

Report to: Cabinet

Date: 10 November 2022

Title: Property and Asset Management Update

Report of: Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning

Cabinet member: Councillor Zoe Nicholson, Deputy Leader and Cabinet Member for Finance and Assets

Ward(s): All

Purpose of report: To provide an update and seek decisions on key property and assets.

Decision type: Key

Officer recommendation(s):

(1) To note the progress of the Newhaven waste and recycling depot development plans and the focus on re-utilising the existing site at Robinson Road, subject to a detailed business case to follow in the future.

(2) To delegate authority to take all necessary steps to conclude lease arrangements with Boutique Modern at 9/10 Avis Way, Newhaven in line with the key terms outlined in section 2 of the Appendix, subject to such variations that may be agreed in the course of negotiations.

(3) To delegate authority to take all necessary steps to conclude a 30-year lease with Ringmer Parish Council at Fingerpost Field, Ringmer.

(4) To delegate authority to take all necessary steps to conclude leases at the Marine Workshops, Newhaven for a period of longer than 10 years and at an annual rental of more than £25,000.

(5) For Cabinet to recommend to Full Council:

- the grant of a 25- year lease to Lewes Sports Club for the Clubhouse at the Stanley Turner Ground on existing lease terms, subject to such variations that may be agreed in the course of negotiations; and
- the grant of a 25-year lease to Lewes Priory Cricket Club at the Stanley Turner Ground on terms to be finalised.

For this purpose, the Council will be sitting in its capacity as the sole charitable trustee of the Stanley Turner Recreation Ground (charity no 305275).

(6) Notwithstanding the fact that it is not a corporate asset of the Council, to approve the capital budget allocation set out in section 6 of the Appendix and delegate authority to take all necessary steps to undertake remedial action in respect of the retaining wall in New Road & Castle Rise – Lewes.

(7) The delegated authority referred to in paragraphs (2), (3), (4) and (6) are delegations to the Director of Regeneration and Planning, in consultation with the Lead Member for Finance and Assets and the Chief Finance Officer. The delegations include authorisation to carry out all necessary steps including financing, negotiation and determining the terms of, and authorising the execution of, all necessary documentation.

(8) In respect of the proposed grant of a lease to Boutique Modern and the leases at the Marine Workshops, Cabinet waives compliance with the Council's Contract Procedure Rules in the event that the agreed rent exceeds £25,000 per annum, for the reasons set out in this report.

Reasons for recommendations:

To enable decisions to progress key property and assets as part of the Council's capital programme.

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1 Introduction

1.1 Lewes District Council (LDC) holds a range of assets across its corporate property portfolio, which are continually reviewed in order to ensure that they provide the maximum benefit to the Council, the residents it serves, and local businesses.

1.2 This report focuses on a number of sites, including:

- Robinson Road
- 9/10 Avis Way
- Fingerpost Field
- Stanley Turner Ground
- Marine Workshops
- Lewes Wall

2 Robinson Road, Newhaven

2.1 In 2015/16, the Council approved plans to develop options to relocate the existing waste and recycling depot from Robinson Road to 9/10 Avis Way and allocated a budget of £3.5m. This was on the basis that the existing site was no longer capable of meeting the medium-long term operational needs of the waste service at that time and given the condition of the facilities. The project was however paused following due to the poor ground conditions and budget pressures.

2.2 In February 2020, the Council reconsidered the project and approved a new budget of up to £4.9m to deliver the new depot at Avis Way. The complexities and site abnormalities, including the poor ground conditions previously identified, as well as contamination, derelict structures, and the presence of asbestos containing materials (ACMs), meant that budget expectations had increased by up to 40% in the 5-years since the site was originally considered.

