

## WEST NORTHAMPTONSHIRE COUNCIL

### CABINET

13 JULY 2021

### Cabinet Member for Finance: Councillor Malcolm Longley

Report Title	Various Freehold and Leasehold Asset Disposals
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#### List of Appendices

- Appendix A - The Hill Shop, Hunsbury Hill, Northampton
- Appendix B - Becketts Park Pavilion, Northampton
- Appendix C - Various transfers of community facilities, Northampton
- Appendix D - Former Buddies restaurant, Dychurch Lane, Northampton
- Appendix E - Hazelrigg House, Northampton
- Appendix F - Delapre Golf Club, Northampton
- Appendix G - Unit 1 Farmfields, Northampton
- Appendix H - Unit 2 Farmfields, Northampton
- Appendix I - Tennis courts, Mendip Way, Northampton
- Appendix J - Wantage Farm, Moulton, Northampton
- Appendix K - Radstone Fields land, Brackley
- Appendix L - 10 St Giles Square, Northampton

## **Appendix M - Monksmoor Park Primary School, Daventry**

### **1. Purpose of Report**

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- 1.1. This report seeks authority from Cabinet to progress freehold and leasehold disposal of various assets currently in the ownership of West Northamptonshire Council as described later in this report and in the relevant appendices.
- 1.2. Given the experience to date, the report also seeks authority from Cabinet to extend the delegated authorities afforded to the Assistant Director Assets and Environment in relation to 125-year leases related to academy / free schools, in relation to letting at less than market rates, and in routine commercial lettings.
- 1.3. Cabinet is asked to make separate decisions for each of the properties listed in this report, as outlined below.

### **2. Executive Summary**

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- 2.1 As a result of local government reform (LGR) in Northamptonshire from the 1<sup>st</sup> of April 2021, Northampton Borough Council, Daventry District Council, South Northamptonshire District Council and Northamptonshire County Council were abolished and West Northamptonshire Council (WNC) was created.
- 2.2 Included within this report are several freehold and leasehold asset disposals which were being progressed by the predecessor councils prior to LGR but had not been concluded by Vesting Day (1<sup>st</sup> April). While some of these were subject to previous cabinet, cabinet member or delegated decisions, the Monitoring Officer has advised that a previous decision from one of the predecessor councils cannot automatically be implemented by WNC. New decisions are required.
- 2.3 This report therefore seeks authority from Cabinet to continue with the freehold and leasehold disposals as set out in the appendices.
- 2.4 The freehold disposals relate to assets either with a value exceeding £500k, or where the disposal is considered to represent a value at less than best consideration (for the reasons set out in respect of each relevant transaction). In either case, the delegated powers to dispose conveyed to relevant officers as set out in the Council's constitution do not apply and a Cabinet decision is required.
- 2.5 The leasehold disposals either exceed ten years or (again, for the reasons explained in each case) are regarded as representing a less than best consideration. In either case, the delegated powers to dispose, conveyed to relevant officers set out in the constitution do not apply and a Cabinet decision is required.

2.6 During the process of preparing these requests for approval, it has become evident that several matters relate to scenarios where either there is an external requirement on the Council to enter into the transaction or the scale and nature of the transaction is such that normally a Cabinet report is unlikely to be justified or would cause unnecessary delay. This includes academy school leases, concessionary leases to parish councils and charities, grant of tenancies at will and licenses to support effective property management and routine grants of commercial leases. For the avoidance of doubt, it is emphasised that officer delegated decisions would be taken within the overall framework of the scheme of delegation and matters may still be referred to Cabinet if that is considered appropriate.

### 3. Recommendations

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3.1 That delegated authority be given to the Assistant Director Assets and Environment to dispose of the assets listed below and where relevant agree the terms of such disposal in line with the proposals in the relevant appendix:

