



# NORWICH City Council

**Committee name:** Cabinet

**Committee date:** 18/10/2023

**Report title:** Disposal of assets (non-housing) acquired by the Revolving Fund

**Portfolio:** Councillor Stonard, Leader of the council

**Report from:** Executive director of development and city services

**Wards:** All wards

**OPEN PUBLIC ITEM**

**KEY DECISION**

## Purpose

To request delegation of authority for disposal of non-housing assets acquired by the Revolving Fund.

## Recommendation:

That Cabinet:

Delegate authority to the executive director of development and city services, (in consultation with the Leader of the Council and Section 151 Officer), to:

- 1) Dispose of land north of Windmill Rd ensuring that development takes place within a specified timescale through use of a development agreement specifying delivery milestones;
- 2) Dispose of any subsequent sites acquired via the Revolving Fund ensuring the council's obligations to achieve best consideration for sites are fulfilled

## Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.

- Norwich City Council is in good shape to serve the city.

This report meets the 'Norwich has the infrastructure and housing it needs to be a successful city' and 'Norwich City Council is in good shape to serve the city' corporate priorities.

This report addresses the 'provide and encourage others to provide new homes, open spaces, and infrastructure for residents' and the 'secure and manage funds from a range of sources to invest in the city' priority or action in the Corporate Plan

This report helps to meet *housing strategy* adopted policy of the Council

This report helps to meet the housing, regeneration, and development objective of the COVID-19 Recovery Plan

## **Background**

1. In 2020 the Council acquired the former site of the Kings Arms public house at 100 Mile Cross Road through the Compulsory Purchase process. The site had lain derelict for a number of years and had become an eyesore and a magnet for anti-social behaviour. Construction of five houses for social rent was completed in November 2022, the success of this project led to the Council seeking to replicate it on other stalled sites.
2. In 2021 the Council received £4.9m of capital and £0.5m of revenue funding for its Revolving Fund, which operates within Norwich City Council's Towns Deal programme. The Revolving Fund has the objective of unlocking long-term stalled or distressed brownfield sites and will enable the delivery of residential and mixed-use development to meet the needs of a growing and dynamic city economy and support regeneration. The Revolving Fund allows the Council to bring forward derelict, vacant and unused sites to improve Norwich, bring forward much needed new housing, attract further investment and address problem sites that blight their neighbourhoods.
3. This is achieved through the acquisition of stalled sites with the intention of then selling them on for development. The Revolving Fund provides the resources to cover the costs and risks associated with these site acquisitions, whether through negotiation with the landowners or through Compulsory Purchase Orders (CPOs). It also covers the costs of securing a deliverable planning consent, where required.
4. The risks associated are managed via a thorough site selection process, assessing sites for suitability against strict criteria, prior to any decision on acquisition. The Council's decision-making is supported throughout by expert advice from a multi-disciplinary property consultancy, who lead on examination and assessment of sites and engagement with their owners.
5. Where negotiation with owners appears unsuccessful and sufficient justification exists for acquisition of sites via a Compulsory Purchase Order, Cabinet approval to undertake all steps required to prepare and serve a CPO is required.
6. In February 2022 Cabinet agreed to delegate authority to the executive director of development & city services (in consultation with the leader of the Council, portfolio holder for resources, portfolio holder for sustainable and inclusive

growth and S151 Officer) to negotiate and purchase sites using the Revolving Fund.

7. Following appointment in December 2021, the Council's property advisor assessed a candidate list of sites for potential acquisition by the Revolving Fund. Owners were contacted in order to establish their intentions regarding site development and potential delivery routes considered.
8. The Council's advisor undertook valuation work on all candidate sites, these formed the basis of offers to the owners to acquire in line with the statutory Compensation Code. This ultimately resulted in the purchase of land to the north of Windmill Rd.
9. The council intends to dispose of the Windmill Rd land whilst ensuring that a prospective developer is willing and capable of delivering development within an acceptable timescale. Future disposals are expected to use a similar approach, therefore the recommendation made to Cabinet covers Windmill Rd *and* future disposals from the Revolving Fund.

#### **Land north of Windmill Road**

10. This land was identified as a priority for acquisition in phase 1. It was subject to historic planning permissions which have failed to be implemented or have seen formal implementation of a consent followed by inactivity. Details of the planning history follows.

