



CABINET

6 SEPTEMBER 2016

LGSS DIRECTOR OF FINANCE: MATT BOWMER

**CABINET MEMBER WITH RESPONSIBILITY FOR PUBLIC PROTECTION,
STRATEGIC INFRASTRUCTURE & ECONOMIC GROWTH:**

ANDRÉ GONZALEZ DE SAVAGE

Subject:	A decision, to amend access rights over the County's land at Wootton Hall Park, to facilitate the development of a new academy school on adjoining land, in the ownership of Northamptonshire Office for The Police and Crime Commissioner (NOPCC). Such agreement to be at less than best consideration.
Recommendations:	That Cabinet authorises the following:- 1. The County Council enter into an Agreement with the Northamptonshire Police and Crime Commissioner to grant access to the Police Headquarters building at Wootton Hall Park to be used for educational purposes. 2. The County Council agrees to a granting of the rights of access, in respect of the use of part of the Police Headquarters site as an Academy School, at less than best consideration in pursuance of its duties as Education Authority and Wellbeing Powers. 3. That as a condition of this resolution, the NOPCC and NCC impose claw back/uplift clauses that would allow NCC to benefit in the event that all or part of the site is subsequently sold.

1. Purpose of Report

1.1 The ownership of Wootton Hall Park is split between Northamptonshire County Council (NCC) and NOPCC. The NOPCC has undertaken to create a new Four-Form-Entry all-through Academy on the existing Police Headquarters site. In order to deliver required school places in Northampton, the County Council is supportive of this proposal.

1.2 To free-up the NOPCC site for development, agreement is required from NCC, in respect of its adjoining landholdings, and in particular its control of the access to the Headquarters site. In a commercial transaction between the parties, NCC's interest would have a significant financial value. This report seeks a resolution to enter in to the appropriate agreements at "less than Best Consideration" in pursuance of its duties under the Education Acts and powers of Wellbeing,

2. How this decision contributes to the Council Plan

The Council's vision is to make Northamptonshire a great place to live and work. This is achieved through increasing the wellbeing of your county's communities and/or safeguarding the county's communities.

This initiative specifically delivers increased wellbeing and/or safeguarding by:
<ul style="list-style-type: none">• Contributing to creating safer communities• Contributing to creating healthy communities• Contributing to creating prosperous communities• Creating a Sense of Place• Providing choice and self-service
And Through:
<ul style="list-style-type: none">• Ambitious Partnerships• Use of the Asset Utilisation Strategy• Fair contributions

3. Background

3.1 Wootton Hall Park is a site which in its entirety comprises land in the ownership of NCC and NOPCC (see site plan at Appendix 1).

3.2 The wider site currently provides office, response and ancillary accommodation for the Police, Fire & Rescue Service and East Midlands Ambulance Service as well as offices for NCC's Trading Standards, and Archaeology delivery partners, MOLA. A joint NCC and Police Staff Social Club has managed playing fields and recreation facilities on site.

3.3 NOPCC have undertaken a review of their occupation of the site and concluded that it will not form part of its operational requirements going forward. In consultation with the Education Funding Agency (EFA) they have developed proposals to establish an Academy based on Applied Crime Science, on the HQ site.

3.4 In order to develop the Police HQ site, access has to be gained over land falling within NCC's ownership. The current access is restricted to its existing use for the NOPCC and, to allow its use in connection with any alternative development, new access rights will need to be granted by the Council.

