



## Report to Policy Committee

### Author/Lead Officer of Report:

Tammy Whitaker Head of Regeneration and Property Services

Tel: 07342 071141

**Report of:** *Executive Director City Futures*

**Report to:** *Charity Sub Committee*

**Date of Decision:** *5 June 2023*

**Subject:** *Sale of Land off Twentywell Lane, Sheffield S17, at the North-Side of Poynton Woods*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given?	1272			
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				

### Purpose of Report:

This report seeks the approval of the Charity Sub Committee acting as Charity Trustee of the JG Graves Charitable Trust (“the Charity”) to the sale of land off Twentywell Lane to the north side of Poynton Woods, Sheffield S17.

### Recommendations:

- R1.** Approve the freehold sale of the Trust Land based on the terms of this report.
- R2.** On consideration of the Qualified Surveyor’s Report, to confirm that the Trustees are satisfied that the proposed terms are the best that can be reasonably obtained in the circumstances.

**Lead Officer to complete:-**

1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Janinne Scarborough
		Legal: <i>David Sellars/ Leone Wallace</i>
		Equalities & Consultation: <i>Ed sexton</i>
		Climate: <i>n/a</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>SLB member who approved submission:</b>	<i>Executive Director City Futures</i>
3	<b>Committee Chair consulted:</b>	<i>Cllr Ian Auckland</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> <i>John Hurman</i>	<b>Job Title:</b> <i>Senior Surveyor</i>
	<b>Date:</b> <i>16 June 2023</i>	

## 1. PROPOSAL

- 1.1 The proposal relates to the freehold disposal to Network Rail of the land measuring 1,499 square metres and shown coloured pink (the Trust Land) on the plan attached to this report at Appendix 1, and a financial contribution towards improvements to Poynton Woods.
- 1.2 The Trust Land is required by Network Rail for the construction of a secure compound to house a Power Supply Point (PSP). Planning permission (22/01767/FUL) for the PSP has been granted; elevations and plans are attached to this report at Appendix 2.
- 1.3 The PSP, which will occupy an area of 250 square metres of the Trust Land, comprises of a single storey building and separate generator. It will provide new signalling systems, power supply and equipment storage space to support the wider delivery of the £145m government backed Hope Valley Capacity Scheme ('the Capacity Scheme') when construction is complete. The remaining Trust Land will continue to be used for access by maintenance vehicles to the two adjoining railway lines.
- 1.4 The Trust Land, which consists of a triangular area of rough hardstanding off Twentywell Lane and is bound by the Midlands Main Line and Hope Valley Line. Used currently as open storage land by the City Council's Parks and Countryside Service and for accessing adjoining Council land, the Trust Land is located within an area of open space as designated within the Sheffield Unitary Development Plan. As the PSP will occupy only a small amount of the Trust Land, the permitted development will not harm the function of the open space.

- 1.5 A Public Right of Way (PRoW) (SHE/318), which crosses the Trust Land and provides pedestrian access to and from Twentywell Lane through Poynton Woods and beyond, will be maintained.
- 1.6 No public vehicular rights of way are permitted across the Trust Land, other than Network Rail who have existing rights of access to maintain the two adjoining railway lines.
- 1.7 The Trust Land is held in charitable trust by The JG Graves Charitable Trust (Charity Registration Number 207481) Charity and administered by the City Council, with the Charities Sub-Committee acting as sole corporate Charity Trustee. The Charitable Trust is registered with the Charity Commission and governed by a Charity Commission Scheme dated 12 March 2009.
- 1.8 Management of the Trust Land is undertaken by the Parks & Countryside Service.
- 1.9 Network Rail is a statutory body with powers to compulsorily purchase the Trust Land if it cannot do so by agreement. It has secured a Transport Works Order (Hope Valley Capacity Scheme Order 2018) to take possession of Trust Land and carry out the works authorised by the Order and permitted under the planning permission if necessary.
- 1.10 It is proposed that future occupation of the Trust Land would be regularised through transfer of freehold ownership. Ownership will not pass to Network Rail until the Trust Land has been formally conveyed, which will occur once compensation has been settled, either by agreement or by the Lands Tribunal.
- 1.11 Network Rail is currently seeking to acquire the Trust Land by agreement, and in line with the Qualified Surveyor's Report have offered to pay a sum of £25,000 to compensate the Charity for the loss of the Trust Land. Network Rail propose to make a further financial contribution of £9,200 so that the Council can make improvements to Poynton Woods, which the Parks and Countryside Department has identified; these include the following: -
- New site signage
  - Footpath improvements (not on PROW definitive map)
  - Ecological and Archaeological surveys of Poynton Wood
- 1.12 In addition, the City Council shall keep the following rights: -
- a 3-metre wide right of way for all purposes through the site, as shown, hatched blue at Appendix 1; and
  - a right to establish up to a 4 x 4 metre storage compound area, and parking for maintenance vehicles.

