

CABINET	AGENDA ITEM No. 13
16 January 2023	PUBLIC REPORT

Report of:	Cecilie Booth, Executive Director of Corporate Services	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Christine Addison/Felicity Paddick	

TRANSFER OF REGIONAL POOL CAR PARK FOR PHASE 3 OF THE UNIVERSITY PROJECT

RECOMMENDATIONS	
FROM: <i>Executive Director of Corporate Services</i>	
It is recommended that Cabinet:	
<ol style="list-style-type: none"> 1. Authorise the Council to transfer land at Regional Pool Car Park into the joint venture company to facilitate Phase 3 of the university project. 2. Delegate authority to Executive Director of Corporate Services and Director of Legal and Governance, in consultation with the Cabinet Member for Finance and Corporate Governance to finalise and agree the final land value and all relevant contract and transfer documents. 3. Note the requirement to provide a temporary car park to benefit the users of the Regional Pool. 	

1. ORIGIN OF REPORT

This report is submitted to Cabinet to facilitate the development of phase 3 of the university project on land known as Regional Pool Car Park, following the completion of phases 1 and 2 on previously transferred land at Wirrina Car Park.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to inform Cabinet of the proposed disposal of the Regional Pool Car Park to the joint venture company. The site has been identified as the preferred location to facilitate phase 3 of the university project due to the proximity of the first two phases at the previously known Wirrina Car Park. Planning permission was submitted in September 2022 for the development of a two-storey building, car parking and associated works and was granted planning permission at Planning Committee on the 13 December 2022.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.4, *'To be responsible for budget planning, monitoring and expenditure/savings over £500,000.'*
- 2.3 There is an exempt appendix attached to this report that is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains information relating to the financial and business affairs the Council. The public interest test has

been applied to the information contained within this exempt appendix and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
---	-----------	----------------------------------	------------

4. **BACKGROUND AND KEY ISSUES**

- 4.1 In April 2020, the Council approved (APR20/CMDN/96) establishing a Joint Venture Company (“JVCo”) with the Cambridgeshire and Peterborough Combined Authority (“CPCA”) to create a University for Peterborough. To facilitate this the Council would transfer approximately 13.5 acres of land into the joint venture based on market value in exchange for shares in the company.
- 4.2 In September 2020, Cabinet approved (SEPT20/CAB/29) the transfer of Wirrina Car Park, comprising circa four acres of land, to the JVCo to facilitate the initial phases of development for the Anglia Ruskin Peterborough University. Phase 1 completed in July 2022 which enabled the first intake of students in September 2022. Phase 2 is due to complete in January 2023.
- 4.3 Phases 1 and 2 are shown coloured blue on the attached plan at Appendix 2. Phase 3 is proposed to be constructed on the current Regional Pool Car Park, coloured red on the attached plan. Planning permission was submitted in September 2022 and will provide a second teaching building and living lab public science centre. Development is anticipated to start in February 2023 with completion proposed in April/May 2024.
- 4.4 The Regional Pool Car Park is owned freehold by the Council and comprises circa 1.3 acres and provides for 128 car park spaces. The majority of these spaces are to benefit the users of the Regional Pool. With the car park to be sold and developed alternative provision is required. A site in close vicinity on redundant football pitches, as coloured green on the attached plan has been identified and a planning application is to be submitted for a temporary car park of 128 spaces. A planning application was previously submitted on an alternative site adjacent to the Regional Pool which is now deemed not as suitable. There is a potential risk that planning permission may not be granted on the redundant pitches and therefore the initial site may need to be reviewed or the Regional Pool will have to rely on other town centre car parks.
- 4.5 The funding for the new temporary car park is to be provided by CPCA who have secured the funding through the Getting Building Fund. The timescales for the temporary car park to be completed is to be confirmed but there will be a period of time that the users of the Regional Pool will need to use alternative car park provision in the City.
- 4.6 In respect of the proposed transfer of the Regional Pool Car Park to JVCo, the Council will receive shares in the company on the same basis as for Phases 1 and 2 and in lieu of a capital receipt. The valuation of the site and shares are detailed in the confidential appendix. The CFO has a preference to receive a capital receipt rather than shares in the company, and officers are investigating this option further as a priority.
- 4.7 The approval of the business case specifically relating to phase 3 of the university programme is also to be determined at January Cabinet as a separate agenda item. The council is a shareholder in the company overseeing the development of the business case. Approval from the other shareholders has either already been secured or is scheduled for discussion, as follows: Anglia Ruskin University (approved December 2022); Cambridgeshire and Peterborough Combined Authority (scheduled for discussion at the Skills Committee on 9 January 2023, and if approved, the CPCA Board on 25 January 2023). The report further confirms that the phase 3 development is to be constructed on the Regional Pool Car Park with the site to be transferred into the Peterborough HE Property Company Ltd, in accordance with the provisions of that

company. Therefore, the council will not receive a capital receipt and instead, the council will receive further shares in the company.