<b>Planning history</b>
2015 – Consent 14/00847/F granted for erection of 17 dwellings
2019 – Consent granted for 17 dwellings 19/00971/F (one further year's permission granted)
2021 - Application 21/01405/D confirmed that commencement had taken place within the one-year period.

11. It benefits from planning permission for 17 dwellings (19/00971/F). The previous owner (Urban Regeneration (Anglia) Ltd) undertook some trenching works on the site, these constitute a technical implementation of the planning consent. There appear to be no impediments to development of the site in line with the consent.
12. The site is subject to a section 106 agreement covering the adjacent Aldi store, which required construction of affordable housing on the adjacent site. This has been constructed, therefore no further affordable housing provision is required on the Windmill Road site. Nonetheless, the site's previous owner faced commercial challenges in reaching agreement with potential developers of the site.
13. Following commencement of the Revolving Fund programme, the Council's property advisor undertook a valuation of the site in April 2022 and subsequently made contact with the site owner in order to discuss options for development.

An initial offer was made (and declined) in August 2022, and a second offer made in January 2023. The council acquired the freehold of the site in June 2023, comprising two titles, NK518377 and NK359115.

14. The council intends to secure disposal of the site in line with the timeline as follows:

- |   |                       |
|---|-----------------------|
| • Engagement with Registered Providers            | Sept-Oct 2023         |
| • Marketing                                       | October 2023          |
| • Cabinet approval to dispose                     | October 18 2023       |
| • Due diligence on potential buyer / conveyancing | October-November 2023 |
| • Completion of sale                              | December 2023         |

## **Consultation**

15. Member consultation to date is as follows:

- All-Member briefing covering the objectives of the Revolving Fund and providing an overview of candidate sites identified to date – 4 February 2022. Members were supportive and expressed interest in being kept informed of developments within their ward.
- Catton Grove ward members were contacted on 4 October 2023.
- Portfolio Holders' briefing (3 October 2023). Leader has been fully briefed, and is supportive of the recommended approach.

## **Implications**

### **Financial and resources**

16. Any costs arising from site disposals will be offset against the associated capital receipt, with the balance of the receipt being ringfenced to support the capital Revolving Fund budget in future years.

17. The Revolving Fund budget was initially formed from Towns' Deal funding and for 2023/24, a budget was approved of £3.640m. It is anticipated that any of this budget that remains unspent at the end of 2023/24, will be requested to be carried forward for utilisation in future years.

18. The council will seek to maximise the value of sites on disposal, subject to due diligence intended to ensure a prospective purchaser has the capacity to deliver within the stipulated timescale.

### **Land value of the Windmill Rd site**

19. The council's property advisor, Avison Young, undertook appraisals under various development scenarios during 2022, which demonstrated that development under the extant consent is viable and delivers a land price in line with that recently paid by the council to acquire.

20. The price paid for the Windmill Rd site reflects the land price plus additional costs arising from Compulsory Purchase, since the purchase took place 'in the shadow' of CPO and was therefore subject to additional heads of claim due.

Stamp Duty Land Tax paid on the site should also be presumed unrecoverable. Accepting some loss may be justified under the Council's broader objectives to bring forward much-needed homes on stalled sites.

Land value under 2022 residual value appraisal (the 'land price')	593,000
Additional CPO heads of claim and agent's fee	90,790
Stamp Duty land Tax	30,827

21. Since the council is prioritising development of the site in the shorter term, the most efficient and lowest risk approach would be delivery of the extant planning consent. However the council would be open to a revision of the consent by a buyer so long as this took place within an acceptable delivery timescale, covered in a Development Agreement.