## **2. HOW DOES THIS DECISION CONTRIBUTE?**

- 2.1 The charitable objectives of the Charity are “the recreation of the public as public walks or pleasure grounds within the meaning of the Public Health Acts or as an open space within the meaning of the Open Spaces Act 1906”.
- 2.2 It is considered that the PSP will not harm the function of the Trust Land, the wider area of Open Space, or the existing PRow. The proposed sale will not therefore conflict with the objects of the Charity or the purposes for which the Trust Land was donated to the City nor will its disposal affect the delivery of the Trust objects.
- 2.3 Disposal of the Trust Land will facilitate the delivery of the Capacity Scheme, which includes the following works:
- the construction of a second railway line at Dore & Totley Station,
  - an extension of the existing station platform,
  - construction of a second platform; and
  - construction of a footbridge and lifts
- 2.4 By enhancing local community and neighbourhood transport facilities, links, and their accessibility, the disposal of the Trust Land will contribute to the ambitions and principles within the Corporate Plan, particularly environmental, social, and economic.
- 2.5 Track capacity running through Dore and Totley Station shall be doubled, improving journey times, connectivity, and the reliability of the railway network along the Hope Valley Line and Midlands Main Line, ensuring a sustainable public transport provision is secured for the long term across the Hope Valley and locations beyond.
- 2.6 An extension of the existing single track linking the Hope Valley line with the Midland Main line to the west of Dore and Totley station, along with a new rail loop constructed at Bamford, will allow freight trains to be halted to allow passenger trains to overtake.
- 2.7 The Capacity Scheme will increase the attractiveness of travel by rail encouraging greater use resulting in some modal shift from road to rail, helping to support the drive towards net zero carbon emissions.
- 2.8 Encouraging a move away from private car use will reduce congestion and improve air quality. Air quality adversely affects human health and has short and long-term health impacts, particularly for respiratory and cardiovascular health, including increased admissions to hospital. Consequently, supporting the proposal will have a positive impact on health inequalities.
- 2.9 By removing existing barriers caused by the mix of conflicting services using the line i.e. fast trains, local stopping trains and freight trains, the Capacity Scheme will allow for additional capacity and improve connectivity along the line. This will support economic growth by encouraging more people to work, learn in or visit the city through adequate capacity, reliable journeys and reasonable journey times within and between city regions, and to access international gateways.

2.10 The Capacity Scheme will support future growth in services and Network Rails forecasted increase in passenger demand.

2.11 The sale of the Trust Land will also contribute to charitable objectives of the Charity as follows:

- (a) it will generate a capital receipt to be retained by the Charity and invested or used for the purposes of the objects of the Charity.
- (b) it will provide a financial contribution enabling the Council to carry out survey works, improve signage and footpaths within Poynton Woods making it more pleasant for the public to visit and use.
- (b) it will maintain the existing PRow.
- (d) it will maintain rights benefiting the City Council, i.e. a right of access for any purpose and a right to occupy part of the Trust Land as a site compound and parking of maintenance vehicles.
- (e) it will remove all future liability from the Charity to maintain and insure the Trust Land and to keep it in repair, which will reduce the Charity's expenses on these overheads.

### **3. HAS THERE BEEN ANY CONSULTATION?**

3.1 Pursuant to section 121 of the Charities Act 2011 and section 123(2A) of the Local Government Act 1972, due to the Trust Land being held in charitable trust and designated as open space, half page public notices will be placed in a local newspaper for two consecutive weeks publishing the proposed disposal; members of the Charity Sub Committee will be briefed on any subsequent representation.

3.2 As part of the Network Rail (Hope Valley Capacity) Order, which was made on 18th April 2018 (TWAO reference (TWA 3/1/4/66)), Network Rail were required to consult on the proposals of the Capacity Scheme, this included engagement with Sheffield City Council, and other stakeholders i.e. any land owner, lessee, tenant or occupier of land potentially impacted by the Capacity scheme. Local councillors and stakeholder groups were invited to a stakeholder event, where consultation material for the Capacity Scheme was available at the event, including display panels and information leaflets. A presentation about the Capacity Scheme was also given and a question-and-answer session held.

