



Sale of land at Thurcaston Road, Ashton Green and construction of new estate road

Decision to be taken by: City Mayor
Decision to be taken: 8 February 2023
Lead director: Andrew Smith

Useful information

- Ward(s) affected: Beaumont Leys
- Report author: Greg Pollard
- Author contact details: 37 2137
- Report version number V1

1. Purpose of report

This report is to seek authority for a freehold disposal of 6.36 acres of land at Thurcaston Road, Ashton Green, shown edged red on the plan attached at Appendix 1, to Walkers Snack Foods Ltd, and for the construction of a new estate road to serve the property and adjoining land for future employment development.

2. Summary

This report seeks authority for the disposal of the council's freehold interest in land at Thurcaston Road, Ashton Green, to Walkers Snack Foods Ltd to create a central potato washing & grading / waste based fertilizer pilot plant for use linked to operations at their main plant at nearby Bursom Road. In addition, a new estate road is to be constructed to serve the property and also create a new means of access to unlock adjoining land for future employment development at Ashton Green.

3. Recommendations

It is recommended that approval is given to:

- the freehold disposal of 6.36 acres of land at Ashton Green, as detailed in the report, to Walkers Snack Foods Ltd.
- a sum of £2.25m be added to the Capital Programme for the construction of a new estate road to serve the disposal property and adjoining land for future employment development.

4. Report/Supporting information:

4.1 The Council has been approached by Walkers Snack Foods Ltd with a proposal to purchase a freehold interest in land at Ashton Green to build a central potato washing & grading / waste based fertilizer pilot plant.

4.2 The proposed disposal site, shown edged red on the plan attached at Appendix 1, is within an area allocated for employment use in the existing local plan.

4.3 A one-to-one disposal is considered appropriate in this instance for the following reasons:

- Support for a long established major city employer for their investment plans to expand and consolidate their existing operations in Leicester
- The specific locational requirements for the plant to be near to their existing main factory and to consolidate current dispersed activity into one plant
- Creation of at least 42 new jobs which represents an average number of jobs per floorspace compared with city/sub-regional comparators
- Environmental benefits including support to move towards net zero carbon and contribution to the City Climate Emergency Plan – The plant will significantly reduce water use by creating a central potato washing and grading operation; the washing process will reclaim soil which will be returned to farmer's fields; and waste will be reduced/recycled by converting the waste product into fertilizer

4.4 As the proposed freehold disposal is on a one-to-one basis, independent market valuation reports have been obtained. The two reports state that if the property in question was sold on the open market, with the benefit of an adopted estate road and services, it would have a market value of between £3,500,000 and £3,550,000. The purchaser has offered in excess of valuations for the property and therefore best consideration for the disposal of an interest in land can be obtained and the requirements for a disposal on a one to one basis as set out in the Council's Framework for the Disposal of Property can be satisfied.

4.5 Heads of terms have been negotiated for the proposed freehold disposal via a 12 month conditional contract and the key/standard points are summarised below.

4.5.1 The contract will be conditional on:

Walkers Snack Foods Ltd (the Purchaser):

- a) obtaining detailed planning permission for Use Class E on the property including the construction of an estate road,
- b) expiry of the planning challenge period,
- c) the Council, as landowner, approving the plans (including the estate road and associated drainage infrastructure for the property and the estate road) prior to being submitted for planning permission,
- d) site investigations being completed to ascertain that there are no adverse ground conditions or, if there are, a solution will have been devised to deal with these issues.

4.5.2 The purchaser (via its selected developer) will construct on behalf of the Council an estate road (including associated drainage infrastructure for the property and the estate road) to serve the property and adjoining potential employment development land. The Council will fully reimburse (up to an agreed capped figure of £2.25m on an open book cost review basis) the purchaser for the cost of providing the new estate road which is to be adopted by the Highway Authority.

4.5.3 The property is to be used only for such purposes as shown in plans previously approved by the Leicester City Council (as vendor) and for which detailed planning consent has been obtained.

4.5.4 The purchaser will be responsible for the Council's surveyor's and legal costs amounting to 1% of the purchase price.

4.5.5 The purchaser will pay the Council a deposit of 7.5% of the purchase price upon entering into the conditional contract.

4.5.6 The property and the estate road (including drainage infrastructure associated with the estate road and property) shall be completed (subject to any approved extensions) within 24 months of the sale completion date.

4.5.7 If the development has not been completed within 24 months of the sale completion date the then owner of the freehold interest will be required (subject to any funder step in rights) to offer that part of the property which has not been completed back to the Council at a figure pro rata to the purchase price or at its then current market value, whichever sum is the lower.

4.5.8 Details, including the land sale value, are contained in Appendix 2 marked "Not for Publication" because it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended: i.e. "Information relating to the financial or business affairs of any particular person (including the Authority holding that information)". Appendix 2 will be published on the decision page of the Council's website once contracts have been entered into.

4.6 A new estate access road off Thurcaston Road (see location at Appendix 1) is to serve the proposed Walkers development but also to provide a new means of access that will unlock further employment development land at Ashton Green and consequently the potential for additional job creation. The new road will be designed to meet the council's highway and drainage adoption requirements and will be constructed by the developers of the proposed Walkers plant.