### **Approach to Disposal**

22. In order to demonstrate that best consideration can be demonstrated, some soft market testing has been undertaken, including discussion with Registered Providers and with Lion Homes. This will be followed by a process of open marketing, advertising the site via the council's website and through property websites.
23. The intended approach is that the freehold is offered for sale via a development agreement committing the buyer to a start on site and completion in line with specified milestones. Sales information is to make clear that the council is open to an agreement whereby the payment for land is phased, or is back-ended, which may be advantageous for the cashflow of the purchaser.
24. Offers for the site to confirm how the buyer intends to comply with the development programme published in the sales pack. This approach is intended to allow the council to exclude speculative buyers with no proven route to delivery, and to allow credit to be given where capability is clearly demonstrated.
25. The Development Agreement is to include a remedy whereby the council may buy back the site for £1 in the event of no commencement in line with agreed milestones. Buyback value in the event of a commencement but subsequent failure to complete is to be subject to a RICS valuation / resolution by a third party, since works undertaken by the developer may have increased (or potentially reduced) its value.

### **Legal**

26. By virtue of section 123 of the Local Government Act 1972 the city council has the necessary statutory powers to dispose of its land. This section also states that on a disposal, the council are under a statutory obligation to obtain the best consideration that can reasonably be obtained for the land which is usually achieved by disposing of the land at auction or on a tender basis. Whilst this can be achieved through obtaining a Red Book valuation and pricing the land accordingly, the public profile of the Towns Fund and need for transparency has informed the proposed approach of disposal via open tender.

27. Whilst the council wishes to maximise the potential receipt back into the Revolving Fund, ideally through securing a price matching that paid for the land, this is not the sole consideration. Ensuring the site is developed promptly is of equal priority due to the Revolving Fund's stated objective to unblock stalled sites. There would therefore be potential reputational issues in the event of significant delay.
28. This consideration drives the need to dispose with a legal Development Agreement in place so that the site can be recovered by the council in the event the new owner fails to make meaningful progress towards development within an agreed timescale.

### **Equality Duties**

29. No specific equality duties are thought to arise as a result of disposal. The Council will keep its duty under the Equality Act under review and report further as required.

### **Human Rights**

30. No specific Human Rights considerations are thought to arise as a result of disposal. The Council will keep its duty under the Act under review and report further as required.

### **Statutory considerations**

<b>Consideration</b>	<b>Details of any implications and proposed measures to address:</b>
Equality and diversity	No specific considerations arise from the recommendations on disposals.
Health, social and economic impact	Positive effect – Provision of housing on sites (which may include affordable housing) improves access to decent housing.  Construction of housing provides support to local business, supply chains and creates employment opportunities.
Crime and disorder	Vacant sites provide opportunities for fly-tipping and anti-social behavior and may also increase fear of crime among local residents. A well-designed housing development on the site eliminates this.
Children and adults safeguarding	The project will have minimal impact in this area.

Consideration	Details of any implications and proposed measures to address:
Environmental impact	<p>Neutral effect</p> <p>Regeneration of an eyesore site at Windmill Rd will have a positive impact on perception of the locality.</p> <p>Redevelopment will inevitably have some negative impact on energy and climate change. Impacts on both energy use and embodied energy will be minimised as far as possible through design (through planning and building control process).</p> <p>The Windmill Rd site is sustainably located, with good access to local services and the city centre by foot, cycle and bus.</p>

## Risk management

Risk	Consequence	Controls required
Financial Risk – failure to fully recoup original price paid for Windmill Rd site	Some diminution of the Revolving Fund capital allocation	<p>None required – there is an acceptance that some diminution of the RF will occur over time</p> <p>Nonetheless, the council will seek to maximise the receipt from sale of the site.</p>
Reputational risk to council arising from failure to fully recoup price paid for site(s)	Public criticism of council – it could be seen as having overpaid for the site.	<p>An agreed Communication strategy is in place.</p> <p>There is demonstrable public support for the Council taking robust action to ensure stalled sites are developed for housing, hence the development of the Revolving Fund.</p>
Preferred delivery routes for the sites may be influenced by movement in market or construction cost inflation, causing delay.	Delay in commencement on site, or programme delays during construction	<p>Site(s) to be sold with a development agreement in place so that the council can regain the site if critical milestones are missed without good reason.</p> <p>Due diligence to be undertaken on potential buyer to assess their capability to deliver within required timescale.</p>

## Other options considered

31. A 'do nothing' option is not realistic in this case. A sale is required in order to recoup value from the site for the Revolving Fund and to ensure housing is delivered. Without the Council's intervention it is likely that the site would have remained derelict for years to come, remaining a blight and providing no benefit to the community.
32. Preferred option – sale of the site at Windmill Rd under the terms of a development agreement enforcing a start on site within an agreed period and allowing the council to regain the site in the event of non-compliance without good reason.



