

NORTH YORKSHIRE COUNTY COUNCIL

EXECUTIVE

25 October 2022

Request for Section 24 Consent from Scarborough Borough Council – disposal of asset

Report of the Corporate Director, Strategic Resources

1.0 PURPOSE OF THE REPORT

- 1.1 To consider the request from Scarborough Borough Council to grant Section 24 Consent for the disposal of an asset

2.0 BACKGROUND

- 2.1 Scarborough Borough Council (SBC) wish to proceed with the sale of the site of the former indoor pool in the North Bay of Scarborough and to generate a capital receipt. The site also currently contains a council-owned car park. The site is set out in paragraph 1.1 of **Appendix A**.
- 2.2 The Secretary of State has issued a direction under Section 24 of the Local Government and Public Involvement in Health Act 2007 which requires any of the seven district councils to seek consent from North Yorkshire County Council, acting as the precursor to the new North Yorkshire Council, for the disposal of any land and building where the value exceeds £100,000. Scarborough Borough Council have negotiated a proposed sale and are therefore seeking consent in line with Section 24.

3.0 THE PROPOSAL

- 3.1 Scarborough Borough Council proposes to sell the land of the former indoor swimming pool and car park to HQ Hotels who have indicated their plans to develop high quality hotel accommodation on the site. A copy of the report that was considered by the Cabinet of Scarborough Borough Council is attached as **Appendix A** and includes a plan of the site under consideration in paragraph 1.1.
- 3.2 Scarborough Borough Council have approved the sale on the basis that the proposed development by HQ Hotels fits well with the North Bay Masterplan by developing high quality hotel accommodation. The sale is conditional upon planning permission for a hotel and associated car park. **Appendix A** also reports that HQ Hotels are locally owned with a track record of delivery across the hospitality sector and are well regarded and contribute to the local economy through “ethical sourcing and operation”.
- 3.3 Scarborough Borough Council have taken the view that, whilst the sale is at a lesser value than may be obtained by a sale for alternative uses, it is permitted to agree a sale with an undervalue of less £2m where the proposed sale assists in the promotion or improvement of economic wellbeing. Scarborough Borough Council’s view is that this is the case in this particular proposed sale / development.

4.0 ISSUES FOR CONSIDERATION

4.1 It is the view of SBC officers that the proposal from SBC complies with the relevant legislation for the disposal of a council asset and this consideration is clearly set out in the report attached at **Appendix A**. The requirement to obtain consent as set out in Section 24 is intended to ensure that council decisions in the run-up to vesting day do not have an adverse impact upon the new council, North Yorkshire Council in this particular case. There are therefore three key sequential considerations for the Executive in determining whether consent should be given:

1. Does the council support a change of use of the asset?
2. Would the Executive seek to maximise financial return in any sale or would it wish / be prepared to support specific alternative uses such as those set out in the North Bay Masterplan?
3. If the Executive is content to support alignment with the North Bay Masterplan, is the Executive sufficiently satisfied with the details of this particular proposed sale as negotiated?

4.2 While the indoor swimming pool is no longer in use, the car park remains operational and attracts net income of £76k per annum. As set out in **Appendix A**, this income would be lost but there may be some additional income in alternative council car parks in the surrounding area.

5.0 FINANCIAL IMPLICATIONS

5.1 Financial implications are contained in the confidential Appendices. However a capital receipt is generated from the sale should planning consent be granted. There is a loss of up to £76k per annum from car parking but this is likely to be offset by some use of other council owned car parks and there is also likely to be an increase in business rates yield to the Council. The expected net revenue position is therefore expected to be broadly neutral following development.

6.0 LEGAL IMPLICATIONS

6.1 Appendix A sets out the legal basis for SBC to sell the asset in line with the section 24 consent – see section 6.2 of that report.

6.2 In order for SBC to enter into a contract for the sale of land, the County Council would need to give consent to the proposal under the Direction issued by the Department for Levelling Up, Housing and Communities (DLUHC) under Section 24 of the Local Government and Public Involvement in Health Act 2007.

6.3 In addition it is noted that such a transaction would have to be structured to ensure it was purely a land transaction which benefited from the exemption to the Public Contracts Regulations for land transaction (Regulation 10(1)(a) of the Public Contracts Regulations 2015). Further legal advice will be provided at the meeting of the Executive if necessary.

7.0 EQUALITY IMPLICATIONS

- 7.1 The decision before the Executive is to grant consent to SBC or otherwise. Consideration of equality issues is therefore a matter for SBC. Paragraph 6.4 of Appendix A does, however, identify that SBC do not believe there to be any equality issues.

8.0 ENVIRONMENTAL IMPLICATIONS

- 8.1 The decision before the Executive is to grant consent to SBC or otherwise. Consideration of environmental impacts is therefore a matter for SBC.

9.0 RECOMMENDATION

- 9.1 The Executive are asked to consider whether or not they wish to grant consent under Section 24 of the Local Government and Public Involvement in Health Act 2007 so that Scarborough Borough Council may dispose of the former indoor pool and its associated car park site as set out in Appendix A and elsewhere in this report.

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Background papers: SBC report attached as Appendix A