

Delegated Officer Report

Decision Maker:	Emma Barton, Executive Director of Place and Economic Growth
Date of Decision:	22 March 2023
Subject:	Disposal of All Weather Pitch, Chapel Road, Hollinwood (Asset L02967)
Officer Contact:	Paul Clifford, Director of Economy
Report Author:	Mark Draper, Senior Estates Surveyor
Ward(s) Affected:	Hollinwood

Reason for the decision:

To seek approval to publish an updated award notice setting out non-material changes to the scope of the land opportunity competitively advertised and evaluated for sale of the All Weather Pitch, Chapel Road (Asset Number L02967).

Summary:

In October 2020 delegated approval was given to dispose of the Council's freehold interest in the Chapel Road site with an open tender exercise via the Chest, (the Council's Procurement online portal), specifying the works required to bring the site back into use. This was subject to the regularisation of the occupation of the adjoining school of part of the site under a new 25 year lease and consent from the Secretary of State.

The freehold interest was to be transferred upon completion of the works, under a contract for sale and works, to ensure the Council retained oversight of the works.

The tender exercise was subsequently conducted in accordance with Contract Procedure Rules alone because the value of the works forming part of the opportunity were valued below the financial threshold applicable to works under the Public Contract Regulations 2015 (PCR).

The competitive tender process resulted in 4 tenders being received, and the tender was awarded to the successful bidder, subject to obtaining the consent of the Secretary of State (due to the adjoining school's historical use).

Since the tender was awarded, discussions have been ongoing with the Department for Education ("DfE") to approve the arrangements. Despite being involved in initial discussions about the arrangements for the school, and the procurement process, the DfE now require two amendments to the deal:-

1. The disposal to the successful bidder to be by way of long leasehold, rather than freehold. Following discussions with the parties involved, it has been provisionally agreed to progress the disposal by way of a 999 year lease, with a tenant break clause at 125 years.
2. The DfE have also requested that the agreement with the adjoining school to allow their access to use the sports pitch is no longer documented by way of a 25 year lease but by a shared use agreement. This has been agreed in principle with the parties involved.

The DfE's requirement that the deal is progressed on a long leasehold basis necessitates the successful bidder completing the lease before the refurbishment works progress. Their internal due diligence process does not allow them to commit to the refurbishment expenditure without an interest in the site. The user clause will restrict the use of the site to that of a 3G pitch and associated changing rooms.

The evaluation of offers did not consider the leasing structure to the school, so a change to the type of agreement under which the school have use of the pitch is not considered a material change to the procurement exercise.

Whilst it is not necessary to inform the market of the tender award in accordance with PCR, issuing an updated award notice (together with the publication of this report) is considered a fair and transparent way to deal with these issues.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1 – Issue the updated award notice.

For the reasons stated above this is considered to be the most fair and transparent way to proceed in these particular circumstances.

Option 2 – Do not issue an updated award notice

The Council recognises the need to adhere to the principles of fairness, openness and transparency.

Recommendation(s):

Option 1

The Decision Maker is requested to note the position in respect of the need to grant the lease to the successful bidder prior to completion of the works.

Implications:

*What are the **financial** implications?*

Revenue Comments

Oldham Council do not hold any associated budgets for this asset but have incurred circa £4k in utility costs in 22/23.

By disposing of this asset, this will result in a reduction in costs of circa £4k pa which will reduce the pressures on the wider Corporate Landlord budgets.

There are no costs associated with the issue of the Updated Award Notice

(Jamie Kelly)

Capital Comments

The purpose of this report is to publish an updated award notice prior to seeking authority to dispose of asset held by the Council.

The proposal would be full disposal of asset numbers L02967 which has a net book value of £1 as at 31 March 2022 in the Council's asset register and balance sheet. The asset is classed as Asset held for Sale.

(Jit Kara – Senior Accountant)

What are the **procurement** implications?

The tender exercise was conducted in accordance with Contract Procedure Rules alone because the value of the works forming part of the opportunity were valued below the financial threshold applicable to works under the Public Contract Regulations 2015 (PCR). The purpose of the updated award notice is to notify the market of non-material changes to the arrangements.

What are the **legal** implications?

The purpose of the updated award notice is to notify the market of the tender award and the non-material changes to the arrangements (which the council considers have been made lawfully)

Sarah Orrell – Commercial & Procurement Solicitor

School playing field land cannot be disposed of except with the consent of the Secretary of State.

By virtue of Section 123 of the Local Government Act 1972 the Council has the necessary statutory powers of disposal to grant leases and dispose of freehold interests in land.

The report author has confirmed that the provisions of the Council's Land and Property Protocol have been complied with and will continue to be complied with.

Rebecca Butterworth – Solicitor, Corporate

What are the **Human Resources** implications?

Not Applicable

Equality and Diversity Impact Assessment attached or not required because (please give reason)

An Equality and Diversity Impact Assessment is not required as the proposed facility will be an inclusive facility and one that will have a positive

impact both for vulnerable groups and the wider community.

*What are the **property** implications*

Contained within this report.

Risks:

The report sets out a way forward to progress the issue which seems sensible from a risk perspective.

(Mark Stenson)

Co-operative agenda


The reduction and / or efficiency/ improvement of the Council's property portfolio is fully aligned with the Council's Cooperative agenda.

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

Reason(s) for exemption from publication: Not applicable.

Report Author Sign-off:	
A M Draper	
Date:	



Signature:  **Date:** 23.03.2023

(Executive Director of Place and Economic Growth)

In consultation with:

Paul Clifford, Director of Economy

Decision made pursuant to:

- a) Delegation under the Council's scheme of delegation.**