

REPORT TITLE: A LAND TRANSACTION IN RESPECT OF THE RIVER PARK LEISURE CENTRE SITE AND ASSOCIATED PARKING AREA, BOWLS CLUB AND SKATE PARK

9 MARCH 2022

REPORT OF CABINET MEMBER: Councillor Kelsie Learney Cabinet Member for Housing and Asset Management

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WARD(S): ST BARTHOLOMEW

PURPOSE

The University of Southampton has approached the council to express an interest in acquiring the former and now decommissioned River Park Leisure Centre, bowls club and skate park hereinafter collectively referred to as “the Site”.

This report summarises the objections received in response to the statutory advertisement required for the disposal of open space and then proposes entering into an agreement for the disposal of the Site to the University of Southampton (“the Agreement for Lease”). The objections have been considered and an agreement to amend the Heads of Terms has been secured in order to ensure that the skatepark is leased back to the council so that the continuation of the skate park is secured under the council’s management.

If the report is agreed, there is a five year period during which the University must use reasonable endeavours to bring forward their proposal for a transformational development to the existing Winchester School of Art campus, working with local residents and partners to secure the best outcome for Winchester.

RECOMMENDATIONS:It is recommended that Cabinet:

1. Having considered the objections received as a result of the public notice under s123(2A) of the Local Government Act 1972, approval is given to enter into an agreement to dispose of the land known as River Park Leisure Centre, Gordon Road, Winchester, as identified by the red line on the plan at Appendix A ("the Site"), to the University of Southampton on a 150 year lease.
2. Agree the Heads of Terms as set out in Appendix B, subject to an amendment in order to ensure that the skatepark is leased back to the council. The Heads of Terms include a five year 'longstop date' during which period the University of Southampton will investigate and apply for planning consent, with the usual public notices, for their proposed development.
3. Delegate authority to the Corporate Head of Asset Management to enter into an Agreement for Lease with the University of Southampton in keeping with the Heads of Terms and the above amendment in respect of the skate park, including authority to agree the purchase price with The University of Southampton on terms that satisfy S123(2) of the Local Government Act 1972.
4. Subject to further decisions by the council as to the grant of planning permission for the University of Southampton's proposed campus scheme and as to the appropriation of those parts of the Site required for the scheme, delegate authority to the Corporate Head of Asset Management to enter into a lease of the Site with The University of Southampton in accordance with the above-mentioned Agreement for Lease.
5. Delegate to the Service Lead Legal the drafting of the Agreement for Lease and the lease, and any relevant ancillary agreements as are necessary to implement the recommendations above.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

The council has declared a Climate Emergency and is committed to sustainable development. Our Carbon Neutrality Action Plan ensures all council activity is undertaken with a view to supporting our commitment to achieving net zero carbon. We are actively working with partners to ensure that development in the district is undertaken sustainably.

The University of Southampton shares this commitment to sustainability, and their ambitions for development of their sites are set out in The University of Southampton Sustainability Strategy: 2020-2025. Their strategy aligns with our own ambitions.

The re-use of this previously developed site which provides economic, social and community benefits supports this aim.

Homes for All

1.2 This site would not be developed to provide housing which includes student housing and any other form of residential building. The Heads of Terms preclude the University using the land for housing, and the Heads of Terms form the basis of the Agreement for Lease and Lease. Housing for students using the facilities would be provided as part of the university's full development programme and any development of housing would be subject to planning approval. The council would work with the university to assist them to identify suitable sites for the provision of new purpose-built student accommodation.

1.3 Vibrant Local Economy

The UK creative industry sector is valued at £11.7bn GVA and in Winchester is growing almost 5 times faster than other areas of the economy in terms of Gross Value Added. Winchester is already well known for its strength in this area and in the architectural sector in particular. The council's Green Economic Development Strategy sets out the opportunity to build a cluster of national significance in creativity, design and related heritage and nature/land based professional services along with the opportunity to deepen a creative network of scale. This development would therefore support the economic development of the city in line with the council's already stated ambitions.

The University of Southampton is a globally top ranked business incubator. Their 'Future Worlds' initiative works with aspiring founders to launch products and services and then to scale their businesses introducing them to funders, useful contacts and advisors.

The University of Southampton is an exempt charity under the Charities Act 2011. It is a chartered corporation, established by Royal Charter in 1952.

The university has founded 15 new 'spinout' companies since 2015, with £117m invested in these concerns in 2020/21 (up from £65 million in 2019/20). These companies cover a wide range of sectors producing a range of materials and developing innovative processes (including creating non-clay gel for bone, cartilage and skin regeneration, to gamma radiation detection and brewing carbon neutral beer).

The University of Southampton shares their existing cultural expertise with other leading academic bodies to create new products, services and companies that are nurtured through the organisation's renowned business incubators.

The university is committed to providing a high-quality student experience which would deliver direct community advantage through an 'open campus' ethic. This new, innovative approach to Campus design could bring a vibrancy to the area with the provision of libraries, eat/drink venues, a flexible performance and events infrastructure, a considerate landscape and greenspace stewardship and a greatly enhanced offer to young people.

Once the development is defined, it would bring construction and professional jobs to the area. The value of these jobs can only be quantified once the masterplan is known.

In short, the university has stated that it looks to 'bring new ideas, opportunities and resources to Winchester that will complement existing efforts and build a creative cluster that will make a substantial contribution to the vibrant Winchester economy'.

