

**Delegated Decision**

**13<sup>th</sup> October 2021**

**Surplus Declaration of Harelaw Stobb House Farm**

**UPRN: 40148S01**

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## **Report of Regeneration, Economy and Growth**

**Anna Wills, Interim Strategic Manager, Corporate Property and Land**

### **Electoral division(s) affected:**

Burnopfield and Dipton

### **Purpose of the Report**

- 1 To declare land known as Harelaw Stobb House Farm surplus to Council requirements and to dispose of the land at agricultural value.

### **Executive summary**

- 2 The land known as Harelaw Stobb House Farm (plan as per **Appendix 2**) was occupied by Mrs Wilson of Stobb House Farm by way of a verbal Agricultural Holdings Act tenancy.
- 3 However, upon the serving of a Section 6 notice to request a written agreement it was discovered the tenant Mrs Wilson had died.
- 4 In June 2020 a delegated report approved the serving of a case G notice which is the notice to terminate the Agricultural Holdings Act tenancy as well as surrender of the Agricultural Holdings Act tenancy and the granting of a Farm Business Tenancy.
- 5 The deceased's son, Mr Wilson has since expressed an interest in purchasing the land.

### **Recommendation(s)**

- 6 The Head of Corporate Property and Land is recommended to:
  - i) Declare the land surplus to Council requirements; and,
  - ii) Dispose the land for agricultural purposes to the deceased tenant's son, Mr Wilson who is considered a special purchaser.

## Background

- 7 Harelaw Stobb House Farm land, amounting to 6.89 acres (shown verged red as **Appendix 2**) is located within Dipton, 10 miles north west of Durham.
- 8 The land was occupied by Mrs S M Wilson of Stobb House Farm (a property situated adjacent to the land) under the Agricultural Holdings Act 1986 (AHA Act 1986) by way of a verbal Agricultural Holdings Act tenancy. It was used for the purposes of grazing.
- 9 On the 5<sup>th</sup> March 2020 a delegated report was approved to serve a Section 6 Notice, Agricultural Holdings Act 1986 for Stobb House Farm land in order to secure a written agreement for the occupation of the land. However, upon issuing/serving the notice it became apparent that Mrs Wilson had died on 1<sup>st</sup> December 2019 and therefore it was no longer possible to serve this Section 6 Notice.
- 10 A delegated report was approved on the 4<sup>th</sup> June 2020 for the serving of a Case G Notice, surrender of Agricultural Holdings Act tenancy (Agricultural Holdings Act 1986) and grant of a Farm Business Tenancy (Agricultural Tenancies Act 1995), which overall was proposed in order to protect the County Council's interests as Landlord of the land in question. Serving a Case G notice would bring the end of the verbal tenancy on the 31<sup>st</sup> October 2021.
- 11 Since then the son of the deceased tenant Mr Wilson has expressed an interest in purchasing the land as he farms the land and owns the adjacent property.

## Current Situation

- 12 There has been consultation with other service areas such as planning, highways, contaminated land, ecology, and public rights of way regarding this request to purchase.
- 13 Planning advised they had no objection to the sale of the land for agricultural purposes subject to the existing access track to the site being used. They advised the site is not considered suitable for other uses, it is not allocated in the County Durham Plan (CDP) and it is outside the built-up area. Development on the site would result in the coalescence of neighbouring settlements and would result in the loss of trees which contribute to the character of the locality. Such development would conflict with CDP policy 6.
- 14 There is a public right of way (PROW) running through the site and the PROW team have advised that with regards to their statutory responsibilities for the management of public rights of way, land ownership is generally irrelevant. Any issues affecting public footpath no. 129 Stanley would generally be addressed to the occupier of the land, whether this be the landowner or tenant. Therefore, they have no objection to the disposal of this plot of land however requested that the prospective purchaser be made aware of this public right of way and their responsibility for maintaining any stiles or gates on it.

