

PROPOSED SALE OF “THE HOLLIES” FREDERICK ST. WERNETH.

Report of Executive Director, Economy, Place and Skills

Portfolio Responsibility:
Regeneration and Environment

October 2011

Delegated Item

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Executive Summary/Purpose of Report

The purpose of this report is to;

- i) Seek approval to the joint marketing with Pennine Care National Health Foundation Trust for a freehold sale of “The Hollies” , Frederick St., Werneth.

Recommendation

2.1 It is recommended that;

- i) Approval be given to the demolition of “The Hollies” and ancillary buildings
- ii) Approval be given to marketing the site in tandem with the adjoining property which is vested in the Primary Care Trust (PCT)

PROPOSED SALE OF “THE HOLLIES” FREDERICK ST., WERNETH.

REPORT OF EXECUTIVE DIRECTOR, ECONOMY, PLACE AND SKILLS

STRATEGIC PROJECTS AND INVESTMENT PORTFOLIO

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to;

Seek approval to the demolition of The Hollies and the marketing of the resultant vacant site with the adjoining Woodfield Centre which is vested in the PCT.

2.0 RECOMMENDATION

2.2 It is recommended that approval be given to:-

- The demolition of the buildings and clearance of The Hollies site.
- The proposed joint marketing of the site, for residential purposes, with the PCT .

3.0 INTRODUCTION OR BACKGROUND

3.1 The Hollies is a former Day Care Centre which is shown hatched black upon the attached plan with a gross site area of some 3.20acres (2.5 acres net). Since being vacated in 2005 the property has suffered extensive vandalism and more recently a fire.

3.2 It has previously been subject to a viable “PFI “ bid to develop the site for an 80 bed dementia care unit, however the project has been abandoned following the recent round of funding cuts at the Department of Health.

3.3 The premises are subject to a trust (William Taylor Hague bequest) and OMBC are corporate trustees.

4.0 CURRENT POSITION

4.1 In May of this year the PCT instructed Barton Kendall, Estate Agents, to market the adjoining Woodfield Centre shown edged black upon the plan comprising of some 9,655 sq ft. of buildings on a gross site area of 1.5 acres at an asking price of £750,000.

4.2 At the beginning of June this year a meeting was held between, Councillor P. Harrison and officers from the Charity Commission.

- 4.2.1 The Charity Commission have approved a sale of The Hollies on the condition that capital receipt distributed immediately to a charity or charities established to relieve poverty or the sick.
- 4.2.2 If the proceeds of sale are to be used to provide grants then a new charity would need to be set up with the object of relieving poverty or the sick
- 4.2.3 Subject to confirmation being provided by a surveyor that demolition would not reduce the value of the land, demolition would need to take place before new Trustees should be appointed and that any options could be agreed and proceeds of sale transferred to the new Charity and that once demolition has taken place.
- 4.2.4 The initial proposal is that the net proceeds of sale are to be re-cycled , by the new Charity into alternative healthcare provision in the Borough.
- 4.2.5 Costs of sale including those anticipated under 4.2.3 above along with the costs incurred by the Council in securing, maintaining and eventual demolition of the property may be deducted from the sale proceeds.
- 4.3 Costs of demolition and site clearance have been provisionally estimated at £50,000, whilst costs of securing and maintaining the premises since 2005 have been estimated at £81,000 which includes the costs of acquiring the unencumbered freehold interest in 2009
- 4.4 Both Council officers and those from PCT are of the opinion that marketing the Hollies site in tandem with the adjoining Woodfield Centre could have potential benefits to both parties whilst not impeding a sale of the individual premises held by each party.
- 4.5 It is therefore proposed that the net proceeds of sale should be apportioned by agreement between the Authority, acting as corporate Trustee, and the PCT. Thereafter the Council will deduct it's own costs of pre-sale preparation, demolition and maintenance from the net proceeds before distributing the residual amount to the new Charity.

