

CABINET

11 APRIL 2025

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND COMMUNITY SAFETY

A.2 FREEHOLD DISPOSAL OF REDUNDANT OFFICE SITE AT WEELEY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To evaluate whether, given the extended negotiations, the Council should continue with negotiating an Option Agreement for the disposal of the redundant Council Office at Weeley. This is in line with Cabinet's decision on 17 December 2021 to dispose of the Weeley Office site, based on the Heads of Terms finalised by the then Leader following consultation, with the then Portfolio Holder for Housing along with the Corporate Director (Operations and Delivery), the Section 151 Officer, and the Monitoring Officer on 25 April 2023.

EXECUTIVE SUMMARY

Cabinet agreed transformation proposals on the 16 December 2016 which included disposing of a number of Council facilities, Weeley Offices being one of them. On the 17 December 2021 following an invitation of bids from two special purchasers, Cabinet agreed to enter into an option agreement with the successful bidder, delegating authority to agree Heads of Terms on the principles set out in the report. Heads of Terms were agreed on 25 April 2023.

Since the Heads of Terms were agreed, negotiations in respect of the full text of the Options Agreement, the legally binding document that needs to be completed in order for planning consent to be submitted, have been ongoing. This has still not been finalised.

Negotiations between the successful bidder and the Council in respect of the Options Agreement have reached a stalemate with each party's legal advice being on opposing sides of the opinion on a key issue, the extent and effect of highway rights adjoining the site.

This report looks at whether, based on the ongoing costs and liabilities of a currently vacant site, the Council should continue with negotiations to try and finalise the Option Agreement, or choose to withdraw from further negotiations in order to consider alternative routes to dispose of the site.

Ongoing costs for the Weeley site are in the region of £65,000.00 p/a. Given the issues highlighted above, the risks of not being able to satisfactorily move beyond the current stalemate / stalled position are now significant. Planning Consent, which will take a minimum of 12 weeks, possibly longer because of the size and complexity of the development, hasn't yet been submitted and won't be until the Option Agreement has been resolved.

RECOMMENDATION(S)

It is recommended that Cabinet:

- (a) in the light of ongoing delays and costs, as well as the significant risk of failing to conclude the disposal Option Agreement for the former Weeley Council Offices site, agrees to no longer pursue further negotiations with the current bidder, based on the existing Heads of Terms agreed in April 2023; and**
- (b) requests Officers explore alternative disposal options and report these back to Cabinet for consideration and further decisions.**

REASON(S) FOR THE RECOMMENDATION(S)

Due to the complex and multilayered considerations of the transaction, it took 16 months to agree heads of terms for the Option Agreement and has taken a further 2 years in negotiations over the legally binding agreement. These negotiations have not currently been concluded and despite significant time and effort by the legal and property teams on both sides, are considered to be at a stalemate. Each party's legal advice sits on opposing sides of the opinion on a key issue: the extent and effect of highway rights adjoining the site. Due to the time and cost that has already been expended and there being no confidence that matters can be resolved quickly, if at all, withdrawing from the agreement in order to consider alternative disposal routes is recommended in order to mitigate further expense.

If Cabinet agrees to no longer pursue current negotiations, alternative options can be explored and brought forward in a future Cabinet Report for decision. Along with the approach adopted previously, these could also include:

- (a) To go through an open market tender process – robust parameters would need to be put in place around timeframes for completion, but this would provide other interested parties who have made enquiries over the last 3 years to put their offers forward. There is however the risk that negotiations with a winning bidder could become lengthy or the bidder may withdraw prior to the offer becoming legally binding.
- (b) To demolish the buildings on site in order to mitigate the NNDR costs – this would likely cost the Council a minimum of £200,000.00 (estimated on previous demolition costs) and negate the potential of any future planning consent including vacant buildings credit, or the option that any future purchaser could choose to convert or repurpose any of the buildings on site.
- (c) To dispose of the property by auction – this would provide a definitive end date for the completion of the sale of the property, but the guide and reserve prices are likely to be lower than would be achieved in the open market. Whilst it is possible that bidding on the day would achieve the value aspired to, there is a risk it may only achieve the reserve price.
- (d) To redevelop the site – this would provide additional social housing to the Council, however would be resource heavy and with design, planning and build likely to be a 5 year project.

Although this report responds in the immediacy to the issues arising to date, the further report planned to be presented to Cabinet as mentioned above, will enable a timely opportunity to address or supersede the specific recommendations made by Cabinet on 17 December 2021 mentioned earlier as necessary.

ALTERNATIVE OPTIONS CONSIDERED

To continue progressing the previously negotiated disposal – whilst the heads of terms have been signed, an impasse has now been reached in respect of the Options Agreement with differing legal opinions between the parties on the extent and effect of highway rights adjoining the site. It is not anticipated that this matter can be easily resolved and even if it is, the handover of the site is still dependent on planning permission being achieved.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The current Vision includes the following that are relevant to this decision:

Pride in our area and services to residents – vacant sites attract anti-social behaviour as well as generally deteriorating bringing the area down. This lets down neighbouring properties and residents and makes them less likely to look after and take pride in their own property and surrounding area.

Raising aspirations and creating opportunities – moving this site forward in order for it to be redeveloped/repurposed should provide opportunities for employment and benefit local supply chains in carrying out the necessary work.

