



**REPORT TO THE PLACES AND  
FUTURES OVERVIEW AND  
SCRUTINY COMMITTEE**

**TO BE HELD ON 28 NOVEMBER  
2022**

	<b>Key Decision</b>	<b>YES</b>
	<b>Forward Plan Ref No</b>	
	<b>Cabinet Portfolio Holder:</b>	<b>Cllr Liz Colling</b>
<b>Corporate Aims: Better Lives, Better Homes, Better Places, Brighter Futures, Better Council</b>		

**REPORT OF: DIRECTOR (MC) - 22/234**

**WARDS AFFECTED: WEAPONNESS AND RAMSHILL**

**SUBJECT: DRAFT REPORT TO CABINET TO BE HELD ON 13  
DECEMBER 2022: DISPOSAL OF LAND AT THE SITE OF THE  
FORMER SCARBOROUGH SPORTS AND TENNIS CENTRE, FILEY  
ROAD**

**RECOMMENDATION (S):**

Cabinet is requested to

- i) Adopt the (non-statutory) draft development brief as outlined in Appendix B;
- ii) To give 'in principle' approval in accordance with the Council's Constitution to dispose of the freehold interest of 0.7ha of land (Subject to measured survey and final boundary agreement) shown shaded red in Appendix C direct to Scarborough College for reasons outlined in this report.

A further report will be taken to Cabinet in order to obtain a final approval following further due diligence on planning and value before agreeing a final Heads of Terms.

- iii) Grant 'in principle' approval to market the freehold interest of the remaining site for residential development totalling 1.07ha (Subject to measured survey and final boundary agreement) as shown shaded blue in Appendix C on the open market by way of an invitation to treat.

Following a reasonable marketing period and further due diligence on planning, a further report will be presented to Cabinet seeking final approval for the sale of the freehold interest in accordance with the Council's Constitution.

- iv) Agree a marketing budget of £20,000 for the sale of the remaining land to be taken from the capital receipt.
- v) Approve, 'in principle', the long lease of 4No tennis courts to a Community Trust for community tennis use on terms to be agreed by the Council and Lawn Tennis Association as shown shaded green in Appendix C for reasons outlined in this report. Once final terms are agreed a further report will be presented to Cabinet for approval.

## **REASON FOR RECOMMENDATION:**

- To rationalise the property portfolio.
- To realise a capital receipt that will balance the costs of the Council's contribution to the Scarborough Sports Village
- To secure a long term future for the listed pavilion building
- Reinstating the provision of tennis for community use

## **HIGHLIGHTED RISKS:**

- The final authority to sell/lease the land interests does not get approval.
- The sales/lease fail to reach completion through the legal process.
- Failure to achieve Planning and Listed Building consents.
- Sufficient Capital receipt not achieved.

## **1. INTRODUCTION**

1.1 This report brings forward a proposal to:

- dispose of the freehold interest of 0.7ha of land comprising the listed pavilion, sports hall, squash courts, MUGA and car park to Scarborough College for the intended use of sporting, educational and boarding facilities.
- lease 4 hard tennis courts to a community trust to operate under a community use agreement.
- market the remaining 1.07ha of the site for residential development that is sensitive to the location within the Weaponness Conservation Area.