1.4 Living Well

The university is already an active partner in the city, offering creative opportunities to a range of residents as part of their commitment as a Civic University. The university is seeking to deepen and widen the opportunities for local people to experience international standard creative opportunities.

At all times free public access to North Walls Recreation Ground and the Skate Park would be maintained.

There is no impact on the surrounding outdoor sports facilities on this site which would remain in place and managed by the council

1.5 Your Services, Your Voice

The River Park site is of special importance to local people and a Petition was presented at Full Council asking that the council consider the arrangements for the Skate Park.

The University have met with ward members to closely understand their views and those of the residents they represent regarding the proposal and the council and university have met with the skate park community.

The council and university have an established partnership and this proposal enhances the opportunities for people local to Winchester and district to experience world class creative opportunities.

2 OTHER STRATEGIC IMPLICATIONS

- 2.1 Vision for Winchester 2030 sets out our ambitions around promoting culture and supporting creative endeavour, supporting our post-pandemic recovery, the environmental sustainability of our economy and the long-term employability of young people.
- 2.2 The council received feedback from local people when consulting on the development of the Strategic Planning Document for the neighbouring Central Winchester Regeneration (CWR) site. The responses showed a desire locally for a greater accent on culture and an improved offering for younger people. While the CWR programme will see culture take a more prominent role in the centre of the city, the university campus potentially could enhance this being so close in proximity, whilst bringing an influx of young people who would support local shops and business and young talent to support the vibrancy of the city as a whole.
- 2.3 The council's Green Economic Development Strategy looks to support environmentally sustainable enterprise and recognises that young people are looking for opportunities to explore careers in the green economy and creative and innovative technology sectors.

3 FINANCIAL IMPLICATIONS

- 3.1 The land disposal will generate a capital receipt based on an independent assessment of "the best consideration reasonably obtainable". Under the Heads of Terms, the purchase price is to be agreed prior to executing the Agreement for Lease and paid upon the grant of the lease. Negotiation with the university will continue to arrive at a final agreed position regarding the purchase price. This decision is to be delegated to the Head of Corporate Asset Management, to be taken with the benefit of independent valuation advice.
- 3.2 The potential for a capital receipt was identified in previous reports concerning this site. These are:
 - a) CAB3093 (Future use of site dated 31 October 2018) Risk section identified an opportunity as 'An exciting use for the site might come forward generating a capital receipt or income stream' and 'A creative solution could provide a positive financial position for council tax

payers, as well as enhance the built environment, and meet community aspirations’

- b) CAB3190 (Future use of site dated 23 October 2019) risk section identified ‘An exciting use for the site might come forward generating a capital receipt or income stream’
- c) CAB3242 (RPLC Decommissioning Report dated 24 June 2020) Section 2.8 identified ‘The challenge of the COVID-19 pandemic will present budgetary pressures for the council. This may make straightforward sale of the RPLC site an attractive option. This would provide a significant capital receipt and limit expenditure of the council directly driving forward a development.’

The approach by the University of Southampton would fit as an exciting proposal as anticipated in these previous reports.

- 3.3 The financial terms for this disposal are confidential and are detailed in Appendix C which is exempt from publication. The valuation process has involved both parties appointing their own external Surveyors to prepare a valuation report. These valuation reports form the basis of ongoing negotiations between the parties in order to ensure that the council secures the best consideration that is reasonably obtainable
- 3.4 The council can use capital receipts to fund capital expenditure either for future projects or to reduce the borrowing requirement for previous unfinanced capital projects. The capacity for the council to resource future investment in its capital programme is limited, particularly for projects that would not generate income to support prudential borrowing. Capital receipts will therefore play a crucial role in funding the future capital programme, such as the “North Walls Park Plan” and other currently unfunded schemes to improve community facilities. Every additional £1m of capital receipt equates to a positive annual revenue impact of around £40,000 per annum (in the form of reduced borrowing costs).
- 3.5 The council would retain part of the car park (comprising 77 spaces). It is expected that displaced car park users will park elsewhere in the city centre and at Park & Ride facilities which may result in a small amount of lost income overall. The estimated net income for the retained spaces is £55,000 per annum. Reducing car movement in the city centre is in line with the aims of Winchester Movement Strategy.
- 3.6 The closure of the leisure centre has meant that all running costs associated with the buildings have become the council’s responsibility. Prior to sale, the council will therefore have ongoing maintenance, utilities and possibly repairing obligations estimated to be circa £80,000 per annum. Under the Agreement for Lease, the council would also be liable for demolition and remediation costs estimated at £2 million (current day prices).

- 3.7 The council also has a current business rates liability of circa £155,000 per annum for the leisure centre; although work is in progress to de-list the building. If the Site is not delisted by the time the lease is granted any ongoing liability will cease in any event.
- 3.8 Existing and ongoing maintenance costs in relation to the Skate Park are estimated at £15,000 per year. As part of the “leaseback” proposal, this liability will remain with the council for the period of the lease. These costs are already provided for in the current budget provision.