5.0 **OPTIONS/ALTERNATIVES**

5.1 Given that the premises are currently held by the Council as a corporate Trustee, the options available to the Council are limited to:-

- (i) Doing nothing or
- (ii) Assisting the new Charity to achieve its aims and ambitions with regards to the setting up of a new Trust

6.0 PREFERRED OPTION

- 6.1 The preferred option is to approve a joint marketing of the freehold interest in "The Hollies" and the "Woodfield Centre" with the PCT. This would not preclude a sale of either of the two properties on an individual basis.

7.0 CONSULTATION

- 7.1 Ward Councillors have been made aware of the proposal and to date, none have raised any objections to the proposal.

- 7.2 Planning Consultations have highlighted the following:-

Woodfield Centre

The site is unallocated on the proposals map of the UDP but is covered by an area TPO. The existing building on site, whilst not listed, is feature of the site, which adds to the visual amenities of the area and the possibility of retaining it could be explored. Any development will need to take into account the protected trees on the site.

The site is within close proximity of residential properties on its western and southern boundary and access to the site is via Netherfield Close. As such it is considered that the site may be most suitable for housing, subject to compliance with the relevant UDP policies, as other uses may adversely impact on the amenities of nearby residents.

Community or recreational type uses may also be feasible subject to consideration of impact on the neighbouring properties. For residential development there would be a requirement for provision of on-site open space as per Policy R2.1. Access and parking need to be considered.

The Hollies

The site is unallocated on the proposals map of the UDP but is covered by an area TPO and is adjacent to Werneth Park. In terms of the planning history for this site, planning permission was granted in 1990 for residential development to the side and rear of the Hollies (see PA/026356/90) but, at the same time permission for residential development on the whole of the site was refused permission (see PA/026353/90) due to the impact on the protected trees and wildlife on the site. A key consideration will therefore be how the protected trees on the site, which are shown upon the plan annexed to the rear of this report, can be retained. Attractive stone boundary wall and entrance should be retained. Please note Policy B2.2, which states that the Council will not permit the development of site currently or last used for employment purposes for an alternative non-employment generating use unless a continued employment use would be unsuitable because of significant harm to residential amenity, the efficient operation of the highway network or highway safety, or it is demonstrated, through either a marketing exercise or viability assessment, that there is no realistic prospect of the site being used for employment purposes. Also need to comply with the requirements of Policy CF1.3.

The site is within close proximity of residential properties. As such it is considered that the site may be most suitable for housing, subject to compliance with the relevant UDP policies, as other uses may adversely impact on the amenities of nearby residents.

Given close proximity to Werneth Park, recreational type uses might also be appropriate subject to consideration of impact on neighbouring properties at Wellington Road and Grange Court. For residential development there would be a requirement for provision of on-site open space as per Policy R2.1. Access and parking need to be considered.

8.0 FINANCIAL IMPLICATIONS

8.1 Capital Comments

8.2 Capital Receipt

8.2.1 The proposal would be a full disposal of asset numbers 1198 and 29, each having a current net book value of £1 as at 31st March 2011 in the Council's asset register and balance sheet. The assets are classed as operational land and buildings.

8.2.2 The disposal would realise a potential capital receipt to the Trust in the order of £350,000, The capital receipt, which is not included in current or future estimates, would not be available to support the Council's capital programme.

(Vicky Shaw)

8.3 Capital Expenditure

8.3.1 The proposed demolition is capital expenditure of £50,000 will be charged against the Economy, Place and Skills – Land and Property capital programme.

8.3.2 The scheme will be wholly committed and completed in 2011/12.

(J Kara)

8.4 Revenue Implications

N/a

9.0 HUMAN RESOURCES' COMMENTS

9.1 None.

10.0 LEGAL SERVICES' COMMENTS

10.1 **Capacity**

If the Council is to sell the land it is acting in its capacity as a trustee of the land and not as a local authority. Consequently, most issues which will arise will be connected with whether the Charity Commission will allow the Council as trustee/or any new trustees to sell or dispose of the land

10.2 **Disposal of land**

(a) Does the Trustee have the power to sell the property

It is believed that the Charity Commission has given its authority for the disposal in a recent meeting with officers from the Council as there does not appear to be a power

of sale contained in the Assignment dated 26 February 1931. Written confirmation of this will be required from the Charity Commission

(b) Is the disposal of the land beneficial to the charity

The charity will have to demonstrate that the disposal is in its best interests. A surveyors report needs to consider the options. In particular it has been agreed that subject to confirmation being provided by an independent surveyor that demolition would not reduce the value of the land then demolition would need to take place before any of the new trustees are appointed before a final decision is made as to the various options available, including the option of selling the land and using the proceeds of sale to make grants, which would involve the setting up of a new charity with the object of relieving poverty or the sick and either the land or proceeds of sale transferred to it.