4.7 The cost of the new road and drainage infrastructure has been reviewed and agreed as appropriate by the council's cost consultants at a maximum of £2.25m. This sum will be required to be added to the council's Capital Programme and represents an up-front infrastructure cost essential to release additional development parcels which can then be sold by the council. Costs incurred by the developer for construction of the new infrastructure, to be reimbursed by the council, will be subject to an open book approach to ensure the council receives best value. Under the land sale legal agreement, any costs in excess of the maximum figure will be borne by the developer.

5. Financial, legal and other implications

5.1 Financial implications

5.1.1. This report is proposing the sale of a plot of land for an amount in excess of the valuation of circa £3.5m, and the use of up to £2.25m of that receipt to facilitate the sale through paying for the construction of an access road. The capital investment into an access road will release further increases in value to neighbouring plots held by the Council.

Stuart McAvoy – Head of Finance

5.2 Legal implications

5.2.1. The land edged red on the plan will be disposed of first (by way of a freehold transfer) to the purchaser, Walkers Snack Foods Limited. The purchase price has been agreed together with an overage of 50% of any development profit above a 12.5% return on cost. The purchaser is under an obligation, within 24 months of the date of the completion of the disposal of the red edged land, to construct an access road to serve both the red edged land and adjoining land. As set out in paragraph 4, this obligation will be performed in due course by Walkers' selected development partner in place of Walkers. These works will be carried out on the Council's land under licence. The vendor (the Council) is also obligated to reimburse the purchaser up to a maximum of £2,250,000 plus VAT for the provision of the access road.

5.2.2. Local authorities have powers to dispose of land and property subject to the obligation to secure the best consideration that they can reasonably obtain for the land, pursuant to the provisions of s.123 of the Local Government Act 1972 (as amended). In applying the provision of section 123 Local Government Act 1972 (section 123) case law provides guidance on the approach to be taken. There is no strict obligation to conduct a competitive marketing process however, without this, officers cannot be absolutely certain that best consideration has been achieved. (Without open marketing there is the potential risk that a higher value could have been achieved through exposure to the market.). However, in this instance, the Council has obtained two independent valuations and officers are therefore satisfied that "best consideration in all the circumstances" for the disposal is being achieved.

The intention to dispose of the property at best consideration on the basis of a one to one transaction without open marketing for the purposes set out in this report, will need to be in accordance with the Property Disposal Policy Framework adopted as part of the Council's Constitution. The Executive should be satisfied that the disposal accords with the relevant provisions of the Framework relating to exemptions for one to one disposals.

The Council will also need to ensure that the Council's general fiduciary duty is complied with in disposing of assets in accordance with the Disposals Framework. The sale documentation will need to contain provisions which will secure the achievement of the benefits set out in this report or the terms disclosed.

Mitchell Ball Freeths LLP and Zoe Iliffe, Acting Principal Lawyer, Legal Services, ext. 37-2180

5.3 Climate Change and Carbon Reduction implications

The climate emergency implications for this report are as below:

Commercial buildings are a significant source of carbon emissions in Leicester and reducing emissions from new development is a vital part of work to address the climate emergency and meet the council's ambition for carbon neutrality in the city. If the land is sold opportunities to encourage the new occupier to achieve a high level of energy efficiency and a reduction in carbon emissions for any new buildings should be pursued wherever possible, including any measures specific to the nature of the development.

Any building works will nonetheless be required to follow building regulations and policy CS2 of the Adopted Leicester Core Strategy where applicable, which require best practice in terms of minimising energy demand for heating, ventilation and lighting, achieving a high level of fabric efficiency, and the use of low carbon or renewable sources of energy.

Aidan Davis, Sustainability Officer, Ext 37 2284

5.4 Equalities Implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't. Due regard to the Public Sector Equality Duty should be paid before and at the time a decision is taken, in such a way that it can influence the final decision.

The PSED cannot be delegated and therefore, the responsibility remains with the authority to put into place mechanisms by which these statutory duties can be stipulated as a requirement and monitored.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This report seeks authority for the one to one freehold disposal of 6.36 acres of land to be developed for employment purposes and the construction of a new estate road.

There are no direct equality implications arising from this report, however a key consideration in relation to future development of the sites, is accessibility of the space. The design of the space should adhere to accessible design principles in order to ensure that people with different protected characteristic/s are able to access and utilise the space to its full potential.

Surinder Singh Equalities Officer Ext, 37 4148

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

None

6. Background information and other papers:

None

7. Summary of appendices:

Appendix 1 – sale plan and location of access road

Appendix 2 – agreed detailed heads of terms (Not for Publication)

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

The decision report is a public report, but Appendix 2 is marked “Not for Publication” because it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended: i.e. “Information relating to the financial or business affairs of any particular person (including the Authority holding that information)”. Appendix 2 will be published on the decision page of the Council’s website once contracts have been entered into.

9. Is this a “key decision”?

Yes.

10. If a key decision please explain reason

The proposal will involve the Council incurring expenditure of over £1m for the construction of the new estate road.

Appendix 1

Plan showing site subject to sale and location of proposed estate road