- 1.2 The site occupies around 2.44ha in total and is located around 1.5km to the south-east of Scarborough town centre, between Olivers Mount to the west and Filey Road, an arterial route, to the east. It is situated within the Weaponness suburb and falls within the Weaponness Conservation Area.
- 1.3 The site has not been in use for several years, but was notably the historical home of the Yorkshire Lawn Tennis Club, latterly becoming the Scarborough Sports and Tennis Centre. The site secured 'enabling development' to help cross subsidise the funding of a modern, fit for purpose multi-use sports village for the town nearby at Ashburn Road.
- 1.4 A planning brief to guide the future redevelopment of the site was prepared in anticipation of the council relocating the sporting facilities in 2011 <https://www.scarborough.gov.uk/sites/default/files/files/Sports-and-Leisure-Village-Filey-Road.pdf>
- 1.5 The site is significantly developed, with a number of newer buildings, a 1970's Sports Barn and courts which have been added since the original Pavilion and grandstand were constructed. Sadly, the listed pavilion is falling into a state of disrepair, largely owing to damage caused by trespassers to the roof and internal fabric of the building. This necessitates the bringing forward of proposals to secure a long term future for the pavilion building and to sensitively redevelop the remainder of the site.
- 1.6 Acknowledging that some time has lapsed since the planning brief was established and that previous planning applications for the site have been unsuccessful, the Council commissioned 5Plus Architects Ltd to prepare development proposals in discussion with the Local Planning Authority, Conservation Officer, Historic England, Sports Development Officer, Trees and Countryside Officer and Highways in order to establish acceptable development parameters.
- 1.7 This non-statutory development brief includes an indicative site layout, building plans and visuals in order to provide prospective developers with the necessary design framework, including matters of scale, access, parking and suggested materiality.
- 1.8 The development brief has been prepared concurrent to discussions with the Community Tennis Trust and Scarborough College to ensure that a comprehensive scheme of redevelopment is outlined. Comments from key stakeholders and statutory authorities have been considered and addressed throughout the development of the brief, details of which can be found in Section 4 of the report.
- 1.9 Cabinet is asked to accept this development brief that outlines a comprehensive scheme of redevelopment of the site which acknowledges the particular sporting and architectural heritage.

## **2. CORPORATE AIMS**

- 2.1 Better Council- The proceeds of the sale will provide a capital receipt which will assist in the delivery of the Council's corporate aims and priorities.
- 2.2 Better Lives- Retention of tennis provision on the site with 4No hard courts to be reinstated to Lawn Tennis Association specification and operated and managed under a community trust model.
- 2.3 Better Homes- Acceptance of a (non-statutory) development brief for the site that has been developed in consultation with key stakeholders. The development brief establishes the design parameters for a residential development that is in keeping with the setting of the Weaponness Conservation Area.
- 2.4 Better Places- Bringing forward a comprehensive scheme of redevelopment (leisure/residential/educational) for a disused site that will enhance the sylvan character of the area through sensitive structural and amenity landscape planting.
- 2.5 Brighter Futures- Adding and enhancing to Scarborough College's building stock in the area, thereby continuing to support the local economy and the continued delivery of high quality education within the area.

### **3. BACKGROUND AND ISSUES**

- 3.1 The site in particular has considerable historic value as a reminder of the important story of sports heritage of the town, intimately linked to its development as an important resort from the eighteenth century onwards. The former Tennis Club House hosted events on a national and international level. Its historic interest, alongside the architectural significance of the building and degree of intactness merited its listing as a building of special national significance in 2011.
- 3.2 Following an independently commissioned study by Scarborough Borough Council in 2007, which looked to improve the level and quality of sports and leisure facilities within the Borough, the Council began discussions with a private sector partner to deliver a new football ground and a sports and leisure village at Weaponness Valley. The new development, known as the Scarborough Sports Village opened in 2017, resulting in the subsequent closure of facilities at Filey Road.
- 3.3 Any planning application would likely receive objection from Sports England if tennis facilities are not provided on site or at an alternative site in the town. There is a requirement for 4 floodlit hard courts as the new sports facilities did not provide a suitable number of courts to replace those lost. This requirement is acknowledged in the 2019 Scarborough Borough Tennis Strategy <https://democracy.scarborough.gov.uk/documents/s95753/19230%20Appendix%20Scarborough%20Borough%20Tennis%20Strategy.pdf>
- 3.4 The site has fallen into significant disrepair since its closure. The Grade II listed former Club House now requires significant investment, not least to prevent further water ingress and to protect from further vandalism and the former

grandstand structure has previously been independently assessed as structurally unsafe and beyond repair. The site has also become significantly overgrown and the tennis courts are no longer serviceable. It will be important that a satisfactory repair/conversion of the listed Pavilion is ensured as part of the disposal process.