No	Property	Appendix
1	<b>The Hill Shop, Hunsbury Hill, Northampton</b> , by freehold	Appendix A
2	<b>Beckets Park Pavilion, Northampton</b> , by way of a new lease up to 25 years' in duration at less than best consideration	Appendix B
3	<b>Bellinge Community House, Northampton</b> , by freehold at less than best consideration	Appendix C
4	<b>Cherry Orchard open space, Northampton</b> , by freehold at less than best consideration	Appendix C
5	<b>Farmclose Road, land adjacent to cemetery, Northampton</b> , by freehold at a value at less than best consideration	Appendix C
6	<b>The Elgar Centre, Northampton</b> , by freehold at less than best consideration	Appendix C
7	<b>St Crispin's Community Centre and open space, Northampton</b> , by freehold and also by new lease, both at less than best consideration	Appendix C
8	<b>Former Buddies restaurant, Dychurch Lane, Northampton</b> by way of a new 15 year lease	Appendix D
9	<b>Hazelrigg House, Northampton</b> by way of a new 20 year lease at less than best consideration	Appendix E
10	<b>Delapre Golf Club</b> by way of a surrender of the existing lease and the grant of anew 40 year lease	Appendix F
11	<b>Unit 1 Farmfields, Northampton</b> by way of a new 15 year lease	Appendix G
12	<b>Unit 2 Farmfields, Northampton</b> by way of a new 15 year lease	Appendix H
13	<b>Tennis courts, Mendip Way, Northampton</b> by way of a new 25 year lease	Appendix I

No	Property	Appendix
14	(Part of) Wantage Farm, Northampton by way of a new 125 year lease, and also an agreement to enter into such a lease	Appendix J
15	Land at Radstone Fields, Brackley by way of a new 125 year lease	Appendix K
16	10 St Giles Square by way of new 15 year lease	Appendix L
17	Monksmoor Park Primary School, Daventry by way of a new 125 year lease	Appendix M

3.2 Items 14, 15 and 16 may require the consent of the Secretary of State on the grounds that the disposal is at an undervalue of more than £2 million. Given the circumstances it is expected this would be forthcoming.

3.3 A number of further delegations are required in order for officers to effectively manage a range of transactions on a day-to-day basis affecting the Council's property portfolio. These are set out in the table below and will be incorporated into Constitution on a permanent basis as part of the ongoing review that is currently being undertaken by Democracy & Standards Committee. Pending the outcome of that review in December, it is recommended that interim delegated authority be granted to the Assistant Director Assets and Environment to:

No	Recommendation
18	Agree, and enter into, leases of up to 125 years at nil, or otherwise a value at less than best consideration, which are directly related to the conversion of a local authority maintained school to an academy, or where as a result of a Council decision (including provisions of a Section 106 agreement entered into by the Council or Section 106 unilateral undertaking benefiting the Council) a new school is to be created, and that school will be an academy. This includes the authority to enter into agreements for such leases.
19	In consultation with the relevant Cabinet Member and Chief Financial Officer, agree, and enter into, leases of community centres and similar buildings at less than best consideration (including nil consideration) with parish/town councils or charities.
20	Grant licenses and tenancies at will, including grant at less than best consideration, where this supports the effective management of the Council's property or enables implementation of the Council's policies or statutory duties.
21	Grant leases on commercial terms for terms not exceeding 15 years or capable of break at the Council's discretion at intervals not exceeding 15 years.

#### 4. Reason for Recommendations

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- 4.1 Cabinet will be fully aware of the history to LGR in Northamptonshire and therefore it is not proposed to cover this in detail as part of this report.
- 4.2 At Vesting Day (1<sup>st</sup> April 2021), there were several freehold and leasehold disposals that had been agreed by the predecessor Councils. Approval to these transactions had been given via several different routes including cabinet, cabinet member and officer delegated decisions. These are summarised in more detail in the relevant Appendix.
- 4.3 For varying reasons, these disposals were not completed prior to Vesting Day. The Monitoring Officer has advised that a previous decision from one of the predecessor Councils does not carry forward to WNC. New decisions are required.
- 4.4 This paper therefore seeks authority from Cabinet to progress with the transactions as set out in this paper and more specifically, as set out in the relevant Appendix. **For clarity of records, Cabinet is requested to make individual decisions in relation to each recommendation stated in Section 3 of this report.**
- 4.5 Considering these issues has highlighted certain where it is certain, or almost certain, what course of action the Council would be expected to take. In those cases, it is proposed that the necessary decisions be delegated to allow for efficient and expedient action to be taken.
- 4.6 As members will be aware, under the Academies Act 2010 (the Act) there is a process for converting schools from maintained by the local authority to academy status. New schools are also normally created as academies. These are often called 'free schools' but legally are academies. The Department for Education's usual practice is to seek a 125-year lease for nil consideration. This is an alternative to the use of powers in the Act by the Secretary of State to require a freehold or leasehold transfer of the land.
- 4.6.1 As there are no realistic alternative options to consider in such cases, it is proposed that leases up to 125 years in length be capable of being authorised by the Assistant Director Assets and Environment where they specifically relate to the conversion of a school to an academy or the assignment of an existing lease between appropriate academies. Under the current constitution, any leases over ten years (unless the Council can break the lease at intervals not exceeding ten years) require Cabinet approval.
- 4.6.2 It has also become clear that there are likely to be various requests for leases of community centres / facilities. These leases enable a parish/town council or charity to operate such centres for the good of the local community. As such, it is usual to offer leases at a value which is lower than the one which could be reasonably obtainable in the market, often at nil consideration or at rent which covers only covers items such as insurance. It is therefore proposed that the Assistant Director Assets and Environment be

