

CABINET

DATE	17 th July 2024
REPORT OF	Councillor Stephen Harness – Portfolio Holder for Finance, Resources and Assets
RESPONSIBLE OFFICER	Sharon Wroot- Executive Director, Place and Resources
SUBJECT	Less than Best: St James House: Easement for Underground Electricity Cable.
STATUS	Open
FORWARD PLAN REF NO.	CB 07/24/03
CONTRIBUTION TO OUR AIMS	

The recommendations in this report will support an on- going redevelopment scheme that will make a positive and tangible contribution to realising a “Stronger Economy.” The proposed managed workspace units aligns with the Council’s objective of facilitating economic growth.

EXECUTIVE SUMMARY

The report provides details of a request for an electricity easement under Council owned land opposite St James House. The route proposed represents the shortest and most cost-effective option for supplying an upgraded electricity supply to the new managed workspace centre.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Authorises the Executive Director Place and Resources, in consultation with the Portfolio Holder for Finance, Resources and Assets, to agree terms and then facilitate completion and subsequent implementation of the proposed easement for nominal consideration.
2. Delegates authority to the Assistant Director Law and Governance to execute all documentation arising.

REASONS FOR DECISION

St James House is one of the six Grimsby Town Centre projects which form Grimsby’s Town Fund programme. The shortest route for the required electricity cable that passes underneath the Council’s land opposite will help facilitate delivery and to negate further development cost increases for this project. The award of an easement on the land constitutes a disposal of interest in the land for less than best consideration which requires Cabinet approval.

1. BACKGROUND AND ISSUES

1.1 Cabinet on 3 November 2021 approved the following:

(i) the submission of a summary business case to Department for Levelling Up, Housing & Communities (DLUHC) (formerly Ministry of Housing, Communities and Local Government) for the St James House project, be approved.

(ii) That authority be delegated to the Executive Director for Environment, Economy and Resources, in consultation with the Leader of the Council, and on behalf of the Greater Grimsby Board to take all actions necessary, including

- a. Acceptance of £1.5m of grant funding from the DLUHC, (or such other sum as may be awarded) to support the St James House project.
- b. Defrayal of the grant to E-Factor towards the acquisition of St James House.
- c. Carry out any ancillary activity in support of the above recommendations

1.2 The E-Factor Group is a not-for-profit organisation that through its commercial property portfolio seeks to promote the success of small and medium sized enterprises (SME's) in North East Lincolnshire. The Town Fund grant, alongside a significant investment by E-Factor, will bring St James House back into use, providing town centre business provision and relocation of the Business Hive that will attract much needed footfall to the town centre.

1.3 Following significantly protracted legal matters, E-factor purchased the building in November 2022 and immediately moved to undertake asbestos and guano removal. This was needed to allow full access to the building and for a planning application to be finalised. Planning permission was granted in October 2023.

1.4 A competitive tender exercise was issued in September 2023, with a closing date of 31 October 2023. Five organisations submitted returns. Given the delays in acquiring the building and general construction inflation costs, all tenders received were over budget.

1.5 Having undertaken a significant value engineering process with the preferred contractor, a phased scheme is the resultant position with additional funding secured through the Activation and Community Engagement Fund. Combined with short-term underwriting by the council of £147,000 to enable the scheme to progress, construction began on site in April 2024.

2. PROPOSAL

2.1 To manage budget pressures, the preferred option is to divert the original power supply route that followed the main roadways (default position by utility providers) to a shortened route that crosses land in the ownership of the Council and forms part of the car park exclusively used by Wilkin Chapman. The drawing in appendix 1.0 shows the route options.

2.2 Interested Parties: While the Council owns the freehold interest where part of the yellow route passes, Wilkin Chapman has exclusive use of the car park area as part of their lease of the adjoining building. Approval in principle has already been

granted by the company with no request for disturbance costs. It is understood that E-factor has offered to cover the costs of alternative parking for the disturbed car parking bays throughout the duration of the works.

2.3 Benefits for St James: There is a financial benefit in favour of E-factor for the shortened cable route, that has been estimated by the company at £23k

2.4 Need for an Easement: A right to cross and lay a cable underground will require formal consent from the landowner and secondary consent by the occupier, the Council and Wilkin Chapman respectively. This will be granted by an easement that provides a permanent right for the cable installation. The proposed terms for the easement would normally be drafted by the network provider, these are currently awaited.