- 3.5 A planning application was previously submitted in March 2019 with developments across four different sites in Scarborough, one of which is the Filey Road Sports Centre. The development contained 26No. new build dwellings, a new building comprising 16No. apartments and the conversion of the existing Grade II listed Club House Pavilion to 4No. apartments. This proposal was supported by the various advisors and planners including highways and landscape.
- 3.6 In a letter from Historic England regarding the development of the site, there were many concerns with regards to the form and harm that would be caused to the Weaponness Conservation Area as well as to the heritage assets on the site. These concerns have been considered through further dialogue with Historic England during the preparation of the development brief.
- 3.7 As a general rule the Constitution states that all property disposals are by way of competitive tender unless, subject to Cabinet Member prior approval, an alternate method of disposal is deemed preferable. In this instance it is recommended that the Council treat with the College independently on the sale of part of the site as their proposals offer an optimal viable use of the listed pavilion building in retaining the sporting use alongside educational and boarding uses.
- 3.8 The direct and wider regeneration benefits of the disposal and subsequent development must be considered when assessing the sale of the site in parts as proposed. In this instance the sale of part of the land to the College offers a longer term contribution to local economy than residential use alone. Further details of the Scarborough college proposals can be found in Section 5 below.
- 3.9 The subdivision of the site and the separation of the listed pavilion building from the curtilage listed grandstand does present an additional challenge which is covered in the implications (f) below.

## **4. CONSULTATION**

- 4.1 Scarborough Borough Council have already consulted locally to establish the planning brief, which was published in 2011. A summary of the consultation can be found in Appendix A of the planning brief. Whilst the brief was prepared some 11 years ago, much of the planning and development context remains relevant.
- 4.2 The draft 2022 development brief is cognisant of the 2011 planning brief. Extensive consultation has taken place during the preparation of the development brief with the following statutory authorities and officers:
  - Local Planning Authority- to refresh the Planning context of the site and to establish parameters;

- Conservation Officer- to ensure that proposals are in fitting with the Weaponness Conservation Area;
- Historic England- input in regards to the listed pavilion building and wider setting;
- Sports Development Officer & Lawn Tennis Association - Tennis input;
- Tree and Countryside Officer - in respect of the Tree Preservation Orders;
- North Yorkshire County Council Highways – Highways and site access;
- Scarborough Borough Council Executive Management Team;
- Weaponness and Ramshill Ward Member.
- Scarborough Disability Action Group

4.3 A summary of the stakeholder discussions is included within Section 2 of the Development Brief.

## **5. ASSESSMENT**

5.1 The long lease of the 4 tennis courts to a Community Trust has been well received in the consultation with statutory consultees to date. As the provision of tennis is intrinsically linked to the development of the site, attention will likely be needed as to the phasing of works in the development of the site. It is likely the tennis courts would need to be the first phase of development to provide Sports England with the confidence they are going to be included and therefore reduce the likelihood of receiving an objection to any planning application.

5.2 The long lease to the tennis courts to a Community Trust is to be fully repairing. The courts are to be reinstated to Sports England/Lawn Tennis Association guidelines with costs to be met by the tenant. The cost of operating the facility will be covered by income and any surplus is to be reinvested into the facility and form a sinking fund to cover maintenance, repair and promotion of the facility. The rent will be for a peppercorn on the basis of securing community use.

5.3 Due to the fact that part of this site is not being sold on the wider market an independent valuation has been obtained, as required under the Council's Constitution. The valuation looks at the site value as a whole, and in part, to ensure that the Council is obtaining best value with this proposed disaggregated land disposal.

5.4 Following this valuation, terms have been agreed, in principle, with the College to purchase the freehold interest of the area of land shaded red in Appendix C but are not yet finalised. Once finalised a further report will be presented to Cabinet seeking final approval for the sale. The remainder of the site, less the tennis courts, is to be sold by way of an invitation to treat on the wider market at a later date. This report also seeks to establish a marketing budget and gain in principle approval to market and develop the remainder of the site for residential use.

