



## Report of the Cabinet Member for Business Transformation & Performance

Cabinet – 20 December 2018

### Proposed Appropriation of 21 Acacia Road, West Cross, SA3 5LF

<b>Purpose:</b>	To decide whether the property 21 Acacia Road, West Cross, SA3 5LF should be appropriated for the purposes of Housing. The land proposed to be appropriated is currently held by the Council as social services land and is considered to be surplus to requirements for those purposes.
<b>Policy Framework:</b>	Council Constitution
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that:  1. The property identified on the plan at Appendix B is appropriated for the purposes of Housing, namely the provision of two or possibly 3 units of council housing.
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#### 1. Introduction

- 1.1 There is no delegated authority for the appropriation of a surplus property between departments. Consequently, Cabinet approval is required.

#### 2. Background

- 2.1 Social services has declared 21 Acacia Road surplus and it is scheduled for disposal. **(Appendix A)**

- 2.2 Housing wishes to adapt the building to provide two or possibly 3 units of Council Housing to satisfy demand in this geographic location **(Appendix B)**

### **3. General Issues**

- 3.1 It is agreed between the services that the proposed appropriation would take place at Market Value.
- 3.2 Market Value is accepted as being a figure between £170,000-£185,000 pounds, depending on whether any additional Social Services owned land is required to provide on-site car parking. The need for additional land and therefore, the final price, is yet to be determined.
- 3.3 The terms of the prospective acquisition will be in accordance with the principles of best value.
- 3.4 The Director of Place certifies that he is satisfied that the property represents a reasonable proposition for purchase at the provisionally agreed price.

### **4. Equality and Engagement Implications**

- 4.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 4.2 An EIA screening form has been completed and reviewed **(Appendix C)**. The agreed outcome was that a full EIA report was not required as there are no equalities and engagement implications at this time. Any developments will be subject to normal planning procedures.

### **5. Financial Implications**

- 5.1 Housing have advised that the proposed purchase is within the budgetary constraints previously agreed for them by Cabinet and that they have a budget in place to complete the proposed purchase.
- 5.2 The capital receipt is not “ring fenced” for any specific purpose and will therefore be allocated to the General Fund.

5.3 There are no further financial implications associated with this report.

## **6. Legal property Implications**

**6.1** Section 122(1) of the Local Government Act 1972 provides that a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation.

**6.2** The key procedural points are;

1. The land must already belong to the Council;
2. The land must be no longer required for the purpose for which it is currently appropriated; and
3. The purpose for which the Council is appropriating must be authorised by statute.

The case of *Dowty Boulton Paul v Wolverhampton Corporation* (1973) established that the local authority is the sole judge of whether or not the land in question is not required for the purpose for which it is held immediately before the appropriation and its decision cannot be challenged in the absence of bad faith.

As with most administrative decisions made by public authorities, the decision to appropriate land is subject to challenge by judicial review. If private rights or alleged town and village green rights are to be overridden the Council must be especially careful. The Council must be able to demonstrate the purpose for the appropriation and that it has taken all the relevant considerations into account and not taken any irrelevant considerations into account.

The Council's decision must be based on the available evidence and be rational in the sense that it cannot be said that no reasonable local authority could, on the evidence before it, have arrived at that decision: *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* (1948) 1 KB 223).

The proposal to appropriate must be the subject of a comprehensive report and decision record or minute, which should evidence that the Council intends to formally appropriate the land under s.122 of the Local Government Act 1972. It must also be recorded that the land is no longer required for the purpose for which it is currently appropriated.

**Background Papers:** None

### **Appendices:**

Appendix A: Site Photo

Appendix B: Site Plan

Appendix C: EIA Screening Form