Financial Sustainability and openness – achieving best value is important in order for capital receipts to be maximised for use supporting the Council's priorities. Decisions should be taken with all the information and weighing ongoing costs with potential receipts.

OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)

Generally, a resolution is sought that concludes the disposal within a definable time period and incurs the least further cost to the Council.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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| Is the recommendation a Key Decision (see the criteria stated here) | YES | If Yes, indicate which by which criteria it is a Key Decision | <input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget |
| | | And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date) | 24 December 2024 |

Section 123(1) Local Government Act 1972 (1972 Act) indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the District.

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| X | The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below: |
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At the point the Options Appraisal is presented back to Cabinet, if necessary, previous decisions will require revisiting with respect to the legal powers for the use of the site and Heads of Terms, as these decisions remain current until which time they are reversed.

The Council outsourced, to a degree, its legal support in this matter, with the costs to be recovered through completion of the disposal via the Heads of Terms, the ability to recover these costs is now at risk.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The Council is currently spending in the region of £65,000.00 per year in NNDR, utility standing charges and security for the Weeley site. The current negotiations over the Option Agreement have reached a stalemate and either needs the successful bidder to go against their legal advice and take a chance on the project, or the Council to go against their legal advice and indemnify or underwrite the other party's project. With neither party able to move through this impasse, there is a risk further cost, both in respect of ongoing costs at the property, as well as legal fees will continue to be incurred with no progress made.

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| Yes | The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below: |
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Although there are no significant comments over and above those set out elsewhere within the report, taking pragmatic steps to move beyond the currently 'stalled' position would support the Council in limiting wherever possible the ongoing costs / liabilities associated with the site.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

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| A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services; | Whilst the previously negotiated heads of terms provided a good return by way of properties to the Council, this has to be weighed against the ongoing costs of the site and the unknown timeline for actual realisation of those properties. |
| B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including and | Weeley site is no longer used for delivering services and disposal has previously been agreed. The manner of disposal now has to be considered in order to make sure best use is made of resource weighed against timeframes, ongoing costs and best value. |

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| C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services. | Consideration has been given to the risk and outcomes of continuing with the negotiations, in order to recommend a course of action that has the least impact on service delivery. |
| MILESTONES AND DELIVERY | |
| If Cabinet decides to withdraw the agreement and terminate negotiations with the successful bidder, a further report will be presented to Cabinet within 3 months, outlining alternative disposal options and providing full details for Cabinet's consideration | |
| ASSOCIATED RISKS AND MITIGATION | |
| Ongoing costs of the retained site – the Council are already paying all ongoing costs on the site with no clear indication of when or if the current negotiations will come to a successful conclusion. Any future decisions or negotiations in respect of disposal should include robust timeframes in order to mitigate ongoing costs. | |
| That the property becomes listed as a heritage asset – an application has been submitted with a request that the former Weeley Council office building is listed. Whilst there is a process that this request will have to go through before determination, should the application be successful then any future plans for the site will have to retain the building. Due to the additional costs this will entail for any developer, the financial offer for the site to the Council will be reduced. | |
| EQUALITY IMPLICATIONS | |
| Not specifically relevant to this decision | |
| SOCIAL VALUE CONSIDERATIONS | |
| Not specifically relevant to this decision | |
| IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050 | |
| There are ongoing standing charges and minimal energy usage at the site. | |
| OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS | |
| Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below. | |
| Crime and Disorder | Vacant properties continue to deteriorate impacting the surrounding area. This type of vacant property tends to attract fly-tipping and has the potential to attract anti-social behaviour the longer it remains vacant. |
| Health Inequalities | Not directly relevant to this decision |
| Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related | N/A |

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|----------------------------|---------------------|
| Statutory Guidance) | |
| Ward affected | Weeley and Tendring |

PART 3 – SUPPORTING INFORMATION

| BACKGROUND |
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| <p>Cabinet agreed transformation proposals on the 16 December 2016 which included disposing of a number of Council facilities, Weeley Offices being one of them.</p> <p>On the 17 December 2021 following an invitation of bids from two special purchasers, Cabinet agreed a disposal to the successful bidder, delegating authority to agree Heads of Terms on the principles set out in the report.</p> <p>Heads of Terms were agreed by the then Leader, the then Portfolio Holder for Housing and the Corporate Director (Operations and Delivery), Section 151 Officer and Monitoring Officer on 25 April 2023 as delegated by Cabinet.</p> <p>Following agreement of the Heads of Terms, which are not legally binding, negotiations have been ongoing in order to finalise the Option Agreement to legally bind Tendring District Council and the successful bidder to the deal, in order for them to start investing money on designing their scheme and applying for planning consent. The negotiations have now hit a stalemate due to differing legal opinions between the parties.</p> |
| PREVIOUS RELEVANT DECISIONS |
| <ul style="list-style-type: none"> • Decision by the then Leader of the Council 25 April 2023 – to agree formal Heads of Terms for the sale • Cabinet decision 17 December 2021 – to proceed with the sale of the Weeley site • Cabinet decision 16 December 2016 – to sell the Weeley site as part of the transformation project |
| BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL |
| None |

| APPENDICES |
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| None |

| REPORT CONTACT OFFICER(S) | |
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| Name | Jennie Wilkinson |
| Job Title | Property & Projects Manager |
| Email | jwilkinson@tendringdc.gov.uk |