5.5 Scarborough College is a non-selective school, which aims to provide a first class education to both day students and boarding students. The potential opportunity to purchase an element of the Filey Road Sports Centre site sets

to further its aims and mission by developing the site to strengthen its sport facilities and the potential development of an additional boarding house. At present the College has pupils spanning over 21 different nationalities, which serves to add to the cultural development of the Scarborough Borough. Currently, the College has a waiting list for spaces in boarding and this additional boarding space would look to house around 40 additional boarders. This development would require additional staffing and create around 10 additional roles, bringing employment and additional spending capacity to the local area. The Boarders housed in this development would also bring with them the benefits of additional revenue sources to the local traders of the town.

- 5.6 A Scarborough College economic impact report, which has been carried out in line with guidance from the Independent Schools Council and is based on current staff and pupil numbers, shows that the College's total contribution to the Gross Domestic Product (GDP) of the Scarborough local authority district is £5,275,708, of which the direct GDP is £4,005,400. GDP supported in the Scarborough District supply chain is £544,118 and the GDP supported by the spending of staff and local supplier staff is £726,190. The total number of jobs in the Scarborough district supported by the College is 167,133 through their own employment, 16 jobs supported in the Scarborough area supply chain and the spending of the College's staff and local suppliers staff supports 16 jobs. With these increased facilities these will statistics only increase further.
- 5.7 The college currently works in partnership with local schools and communities to assist them with shared facilities, including its sports fields. The additional facilities at the Sports Centre site would be used by the community in the very same manner and the College is already thinking of potential uses and the additional facilities it could bring to the local area, such as a 5 lane golf simulator. The College would be committed, as its ongoing community partnership work, to make these available for use by people outside the immediate College family, without the requirement of a formal community use agreement.
- 5.8 The development brief and planning pre-application advice provide a level of comfort that any residential development brought forward at a later date will be in fitting within the setting of Weaponness Conservation Area and the work carried out will aid any planning application brought forward. The marketing process is to be careful and considered in order to achieve a final product that is sensitive to the requirements of the site and merits the demolition of the curtilage listed grandstand.

## **6. IMPLICATIONS**

### **(a) Policy**

- 6.1 This is within the Council's policy framework.

### **(b) Financial**

- 6.2 A substantial cost liability for the safeguarding and repair of the listed pavilion that lies with the Council is avoided through the sale to Scarborough College.

- 6.3 The opportunity for redevelopment of the site follows from the delivery of the new football ground and a sports and leisure village at Weaponness Valley. Funding for the new facility was provided through a mixture of grant funding, SBC capital resources and prudential borrowing. The provision of the SBC resources was funded through the sale of the identified enabling sites within the development.
- 6.4 The sale of the Filey Road site was incorporated as one of the enabling sites within the scheme. All other enabling sites have subsequently been disposed of and as at 31 March 2023 the outstanding finance in relation to the works will stand at £1.8m. Achievement of a £1.8m capital receipt is therefore required in order to balance current capital budgets. Any shortfalls or excesses over this value will directly impact upon Council resources.

### **(c) Risks**

- 6.5 The key risks are identified in the attached risk matrix.

### **(d) Legal**

- 6.6 The Council's Constitution provides that as a general rule all land and property disposals shall be submitted to competitive tender; it is accepted, however, subject to the prior approval of the Cabinet Member, that an alternative disposal method might be preferable.

Section 123(2) of the Local Government Act 1972 (as amended) provides:

“Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.”

- 6.7 This provision provides local authorities with the power of sale enabling them to dispose of land in any manner they wish however a local authority cannot dispose of its land for a consideration less than the best that can be reasonably obtained except with the consent of the Secretary of State. Whilst section 123 imposes a duty on local authorities to achieve the outcome of best consideration it does not impose a duty to conduct a particular process. It is for the authority to satisfy itself that it can demonstrate achievement of best consideration whether by carrying out a competitive tender to establish market value, obtaining an independent valuation or both.
- 6.8 This report seeks in principle approval to dispose of: (i) part of the site direct to Scarborough College at a value to be determined by an independent valuation; (ii) part of the site for residential development by way of a competitive tender; and (iii) part of the site by way of a long lease to a community trust for use as tennis courts and subject to a community use agreement.

The sales proposed at (i) and (ii) will therefore satisfy the Council's statutory obligation under section 123. Further legal due diligence will be carried out in relation to these disposals and will be contained in the report seeking final approval.