3. CONSTITUTIONAL REQUIREMENTS

3.1 The Constitution includes a Protocol on Disposal of Land for Less than Best Consideration ("the Protocol") which contains eight specific procedural requirements that must be addressed and included in any report seeking authority to dispose at less than market value or market rent as follows:

(i)	A valuation report, undertaken by a Chartered Surveyor (Valuer), setting out the restricted and unrestricted values of the property
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The Council's qualified Chartered Surveyor has provided a valuation report which contains the following key information.
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Unrestricted Value (i.e. market value as a capital sum)	£12,000 (Twelve Thousand pounds)
Less Restricted Value (i.e. market value subject to proposed lease)	£0 (Nil pounds)
Equals Discount (i.e. total amount of undervalue)	£12,000 (Twelve Thousand 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 the proposal is approved.
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(ii)	An assessment with supporting evidence of the capital value to the Council of those benefits of the proposal which are capable of monetary assessment together with an assessment with supporting evidence of the value of non-monetary benefits (i.e. social, economic, and environmental benefits)
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The value of the proposed easement in non-monetary terms cannot be quantified. Nevertheless, the grant of the easement supports the Council's outcomes of a 'stronger economy'. It provides E- factor with a electricity route
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<p>that minimises distance and therefore cost of installation. Overall this will assist in minimising total project costs for this not- for -profit organisation.</p> <p>The redevelopment of St James House to provide managed workspace units will facilitate economic activity in the area of the Town Centre .</p> <p>Adopting a shorter route for the electricity cable reduces the volume of manufactured materials including disturbance to the neighbourhood while the works are taking place.</p>
<p>(iii) Confirmation that the disposal will contribute positively to the Council's priorities.</p>
<p>The proposed easement will support a regeneration project and minimises the negative impact on the environment by the intended works</p>
<p>(iv) A statement that the benefits that the Borough will derive from the proposed disposal cannot be achieved unless the transaction takes place at an undervalue and confirming that no reasonable alternative means of funding are available to the purchaser.</p>
<p>E- factor is seeking to deliver a regeneration scheme against a back drop of building cost inflation. The proposed disposal will avoid an unnecessary increase in project costs</p>
<p>(v) In cases where the proposed disposal is to an identified person/organisation without a tender process, this should be subject to consideration of a robust business case and an analysis of the financial standing of the organisation/person.</p>
<p>The St James House project has undergone a thorough 5 stage Green Book business case due diligence process approved by the Department for Levelling Up, Housing and Communities (DLUHC). All procurement has followed all regulatory requirements to ensure the procurement of suppliers of goods, works and services through an open, transparent, and non-discriminatory competition process, in accordance with the Public Contracts Regulations 2015,</p>
<p>(vi) Details of the proposed terms of the transaction which will ensure that the disposal will contribute to the achievement or improvement of the social, economic, and environmental wellbeing of the area.</p> <p><i>NOTE: In considering the application of the wellbeing criteria under the General Disposal Consent, the Council must have regard to the Community Strategy and reasonably consider the extent, if any, to which the proposed disposal supports the aims and objectives in the Strategy</i></p>
<p>A summary of the Headline terms is below:</p> <ul style="list-style-type: none"> • A permanent easement attaching to the freehold interest • Peppercorn rent (£1 if demanded) • The maintenance of the cable to be the responsibility of the network provider

•	The easement to be for the sole benefit of St James House
(vii)	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.
	See Section 12 of this Report “Legal Implications”
(viii)	A statement from the Section 151 Officer in relation to the financial implications of the proposal, particularly in respect of the impact on resources for capital spending as set out in the Medium-Term Financial Plan. <i>There must be demonstrable evidence that the outcome of any undervalue disposal will be equally beneficial to a disposal at market value</i>
	See Section 11 of this Report “Financial Implications”

3.2 ESTATES PROGRAMME BOARD - The Protocol also requires that any proposal to dispose at less than best consideration should, in the first instance, be referred to the Board for consideration of a business case and options appraisal.

3.3 SUBSIDY CONTROL RULES The Subsidy Control Act 2022 is relevant here. It establishes rules for public authorities in striking a balance between enabling benefits from subsidies whilst limiting harmful impacts, such as market distortion. Public authorities may give subsidy of less than £315k as minimal financial assistance.

