. Is it an Urgent Decision ? If yes, specify the reasons for urgency</b>
No

<b>5. Anticipated outcome(s)</b>	
The contract is awarded as specified above.	
<b>6. Details of any alternative options considered and rejected by the officer when making the decision</b>	
Four other options were considered as part of the Cabinet Report, these were rejected as inappropriate and not in the interests of the Council.	
<b>7. Background documents considered:</b>	
The detailed evaluation documentation was considered when making this decision.	
<b>8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons</b>	
Not applicable	
<b>9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)</b>	
No conflicts of interest	
<b>10. Monitoring Officer Comments</b> (Monitoring Officer or Deputy Monitoring Officer)	
The above and anticipated decision is consistent with the previous decision of Cabinet (2 <sup>nd</sup> August 2017) and the process followed is compliant with the Contract Procedure Rules and Public Contracts Regulations.	
<b>11. Section 151 Officer Comments</b> (Deputy S151 Officer or nominee)	
A budget envelope was established for the whole life of the contract which would result in no additional financial budgetary pressure for the Council. The award of the contract to the successful bidder ensures does not exceed this envelope.	
<b>12. Human Resource Comments</b> (Strategic Workforce Lead or nominee)	
There are no direct HR implications arising from this contract being awarded although if there are TUPE implications, staff will need to be informed of the contract award prior to any public announcements. Staff will need to be kept engaged throughout the respective processes with consultation as appropriate in accordance with the procedural and legal requirements.	
<b>13. Risk Assessment (in accordance with the Report Writing Guide)</b>	
The risk of not awarding SALT is that the council would not be meeting its statutory duties and would damage its reputation. It would also mean that children and young people would not be able to access the support they need which would impact on the effectiveness of the council's prevention and early help focus.	
<b>14. Decision maker(s)</b>	Name: Steve Kay  Title: Director of Prevention and Early Help  Signed: _____ Dated: 24/11/17

**15. Consultation carried out with Portfolio Holder(s):**

Name: Cllr. Roz James

Title: Portfolio Holder for Children and Young People

Signed

Dated

24/11/17





## Officer Decision Record

### 1. Subject and details of the matter

#### **The Governments' Risk Protection Insurance for Academies**

The risk protection arrangement (RPA) for academy trusts is an alternative to insurance where Government funds cover losses that arise.

The findings of a detailed study of the schools insurance market showed that academy trusts could save significant insurance costs if Government covers risks rather than insurance.

The RPA aims to protect academy trusts against losses due to any unforeseen and unexpected event. The intention is that the RPA will, as a minimum, cover risks normally included in a standard schools insurance policy.

Academy trusts can opt in to the scheme, at no additional cost or premium, before they convert or before their current insurance arrangements come to an end. As well as significant cost savings for school budgets, trusts that opt in to the RPA will avoid complex and time-consuming procurement of commercial insurance cover. Opting in to the scheme and updating cover is simple and quick.

The RPA includes enhanced levels of protection including:

- advance payments under the material damage protection
- unlimited employers liability and public liability
- up to £1,000 compensation per pupil for UK travel

Currently all existing academy leases specify that trusts and sponsors must have sufficient insurances in place. The RPA removes this requirement and new model leases have been amended to reflect that either insurance policies or sign up to the RPA must be in place. However for existing academies should they elect to switch to the RPA their current lease does not reflect this change in policy and if providers decide to switch their leases will need amending accordingly.

### 2. Is it a Key Decision as defined in the Constitution?

No its not

### 3. Details of Decision

Government announced the commencement of the RPA scheme on the 1<sup>st</sup> September 2014, affording all academy providers the opportunity to switch from a traditional insurance policy to this new pooled scheme.

Delta have approached the LA as Corporate Landlord asking for our permission to enable them to move our education sites under their trust from a traditional insurance policy to

the RPA.

To support such move it is decided that the LA do all it can to facilitate, including permitting the amendment of existing lease terms so as to permit all Academies and all Trusts within the borough to benefit.

**4. Is it an Urgent Decision? If yes, specify the reasons for urgency**

N/A: It is not a Key Decision needed to be made urgently but so as to enable the LA as Corporate Landlord to deal with any such requests effectively a decision is required.

**5. Anticipated outcome(s)**

As this is a central Government initiative and the model lease has been amended to reflect the RPA, it is acknowledged that academies must be afforded the opportunity for either joining or switching to the scheme if they wish to. Any legal costs incurred by the LA for amending existing leases will be met by the trust or provider. Government is stipulating that the RPA reduces costs for academies meaning that providers will have more funds available for driving up standards.

**6. Background documents considered:**

<https://www.gov.uk/guidance/academies-risk-protection-arrangement-rpa>

Above is the link to the Academies Risk Protection paperwork and its parameters

**7. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons**

No

**8. Monitoring Officer Comments**

*(Strategic Director – Resources, Governance & Transformation or nominee)*

Given the change in Central Government policy to the benefit of Academies as outlined in this decision record it is right that the LA facilitate easy transition so as to permit Academies to take advantage of the enhanced benefits.

Any lease in place supporting earlier conversions and pre-dating the introduction of the RPA, which do not include such terms are capable of amendment with the consent of the superior, or corporate landlord, the LA.

The rationale and scope of the decision is supported.

**9. Section 151 Officer Comments** (*Head of Finance & Assets or nominee*)

Given that this is a central Government national scheme and is now reflected within a clause in all current academy conversion leases then to decline this request may result in a challenge potentially involving cost and use of resources, primarily officer time.


The Risk Assessment section notes that there could be issues with the RPA scheme potentially that this may not be as comprehensive as the current insurance cover arrangements. Whilst the authority will need to grant the request should insurance events arise which are not covered or covered as well costs could fall on the Council as part of its statutory education duty which it may need to fund from corporate resource.

**10. Human Resource Comments** (*Head of Governance & Business Support or nominee*)

There are no direct HR implications arising from the contents of this report

**11. Risk Assessment** (*in accordance with the Report Writing Guide*)

One of our insurance officers has discussed this scheme with our existing insurers and has noted that there are issues with the scheme. However given this is a central government arrangement the officer felt there was little that the LA can do to challenge it.

**12.**  
**Decision maker(s)****Name:** Joanne Hewson**Title:** Strategic Director Children's Services**Signed & Dated:** **13.**  
**Consultation carried out with Portfolio Holder(s):****Name:** Cllr Roz James**Title:** Portfolio Holder for Children's Services**Signed & Dated:**  23/4/17**14.**  
**If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor****Name:** **Title:****Signed & Dated:** \_\_\_\_\_