4 LEGAL AND PROCUREMENT IMPLICATIONS

Open space

- 4.1 The council has the power to agree to dispose of the Site under sections 111 and 123 of the Local Government Act 1972. Case law establishes that entering into the Agreement for Lease would not amount to a “disposal”, but that granting the lease would amount to a “disposal” for these purposes.
- 4.2 Under section 123(2A) of the 1972 Act a council may not dispose of open space unless before doing so they cause notice to be published of the intention to do so, specifying the land in question, and advertised for two consecutive weeks in a local newspaper. The council must then consider any objections to the proposed disposal.
- 4.3 Section 123(2A) defines open space by reference to the definition given in S336(1), Town and Country Planning Act 1990, as follows: “any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground”.
- 4.4 Section 13 of this report provides further detail of the process carried out to meet this obligation.
- 4.5 Careful consideration was given to the areas of the Site meeting the definition of open space for the purposes of S123(2A) Local Government Act 1972 having regard to case law including *Whitstable Society v Canterbury City Council* [2017] EWHC 254 (Admin). Officers were satisfied that the closed leisure centre itself and the leisure centre car park do not qualify as open space. This is because the leisure centre has been closed and has not been used for public recreation since late 2020, and since closure the principal use of the leisure centre car park has been as a free car park for people visiting local shops and businesses and it is not an area used for recreational purposes.
- 4.6 It is noted that the Friends of the River Park submitted that the plans attached to the notices were erroneous in omitting the above areas. This is considered to be incorrect. But, even if this point was correct, it would have no real effect on the decision-making process. Respondents, including the Friends of the River Park, appear to have had no difficulty in objecting to a change of use of the whole Site, including the leisure centre. Further, the current decision

relates to entering into an Agreement for Lease with the university to allow them to bring forward development proposals. Prior to the grant of the lease there will be substantial further opportunities for the public and stakeholders to express their views in relation to the future use of the whole Site insofar as it is affected by the proposed campus scheme, both in response to the university's application for planning permission and in response to a proposed appropriation of those parts of the Site required for the proposed campus scheme.

- 4.7 The relevant advertisement pursuant to s.123(2A) of the Local Government Act 1972, was placed in the Hampshire Chronicle from 5 January, lasting for two weeks and the Mid Hampshire Observer from Friday 7 January, also lasting for two weeks. The objections received must be considered before making any decision to dispose of the Site. The objections are summarised in section 13 of this report and at Appendices H - I.
- 4.8 The objections have been carefully considered and this has resulted in a proposed change to the Heads of Terms. This change would secure the continuation of the skate park under the council's management by way of a lease back to the council (for the same term as the university's lease).

Best consideration reasonably obtainable

- 4.9 Authority would be delegated to the Corporate Head of Asset Management to enter into an agreement for lease with the University of Southampton in keeping with the current Heads of Terms at Appendix B, which will be subject to an amendment in order to ensure that the skate park is leased back to the council, including authority to agree the purchase price with The University of Southampton on terms that satisfy S123(2) of the Local Government Act 1972.
- 4.10 When disposing of land the council has an obligation to obtain the 'best consideration reasonably obtainable' (section 123(2) Local Government Act 1972). The best consideration reasonably obtainable can be established by way of a competitive process or by a valuation exercise (or both). In this case the council may rely on independent valuation advice as to the market value of the Site. This is a tried and tested method of ensuring compliance with the section 123(2) obligation and is supported by case law. Further, it is considered to be in accordance with standard commercial practice and reasonable to agree the purchase price upon entering into the Agreement for Lease, but in final negotiation with the University it will be agreed whether or not to introduce a re-valuation mechanism prior to grant of the lease.
- 4.11 The appropriate level at which to agree the purchase price (capital receipt) will be assessed by an independent valuer in accordance with S123 'Best Consideration' principles.

Terms of the Agreement for Lease

- 4.12 A full copy of the Heads of Terms can be found at Appendix B.
- 4.13 The grant of the lease is to be conditional upon the university obtaining a planning permission satisfactory to the university for the new campus scheme together with any associated planning or statutory agreements required to implement the planning permission. There is a five year long stop date during which time the university is obliged to use reasonable endeavours to progress and seek planning consent. If this does not happen for whatever reason including if planning permission is refused, the Agreement for Lease may be terminated by either party.
- 4.14 The statutory agreements required before the grant of the lease will include a further decision by the council to appropriate those parts of the Site required for the new campus scheme: see the section below headed Statutory Trust and Appropriation. This point has been agreed with the university.
- 4.15 Under the Agreement for Lease, if a satisfactory planning permission is obtained for the university scheme, the Council commits to demolish the leisure centre building and remediate the Site, prior to granting the 150 year lease.
- 4.16 If a satisfactory planning permission is granted by the council as Local Planning Authority, and the council decides to appropriate those parts of the Site required for the new campus scheme, the council, as landowner, and the university would enter into a 150 year lease, subject to the payment of a capital sum. The capital sum for the disposal will be negotiated in accordance with the requirement to obtain the best consideration reasonably obtainable as noted above.
- 4.17 Under the Heads of Terms, the university have a further 5 years from commencement of the lease before work starts on site, failing which, the council has the opportunity to buy the site back for the same consideration paid by the university.
- 4.18 The lease would be granted subject to the existing lease to the Riverside Indoor Bowling Club, unless the university is able to relocate them to an alternative suitable location on terms acceptable to the club, but otherwise with vacant possession. The club's existing lease is dated 19 November 1997 and is for a term of 90 years commencing on 1 September 1997. It is not contracted out of security of tenure under Part II of the Landlord and Tenant Act 1954. Therefore, the club would continue to have the right to remain in its current location, notwithstanding the grant of the lease to the university.
- 4.19 Under the terms of the university's lease, the use of the Site would be restricted for the first 35 years of the term to the principal use of or in connection with tertiary education and ancillary purposes only. Throughout the term of the lease, use for residential accommodation (including student residences) or for state education or secondary provision will be prohibited.