- 15 Further consultations were carried out with contaminated land, ecology, and highways. No issues or comments were raised by ecology or highways. Contaminated land noted the site was near land identified as potentially contaminated land (former railway land and colliery) and the site is located in a coalfield high risk development area. However, the surrounding land is not considered to pose a significant risk to the above site. In terms of the land being in a coalfield high risk development area consideration should be given if erect structures or otherwise have a change of use then the aforementioned risk should be considered through the planning regime to ensure the site is suitable for the proposed use.
- 16 There is no service area requiring the land and it is not required for operational purposes.

## **Options**

- 17 There are three options that can be considered for the future of this area of land and these can be summarised as:
- 1) Do nothing;
  - 2) Declare surplus and dispose; and
  - 3) Retain and let under a Farm Business Tenancy.

### **Option 1: Do Nothing**

- 18 This option would mean there is no capital receipt or rent received for the asset and there is no benefit to the Council. Also, the Council would retain management of the site which could be at risk of anti-social behaviour or fly tipping.

### **Option 2: Declare surplus and dispose**

- 19 This option would result in a capital receipt for the Council and it would be sold at agricultural value.
- 20 The Council would impose an overage (clawback) in the transfer of the land whereby if there was a change of use (subject to the planning) the Council would benefit from this change of use.
- 21 Mr Wilson would fall under the special purchaser category because he owns adjacent land and is an Executor of his late mother's estate, the previous tenant to the Council land.

### **Option 3: Retain the land and let under a Farm Business Tenancy**

- 22 This option would provide rental income to the Council. Also, a Farm Business Tenancy provides the County Council with security to terminate the agreement by giving 12 months' written notice to the Tenant. This means if the Council wish to dispose of the land in the future there is flexibility in the agreement.

## Conclusion

- 23 This land is not required for operational purposes and the land can continue to be used for agricultural purposes either through an income or capital receipt to the Council. This would also take the liability away from the Council in terms of issues occurring such as fly tipping and anti-social behaviour.
- 24 The land will continue to be used for agricultural purposes and the Council's position on realising potential development value in the future can be protected through an overage (clawback) clause in the transfer. If there was a change of user (subject to planning) so the Council would benefit from this.

## Background papers

- Serving of Case G Notice, Agricultural Holdings Act 1986, surrender of Agricultural Holdings Act tenancy, Agricultural Holdings Act 1986 and grant of Farm Business Tenancy, Agricultural Tenancies Act 1995 on land known as Stobb House Farm – 4th June 2020 –
- Serving of a Section 6 Notice, Agricultural Holdings Act 1986 on land known as Stobb House Farm, 4<sup>th</sup> March 2020

## List of Appendices

- Appendix 1 Implications- see comments
- Appendix 2 Location Plan – see comments
- Appendix 3 Councillor consultations

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## **Appendix 1: Implications**

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### **Legal Implications**

A title check has been complete and there are no restrictions on disposing the land.

### **Finance**

Disposal will result in capital receipt.

### **Consultation**

Various services were consulted with and provided no objections to the disposal. Also Councillors Veronica Andrews, Declan Mulholland, Joan Nicholson, Christine Bell and James Rowlandson were consulted on the 19<sup>th</sup> July with no objections.

### **Equality and Diversity / Public Sector Equality Duty**

None

### **Climate Change**

None

### **Human Rights**

None

### **Crime and Disorder**

Reduce the potential for anti-social behaviour and management time to prevent/remove unauthorised tipping.