authorised to grant such leases. (The constitution envisages such standing approval being granted as it excludes leases granted not at best consideration from officer delegations except in cases approved in policy.)

- 4.6.3 The constitution does not expressly address the issue of tenancies at will or licenses to occupy property a value which is lower than the one which could be reasonably obtainable in the market. These flexible arrangements are needed to ensure property is effectively managed, the costs of void property are minimised and the Council can effectively implement its policies and comply with its statutory duties. It is proposed that it is made explicit that such arrangements can be made.
- 4.6.4 It has been identified that commercial leases are often now required with fifteen-year terms. This applies to three of the transactions covered in this report. However, the constitution only delegates authority to grant commercial leases on market terms with terms up to ten years (or capable at break by the Council at ten-year intervals). It is therefore suggested that this period is extended to fifteen years so that routine lettings are not delayed.
- 4.6.5 Whilst it is intended that these issues would be addressed in the review of the Constitution currently underway, this is not due to be considered by Council until December. It is therefore proposed that these additional delegations are approved pending the consideration by Council of the Constitutional review.

## 5. Report Background

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- 5.1 The proposed disposals are set out in the table below. The table gives brief details of each proposed disposal, including identifying where disposal at less than best consideration (generally at nil consideration) is proposed. The table also identifies which appendix each proposed disposal is detailed in.

Appendix	Property	Brief details
A	The Hill Shop, Hunsbury Hill Northampton	Freehold disposal where value is likely to exceed £500,000.
B	Beckets Park Pavilion, Northampton	Transfer to community group by way of lease. Less than best consideration.
C	Bellinge Community House, Northampton	Freehold transfer to parish council. Less than best consideration.
C	Cherry Orchard Open Space, Northampton	Freehold transfer to parish council. Less than best consideration.
C	Farmclose Road Land Adj to Cemetery, Northampton	Freehold transfer to parish council. Less than best consideration.

<b>C</b>	The Elgar Centre, Northampton	Freehold transfer to parish council. Less than best consideration.
<b>C</b>	St Crispin's Community Centre and Open Space, Northampton	Freehold transfer to parish council. Less than best consideration. Additionally, prior to freehold transfer a leasehold (also at less than best consideration) transfer to community group.
<b>D</b>	Former Buddies Restaurant, Dychurch Lane	New 15-year at market consideration.
<b>E</b>	Hazelrigg House, Northampton	New 20-year lease. Less than best consideration.
<b>F</b>	Delapre Golf Club	Surrender of existing lease and grant of new 40-year lease at market consideration.
<b>G</b>	Unit 1 Farmfields, Northampton	New 15-year lease at market consideration.
<b>H</b>	Unit 2 Farmfields, Northampton	New 15-year lease at market consideration.
<b>I</b>	Tennis Courts, Mendip Way, Northampton	New 25-year lease. Less than best consideration.
<b>J</b>	(Part of) Wantage Farm, Northampton	125-year lease for a free school. Less than best consideration.
<b>K</b>	Land at Radstone Fields, Brackley	125-year lease for a free school. Less than best consideration.
<b>L</b>	10 St Giles Square	15-year lease at market consideration.
<b>M</b>	Monksmoor Park Primary School, Daventry	125-year lease for a free school. Less than best consideration.

## **6. Issues and Choices**

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6.1.1 The Issues and choices relating to each of the individual freehold and leasehold disposals are outlined in the relevant appendices.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

7.1.1 The financial and other resource implications of disposals are outlined in the relevant appendices. In general, disposal of land and buildings reduces the Council's liabilities and costs. In some cases, notably the proposed shop sales, it also reduces income. The reasons for nonetheless proposing a sale are given in the relevant appendix.