5. CORPORATE PRIORITIES

5.1 The recommendation links to the Council's Corporate Priorities as follows:

1. The Economy & Inclusive Growth

- A Carbon Impact Assessment has been completed – The developments environmental and climate change implications are detailed as follows:
- ARU Peterborough and the Peterborough Research & Innovation Centre, through local employment, training and education opportunities will support local and environmentally sustainable choices regarding travel and transport. The design of the teaching buildings will meet BREEAM Excellent standards, and all planning applications will meet national and local standards regarding the preservation and further advancement of biodiversity in the local area.
- As the University Campus develops over time there are further strategies in place to work with the University Partners and the tenants of the Research & Innovation Centre, for the site and buildings to have net carbon zero impact by 2030

6. CONSULTATION

6.1 Significant consultation has been undertaken on the overall university project, with key stakeholders engaged with all public consultation taking place prior to the construction of phases 1 and 2. The planning application that was submitted in September 2022 for phase 3 enabled public feedback and commenting to be considered prior to permission being granted.

6.2 This cabinet paper has been considered at Corporate Leadership Team on the 21st December and Cabinet Policy Forum on the 9th January 2023.

7. ANTICIPATED OUTCOMES OR IMPACT

7.1 Approval of the recommendations will enable the required expansion of the university as programmed. However, whilst there will be an initial impact on the loss of car park to benefit the Regional Pool, this will only be for a limited time period until completion of the temporary car park on the assumption that planning permission is granted. If planning permission is not granted or construction delayed the users of the Regional Pool would be required to utilise alternative car parking in the city.

8. REASON FOR THE RECOMMENDATION

8.1 To enable the joint venture company to continue to deliver the university project for the benefit of the City and wider economy.

9. ALTERNATIVE OPTIONS CONSIDERED

9.1 The Council could choose not to transfer the site to the JVCo but this would be a breach of the joint venture agreement and may lead to the termination of the JVCo resulting in the Council incurring costs incurred in connection with the project. This would have a significant impact on the overall delivery of the university project and is not recommended.

10. IMPLICATIONS

Financial Implications

10.1 The property is to be transferred in accordance with the provisions of the JVCo and therefore the Council will not receive a capital receipt but rather will receive further shares in the JVCo. As stated above, the valuation of the site (and therefore the value of any potential capital receipt foregone), and the value of the shares, are detailed in the confidential appendix.

10.2 Legal Implications

Comments from Peter Collins of Sharpe Pritchard solicitors as follows:-

“For PCC, the share allocation for Phase 3 had two components: (i) the shares to be issued to PCC in exchange for the £20m LUF funding and (ii) the shares to be issued to PCC representing the agreed market value of the phase 3 land on the date of the agreement (1 April 2022). The 5.613p share valuation is a number calculated by reference to the 20m B shares issued to PCC on 1 April 2022 in exchange for investing the £20m LUF funding. It does not relate to the market value of the Phase 3 land, which is dealt with in clause 4.3 of the shareholders’ agreement.”

“Although he was not involved/close to the process for agreement / assessment of market value for the Phase 3 land; however, the confidential annex appears to confirm that a Red Book valuation of the Phase 3 land was undertaken and, if that valuation is reflective of the purchase price to be paid for the land (satisfied by the issue to PCC of shares of the equivalent value) then I can’t see any legal issue in relation to satisfying the requirements of s123 LGA 1972.”

10.3 The Council has a requirement to achieve best consideration when it disposes of its assets under section 123 of the LGA 1972.

The Act is not specific on how the consideration should/must be held. However, it is prudent to note that “consideration” of any transaction ie a disposal must be of a commercial or monetary value. In this case if the value of the disposal is to be held in shares (commercial value) then it must be justifiable that it is held in equal (or higher) value to capital receipt and/or can generate more revenue than if held as capital receipt.

Equalities Implications

10.4 No specific implications arising from this report although where necessary Equality Impact assessments will be carried out to support decision making.

Risk Assessment

10.4 Due to the tight timescales, there is a risk that the transfer will not complete by the 12th February to enable the development to commence as timetabled which could have an impact on the current practical completion dates of the university project.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

11.1 The CMDN and Cabinet report prepared in relation to the transfer of land for phases 1 and 2 as detailed below:

APR20/CMDN/96
SEPT20/CAB/29

12. APPENDICES

- 12.1 Appendix 1 – Exempt
- Appendix 2 – Site Plan

This page is intentionally left blank