- 3.5 NOPCC is required to obtain best consideration in respect of its property transactions. In this case best consideration is expressed as market value for alternative uses. NOPCC has received independent advice that Market Value is in the order of £5.45 million for this site. NCC can, because of its interest in the adjoining land, claim ransom from the NOPCC; which would be expected to be between one third and a half of the uplift in value attributable to the development of the site.
- 3.6 Because of its duties as Education Authority in relation to the provision of school sites, NCC is generally expected to transfer land in its ownership to the EFA for the purposes of establishing a new Academy School, at nil cost. In this case NCC has what is an equitable interest in the land transaction, but it is argued that the same principle should hold in this case and, and to allow the school to be brought forward at Wootton Hall, NCC should forgo its share of the market value.
- 3.7 The current proposal is therefore that the NOPCC and NCC dispose of the freehold interest in Police HQ site to the EFA, together with sufficient rights of access to enable the development of the site as an Academy School. The NOPCC will receive its full proportion of the site value, which is a net figure of £3.45m, and NCC will forego its proportion of the site value which as a maximum would be in the sum of £1.65m.
- 3.8 NCC is generally required to seek the Secretary of State's consent when disposing of land at less than best consideration. However, it can dispose of interests without seeking consent through powers granted by the General Disposal Consent (England) 2003, where NCC considers that a disposal at undervalue will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area, where the undervalue does not exceed £2m.
- 3.9 The disposal at undervalue does provide benefits to NCC which can be weighed against the foregoing of the capital receipt:-
- 3.9.1 NCC is facing significant pressure to deliver new school sites across Northampton, including a need for additional secondary school sites. These sites are not at present being delivered through new growth communities and s.106 agreements, and it is likely that NCC will need to secure and purchase additional sites to provide capacity. Whilst it is not possible to provide a financial value of an alternative site without knowing its location and characteristics, it is not unreasonable to assume that a new site secondary school site would require 5 to 10 acres of land for development, together with land for playing fields and ancillary space. The purchase price of such a site is likely to exceed
- 3.9.2 In addition the proposed joint disposal of land to the EFA will restrict the access to existing and School use, so any development of the land for commercial uses in the future will require payment of overage to NCC and the NOPCC

4. Consultation and Scrutiny

- 4.1 Consultation has been undertaken with relevant Cabinet Members in the drawing up of this report. Council officers and representatives of the NOPCC and EFA have contributed to the proposals set out in the report. Legal and financial advice has been provided.

5. Alternative Options Considered

- 5.1 Require full consideration. This may bring a capital receipt of £1.65 million but would require the EFA to provide further funding to bring forward the school site which they have indicated is not available and would be in contradiction of the usual arrangements in respect of Council owned land required for the provision of new schools. Because the NOPCC does not have the Council's wellbeing powers, they are unable to subsidise the creation of the school. There is significant risk, therefore, that the development of the new school would not be progressed.
- 5.2 Refuse to treat with the NOPCC and EFA. This would frustrate the development of Wootton Hall as a school. It would leave it open to gain ransom over any future development of the site. It would be likely to be the cause of worsening relationships between two key Council partners. Wider discussions over the future of Wootton Hall Park might be prejudiced.
- 5.3 Require some lower level of payment. At the moment the Council is bearing the total level of subsidy in respect of the land transaction. It could require either of the other two parties to share in this. The NOPCC does not have the powers to agree to this. The EFA will be making substantial grants to facilitate the development of the school and would not normally expect the Council to receive payment for land that it provides for schools use. The request is likely to prejudice the bringing forward of this school, therefore.

6. Financial Implications

- 6.1 By agreeing to the proposal the Council will be forgoing a maximum £1.65 million of Capital Receipts. The Council is able to do this because its requirement to obtain best consideration is subject to its Wellbeing Powers as set out below.
- 6.2 The potential receipt does form part of the County Council's targets in respect of its 5 year property disposals programme and there will therefore be a significant pressure on the Capital Programme in 2017/18. Other property sales will need to be brought forward to meet capital programme requirements in order to avoid the potential for higher levels of borrowing being incurred.

7. Risk and Business Continuity Management

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
Pressure on Capital Programme	Seek to deliver opportunities over and above the current Property Disposals programme	Amber
		Red/Amber/Green
		Red/Amber/Green

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
Under Delivery of School Places in Northampton	Amber

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Loss of funding from the Education Funding Agency	Amber
	Red/Amber/Green

8. List of Appendices

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Background Papers:	
Does the report propose a key decision is taken?	YES
If yes, is the decision in the Forward Plan?	NO
Will further decisions be required? If so, please outline the timetable here	NO
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)? Have any capital spend implications been cleared by the Capital Investment Board (CIB)	YES Name of SFM: Rosemary Pallot NO
Has the report been cleared by the relevant Director?	YES Name of Director: Matt Bowmer
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: Robin Brown
Has the relevant scrutiny committee been consulted?	NO Scrutiny Committee:
Has the report been cleared by Legal Services?	YES Name of solicitor: Duncan Bisatt
	Solicitor's comments:
Have any communications issues been cleared by Communications and Marketing?	YES Name of officer: Joni Ager
Have any property issues been cleared by Property and Asset Management?	YES Name of officer: Roger Moore
Has an Equalities Impact Assessment been carried out in relation to this report?	PLEASE INCLUDE LINK HERE
Are there any community safety implications?	None arising directly from this report
Are there any environmental implications:	None arising directly from this report
Are there any Health & Safety Implications:	NO
Are there any Human Resources Implications:	NO
Are there any human rights implications:	NO