7.1.2 The revenue implications of each proposed disposal are summarised in the table below:

<b>Appx</b>	<b>Property</b>	<b>Summary</b>
<b>A</b>	The Hill Shop, Hunsbury Hill	The passing rent under the lease is £26,000, however there is an outstanding rent review. The estimated market rent is £47,500; this was considered in the assessment of capital value. WNC will receive a capital receipt of £522,250.
<b>B</b>	Beckets Park Pavilion	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>C</b>	Bellinge Community House	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>C</b>	Cherry Orchard Open Space	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>C</b>	Farmclose Road Land Adj to Cemetery,	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>C</b>	The Elgar Centre	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>C</b>	St Crispin's Community Centre and Open Space	As a community facility, the rental income is likely to be limited. WNC would also save any associated holding costs.
<b>D</b>	Former Buddies Restaurant, Dychurch Lane	The property is currently vacant and generates nil income. The proposal would generate a revenue income of £23,000 per annum. WNC would also save on holding costs.
<b>E</b>	Hazelrigg House	The current passing rent under the lease is £15,000 per annum and the market rent is £24,000 per annum, although this is not currently received or budgeted for. The concessionary rent proposed would equate to an average rent of £5,000 per annum over the first five years.

<b>F</b>	Delapre Golf Club	The current passing rent under the lease is £150,000. Terms are being negotiated for a surrender of part which would have a revenue impact of around £30,000 per annum.
<b>G</b>	Unit 1 Farmfields	The proposal would enable WNC to realise an additional average revenue income of £11,800 per annum over the first five years.
<b>H</b>	Unit 2 Farmfields	The proposal would enable WNC to realise an additional average revenue income of £9,200 over the first five years.
<b>I</b>	Tennis Courts, Mendip Way	The passing rent under the lease is £700 per annum. Terms are being negotiated at present. An increase is anticipated although this is likely to be nominal.
<b>J</b>	(Part of) Wantage Farm	There are no revenue impacts with this proposal. The land currently does not generate any income but has historically been farmed; therefore a modest farm rent income would be forgone.
<b>K</b>	Land at Radstone Fields	There are no revenue impacts associated within this proposal. The rent would be nil as an academy school
<b>L</b>	10 St Giles Square	The property is currently vacant and generates nil income. The proposal would generate a revenue income of £50,000 per annum. WNC would also save on holding costs.
<b>M</b>	Monksmoor Park Primary School	There are no revenue impacts associated within this proposal. The rent would be nil as an academy school.

7.1.3 Based on the table above, the proposals would representative a positive rental position of approximately £28,000 per annum.

7.1.4 The proposals would also generate a capital receipt of £522,250.

## 7.2 Legal

7.2.1 Generally, the disposals are authorised under Section 123 of the Local Government Act 1972. This requires that disposals by freehold or leasehold of seven or more years in length must be on the best consideration reasonably obtainable. However, there is an exemption where the Secretary of State otherwise approves. Sometimes specific consent is needed, but often the necessary consent is given by the General Disposal Consent 2003. This allows for disposals at under-values of up to £2 million where the Council thinks the

disposal will advance the economic, social or environmental well-being of the area or people in it.

7.2.2 Where disposal of open space land is concerned, Section 123 also requires, in sub-section 2A, that the Council advertise for two successive weeks in a local newspaper of its intention to dispose of the land and considers any objections to a proposed disposal before confirming a decision to dispose. Given the natures of the disposals proposed in this report, objections are not expected. Nonetheless, if any arise they would be carefully considered and if any substantive points were raised the matter referred back for a Member decision.

7.2.3 The Council must also comply with the subsidy control provisions of the UK – EU Trade and Cooperation Agreement, as applied into UK law by Section 29 of the European Union (Future Relationship) Act 2020. Disposing of land at less than best consideration is a form of subsidy. However, it is considered that the cases set out in this report are not the kinds or scales of subsidy likely to fall under the controls of the treaty. If any risk of infringement is identified legal advice would be taken.

### 7.3 **Risk**

7.3.1 The legal implications relating to the each of the individual freehold and leasehold asset disposals are outlined in the relevant appendices.

### 7.4 **Consultation**

7.4.1 The consultation implications relating to the each of the individual freehold and leasehold asset disposals are outlined in the relevant appendices.

### 7.5 **Climate Impact**

7.5.1 The Climate implications relating to the each of the individual freehold and leasehold asset disposals are outlined in the relevant appendices.

### 7.6 **Community Impact**

7.6.1 The community Impact implications relating to the each of the individual freehold and leasehold asset disposals are outlined in the relevant appendices.

## 8. **Background Papers**

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8.1.1 None