(c) Are the terms of the disposal of the property the best that can be obtained for the charity

The charity must obtain the best terms that can reasonably be achieved when disposing of charity land. This can be achieved by ensuring that the:

- (i) the property is marketed in the most favourable way. In this instance by marketing the land with PCT's adjoining land it is expected to achieve a higher consideration for the properties rather than a sale of either of the two properties on an individual basis
- (ii) the charity seeks the advice of professionals and
- (iii) the charity accepts the best financial offer

This will depend on the consideration obtained but if market value is received then this item would be satisfied

(d) Is the Charity Commission's consent required to the disposal

Provided that the sale is not to a connected person then the Council having had the Charity Commission determine that a power of sale exists needs to follow the self-regulatory regime for charities wishing to dispose of land in respect of which the power exists to do so by virtue of Section 36 of the Charities Act 1993. The Council as Trustee or if so determined, the New Trustees must also observe the further provisions to be found in Section 36(3) of the Charities Act 1993 in that they must

- (i) obtain and consider a written report on the proposed disposition from a qualified surveyor who must be acting exclusively for the charity (and in addition to that the report must comply with the Charities (Qualified Surveyors Reports) Regulations 1992 (SI1992 No. 2980)
- (ii) advertise the land according to the surveyors advice
- (iii) conclude that the terms upon which the disposition is proposed to be made are the best that can be reasonably obtained for the charity

If the land is not to be replaced with other land (i.e. if the Council as Trustee/New Trustees are not proposing to purchase another area of land for use to help the poor and sick) then there is an additional provision that needs to be followed by virtue of Section 36(6) Charities Act 1993. The Council will need to advertise the proposed disposal of the land in a local paper (there is no prescribed form of notice) but the Council/New Trustees must give one month for comments to be received from any persons interested.

They must then take into consideration any representations made although there does not appear to be a statutory requirement that they act upon those representations. There is an opportunity to ask the Charity Commission to dispense with the notice under section 36(6) and if it is in the interests of the Charity, the Charity Commission will give a direction to dispense with that requirement

It is to be noted that a failure to comply with the requirements of Section 36 may result in the transfer being treated as void for want of compliance

It has been agreed with the Charity Commission that once the building has been demolished it will be a requirement that new trustees are appointed before a final decision is made upon distributing the residual amount to a newly created charity after the Council has deducted its own costs of pre-sale preparation, demolition and maintenance from the gross proceeds of sale whether an alternative proposal is to be agreed

It is to be further noted that if the building is demolished it will reduce the risk of injury to any trespassers and possible legal action against the Council as trustee under the Occupiers' Liability Act 1984 (Peter Oliver)

11.0 IT IMPLICATIONS

11.1 None.

12.0 PROPERTY IMPLICATIONS

12.1 The demolition and clearance of the site will relieve the Council from an ongoing liability due to vandalism whilst a sale will enable the Council to recoup some of the costs incurred in securing and maintaining the property since it has been vacated.

12.2 Following demolition and clearance, and after making a due allowance for the Council's costs in securing the premises and facilitating the sale of The Hollies, the value of the Trust's interest in site is estimated to be in the order of £350,000