- 4.20 A change is proposed to the Heads of Terms to secure the continuation of the skate park under the council's management, by way of a lease back of the skate park to the council (for the same term as the university's lease).

Public Procurement Regulations 2015

- 4.21 The council is not specifying the works to be carried out or otherwise contracting on terms which engage a requirement on the council to go through a procurement exercise under the Public Contracts Regulations 2015 (PCR). The council will not be specifying works to be carried out by the university or imposing an obligation on the university to carry out its development (or having any decisive influence on the design (as landowner). The council will carry out the demolition (and contract for that in accordance with the PCR and contract standing orders). The buy-back provision under the Heads of Terms operates where the University does not implement the planning permission within 5 years form being obtained and does not impose an obligation on the university to carry out works so as to bring the Agreement for Lease within the scope of the PCR.

Public consultation

- 4.22 There is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site. However, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of those parts of the Site required for the new campus scheme (see below under the heading Statutory Trust and Appropriation).

Best value obligations

- 4.23 Under S3 of the Local Government Act 1999, a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. For the purpose of deciding how to fulfil this duty, an authority must consult specified representatives. Case law establishes that the duty to consult is triggered by decisions about high-level issues concerning the approach to the performance of an authority's functions, and it is about those and not about particular implementation that consultation is required. It is not considered that the proposed decision falls into the category requiring such consultation.

Statutory Trust and Appropriation

- 4.24 The Site forms part of the council's freehold title no. HP3062 which also includes the North Walls Recreation Ground and the site of the Ancient Gateway of Hyde Abbey. This freehold title was acquired under an Indenture dated 3 July 1902 made between William Barrow Simonds and the Urban District Council of the City of Winchester, being the Winchester City Council's

statutory predecessor. The conveyance was made “for the purpose of a Public Park and Recreation Ground”.

- 4.25 In consequence, a statutory trust arose under section 164 of the Public Health Act 1875, which required the land including the whole Site to be used as “public walks or pleasure grounds”. This statutory trust would potentially bind a purchaser of the Site, including the university. However, it is open to the council to bring the statutory trust to an end, insofar as this is required to allow the new campus scheme to proceed, by means of appropriating the relevant part of the Site under S122 Local Government Act 1972 and/or by the exercise of the power under S203 Housing and Planning Act 2016 which permits works notwithstanding that they interfere with adverse rights or breach a contractual restriction.
- 4.26 More detailed consideration of these matters would be undertaken once the details of the proposed campus scheme were known, and a further decision by the council would be required for those parts of the Site required for the new campus scheme to be appropriated to enable the university’s development proposals to move forward.
- 4.27 It should however be emphasised that not only would the skate park and bowls club to continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, would be unaffected by the university’s new campus scheme. Further, there are footways around all four sides of the Site which allow public access to Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts from Gordon Road and Park Avenue.
- 4.28 The appropriation decision would be informed by a report, based on worked out development proposals, addressing the central issue under S122(1) Local Government Act 1972 of whether the relevant part of the Site “is no longer required for the purpose for which it is held”. This is a comparative test that involves consideration of whether there is a greater public need for development for the proposed new use than the current use.
- 4.29 Because the Site comprises or includes open space, any such appropriation would need to be preceded by an advertisement in two consecutive weeks in a newspaper circulating in the area, and consideration of any objections to the proposed appropriation: S122(2A) of the Local Government Act 1972. Accordingly, entering into the Agreement for Lease would not of itself change the restrictions on the use to which the Site may lawfully be put; that would require a further decision by the council to appropriate the relevant part of the Site as referred to above.

5 WORKFORCE IMPLICATIONS

- 5.1 Teams from across the council are engaged in this proposal but it is anticipated no further staffing is required other than external legal, communication and valuation advice. Ongoing staffing for all services, including regeneration projects, are included in annual budgets or individual business cases.

6 PROPERTY AND ASSET IMPLICATIONS

- 6.1 The opening of Winchester Sport & Leisure Park has offered the council an opportunity to consider options for use of the now decommissioned River Park Leisure Centre (RPLC) building and the land immediately around it. The North Walls site is an important part of the City and public access will be retained to North Walls. Pedestrian access is maintained along the side of the car park and along Gordon Road. The council will also retain some of the car park for public use so visitors who need to travel to the Site by car can continue to do so. The play park is retained in council ownership.

7 CONSULTATION AND COMMUNICATION

- 7.1 The University of Southampton and the council set out proposals for the development of the Winchester School of Art campus at a Member Briefing on 20 October 2021 and at a Public Briefing on 1 November 2021 which attracted 191 attendees. Questions raised during these sessions are summarised into 'Questions and Answers' which were published on the council's website.
- 7.2 In addition to a public meeting, individual meetings were held with the Bowls Club and Ward Members.
- 7.3 A petition was submitted in support of a lido at the North Walls Park. Members and officers met with the petition organisers to understand their ideas and shared information concerning the suitability of the Site. The petition was then presented to Full Council on 12 January 2022. The benefits of open water swimming were discussed. The response to the petition was that the council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 'River Park Leisure Centre Flood Risk Design Note'), the Site was not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the petition organisers to look at outdoor swimming opportunities in and around Winchester Town.
- 7.4 A petition was presented at Full Council concerning the future of the skate park and was debated on the 23 February 2022. [Drafting note: update this section post Full Council]

