

Report to:	Cabinet	Date of Meeting:	3 rd October 2019
Subject:	Disposal of Former St Wilfrid's School Site		
Report of:	Head of Corporate Resources	Wards Affected:	Litherland
Portfolio:	Corporate Resources		
Is this a Key Decision:	Yes	Included in Forward Plan:	No (Rule 27&46 Agreed)
Exempt / Confidential Report:	No but the figures appearing in Appendix 1 of the Report are NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). The Public Interest Test has been applied and favours the information in Appendix 1 being treated as exempt.		

Summary:

To seek Cabinet approval to exchange a conditional contract for the disposal of the former St Wilfrid's RC High School site to Bellway Homes in accordance with the Council's Asset Disposal Policy.

Recommendations: That Cabinet:

(1) notes that the proposal is a Key Decision that had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services) has been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by the Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until Cabinet in November due to the requirement to conclude the legal position and exchange contracts with Bellway Homes, arising from external contract and project plan commitments.

(2) notes that the Chair of the Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services) has been consulted under Rule 46 of the Access to Information Procedure Rules of the Constitution, waiving call in due to the need to resolve on the basis that the decision cannot be reasonably deferred because of the urgency to conclude the legal position and exchange of contracts, arising from external contract and project plan commitments.

(3) notes the progress of negotiations with Bellway Homes and the beneficiary of the restrictive covenant for its release and a further report on the sum required for

such covenant release be submitted to the Cabinet Member - Regulatory Compliance and Corporate Services in conjunction with the Head of Corporate Resources for approval once the outstanding matters have been resolved.

(4) confirms that there is no objection to exchanging conditional contracts with Bellway Homes to achieve best consideration;

(5) notes the current strategy that officers are pursuing with the Education Funding and Skills Agency (EFSA) to secure Section 77 consent under the School Standards and Framework Act 1998

(6) approves that the Chief Legal and Democratic Officer complete the necessary legal documentation for the disposal of the site subject to the resolution of the conditions of contract for sale.

Reasons for the Recommendations:

To ensure that the Council's interest in the land is disposed of in accordance with its legal obligations.

Alternative Options Considered and Rejected: (including any Risk Implications)

The Council could wait until August 2022 when the 10-year rule for disposal of playing fields under S77 no longer applies. This has been rejected because of the difficulty of then securing a comprehensive redevelopment of the site in partnership with the Archdiocese who are the owners of the school building footprint.

The Council could retain the site for a future disposal however this would be problematic for a variety of reasons including access. This has been rejected because of it fails to recognise the Council's aspirations for the site under the Local Plan

What will it cost and how will it be financed?

(A) Revenue Costs

There are nominal maintenance costs to keep the grass mown and tidy.

(B) Capital Costs

The Council will receive a net land value and capital receipt (see Appendix 1) subject to subsequent settlement of the matter relating to the restrictive covenant referred to above.

Implications of the Proposals:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Resource Implications (Financial, IT, Staffing and Assets): A Capital Receipt to the Council but with specific ring fencing to be spent on Education School projects. Where possible the receipt will be directed towards those schools within the ½ mile and 1mile proximity of the St Wilfrid's site.
Legal Implications: The Council will enter into a contract with Bellway Homes subject to resolution of the S77 issue and the Restrictive Covenant.
Equality Implications: There are no Equality implications.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: The new development will continue the Regeneration of Hawthorne Road which started with the HMRI programme and is ongoing. Where possible the receipt will be directed towards those schools within the ½ mile and 1mile proximity of the St Wilfrid's site.
Commission, broker and provide core services: The Council is facilitating the joint disposal of land in the ownership of the Council and the Archdiocese to secure the comprehensive redevelopment of the site.
Place – leadership and influencer: Not applicable.
Drivers of change and reform: Will facilitate development and bring investment to the Hawthorne Road area significantly improving the environment for residents.
Facilitate sustainable economic prosperity: Significant capital investment in sites, and significant job creation opportunity. Partnership between The Council and Bellway Homes which is a continuation of an existing Overarching Agreement and also with the Archdiocese over the comprehensive redevelopment of the site. The Council will receive significant Council Tax income from these properties.
Greater income for social investment: Not applicable.
Cleaner Greener: Redevelopment of a site derelict since 2012.

--

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD 5807/19) and the Chief Legal and Democratic Services Officer (LD 4031/19) have been consulted and any comments have been incorporated into the Report.

(B) External Consultations

With DfE for the purposes of the S77 application which also required a Public Notice published in the local press for disposal of the site. From the 7th March 2018 to the 14th March 2018 the Council consulted on the disposal of the site via Public Notice in the local press. No significant comments were received.