### **Staffing**

None

### **Accommodation**

None

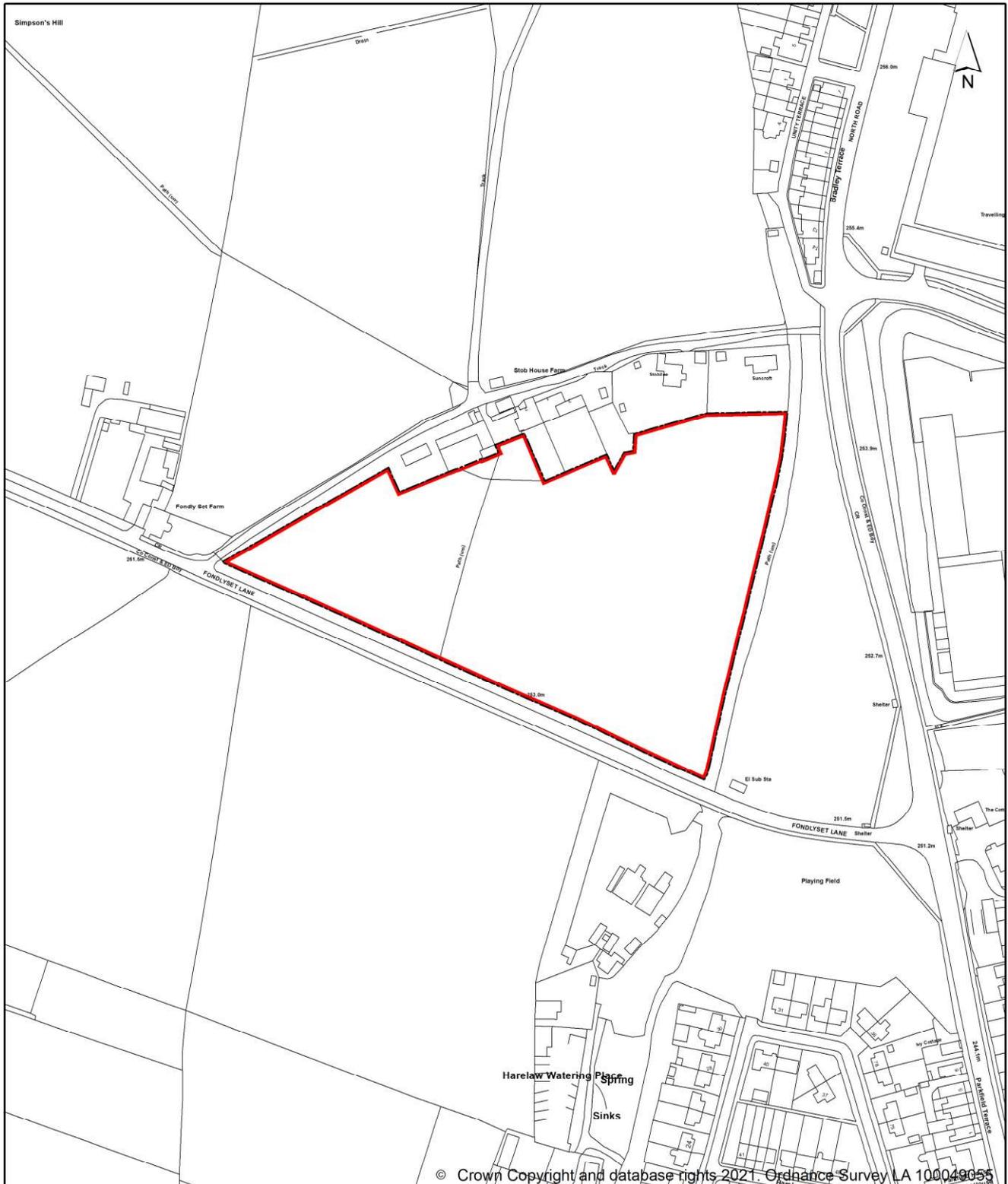
### **Risk**

None

### **Procurement**

None

# Appendix 2: Location Plan



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## HARELAW, FONDLYSET LANE OPEN SPACE

Plan Ref: ARC-19-322. Paper Size: A4. Scale: 1:2,500

Total Area Coloured Red: 28256.02 m<sup>2</sup>, 6.982 Acres or thereabouts.

Based Upon O.S Map: NZ1553. Date: 24/06/2021.

UPRN : 40148S01



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