- 7.5 An Ordinary Petition asking the council to delay this decision for six months and seek further consultation with the public has been received and will be considered by Cabinet on 9 March 2022. Please see the legal section above under the heading Public consultation.
- 7.6 The potential for disposal has been referenced in prior Cabinet reports either through sale or lease. The recommended option of a long lease means that the council maintains rights as freeholder after the end of the term of the lease, which would not be available compared with a sale of the freehold.
- 7.7 The council's previous consultations and engagement relating to the Site (and the wider area) include engagement around:
- North Walls Recreation Ground – March 2019
 - Central Winchester Regeneration – November 2020 to January 2021
 - Vision for Winchester (Winchester Town Forum) – December 2020
 - The Green Economic Development Strategy – May 2021, and
 - Winchester Movement Strategy (part of Hampshire County Council's broader Movement Strategy). – Action plan consultation December 2021 to January 2022
 - Local Plan design workshops. Autumn Winter 2021 – outputs to be published as part of the Local Plan in due course

Although these consultations and engagements did not ask for specific comment on the possible future use of the RPLC site, ideas, suggestions and proposals were received and recorded. These are set out in para 12.8.

- 7.8 The Winchester School of Art is in a unique location in our city centre, bounded by residential housing and our city centre green space. The University recognise the importance working with local people to ensure that our community play a role in the development proposals. In developing its new University Strategy, this proposed development by the Winchester School of Art forms part of a wider campus enhancement aligned with the overall development plans for the university as a whole which includes a commitment to work to the principles of a Civic University.
- 7.9 Informal engagement has taken place with skate park users, and a joint meeting between the skate park users, the university and the council has taken place to give assurance that the skate park is recognised as a valuable community asset that will/can be accommodated in the development proposals.

- 7.10 As set out in the broad outline below in paragraph 15.2, the university will engage with local residents and groups from feasibility stage onwards to hear local aspirations. Local residents and stakeholders will have an opportunity to contribute as the site is masterplanned prior to planning applications being submitted for the development of individual elements of the site.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The university has demonstrated that their commitment to the environment is aligned with that of the council. They would aim to provide sustainable assets in terms of design as well as use. This would be tested within the masterplan and during the full business case phases of their development programme.
- 8.2 The University of Southampton's Sustainability Strategy: 2020-2025 defines their ambition to attain net zero emissions by 2030 for Scope 1 and 2 emissions. The organisation is making sustainability part of every university education programme by 2025 and has committed to make it a cornerstone of the research by and impact of the university's programmes. This would extend to any courses and research activity undertaken following any development on this site. The university aims for BREEAM excellence and over the last decade their new building projects have employed methods such as grey water re-use, photovoltaic cells and passive cooling to maximise the sustainability of various new buildings.

9 PUBLIC SECTOR EQUALITY DUTY

- 9.1 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, (and Cabinet must, as the decision maker in respect of the proposed decision, have due regard) to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
 - b) Advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them.
 - c) Foster good relations between persons who share relevant protected characteristics and persons who do not share them.
- 9.2 An Equality Impact assessment has been completed to assess the Impact of this decision. The Impact assessment is found at Appendix D.
- 9.3 The proposed decision would create educational opportunities and employment opportunities for younger people.
- 9.4 Ensuring the skate park stays open and providing increased access to diverse creative forms of education benefits the younger generation of Winchester.

- 9.5 Maintaining public access to the grass area and hence recreational activities such as walking, picnics and running benefits a wide group of residents particularly parents with young children, children and the elderly.
- 9.6 The Heads of Terms include maintaining the bowls club benefitting an older segment of residents and retaining access to disabled sports facilities.
- 9.7 The Agreement for Lease will ensure that public access to the North Walls Recreation Ground would be retained and that a number of onsite parking spaces are available to ensure those with protected characteristics can still easily visit the adjacent public open space.
- 9.8 Cabinet should refer to the equality impact assessment at Appendix D. Overall, the proposed decision is considered to contribute towards advancing equality of opportunity and, insofar as there may be negative impacts on some persons with protected characteristics which it is not practicable to mitigate fully, it is considered that these are outweighed by the potential benefits described at section 12 below.
- 10 DATA PROTECTION IMPACT ASSESSMENT
- 10.1 Having had regard to the Council's obligations under the Data Protection Act 2018 and General Data Protection Regulation (GDPR) 2018, it is considered that a Data Processing Impact Assessment (DPIA) is not required for this report.
- 10.2 Any data collected as a result of, any event, consultation and engagement with the project is held in accordance with the Data Protection Act 2018 and General Data Protection Regulations 2018.

11 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure Best Consideration (S123) not achieved	The Heads of Terms are not legally binding and an agreement for lease will not be entered into if Best Consideration is not achieved.	Development of tertiary education on this site represents an opportunity to make best use of council assets.
Financial Exposure The site is sold on or left in poor repair on handback	<p>The University will not be able to dispose of their interest in the Agreement for Lease. However, they will be able to dispose of their interest in the 150-year Lease once granted. Having invested substantial capital in new educational buildings, and with the Lease being subject to user restrictions, this is considered to be an unlikely risk.</p> <p>The repair of property held on long leases is subject to the provisions of the Leasehold Property Repairs Act which limits the freeholder's ability to enforce repairing covenants. It is also important to recognise that over the term of the 150-year lease there are likely to be multiple iterations of buildings on the site.</p>	The Council is proposing a long leasehold disposal instead of a freehold disposal to better safeguard the Council's future long-term interest in this site.
Risk of legal challenge	Risk of legal challenge is mitigated because due consideration has been given to whether the proposed lease arrangements fall within	