3.3 Network Rails planning application (Ref 22/01767/FUL) relating to the Trust Land was also subject to the standard statutory public consultation, carried out by the Council as Planning Authority. The application was open for comments from the date of validation to the 'Standard Consultation Expiry Date' which was 22 June 2022.

### **4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

#### 4.1 Equality of Opportunity Implications

- 4.1.1 The object of the Charity is to maintain the Trust Land for recreation to all members of the public without restriction to or distinction between any person's characteristics including, but not limited to the protected characteristics identified. No equality implications are therefore to be considered in the decision requested by this report on the proposed disposal. Overall this proposal will have a positive impact that will benefit users of the Trust Land and Poynton Woods.
- 4.1.2 The financial contribution by Network Rail for improvements to Poynton Woods will enable the woods to be more widely accessible. Consequently this should encourage social interaction, visitors to stay longer in the outdoors, bring new users to the area and increase opportunities for the community connections needed to get people more active hence promoting Health & Wellbeing. There are no negative impacts identified.
- 4.1.3 The terms of the proposed disposal will ensure the existing PRow will be maintained, and rights of access and use benefiting the City Council will continue. This will enable the Council to carry out management of the woodland for the benefit of the public in line with objects of the Charity.

#### 4.2 Financial Implications

- 4.2.1 The proposed disposal of the trust Land will generate a capital receipt of £25,000 which will be retained by the Charity and re-invested or used for the purpose of the Charity in accordance with its charitable objects. The additional financial contribution is to be used for specific improvements to Poynton Woods as identified by the Parks and Countryside Department.
- 4.2.2 Network Rail will pay the Charity's costs and expenses of negotiating and completing the legal notices and contracts ensuring there is no cost to the Charity incurred by the proposed disposal.

#### 4.3 Legal Implications

- 4.3.1 The freehold interest of the Trust Land was conveyed to the Council by a conveyance dated 20 October 1950 made between (1) The British Transport Commission and (2) The Lord Mayor Aldermen and Citizens of the City of Sheffield ("the Conveyance") to be held on charitable trust. The objects of the Charity are *"the recreation of the public as public walks or pleasure grounds within the meaning of the Public Health Acts or as an open space within the meaning of the Open Spaces Act 1906"*.
- 4.3.2 The Trust Land forms part of the land comprised in the Conveyance and the Council as charity trustee must comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011. These contain a general obligation to achieve the best price that can be reasonably obtained on any disposal but also contains several specific obligations as detailed below.
- 4.3.3 Section 119 of the Charities Act 2011 contains an obligation to obtain and consider a written report on the proposed disposal from a qualified surveyor

instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 119 has been obtained and is attached to this report at Appendix 3.

4.3.4 As the Trust Land is held by the Charity for a specified purpose (known as designated land), there are additional requirements that must be complied with in relation to the proposed disposal:

(a) pursuant to section 121 of the Charities Act 2011 to give public notice of the proposed disposal for at least one month and to take into consideration any representations made within this notice period; and

(b) where there is no express power within the governing document of the Charity the charity trustee does not have the necessary powers to dispose of the Trust Land without obtaining an order or scheme from the Charity Commission authorising the disposal.

4.3.5 The Conveyance does not contain an express power allowing the charity trustee to dispose of the whole or any part of the land held on trust for the objects of the Charity. In previous disposals of land held on charitable trust by the Council it has in the appropriate circumstances relied on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 which can be applied where the extent of the disposal is in proportion to the overall size of Trust so small that it will have no impact on the charity's ability to further its objects. Legal Services' advice is that this power can be relied on in the proposed disposal of the Trust Land.

#### 4.4 Other Implications

4.4.1 None beyond those identified in this report. The terms of the proposed disposal will ensure the existing PRoW will be maintained, and rights of access benefiting the City Council will continue. This will enable the Council to carryout management of the woodland for the benefit of the public in line with objects of the Charity.

### 5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 Should the recommendations of this report not be supported and if Network Rail were unable to purchase the Trust Land by agreement, then as a statutory authority Network Rail could resort to using compulsory purchase powers to secure the purchase of the Trust Land.