As part of the Local Plan process there was extensive consultation with the public and stakeholders for the site to be allocated for new Housing Development.

The current Planning Application requires consultation. As at 27th September there has been 3 objections, and 2 neutral comments. This matter will be considered further when presented to Planning Committee.

Implementation Date for the Decision:

Following the Cabinet Meeting.

Contact Officers:	Stuart Barnes/ Dominic Ellis
Telephone Number:	0151 934 3544 / 0151 934 2751
Email Address:	Stuart.barnes@sefton.gov.uk dominic.ellis@sefton.gov.uk

Appendices:

Appendix 1

Background Papers:

There are no background papers available for inspection

1 Background

1.1 St Wilfrid's RC High School as shown edged red and hatched blue on the plan was closed on 31 August 2012 following local consultation and the buildings on site demolished by the Archdiocese in 2013. The site has been vacant since that time. The site is now included in the Council's Local Plan for new housing development.

1.2 The Council considered it would be preferable to seek a comprehensive development of the whole site rather than a piecemeal development in order to achieve a better standard of design for the development and ensure that the site was delivered in line with the single housing allocation in the Local Plan. A planning application for 185 dwellings is currently under consideration by the Council as Local Planning Authority and it is anticipated that this will be included on a Planning Committee Agenda in the near future.

1.3 The Archdiocese advertised the disposal of their site by way of informal tender on the open market and Bellway Homes were the highest bidder. The figures agreed between Bellway Homes and the Archdiocese were mirrored in the Council's terms for the sale of its' site with Bellway. This process is considered to represent best consideration in accordance with Section 123 of the Local Government Act 1972 and complies with the Council's Asset Disposal Policy.

2 Capital Receipt

2.1 In agreeing to pursue the comprehensive redevelopment of the site, and in order to maximise the land receipt, the Council and the Archdiocese agreed that the Property should be treated as a single entity. All abnormal costs and fees associated with site marketing and subsequent sale have been apportioned between the landowners.

2.2 The net land value and capital receipt are set out in Appendix 1 to the report.

2.3 There is an urgent requirement to conclude the legal position and exchange contracts with Bellway Homes, arising from external contract and project plan commitments. It is understood that the sale may not proceed if contracts are not exchanged promptly. The Council would be left with a poorer residential scheme that does not accord with the Local Plan and land with reduced development potential leading to a diminished capital receipt.

2.4 The Council's Asset Disposal Policy requires Cabinet to approve disposals over £500,000. The capital receipt set out in Appendix 1 falls into this category of disposal.

3 Restrictive Covenant

3.1 The transaction agreed with Bellway is conditional upon the Council successfully securing the release of a restrictive covenant on its land restricting use to that of a School. The restriction was not previously thought to affect the Council's land, but due diligence enquiries by Legal have flagged up an error at the Land Registry.

3.2 The restrictive covenant affects part of the Council's land and officers in Property and Facilities Management are seeking a release of this restrictive covenant with the beneficiary as quickly as possible. Essentially the Council will need to pay a sum plus fees to discharge this covenant.

3.3 A financial offer has been made to the Agent acting for the beneficiary, reflecting a settlement commensurate with what the Archdiocese previously paid to lift the restriction, albeit on a pro-rata basis, plus uplift in line with RPI. Whilst terms have not yet been agreed, Officers anticipate that a significant settlement will be required to address this matter. This sum will eventually be deducted from the expected Capital Receipt.

3.4 Depending on the figure agreed for the covenant release approval will be sought to such sum from the Cabinet Member for Regulatory Compliance and Corporate Services in conjunction with the Head of Corporate Resources in line with their respective authority.

4 Section 77 Application for consent to dispose of School Playing Fields

4.1 The Council is required to obtain Secretary of State consent for the disposal of School Playing Fields if this falls within ten years of closure. Hence consent would be required prior to any intended disposal of land.

4.2 Obtaining Section 77 Consent from the Secretary of State poses an additional and potentially significant risk. This will need to be resolved before any disposal can be finalised and transacted and is a risk to bringing forward a single approach and complimentary scheme over and above individual parcels.

4.3 The Council submitted an application to the DfE on 3rd May 2018. This process is ongoing and will be reported back in due course.

4.4 The majority of the issues revolve around the proceeds of sale being spent on community amenities as opposed to education sport projects.

4.5 Officers are in the process of resubmitting a revised application, with a number of key actions currently being progressed, as set out below;

- i) Clarifying that the proceeds will be used for "education use" as opposed to "community sports provision". As things stand there exists a planning obligation of £300,000 for Litherland. For other projects for the land

receipt, officers have assembled a list of school projects on the Schools Capital Programme which comes to £309,000. Officers are speaking to the relevant Schools to obtain additional projects.

