

Report

Cabinet Member for Assets & Member Development (Deputy Leader)

Part 1

Date: 22 May 2019

Item No: 02

Subject Disposal of land adjacent 282 Corporation Road, Newport

Purpose To seek approval from the Cabinet Member for Assets and Member Development (Deputy Leader) to the disposal of land adjacent to 282 Corporation Road, Newport.

Author Housing and Assets Manager.

Ward Victoria

Summary Newport City Council has received a request to purchase additional land from the residents at 282 Corporation Road.

Proposal To agree disposal of land adjacent to 282 Corporation Road, Newport to the existing residents 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 Regeneration, Investment and Housing
- Housing & Assets Manager, Newport City Council
- Principal Engineer, Streetscene, Newport City Council
- Head of Law and Regulation, Newport City Council
- Head of Finance
- Head of People and Business Change
- Associate Director of Property Services, Newport Norse
- Property Manager, Newport City Council
- Estates Portfolio Officer, Newport Norse

Signed

Background

There has been a request from the residents at 282 Corporation Road to purchase land that is adjacent to their house. Corporation Road is one of the main roads within Victoria in Newport. There is a mixture of residential and commercial premises in the area.

Norse have been on site and inspected the land and surrounding area. It had come to our attention that the land was actively being used by the residents already. A wooden fence has been constructed on one side which forms a boundary and there is an electronic steel gate to the front. This closes off the land from the main road. There is a right of way in place for the residents to cross the land so they can park their car in the garage but the Council has not given authorisation for the residents to enclose the land. Norse has **collaborated** with the residents in order to rectify and regularise the matter and the residents are willing to purchase the land. The disposal has only been offered to the resident of 282 Corporation Road as the land is only capable of use by them.

Norse have also **consulted** with the Council's Highway department, Legal department and Regeneration team in order to confirm that there are no objections to the disposal of the land as well as help meet our wellbeing objectives. There has been **involvement** from different Service Managers from different departments who are of the opinion that the disposal of the land would be in the positive interests of the Council for the **long term** as the land itself is not capable of use by anyone other than applicants. They have no objections to a disposal and it will not pose any future detriment to the Council.

Even though the land is not being maintained currently, it is still the responsibility of the Council. Disposing of the land, will relieve the Council of the obligation of this maintenance. The disposal will also allow the residents to **integrate** the subject land into their title and **prevent** any future legal disputes.

The long term benefit of the site has been considered and whether it is better to retain the land or pursue with its disposal. Selling the land to the owners of 282 Corporation Road will remove any future liability for the Council. There has been no consultation with other residents as the land is adjacent to 282 Corporation Road who already have a right of way over the land and the land has no benefit to any of the other local residents.

Financial Summary

If the disposal progresses, this would provide a capital receipt of £10,000 for the Council. There is no current income received from this land and therefore no impact on the 'commercial estate'

If the disposal progresses, this would prevent possible legal costs in trying to obtain the land back through Land Registry.

Risks

Failure to dispose of the land will result in title disputes between the Council and the residents.

Links to Council Policies and Priorities

- Asset Management Plan
- Property Rationalisation Programme
- Medium Term Revenue Plan (MTRP)
- Service Delivery Plans

Options Available and considered

- Decline disposal to the tenant but this would mean attempting to regularise the matter through formal action. There is no guarantee that the Council will be successful in this matter.

- Dispose of the land on terms to be agreed by Head of Law and Regulation. This will realise a capital sum for the Council and also regularise the matter.

Preferred Option and Why

Dispose of the land on terms to be agreed by Head of Law and Regulation. This will raise a capital sum of £10,000.

Comments of Chief Financial Officer

Disposal of this freehold will benefit the Council by the realisation of a small capital receipt, which is reinvested into the capital programme, disposal of the land will also remove any potential future liability to the Council.

Comments of Monitoring Officer

The proposed sale is in accordance with the Council's powers to dispose of surplus land under section 123 of the Local Government Act 1972. The land adjacent to 282 Corporation Road has already been encroached upon by the adjoining owners and enclosed as part of their property. Therefore, the position needs to be regularised to avoid any claims for adverse possession. Either the Council takes legal action to reclaim the land in its ownership or the freehold title is sold to the adjoining owners. Because the land is already subject to an existing private right of way in favour of the owners, then it has little or no value to the Council, even as an amenity area, and it would be a liability to maintain. The land is also of no value to any alternative buyer because of its location and the existing right of way. Therefore, the land only has special purchaser value to the owners of the adjacent property. The Council has a duty to secure the best price reasonably obtainable to the land but, as it is only of amenity value to the owners of the adjoining property, then a £10k receipt is considered to be best value. The transfer should include a restrictive covenant to ensure that the land continues to be used for residential purposes as part of the property at 282 Corporation Road. If the land is currently appropriated for operational service use within the asset register, then it will need to be declared surplus to requirements and re-appropriated for disposal.

Comments of Head of People and Business Change

There are no staffing implications to this proposal.

From a Well-being of Future Generations (Wales) Act 2015 perspective the sustainable development principle has been considered when writing this report.

Comments of Cabinet Member

Cabinet Member has been briefed on this report.

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

This small portion of land has been enclosed and performing its current function for many years and is sandwiched between the land belonging to Willenhall Surgery and the Council's roadside shrubbery. There has been no public use or enjoyment of this land for the period of enclosure and its size offers no opportunity for useful public use. The long term benefit of the property has been considered and as it serves no current purpose for the Council or other residents it is felt that it is beneficial to dispose of the site for a capital receipt. Selling the site will prevent any future liability for the Council. The receipt will increase funds brought into the Council for it to continue fulfilling its Statutory and wellbeing objectives.

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

Plan attached.

Dated: 22 May 2019