5.2 It is considered that there are no other realistic options here given that Network Rail can compulsory purchase the Trust Land. This would mean that they are not obligated to make the financial contributions agreed by agreement in 1.11 or allow the City Council to reserve rights of access as highlighted in 1.12.

### 6. **REASONS FOR RECOMMENDATIONS**

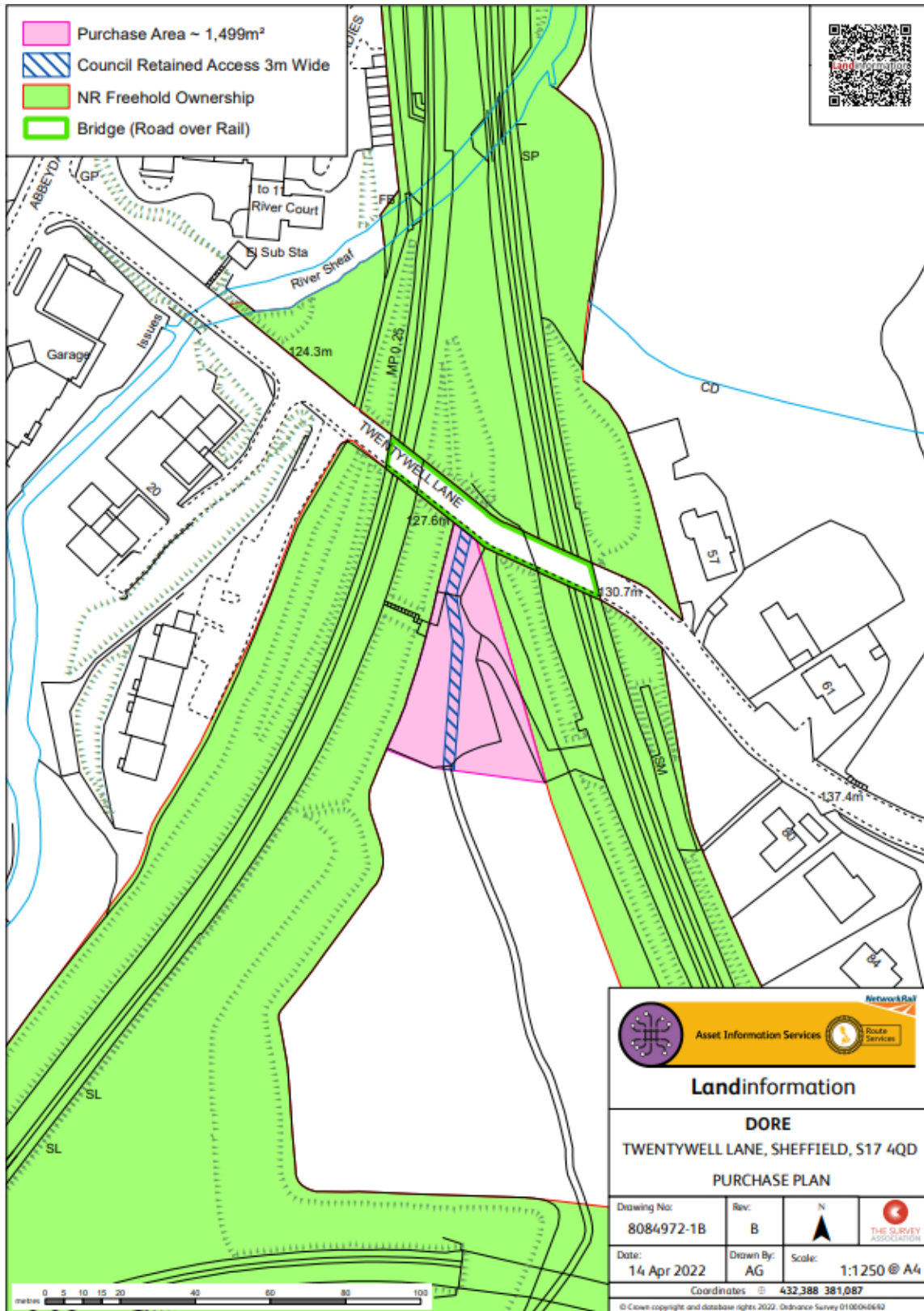
- 6.1 The increased line capacity will improve journey times, connectivity, and the reliability of the railway network along the Hope Valley and Midlands Main Lines. This will encourage more rail journeys supporting economic growth and the drive towards net zero carbon emissions.
- 6.2 The sale will help deliver improvements to the Dore and Totley Station enhancing the existing rail transport infrastructure and accessibility.
- 6.3 The sale will provide a financial contribution to facilitate improvements to Poynton Woods identified by Council Officers within the Parks and Countryside Department.
- 6.4 The sale will generate a capital receipt which will be retained by the Charity and invested or used for the purposes of the objects of the Charity. The terms of sale will ensure the PRow is retained and the City Council reserve rights of access over the Trust Land.
- 6.5 The sale will remove the liability from the Charity to maintain and insure the Trust Land and to keep it in repair which will reduce the Charity's expenses on these overheads.
- 6.6 Network Rail are a statutory authority with powers to compulsory purchase the Trust Land if required. If sale terms cannot be reached and Network Rail chose to implement those powers, then the matter could go to Lands Tribunal for determination. The Charity could then incur costs and the Trust Land sold on less favourable terms than those recommended.