2.3 Although a concept design had been developed by early 2020, the subsequent impacts of the Covid-19 global pandemic meant that those proposals had to be put on hold. The implications of those unprecedented events have now superseded those plans and the requirements of the service must now also take into consideration:

- Alternative fuels for the fleet.
- Changes in staff / office working arrangements.
- Sustainability requirements and the future needs of the fleet.
- Increased market pressures - the impacts of inflation, PWLB borrowing rates, and the need for income generation to support expenditure.

2.4 Upon assessing the Robinson Road site further, it has become clear that the complications and complexities of the site, including the associated costs given its existing use and location, makes it challenging for any other redevelopment plans to meet other corporate requirements (e.g., housing).

2.5 In conjunction with Environment First, the Property and Development team have been working up the space needs of the service, reflecting on the current circumstances as above, and have identified a number of options for the redevelopment of the Robinson Road site to continue to accommodate the waste and recycling depot to meet operational requirements.

2.6 The 2022/23 General Fund Capital Programme included an allocation of £2.3m for the provision of a new waste and recycling depot. It is proposed that the Council now focuses its attention on the plans for the Robinson Road site,

addressing the office, workshop, parking, access, security, and infrastructure needs, including the undertaking of the necessary feasibility and due diligence work to develop proposals further for Cabinet consideration in the future alongside any budget ratifications

3 9/10 Avis Way, Newhaven

3.1 In February 2020, Cabinet approved up to £200k in the Capital Programme for the demolition of the two units on this site within the Avis Way Industrial Estate as they had become a health and safety issue as well as some other site remediation works. The site has largely remained vacant since demolition was completed pending final decisions on the location of the new waste and recycling depot as above.

3.2 Separately to discussions on the future location of the depot, officers have been approached by Boutique Modern (BM) who are in urgent need of securing a new site for their business. BM is a modular building manufacturer based for the last 10 years at Beach Road, Newhaven specialising in providing affordable homes to local authorities and housing associations within 20 miles of the town. Their local delivery model is focussed on maximising social value and people-focussed community wealth, which has seen material benefits in recent years for the Council and upon the award of the Modular Housing Framework.

3.3 BM propose to build a new headquarters at 9/10 Avis Way – the factory would serve as a flagship for the company business model in its embracing of environmental technology, high quality employment and innovative design of affordable housing, with a particular focus on maximising community wealth in Newhaven.

3.4 The majority of the existing workforce is from Newhaven and BM has said that the construction of their new facility and increased output will generate more than 50 new jobs in a broad variety of production, construction and office roles allowing BM to strengthen working relationships with local organisations such as the East Sussex College Group (ESCG), Brighton University, and the local Job Centre+, which have helped BM recruit a large proportion of its existing workforce (over 30%). All new production and office roles would be offered to these organisations for recruitment.

4 Fingerpost Field, Ringmer

4.1 Ringmer Parish Council (RPC) hold Fingerpost Field under a lease dated 5th August 2005. The original lease was for a period of 5 years, but the lease was not excluded from the protections of the Landlord and Tenant Act 1954 (LTA); this means that RPC have a right to renew the lease at the end of the lease term. RPC have been holding over the lease since the end of the lease term – this is an accepted practice where leases have LTA protection but both RPC and LDC now wish to regularise the situation with a new lease.

4.2 RPC would like a 30-year lease of the site.

5 Marine Workshops, Newhaven

- 5.1 The Council has acquired the former UTC in Newhaven (Marine Workshops) as previously approved by Cabinet. Officers are assembling a tenancy schedule for the property as well as developing plans for LDC office accommodation/civic facilities and other public sector collaboration space.
- 5.2 Lease terms will be developed with each incoming tenant but under the Scheme of Delegations officers cannot currently grant a lease for more than 10 years or at an annual rent of more than £25,000 (except for a rent review). In order to provide maximum flexibility on utilisation of the building, officers would like the Director of Regeneration and Planning to have authority to grant leases longer than 10 years and/or for more than an annual rent of £25,000, subject to consultation on any final terms with the Lead Member for Finance and Assets and the Chief Finance Officer.