33. The land at Windmill Rd is the first site acquired via the Revolving Fund to be subject to sale, Cabinet has also been asked to approve delegated of disposal of future Revolving Fund sites using a similar approach.

#### **Reasons for the decision/recommendation**

34. The Windmill Rd site has lain undeveloped for a number of years. It was assessed by the Council's appointed property / CPO expert prior to acquisition and deemed deliverable. Acquisition by the Council (through the Revolving Fund) would address the block to development. CPO was deemed justifiable and likely to succeed, however the site was acquired through negotiation. Certain development options were considered but are not recommended here as options since they are less likely to result in timely delivery of housing on the site:

- i) Joint venture with another party – this approach would be legally complex and time-consuming, and is not justified on a site of this small size whose delivery is not considered problematic.
- ii) Self-delivery by the council with retention of properties by the HRA – this approach (which was used on the site of the former Kings Arms pub) would not result in a capital receipt to the Revolving Fund; also delivery would be challenging within the current HRA financial envelope.

35. Adoption of the proposed approach in which a development agreement is used to ensure timely development is intended to ensure that development on the site takes place within an acceptable timescale.

36. Future sites acquired through the Revolving Fund and disposed of via the proposed delegation arrangements will be subject to the same process and controls.

#### **Background papers:**

**None**

#### **Contact officer:**

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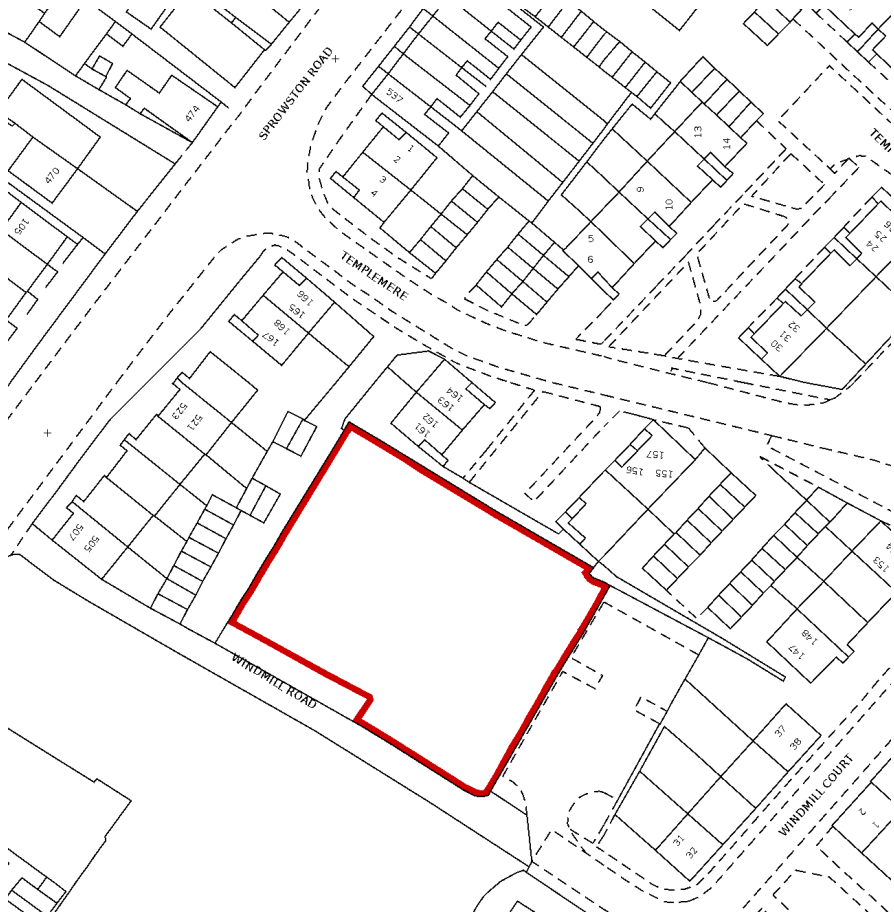
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Appendix:

Plan – title NK359115



Plan - title NK518377