	<p>the Public Contracts Regulation 2015; it being concluded that no procurement exercise is required under the PCR.</p> <p>There would be an exposure to potential legal risk if the council failed to secure best consideration, but that risk has been mitigated by taking appropriate valuation advice.</p> <p>Procedural errors or omissions are mitigated with oversight by an appointed QC, including in relation to the later appropriation steps referred to in the report.</p>	
<p>Reputation</p> <p>Risk of reputational damage by lack of consultation</p>	<p>Public consultation by the University and the formal planning process will inform the public of future plans, maintaining the reputation of the site as a positive and exciting benefit to the city.</p>	<p>The expansion of a Russell Group university in Winchester enhances the reputation of the city locally, nationally and internationally.</p>
<p>Achievement of outcome</p> <p>Planning consent is not obtained. Development is not delivered.</p>	<p>The agreement for lease will contain a 5 year long stop date, at which point if planning permission has not been secured the agreement will be liable to termination by either party. Once planning permission is obtained, the University are subject to a further 5 year long stop for implementation under the lease (and failure will trigger the council's buy-back right)..</p>	

<p>Property</p> <p>Business rates costs</p>	<p>A business rates de-listing application is being made to mitigate ongoing costs to the council. The building has been secured and is monitored with security.</p>	
<p>Community Support</p> <p>Risk of losing community support</p>	<p>The North Walls Recreation Ground is an important local green space and the Park is not at risk through this disposal</p> <p>The increased numbers of students who may study in the city may lead to concerns regarding housing. The university is clear that appropriate provision must be made off site.</p>	<p>There is significant opportunity for the economic, academic and arts communities if the UoS proposal is realised.</p>
<p>Timescales</p> <p>Risk that the agreement for lease ties up the site for a long period prior to planning consent being granted.</p>	<p>To minimise the risk the Heads of terms include a 5 year long-stop date which will be incorporated in the Agreement for Lease.</p>	<p>This is an opportunity to design and build an important new addition to the city and create a facility fit for the future. It will take time and investment to work through feasibility and design options with input from stakeholders.</p>
<p>Project capacity</p> <p>University and council lack capacity to move the scheme forward</p>	<p>The university will be deploying a full professional team to design and manage the engagement, planning application and construction processes. The council will require resources to demolish the existing structure and manage the pre-application and formal</p>	

	planning application process.	
Failure to secure planning permission for the redevelopment of the site in the requisite time scale.	<p>There is a risk relating to the granting of planning permissions. This applies to all development proposals.</p> <p>To mitigate this, proposals would need to be developed as early as possible, and in pre-application consultation with the council, as Local Planning Authority, to ensure that the development which is subject of an application has the best opportunity to receive planning permission.</p>	

12 SUPPORTING INFORMATION:

- 12.1 The Winchester School of Art is located in the heart of the City and has, in various forms, been part of the City for over 150 years. The School is located next to North Walls Recreation Ground, a much loved and vital piece of green space for the City, along side other recreation facilities including the skate park, play park and bowls club. Until May 2021 with the opening of the Winchester Sport and Leisure Park, the River Park Leisure Centre served the City. Our historic City is compact and walkable and development proposals must sit well within the heritage context as well as provide opportunity for our residents, and future generations to live, work and play in Winchester and district.
- 12.2 The Winchester School of Art is a part of the University of Southampton, a founder member of the Russell Group of Universities. The university wishes to develop the creative offer at the Winchester School of Art to build 'a nationally and internationally recognised significant centre for art, design and creative industries education, research and innovation'.
- 12.3 With proposals to enhance the old Police Station site and the River Park Leisure Centre Site, the university has plans to expand and has identified Winchester as having the potential to be a national 'seat of learning', renowned as an international 'beacon city' of academic excellence on a level with Oxford and Cambridge.

- 12.4 Over recent months the council has been in dialogue with the University of Southampton regarding development of the Site.
- 12.5 The university has had a relationship with the city and its council for decades, largely through the presence of the art school, Winchester School of Art which itself has been a part of the city for over 150 years. Recently, in the context of shaping its plans for the growth of WSA and the improving of its campus, the university's new institutional strategy has been and approved by its governing body (the University Council). In this context, the possibility of acquiring the Site has prompted some ambitious and compelling discussions around the vision that the city of Winchester and the University can be more strategically intertwined.
- 12.6 The new University Strategy is set to support growth – not just in numbers of students, but in research and enterprise reach and impact, and in its civic role as a regional 'anchor institution', delivering significant socio-cultural and economic value. This does not immediately generate a fixed and specific plan (to move a particular activity/faculty to Winchester, for example), but rather, has suggested that the Site could provide the opportunity to do something newly creative, different and multidisciplinary in a new facility, which would have a cultural, entrepreneurial, publicly engaging presence, as well as being a centre for research and learning.
- 12.7 Considering this proposal from the University of Southampton supports the Council Plan, such that it provides a use for this land asset which is anticipated to bring considerable benefits to the city. Other options for redeveloping the Site are limited. This proposal offers the council:
- a) Delivery of a development that is in line with economic and social ambitions for the future of the city whilst preserving the skate park, bowls club and North Walls Park.
 - b) The prospect of securing a significant capital receipt.
 - c) The opportunity to secure a development which will contribute towards economic prosperity of the city.
 - d) An enhancement of the city's tertiary educational offer and the related potential long-term reputational enhancements.
- 12.8 The potential benefits to the people of Winchester and District include:
- The provision of facilities and opportunities for younger people;
 - Improved economic benefits from a (planned for) increase in student population;
 - Potential for significant economic benefit as identified in section 1.3 of this report

- The establishment of a central hub for our already well established creative, digital/technical sector;
- The enhancement of the city's cultural offer in an area of considerable historic importance (the heritage site of Hyde Abbey and the Hyde Gateway are adjacent to the area). The provision of an accessible cultural resource within the development could therefore meet local demands around promoting vibrancy in this area and also garner possible economic benefits from the visitor economy.