6 Stanley Turner Recreation Ground

- 6.1 Lewes Sports Club (LSC) have a lease dated 13 November 1979 for the Stanley Turner Clubhouse. The original lease was for a period of 30 years, but the lease was not excluded from the protections of the LTA; this means that LSC have a right to renew the lease at the end of the lease term. LSC have been holding over the lease since the end of the lease term – this is an accepted practice where leases have LTA protection but both LSC and LDC now wish to regularise the situation with a new 25-year lease in order that LSC can attract grant funding. In addition, Lewes Priory Cricket Club (LPCC) are seeking a 25-year lease for the groundsman's space and scoreboard within Stanley Turner Changing Rooms/Pavilion that they use and the cricket square in order to attract grant funding.
- 6.2 Charities, such as the Stanley Turner Recreation Ground Trust, need to obtain best value when disposing (including granting a lease) of charitable land. Charity land can only be disposed of at an undervalue where the disposal is to another charity and the disposing charity has appropriate powers. LSC and LPCC are not currently registered charities and therefore a disposal at an undervalue would not be permitted.
- 6.3 An independent rental valuation of the areas proposed to be leased is being undertaken.

7 Lewes Wall

- 7.1 In May 2022, a defect in the retaining wall to Castle Rise, Lewes was identified by Building Control and emergency works carried out to provide additional temporary support whilst surveys and legal work have been carried out. One resident in Castle Rise has been temporarily relocated, as access is currently restricted.
- 7.2 Ground survey works and structural engineering advice have been received to understand what remedial works are required. A defective drain has been

identified as part of these works and Southern Water has carried out repairs to rectify the issue.

7.3 The works to date have also identified the need to carry out maintenance works to the retaining wall in the rear of 1-11 New Road. This wall supports 2 x LDC owned Housing Revenue Account (HRA) properties in Castle Banks.

7.4 The next phase of works requires scaffold to be erected to the whole length of the wall and vegetation cleared to enable the remedial and maintenance works to be fully scoped and costed. The Appendix sets out costs to date and projected capital budget allocation. The Appendix also sets out the legal findings and implications.

8 Outcome expected and performance management

8.1 The recommendations seek to make decisions on key property and assets within the district in-line with strategic objectives and the Corporate Plan. This includes:

- Refocusing the plans for the future of the waste and recycling depot
- Leasing land/property within the Council's ownership
- Undertaking essential works to an asset within the district
- Associated delegations to enable officers to progress operationally

The proposals for the Robinson Road depot will continue to be developed within the capacity of the capital programme and a detailed business case presented to Cabinet in the future.

The lease arrangements proposed shall be managed via individual contractual terms.

The monitoring of the Lewes Wall is as set out within the Appendix.

9 Consultation

9.1 The proposals for the redevelopment of the Robinson Road waste and recycling depot are being progressed in close consultation with Environment First as service provider and the Lead Member for Waste, Recycling and Open Spaces. Further consultation will be undertaken as the proposals are developed and a final option worked through, subject to legal and financial due diligence.

9.2 Strategic Property Board (SPB) have been consulted on the principles of the proposed lease of land at 9/10 Avis Way to Boutique Modern.

10 Corporate plan and council policies

10.1 The proposals outlined within this paper will support the Re-imagining Lewes District Corporate Plan 2020-2024 in the following ways:

- **Your Services: Getting it right first time.** Providing excellent recycling and refuse services through a new purpose-built depot at Robinson Road

and improving public spaces through a new lease of Fingerpost Field to Ringmer Parish Council.

- **Building Community Wealth.** Prioritising investment into local communities, developing local skills through partnership working and increasing local employment opportunities through new education and employment spaces at Marine Workshops and supporting BM with a new site at Avis Way.