Specialist subsidy control advice was procured in December 2021 for the St James House project and the council are satisfied that it can be considered to be permitted subsidies under the Governments current subsidy control guidance, including the principles laid out in the UK-EU Trade and Cooperation Agreement (TCA)

4. RISKS AND OPPORTUNITIES

4.1 Beyond the benefits for E-factors and waiver of financial consideration, there are potential longer terms impacts of the proposal: -

4.2 Impact of future development: The easement route is relatively permanent. While a diversion of the route may be possible due to redevelopment by the land-owner, the cost is normally borne by the party making the request.

4.3 Impact on existing use: The easement route will be protected by an exclusion line typically of between 3- 5m from the centre line of the cable. No structures can be erected within the exclusion zone. This may hinder any future redevelopment of the car park area and any proposals for the underpass.

4.4 Substation Capacity: The substation will have a finite capacity. The improved supply to E- factor will reduce the overall capacity for meeting power needs for new development. Should the substation require an upgrade, the developer may require to contribute to the financial cost of the upgrade, which could be significant.

5. OTHER OPTIONS CONSIDERED

The Council could choose to do nothing. The electricity supply company would route the cable predominantly along the adopted highway.

6. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

6.1 There may be potential positive reputational implications for the Council resulting from the decision. The Council will be seen to be supportive of a development project by making a decision that reduces project costs.

6.2 Seeking agreement with Wilkin Chapman, the occupier of part of the affected site where the cable will pass, demonstrates good working relationships with the business and commercial sector.

6.3 The waiver of any payment for the grant of the easement, could create some negative comment although it is suggested this should be balanced by the overall positive benefits that arises from seeking to reduce project costs.

7. FINANCIAL CONSIDERATIONS

7.1 There is no capital funding directly associated with the grant of the proposed easement. Similarly, there is no revenue expenditure that will be incurred. E- factor Group Ltd has indicated a willingness to cover disturbance costs for Wilkin Chapman as outlined within the report.

7.2 The grant of the easement at nominal consideration will assist in negating rising capital costs for a project that the Council has financially supported.

8. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

The St James House project provides space for business growth and increase job opportunities across the region. The business community are working closely with education providers to showcase opportunities to youngsters to raise aspirations which will have a positive effect on the local economy and communities.

9. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

A shorter route for a electricity cable reduces costs and more widely reduces materials used in the production of cabling and the volume of resources used during the cable installation work. All these elements assist in the reduction of unnecessary generation of associated greenhouse gas emissions.

8. CONSULTATION WITH SCRUTINY

There has been no specific engagement with Scrutiny on this report,

9. FINANCIAL IMPLICATIONS

There are no significant financial implications for the Council over and above those already associated with the project. However as outlined above, the grant of the easement at nominal consideration will assist in negating rising capital costs for the project the Council has financially supported.

10. LEGAL IMPLICATIONS

10.1 Local Government Act 1972, s123, provides that the Council may dispose of land (or an interest in land (such as the proposed easement)) in any manner it sees fit subject to the constraint that (except in the case of leases for less than 7 years) disposal must be for the best consideration reasonably obtainable.

10.2 The General Disposal Consent (England) 2003 provides a general consent removing the requirement for Local Authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration. Authorities are granted consent in circumstances when the undervalue does not exceed £2m and where the disposing Authority considers that the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area (the general power of wellbeing).

10.3 Constitutionally and as outlined in the above report the Protocol on Disposal of Land for Less than Best Consideration requires that the Council receives a statement from the Monitoring Officer on whether it is considered that the proposed lease is capable of falling within the terms of the General Disposal Consent (England) 2003.

10.3.1 Cabinet is advised that this proposed disposal is capable of falling within the terms of the consent for the following reasons:

10.3.2 the amount of undervalue would be below the £2m threshold

10.3.3 it is the professional opinion of the Executive Director Place and Resources that in granting this disposal the monetary loss is outweighed by the positive social, economic and environmental benefits of the proposal.

10.4 The Scheme of Delegation in the Constitution provides for the Executive Director Place and Resources to refer any proposed disposal at an undervalue to Cabinet in accordance with the Protocol on Disposal of Land at Less than Best Consideration and maintain a register of all undervalue disposals. This report therefore complies with those provisions.

11. HUMAN RESOURCES IMPLICATIONS

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

12. WARD IMPLICATIONS

Whilst the proposed easement is located within the West Marsh Ward the installation of the electricity cable will facilitate the delivery of the St James House Project which will offer economic benefits to the whole of the borough.

13 BACKGROUND PAPERS

Planning permission St James House dated 9th October 2023 ref:
DM/0720/23/FUL.