12.9 Through various engagement and communications channels the public have provided the council with the following ideas for use of the site:

- Housing/affordable housing
- Care setting for the elderly
- Primary school
- Start-up spaces for businesses
- Community centre
- Theatre/concert hall
- Open air theatre
- Arts centre
- Museum
- Adult Education College
- Café and toilets
- Council offices
- Reinstate as a sports centre
- Lido
- Outside gym
- Artificial turf pitch/football ground
- Indoor tennis club/tennis courts

12.10 A number of the above suggestions have been adopted and are anticipated to be brought forward through other projects such as the North Walls Park Plan which includes a café and toilets. Additionally, the university's proposal includes a publicly accessible performance space.

12.11 The university propose to take a contextually astute approach to any development, considering carefully with the city council, the local and regional context— environmentally, culturally, and economically— to ensure new activities will be well-tuned to needs, opportunities and challenges. A development on the RPLC site, alongside a developing art school, would deliver tangible benefits, not just in terms of longer-term economic impact (jobs, skills, business support etc), but also would deliver direct community advantage through an 'permeable campus' ethic, libraries, eat/drink venues, flexible performance and events infrastructure, considerate landscape and greenspace stewardship, and a greatly enhanced offer to local citizens, of all ages, including young people.

- 12.12 This proposal to expand teaching at the Winchester School of Art would lead to an increased number of students attending the Winchester campus to study. The university understand that appropriate numbers of student housing units will be required but cannot be provided for on site. The council have previously provided introductions to appropriate developers where opportunity has arisen and is actively engaged with the university on helping them find the most appropriate solution for student housing provision.
- 12.13 The Agreement for Lease would enable the university to explore, consult and potentially to bring forward their proposal for a transformational development to the Winchester School of Art campus at the land currently occupied by the now closed leisure centre and associated parking area. The campus development will further cement the University of Southampton as a world leader in creative industries and enhance the reputation of Winchester as a creative centre in the UK.
- 12.14 The site has become available at a time when the university is in a position to consider it for development in line with their University Strategy. This offers a unique, once-in-a-generation opportunity to work together to realise aligned ambitions for both the council and the university.
- 12.15 The arrangements between the university and the council during the Agreement for Lease period would be governed through a steering group – details of which will be finalised subject to the Cabinet approving the recommendations of this report.
- 12.16 The proposal that the council has received from the University of Southampton would deliver the council's ambitions for this site. For example, the proposed expansion includes a publicly accessible performance space, a benefit for the city which has been requested by residents during previous engagement.
- 13 Statutory Notice of Disposal
- 13.1 On 5 and 7 January 2022, identical notices were published in local newspapers for a period of two weeks in respect of the proposed disposal of open space under Section 123 (2A) of the Local Government Act 1972. The notices set out the council's intention to enter into an agreement to grant a lease for a term of 150 years, of the area which is or may be open space, to the University of Southampton. A copy of the notice is at Appendix E.
- 13.2 A plan accompanying the notices (ref: 4933), showed the extent of the land subject to the notices, which is immediately to the east of but did not include the former leisure centre. The land subject to the notices included the land currently occupied by the Skate Park and Indoor Bowling Club. A copy of this plan is at Appendix F.
- 13.3 The number of objections received was 428, together with a petition containing 2,265 signatures, which was presented to Full Council on 23

February 2022. A summary of the objections and associated responses are found at Appendix H.

- 13.4 A group called the Friends of River Park circulated a detailed objection in response to the notices, which in turn formed the basis of many of the objections received. The full text of the Friends of River Park objection is reproduced as Appendix G.
- 13.5 A number of the above objections were not directly related to the land which is the subject of the notices. However, it is considered that the concerns raised will still be of interest to Members so they are included in the table found in Appendix I.
- 13.6 A highlight of some of the objections include the following;
- a) The council is not legally in a position to grant the lease to the University of Southampton, as the City Council is the trustee of the land and therefore not the owner. It is asserted that this means the council cannot enter into the leasing arrangements, because the council is precluded from doing so by the Indenture of 1902. This is addressed in the legal implications above, under the heading Statutory Trust and Appropriation.
 - b) Insufficient consultation on the disposal and future uses of the Site the subject of the notices, and the adjoining leisure centre. As stated above, there is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site. However, prior to the completion of the lease there will be further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of those parts of the Site required for the new campus scheme.
 - c) The new proposals are not in the interest of the local community, and do not have any public benefit, and there is no guarantee of any public access. The contractual arrangements to be entered into with the university will ensure the continuation of the skate park and will also be subject to the existing lease to the bowls club (unless they agree to relocate). Therefore, the existing recreational uses and the public benefits they bring, will remain.
 - d) The Skate Park is loved and should remain. It is in excellent condition, and highly accessible. Skateboarding is a recognised Olympic sport. Having taken account of public feedback, the arrangements now include a provision for the council to take a 'lease back' of the skate park. This will secure the continuation of the skate park under the council's management. It was never the intention for the skate park to be lost as it is recognised as a well-used and valuable community asset.