## APPENDICES

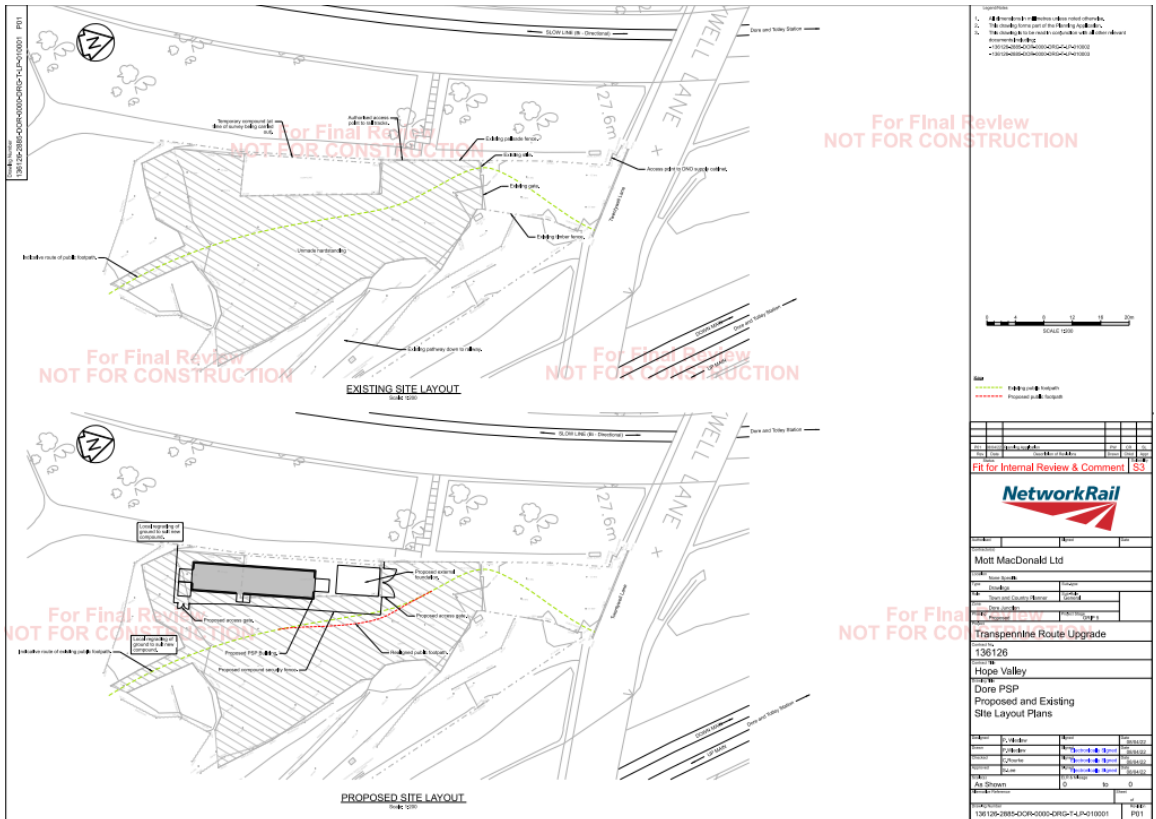
1. Location Plan
2. Proposed layout drawing approved under planning ref: 22/01767/FUL
3. Qualified Surveyor's report

1. Location Plan





2. Proposed layout drawing approved under planning ref: 22/01767/FUL



3. Qualified Surveyor's report