

Report

Cabinet Member for Assets, Equalities & Member Development (Deputy Leader)

Part 1

Date: 23 August 2018

Subject Land Adjacent to Rainbow Nursery (The Villa), Somerton Lane, Newport.

Purpose To seek approval from the Cabinet Member for Assets, Equalities & Member Development (Deputy Leader) to declare the subject land surplus to the Council's requirements and to dispose of the land on terms agreed by the Head of Law and Regulation.

Author Housing and Assets Manager

Ward Lliswerry

Summary The owner of Rainbow Nursery has requested to purchase land adjacent to the Nursery, they currently have a long lease of the land and wish to carry on its current use for the Nursery.

This report therefore considers the options available for the future use of this asset.

Proposal That the subject land be declared surplus and disposed of on terms recommended by Newport Norse and approved by the Head of Law and Regulation.

Action by Head of Regeneration, Investment and Housing.

Timetable Immediate

This report was prepared after consultation with:

- Strategic Director - Place
- Head of Law and Regulations – Monitoring Officer
- Head of Finance – Chief Finance Officer
- Head of People and Business Change
- Estates Portfolio Officer, Newport Norse
- Associate Director of Property Services, Newport Norse
- Housing and Asset Manager, Newport City Council

Signed

Background

The land adjacent to Rainbow Nursery, (formerly known as the Villa), is currently leased from September 1998 for a term of 125 years. It is on a peppercorn rent but an initial premium of £5,000 was paid. The size of the plot is 0.08 acres and the land is restricted to garden use only.

The current lessee has previously shown interest in purchasing the freehold for residential use (construction of 2 dwellings). A previous valuation was conducted with an asking price of £40,000, however the lessee was only able to offer £30,000 and the matter did not proceed any further.

In the last few months, the lessee has submitted a planning application to extend their nursery. Consulting with the planning department and the Council's Legal team found the extension would enter the leased land and would contravene the terms of the lease. A site visit was conducted to clarify the position and it was established that the lessee is using the land for car parking, as well as adventure play (garden land), for the nursery.

After corresponding with the lessee to raise the issue of the breach of the lease, they again showed interest in purchasing the freehold. This was to carry on the current use of car parking and adventure play, and not the previous residential application. They submitted an initial offer of £10,000, which was rejected.

Following further negotiations, a price of £15,000 has been offered. This is considered an acceptable sum and represents the market value, taking account of the lessee's position as a special purchaser.

The long term prospects of the land is directly linked to the owner of the Villa (nursery) that sits adjacent. Selling to the open market would not be appropriate or achieve the best value, as the nursery would seek the most benefit and worth of purchasing the land. The sale of the land to the owner of the Villa, subsequent leaseholder of the land, will give long term sustainability for the business to carry on their current use.

The sale of the land will provide a capital receipt for the Council and continue the availability for adventure play for the children who currently use the nursery.

Financial Summary

Currently the leaseholders maintain the land and therefore all associated costs are with them. The potential disposal will however provide a Capital Receipt.

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to dispose of the property will result in the potential of no capital receipt being forthcoming. .	L	L		
Risk of Vandalism	L	L	Property is currently used as a nursery.	
On-going Maintenance	L	L	Responsibility of maintenance is down to the tenant.	

Risk of deterioration in the fabric of the building	L	L	Newport Norse will continue to monitor the land.	
---	---	---	--	--

Links to Council Policies and Priorities

Property Rationalisation Programme
Medium Term Revenue Plan (MTRP)

Options Available

1. Take no action
2. That the subject land be declared surplus and be disposed of on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

Preferred Option and Why

That the subject land be declared surplus and be disposed of on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

The sale of the land will provide a capital receipt for land that is currently on a long Lease and secure the sustainability of the business.

Comments of Chief Financial Officer

Disposal of this land will benefit the Council by the realisation of a small capital receipt which will be reinvested into the Council's Capital Programme.

There is a base 'target' for capital receipts in the new 5 year Capital Programme and capital receipts are used to meet this target.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's statutory powers to dispose of surplus land in accordance with section 123 of the Local Government Act 1972. The land adjacent to the Nursery is already tied up on a long lease of 125 years, with 105 years unexpired, at a peppercorn rent for garden use. The use of the land is also inextricably linked to the use and occupation of the adjoining nursery. Therefore, the land has no current operational or strategic value to the Council. Although the land is capable of being used for residential development, in conjunction with the nursery building, the owner/lessee is unable to pay the full market value. However, selling the Council's freehold reversion for the continued use of the land as a car park/adventure play area would generate a small capital receipt for the Council. There is an obligation to secure the best price reasonably obtainable for the sale of the freehold but this land only has a "special purchaser" value to the owner of the nursery, as they already have a long leasehold interest in the site and intend to use it in conjunction with the nursery. On that basis, the agreed sum of £15k is considered to represent market value. However, the transfer should either contain a restrictive covenant restricting the use for car parking/play area or an "overage" provision, to ensure that the Council receives a fair share of any future development value.

Comments of Head of People and Business Change

There are no staffing implications arising from this report.

Asset management is a key area for consideration as part of the Well-being of Future Generations Act. The decision to dispose of this land will secure the long term future of this business and ensure sustainability of the land through its use as an adventure play area for the children who currently use the nursery. The report has considered the five ways of working and the decision contributes to a number of well-being goals including a prosperous Wales and a healthier Wales.

Comments of Cabinet Member

Cabinet Member has been briefed on this report.

Local issues - Comments of Lliswerry Ward Members

Cllr Roger Jeavons - I have no objection to the release of this section of land to the Rainbow Nursery.

Cllr Allan Morris – I agree with option 2.

Scrutiny Committees

N/A

Equalities Impact Assessment and the Equalities Act 2010

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Children and Families (Wales) Measure

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

Wellbeing of Future Generations (Wales) Act 2015

By disposing of the freehold to the leaseholder their business will benefit from the security of the use of the land and will secure the long term future for the business. The decision has been made with full involvement of the lessee and will ensure the land continues to be available for adventure play for the children who currently use the nursery.

If at any time in the future they change the current use this would then need planning to take action in accordance with the Wellbeing of Future Generations (Wales) Act 2015.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Consultation

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

Background Papers

Site Plan

Dated: 23 August 2018

