

Divisions Affected – Wheatley ED

CABINET MEMBER FOR FINANCE

18 October 2023

Wheatley Park School, Holton, Oxfordshire - Right of Way

Report by Executive Director People, Transformation & Performance

RECOMMENDATION

The Cabinet Member is RECOMMENDED to give approval for the grant of a right of way over land at Wheatley Park School, Holton, Oxfordshire to Oxford Brookes University and their successors in title, subject to s77 approval by the Secretary of State, in respect of the sale of part of a playing field.

Executive Summary

1. Oxford Brookes University (OBU) have agreed to sell their former Wheatley campus to Crest Nicholson (Crest) and planning consent has been received, at appeal, for circa. 500 homes. Consent has been granted based on access from the east of the site and a western access to the site over Oxfordshire County Council land, let to the River Learning Trust (RLT). OBU have requested the grant of a right of way over the OCC/ RLT site. See site plan below.
2. Terms have been agreed to the grant of a right of way
3. Part of the land is currently used as playing field. Any grant will be subject to any necessary consent from the Secretary of State in respect Section 77 of the School Standards and Framework Act 1998.
4. OBU and Crest are currently pursuing a revised planning application with access only from the eastern side of the site which will not require access over OCC/ RLT land for a slightly smaller scheme. Their preference is to agree a right of way and implement the planning consent they already have.

Background

5. Oxford Brookes University) own a 53-acre site at Wheatley to the north of the A40. This has been used for teaching, administration, and student accommodation. Terms have been agreed to sell the site to Crest Nicholson with the university agreeing to vacate by November 2024, with the option to extend this by a further 6 months.
6. OBU have received planning consent for circa. 500 new homes for the site. The application was initially refused but consent was granted on appeal. The planning consent granted assumed access to the site from both ends of the site.
7. The proposed access to the west of the site is over a roadway on land that is owned by Oxfordshire County Council and let to the Academy Trust tenant - River Learning Trust.
8. OBU constructed (under licence) this roadway to provide western access across OCC/RLT land during 2016/2017. Its use was restricted for educational purposes only. Planning permission was granted for the access road by South Oxfordshire District Council although the easement itself was not implemented after works had been completed. Its use does not extend to the access road being used for a residential development.
9. Without access over the land OBU/ Crest are not able to implement their planning consent. To address this issue an approach to OCC/ RLT requesting a right of access over this roadway has been made. OBU / Crest have also submitted a revised planning application for a revised scheme with access only from the eastern side of the development.
10. The second planning application is due to be considered in the Autumn of 2023. OBU believe their professional advisers have demonstrated that the site can be accessed without reliance on the western access route and that there is a very high chance of success, but are geared up to appeal a refusal. If consent were to be granted for the scheme with access just from the east there would be no requirement for the western access route, although access from the western side is preferred as more houses can be built and there is an existing planning consent.
11. There is a lot of local opposition to the second planning application with the main concerns being the additional traffic being generated, with access to the A40 through Wheatley, noise, pollution, and loss of community facilities.
12. Discussion have been ongoing with the consultants acting initially for OBU and now jointly for OBU and Crest to see if an agreement can be reached to grant access over the roadway to the west of the site.
13. The roadway is in the grounds of the school and is part of their playing field. Any transaction to will therefore need to be approved by the Secretary of State.
14. Discussions between OCC and OBU/ Crest's advisers have led to an agreed sum to allow access from the west. The sum will be split equally between OCC and RLT.

Risk Management

15. The Council must ensure that all capital payments received come from the client account of a firm of solicitors acting for the purchaser, which has taken responsibility for money laundering checks. The Council may wish to conduct independent checks on the source of the funds and must reserve the right to withdraw from the transaction at any stage in the event that these are not completed to its satisfaction.

Corporate Policies and Priorities

16. The granting of a right of way site supports the agreed Property and Asset Strategy agreed in November 2022, by maximising the value of investments to support the long-term financial sustainability of the Council land and supporting the local community by the provision of land for social housing,

Staff Implications

17. There are no staff implications.

Equality & Inclusion Implications

18. There are no equality and inclusion implications.

Financial Implications

19. The Capital & Investment Strategy for 2023/24 agreed by the Council in February 2023 sets out that the principle that capital receipts should be treated as a corporate resource and used across the capital programme flexibly.

20. The grant of a right of way proposal would provide a capital receipt. The sum agreed is supported by independent valuation advice. The disposal is therefore compliant with the best value requirements as set out in section 123 of the Local Government Act 1972

Comments checked by:

Salhan, Prem - Finance Business Partner (Resources & E&P)

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Legal Implications

21. The Council has power to dispose of its land assets pursuant to Section 123(1) of the Local Government Act 1972, subject to its duty to ensure it receives best value for them. The Council owns the freehold to the site. It will need to comply with Section 77 of the School Standards and Framework Act 1998 and obtain consent from the Secretary of State for the disposal and it will also need to obtain the consent of the leaseholder (River Learning Trust).

Comments checked by:

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Sustainability Implications

22. There are no sustainability implications

Risk Management

23. The information as set out within the Exempt Annex No 1 demonstrates assessment as to the financial risks has been undertaken resulting in concluding the recommendation to dispose of the site.

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