

APPENDIX K

Land at Radstone Fields, Brackley

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5. Report Background

- 5.1 Under a S106 Agreement for a large strategic urban expansion site known as Radstone Field in Brackley, Northamptonshire County Council (NCC, now West Northamptonshire Council) was allocated a site for a new primary school as well as associated sports pitches and changing rooms. When certain key milestones have been reached, the site was to be transferred into the ownership of NCC (now WNC).
- 5.2 Under the provisions of the above mentioned agreement, NCC had the responsibility to construct the school and the changing rooms but provision of the pitches and associated landscaping were the responsibility of the developer consortium.
- 5.3 While it was always envisaged that the school and sports pitches would be transferred to WNC at the same time, given the local need for school places, NCC took possession of the school site and ultimately constructed the school in 2018. As the lease to the academy trust was to encompass the school and the pitches, it was agreed that the school would occupy the property under a tenancy at will until such a time that the other elements had reached practical completion.
- 5.4 Following delays in the completion of the sports pitches and associated landscaping, the transfer of the community pitches to WNC finally completed in June 2021.
- 5.5 Following completion of the works and the formal transfer of sites to WNC, WNC now needs to regularise the occupation of the academy trust on the main school site and the community sports pitches. These will be leased to the academy trust in line with the obligations set out in the S106.
- 5.6 Authority is therefore sought to enter a 125-year lease on the school (including the pitches) in accordance with WNC's obligations under the S106.

6. Issues and Choices

- 6.1 There are no alternative options considered for this transaction. The Department for Education (DfE) guides local authorities to grant long leasehold interest in the school at the point of Academy conversion or creation. If WNC opted not to enter into the Lease, the DfE could exercise its powers under Academies Act 2010 (the 'Act') and require the Council to transfer the freehold interest in the school site or grant a lease over it.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 There are no significant financial and/or resource implications as a result of making this decision. WNC would be responsible for paying its own legal fees in relation to agreeing and implementing the new 125-year lease to the academy trust.

7.2 Legal

- 7.2.1 There are no legal implications arising from the proposals. WNC is encouraged by the DfE to enter into the 125-year lease as an alternative to DfE exercising its powers under the Act requiring the freehold transfer of the site or grant of a lease over the site. On this basis, the legal risk is more related with not granting a lease.
- 7.2.2 The disposal at a value less than the best reasonably obtainable this would be justified at present by the proposed school contributing to the social wellbeing of the area for the purposes of the General Disposal Consent (England) 2003. However, the under-value may exceed the £2m permitted by the Consent; if so, specific approval would need to be sought.

7.3 Risk

- 7.3.1 As highlighted previously in this report, under the Act, the DfE has the power to require the freehold transfer of the site or the grant of a lease over it. This power has not (as far as we are aware) ever been used as the DfE encourages local authorities to enter into a 125-year lease on the site as an alternative. There is however a risk that by making the decision not grant the 125-year lease to the academy, WNC will be required to transfer the freehold interest, or a lease on less favourable terms, instead.
- 7.3.2 The S106 for the wider Radstone Fields development made provision of the primary school but also the sports pitches. These pitches are available for the social benefit of the local residents but will be maintained and managed by the school. If WNC does not progress with the lease to the school, the sports pitches would either remain unavailable to the local community (contravening the terms of the S106), or WNC would have to step in and manage the bookings and maintain the site (grounds maintenance etc.). As the pitches share some of the facilities with the school this would be impractical.

7.4 Consultation

7.4.1 There has been no additional consultation undertaken in relation to this proposal. The transfer of the site and the subsequent lease are set out in the terms of the S106. Conversations have been ongoing with the academy trust that runs the school who are keen to begin to deliver the pitches as soon as practicably possible.

7.5 **Consideration by Overview and Scrutiny**

7.5.1 None.

7.6 **Climate Impact**

7.6.1 No material impact on climate is anticipated as a result of this decision.

7.7 **Community Impact**

7.7.1 By agreeing to this recommendation WNC would be able to regularise the occupation of the academy trust and meet its obligations under the S106. By doing so, it would enhance the education provision to the local community. Until a legal agreement has been entered into with the trust, the sports pitches are not available for use. Once completed, and in accordance with the S106, the school will take over the management and maintenance of the sports pitches and the changing facilities.

8. Background Papers

8.1 None.