It is intended that the leasehold disposal proposed at (iii) will rely on the General Disposal Consent 2003 and the community and social benefits which will be brought by the associated community use agreement. Further details of these benefits and the proposed terms of the agreement will be contained in the report seeking final approval for the leasehold disposal which will also include a subsidy control assessment.

#### **(e) Equalities and Diversity**

- 6.9 The tennis courts are to be made available for public use and operated under a community use agreement. It is proposed that 2 of the 4 courts are to be made accessible and Scarborough Disability Action Group welcome the initiative after been consulted on the proposals. There are positive implications with regards to inclusivity that arise from the proposals as none of the courts were previously accessible for people with impaired mobility.

#### **(f) Planning**

- 6.10 Extensive consultation has taken place with the local planning authority and preliminary pre-application advice has been received. More detailed advice will be required at later stages.
- 6.11 The pre-application advice deals the complex nature of the site and recognises the risks associated with the disaggregated sale, conservation area, listed building and heritage issues on the site, parking provision, and also the sporting uses which are required to be retained and floodlit.
- 6.12 A risk remains regarding the phasing and timing of the applications as the college and residential proposals, if brought forward separately or alone, are unlikely to be seen by Historic England and Sport England as sufficient to justify the demolition of the grandstand as this would present a disaggregated approach to development. It is advised that tennis provision needs to be secured first, prior to any development.
- 6.13 It is recommended that when the site is marketed the benefits of the pre-application advice are provided to prospective bidders, and conditionality regarding floodlighting, parking, and general compliance with the pre-application advice is built in to the disposal agreements.

#### **(g) Local Government Re-organisation**

- 6.14 These transactions will fall within the scope of the Direction restricting transactions and made under Section 24 of the Local Government and Public Involvement in Health Act 2007. Officers will liaise with the County Council's statutory officers as appropriate to ensure the Borough Council complies with this Direction.

#### **(h) Climate Impact**

- 6.15 Development by a third party will require new high standard efficiencies are included in accordance with modern requirements.

6.16 Furthermore, the proposals outlined in this report involve retaining the use of the existing tennis courts, multi-use games area, sports hall and car parking area. As a result of upgrading the existing facilities, there are positive carbon and sustainability implications over the alternative options outlined in the development brief i.e. demolition of the sports facilities to facilitate a residential scheme requiring an additional highway to serve the properties.

**Marc Cole**  
**Director**

**Author: David Robinson, Regeneration Projects Officer**  
Telephone No: 01723 232461  
E-mail address: david.robinson@scarborough.gov.uk

**Appendix A**

**Risk Matrix**

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	June 22	Sale is authorised to proceed but it fails to complete	No capital receipt. Regeneration consequences		B3	A1	Head of Estates	
2	June 22	Cabinet does not agree to the proposal	As above.		A1	A1		
3	June 2022	Increased risk of issues in obtaining Planning and Listed Building consent requirements due to the disaggregated sale approach.	Multiple planning applications required to move forward.  Failure to redevelop the site due to the planning complications resulting in potential reduction in capital receipt.	Working in partnership with the college and community trust to devise an overarching and joined up strategy for the redevelopment of the whole site and phasing of	D4	B4	Director (MC)	To meet with all parties through pre-application meetings

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
				applications by submission of a planning pre-application enquiry and continuing pre application dialogue.				
4	October 2022	Legal challenge to any of disposals	Delays to sales and realisation of receipts/community use  Costs and resource	Legal advice	B2	A1	Head of Legal	
5	October 2022	Objections from Sport England and/or Historic England to the proposals	Redevelopment may not proceed or may be called in for inquiry.  Failure to achieve capital receipt.	Pre-application advice	D3	C3	Head of Estates	Include requirements from pre-app advice in disposal terms.

## Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

### Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

- A = Very Low
- B = Not Likely
- C = Likely
- D = Very Likely
- E = Almost Certain

Impact

- 1 = Low
- 2 = Minor
- 3 = Medium
- 4 = Major
- 5 = Disaster

**Appendix B**  
**Draft Development Brief**

**Appendix C**  
**Sites for Disposal**