- e) The land should remain public open space. It should be emphasised that not only will the skate park and bowls club continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, will be unaffected by the university's new campus scheme.

14 Planning Considerations

- 14.1 The Site is located just outside the settlement boundary of Winchester in an area defined in the adopted Local Plan as countryside but is occupied by the former leisure centre building so falls within the definition of previously developed land for planning purposes.
- 14.2 Policy DM1 (Location of new development) and Policy MTRA4 (Development in Countryside) which guide the location of new development within the district, would apply to any redevelopment proposals for the land, and identify the types of development that will generally be acceptable in the countryside. Any development proposals would need to accord with these policies and all the other relevant development plan policies, and national planning guidance, which relate to the more detailed aspects of schemes including matters such as sustainability, high quality design, and relationship with neighbouring uses, biodiversity impact and flood risk unless there were sound planning reasons to grant permission as a justifiable exception to policy.
- 14.3 The Site is also adjacent to the South Downs National Park (SDNP). There are views into, and out of the site, to the park which will be one of the key matters to consider when bringing forward plans for the redevelopment of the Site (Policy CP18 – South Downs National Park).
- 14.4 As mentioned above the Site falls within the definition of previously developed land. This means that, in accordance with paragraph 85 of the National Planning Policy Framework, the use of such land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 14.5 As the proposals by the university are likely to increase the number of students, and student accommodation is not going to be put forward on the Site, it will be important that any scheme for the redevelopment of the Site comes forward with a strategy designed to address the demand for additional student housing in the city.
- 14.6 The council is currently in the process of producing a new Local Plan and will consult on a draft document later this year. This provides opportunity to review the policy context of the town, including the Site, particularly given the recent closure of the leisure centre.

15 Governance

- 15.1 Moving forward a joint steering group consisting of the University of Southampton and City Council would be established. The Terms of Reference for this group will oversee public consultation and engagement through the informal early stages as the University's proposal is developed and into more formal Consultation at appropriate legal and Planning application stages.
- 15.2 As well as keeping the public informed regularly, the milestone stages would include:
- a) Feasibility – to be commenced spring/summer 2022
 - b) Development of proposals
 - c) Formal Planning
 - d) Appropriation

16 OTHER OPTIONS CONSIDERED AND REJECTED

16.1 Option 1: Refurbishing the existing River Park Leisure Centre

Previous committee reports considered the option of refurbishing the existing leisure centre but it was determined that the building was beyond its useful life and would require in excess of £10 million to bring it up to a suitable standard. Although the old leisure centre was much loved locally, in addition to the new sport and leisure park at Bar End, there are several other private leisure providers in the city centre and as demonstrated through the Sports Facilities Needs Assessment (2017 to 2037) it is not required to meet current or future demand.

This option was rejected by Cabinet by its decision dated 24 June 2020 and is not recommended.

16.2 Option 2: Potential site for housing development.

Housing on the RPLC site is not a good option given that the site is located in a flood risk area i.e. in Flood Zone 2 and 3. The NPPF states that 'Development should not be allocated or permitted if there are reasonable available sites appropriate for the proposed development in areas with a lower risk of flooding'.

This option is not recommended.

16.3 Option 3: Demolition and restoration as public open space

The old leisure centre is sited at the entrance to North Walls Recreation Ground and although it would be possible to demolish and restore the Site to public open space this is not recommended because it does not take the opportunity to make the best use of the Site when other uses would deliver better cultural and economic advantages for local people and the wider city.

This option is not recommended.

16.4 Option 4: Redevelop for surface car parking.

There are 192 spaces on the Site at present and the Heads of Terms envisage the retention of 77 spaces. Development of the site for surface car parking would be contrary to the Council's Parking and Access Strategy, Carbon objectives and the Winchester Movement Strategy.

This option is not recommended.

16.5 Option 5: Redevelop the site for a Lido.

The council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 'River Park Leisure Centre Flood Risk Design Note'), the Site is not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the public to look at outdoor swimming opportunities in and around Winchester Town.

This option is not recommended.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3093 Future use of site October 2018

CAB3190 Future use of site October 2019

CAB3242 RPLC Decommissioning Report June 2020

CAB3324 A land transaction in respect of the River Park Leisure Centre site and associated parking area November 2021

CAB3319 WINCHESTER DISTRICT GREEN ECONOMIC DEVELOPMENT STRATEGY October 2021

CAB3336 RPLC Decision to withdraw Decision made on 23 November 2021 in report CAB3324

Other Background Documents:-

[RIVER PARK LEISURE CENTRE FLOOD RISK DESIGN NOTE](#)

[City of Winchester Movement Strategy](#)

[University of Southampton Sustainability Strategy 2020 - 2025](#)

[Vision for Winchester 2030](#)

[North Walls Engagement Event 22 & 23 March 2019](#)

[CWR Development Proposals](#)

Winchester Movement Strategy [Consultation](#)

APPENDICES:

Appendix A – Plan of Site

Appendix B – Heads of Terms

Appendix C – Exempt paper - Lease Premium (Purchase Price)

Appendix D – EQIA [Draft]

Appendix E – Copy of Advertisement

Appendix F – Open Space Site plan

Appendix G – Friends of River Park Objection

Appendix H – Objections and Responses