13.0 ENVIRONMENTAL AND HEALTH AND SAFETY IMPLICATIONS

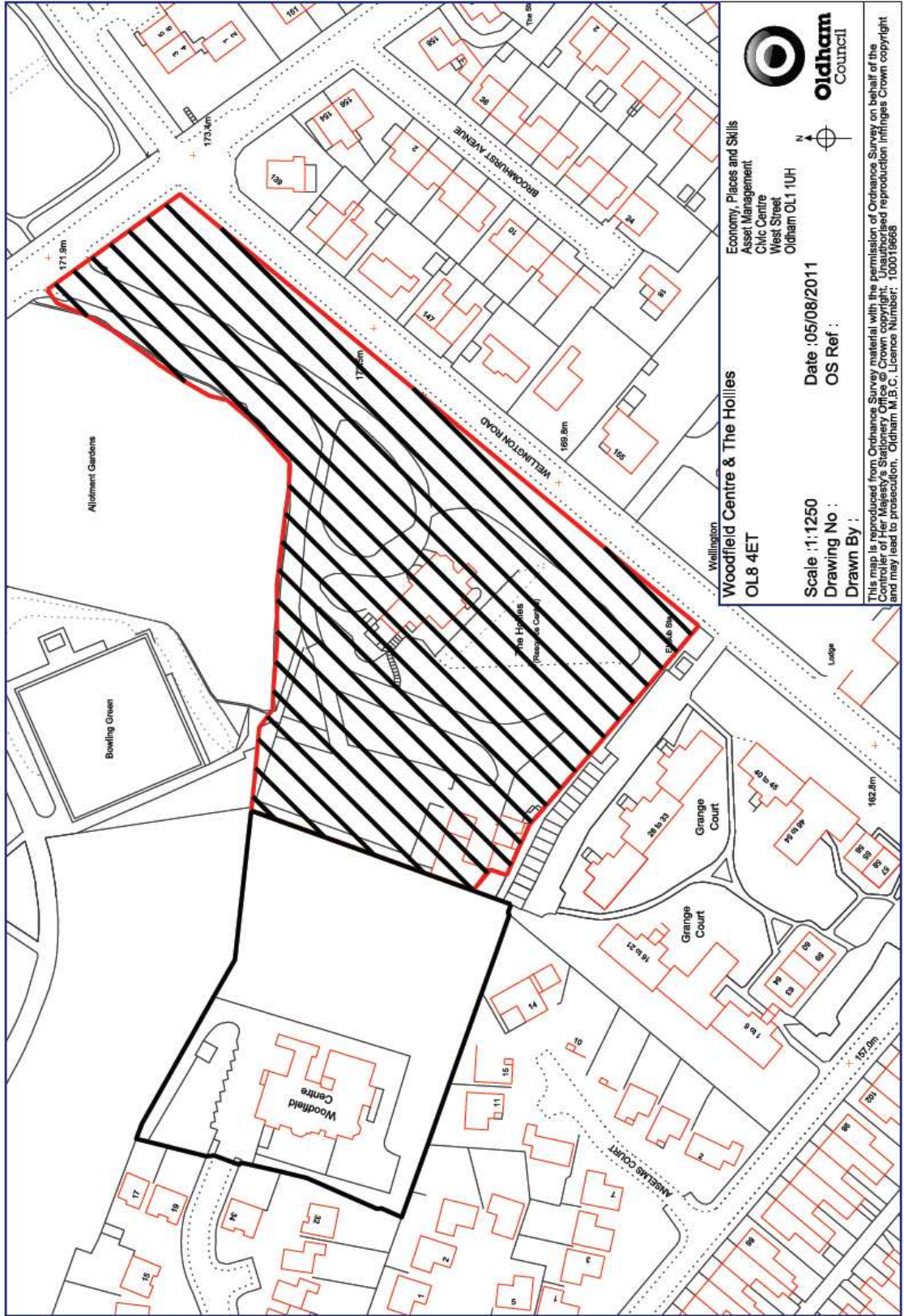
13.1 None

14.0 COMMUNITY COHESION IMPLICATIONS (INCLUDING CRIME AND DISORDER IMPLICATIONS IN ACCORDANCE WITH SECTION 17 OF THE ACT)

14.1 None

15.0 KEY DECISION – NO

Signed Cabinet Member for Environment and Infrastructure	Dated
Signed Executive Director Economy, Place and Skills	Dated



Plan showing Trees upon The Hollies site

Key ■ Require removal ■ High Quality ■ Moderate Quality ■ Poor Quality