Cabinet on 3 November 2021: Towns Fund Programme – St James House

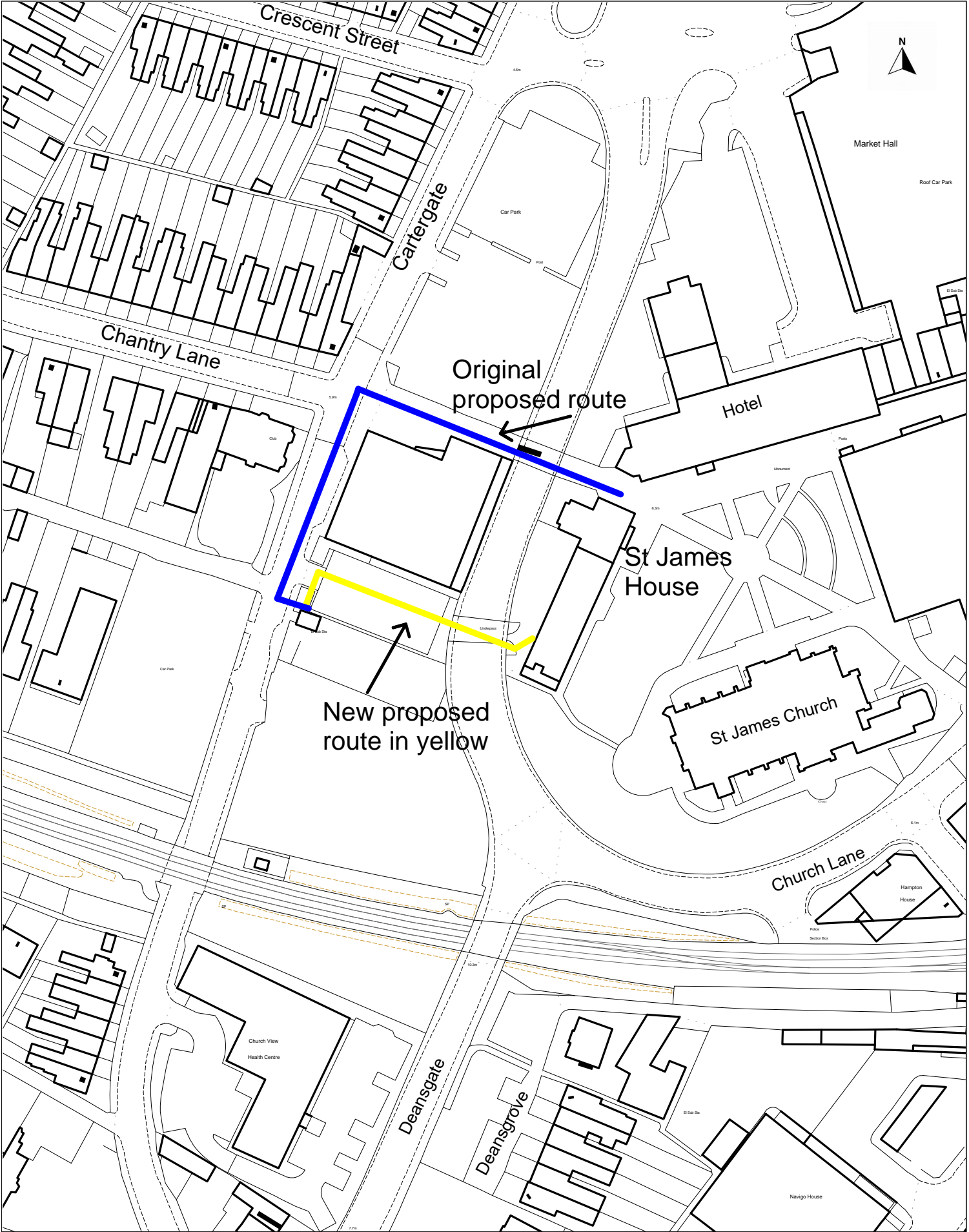
14. CONTACT OFFICER(S)

Assistant Director, Policy Strategy and Resources	Assistant Director, Regeneration	Head of Estates
Jo Robinson	Damien Jaines-White	Chris Fairbrother
NELC	NELC	NELC
01472 323761	01472 324674	01472 325957

COUNCILLOR STEPHEN HARNESS

PORTFOLIO HOLDER FOR FINANCE, RESOURCES & ASSETS

Location Plan



0 25
metres
Scale 1:1,250

Details:
St James House

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