

Wiltshire Council

Date of meeting

Subject: George Ward School - Unilateral Undertaking

Cabinet member: (Toby Sturgis – Waste Property Environment and Development Services)

Key Decision: No

Purpose of Report

1. To seek authorisation for this Council as landowner to enter into a Unilateral Undertaking to secure the planning obligations required for the site at George Ward School, Shurnhold, Melksham (Planning Reference W/11/02312/FUL)

Background

2. The George Ward School was identified to be sold to support the funding requirements of the Melksham Oak Community School at Bowerhill in 2006.
3. Outline planning permission was granted in 2008 (Planning reference 07/02806/OUT). A renewal application was submitted in 2011 (Planning Reference W/11/02312/FUL). On 14th March 2012, the Strategic Planning Committee considered the application and resolved:-

“To grant planning permission at a future date in the event of the Development Control Manager being satisfied as to prior completion of a legal agreement to secure:” The ensuing paragraphs relate to various planning obligations.

4. When granting planning permission the Council will, as the Local Planning Authority (LPA), normally require that a legally binding agreement under Section 106 (S106) of the Town and Country Planning Act 1990 is entered into between the landowner and the LPA.
5. A S106 requires at commencement and at stages in the implementation of the planning permission that specified obligations are discharged including where appropriate, the payment of amounts of money to the Council in order that the impact of the development is mitigated.
6. In this case, the Council is both the freehold owner of the property that is included in the application and the relevant planning authority. The Council as the LPA cannot enter into an agreement with itself.

7. However, the Council can enter into a Unilateral Undertaking (UU), as opposed to a Section 106 agreement in order to secure the required planning obligations.

Main Considerations for the Council

8. The Council has a duty under Section 123 of the Local Government Act 1972 to secure the best consideration when disposing of its assets.
9. The Council's appointed selling agent, Bruton Knowles, has made a strong recommendation that the Property would be far more marketable if, when being sold, it had the benefit of a planning permission for its use for residential development, hence the reason for this report.
10. It is intended that at the time of the disposal of the Property, the developer will enter into a S106 directly with the LPA the terms of which will broadly mirror those contained in the Council's UU.

Environmental and climate change considerations

11. Any such considerations are catered for through the planning application process.

Equalities Impact of the Proposal

12. There are no equalities implications with this proposal.

Risk Assessment and Financial Implications

13. The risks associated with this decision have been highlighted above and relate to the marketability and potential capital receipt from it.

Risks that may arise if the proposed decision and related work is not taken

14. New circumstances may arise which may result in the Council as LPA deciding that the application be re-considered, which could lead to the Council as landowner having a delay in marketing the property and putting at risk, the capital receipt anticipated from it.

Legal Implications

15. This report has been prepared in conjunction with the Council's Legal property team who are advising the Property Group in respect of this matter.

Options Considered

16. Doing nothing exposes this Council to unnecessary risk.

Conclusions

17. The conclusions reached have taken all of the above into account.

Proposal

To authorise that the Council in its capacity as landowner enters into a Unilateral Undertaking to comply with the planning obligations detailed in the 14th March 2012 Strategic Planning Committee minutes relating to Planning Application Reference W/11/02312/FUL.

To delegate authority to the Service Director for Legal and Democratic Services and the Service Director for Business Services to agree the final wording of the Unilateral Undertaking.

Reason for Proposal

To secure the property interests of the Council.

**Ian Gibbons, Director – Law & Governance
Jacqui White, Service Director, Business Services**

Report Authors:

Stephen Morgan Head of Valuation and Estates
Althea Haygarth Senior Solicitor

Date of report: 11 April 2013

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

None.

Appendices

None.