11 Financial appraisal

- 11.1 The 2022/23 Capital Investment Programmes for the Council does not include a provision to undertake remedial action in respect of the retaining wall in New Road & Castle Rise as detailed within the Appendix that contains exempt information as defined in Schedule 12A of the Local Government Act 1972.

Any further capital allocation for 2022/23 and future years is dependent on the generation of new capital receipts or new grant. Therefore, the new capital outlay request will need to be funded through additional borrowing from the PWLB, to enable the wider financial implications to be incorporated into the overall Council's revenue budget and capital programme.

12 Legal implications

- 12.1 The Council cannot dispose of land held in the General Fund for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State. Disposal includes granting a lease. The rule only applies to leases where the lease term exceeds seven years.
- 12.2 The Secretary of State has given a general consent (General Disposal Consent (England) 2003) so that specific consent is not required for the disposal of land where the authority considers it will help to secure the promotion or improvement of the economic, social, or environmental wellbeing of its area. Disposal at less than best consideration is always subject to the condition that the undervalue does not exceed £2m.
- 12.3 If publicly owned land is disposed of at less than best consideration, the local authority is providing a subsidy to the purchaser. Any such subsidy will need to be determined in accordance with the new Subsidy Control rules.
- 12.4 The Council's Contract Procedure Rules (CPRs) say that no lease of land where the estimated rent exceeds £25,000 per annum shall be made except after auction or the invitation of tenders or expressions of interest following appropriate public advertisement, unless authorised by Cabinet. This rule does not apply to the renewal of a lease under the Landlord and Tenant Act 1954. At present the amount of rent for the proposed leases to BM and the Marine Workshops leases are uncertain and this report seeks a waiver from the CPRs in the event that the agreed rent exceeds £25,000 per annum. The justification for the waivers is set out in the body of the report.

- 12.5 In relation to the charitable land at the Stanley Turner Ground, the object of the charity is as a public recreation ground and the proposals facilitate this purpose. The Charities Act 2011 imposes restrictions on charities when disposing of charitable land. In order for a charity to dispose of land to a non-charity without a Charity Commission order, the charity trustees should follow a set procedure. This involves obtaining a report from a qualified surveyor that covers specific matters and the charity trustee determining that the terms on which the disposal is to be made are the best that can reasonably be obtained for the charity. the Council, as charitable trustee, will comply with all requirements imposed by charity law and all other legal requirements, in granting the lease.

[11482-LDC-KS KS 14/10/2022]

13 Risk management implications

- 13.1 A risk strategy for the Robinson Road project shall be developed alongside the detailed business case to be presented to Cabinet in the future.

The lease proposals have been subject to operational risk assessments underpinning the recommendations proposed.

The risks associated with Lewes Wall are set out in the Appendix.

14 Equality analysis

- 14.1 There are no equalities impacts identified as a result of these proposals.

15 Environmental sustainability implications

- 15.1 There are no environmental sustainability implications identified as a result of these proposals.

16 Contribution to Community Wealth Building

- 16.1 These proposals support the Community Wealth Building agenda by prioritising investment into local communities, developing local skills through partnership working and increasing local employment opportunities through new education and employment spaces at Marine Workshops and supporting BM with a new site at Avis Way.

- 16.2 BM's local delivery model is focussed on maximising social value and people-focussed community wealth. They secured the LDC Modular Housing Framework in 2021 and are the only certified B Corporation in the UK modular construction industry. B Corporation is a global accreditation certifying companies that meet the highest standard of verified environmental performance across 5 key impact area of governance, workers, community, environment, and customers.

17 Appendices

- 17.1
- Appendix 1 (Exempt) – Supporting information

18 Background papers

18.1 The background papers used in compiling this report were as follows:

- Cabinet report 10 February 2020 - Avis Way Waste Vehicle Depot Revised Funding
<https://democracy.lewes-eastbourne.gov.uk/documents/s13531/Avis%20Way%20Waste%20Vehicle%20Depot%20-%20Revised%20Funding.pdf>