

Agenda Item No:

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**Report of :** Head of Property Services

**Report to :** Chief Asset Management and Regeneration Officer and Interim Chief Officer Property and Contracts

**Date:** March 2014

**Subject:** Land and premises at Stanks Lane South , Swarcliffe – The Whinmoor Public House

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Crossgates and Whinmoor		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

### Summary of main issues

1. The subject property is held from the Council by way of a ground lease.
2. The public house is closed and is in a poor condition. The property is included in the Council's Derelict and Nuisance Properties Programme.
3. Negotiations have been undertaken with the Council's tenant with a view to the Council acquiring their leasehold interest and thereafter undertaking the demolition of the property with a view to future development of the site for affordable housing. Terms have been provisionally agreed with the tenant

### Recommendations

4. It is recommended :
  - i) That the terms provisionally agreed for the acquisition of the subject ground lease be approved and :
  - ii) That the funding for the acquisition and demolition be met from the Housing Revenue Account (HRA).
  - iii) That the site of the public house be declared surplus to Council requirement

subject to further consideration of the options available in terms of delivering affordable housing on the site.

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## **1 Purpose of this report**

1.1 The purpose of this report is :

- a) To advise as to both the current issues arising and the negotiations recently undertaken with the tenant to acquire their leasehold interest, and ;
- b) To seek approval to the terms provisionally agreed for the acquisition of the leasehold interest and for the funding for the acquisition and demolition to be met from the Housing Revenue Account. Approval is also sought to declare the site surplus to Council requirement subject to further consideration of the options available in terms of delivery of affordable housing on the site.

## **2 Background information**

- 2.1 The subject site is identified on the attached plan and is vested in Environments and Housing and comprises of a public house with external parking area. The site extends to approximately 0.75 acres and is unsecure. Adjoining the subject site is an area of Council owned amenity space of similar size and which is identified cross hatched.
- 2.2 The principal terms of the existing lease and details of the tenant are contained in the confidential appendix to this report. The tenant acquired the lease in June 2012. The public house had been closed for a considerable period of time prior to that date, due to the former tenant having been placed into Administration.
- 2.3 In 2011, derelict and eyesore buildings and sites were identified as one of the key issues facing local communities across the city. In response, the Council established a Derelict and Nuisance Property Programme. The most problematic properties were identified for inclusion within the programme and which included the subject property.
- 2.4 The site has not been declared surplus by Environments and Housing. This is not considered to be a requirement at this stage for the reasons detailed later in this report.

## **3 Main issues**

- 3.1 Property Services approached the current tenant on an informal basis shortly after they acquired the lease in June 2012, to establish if the tenant might be prepared to consider entering into a 'joint sale' agreement with the Council in order to try and achieve a solution to the property given its Derelict and Nuisance Property Programme status. It was considered that its use as a public house was no longer viable. The tenant was determined to re-open it as a public house.
- 3.2 The public house re-opened after some internal renovation works by the tenant. Unfortunately, the venture did not work and it closed again and remains closed as at the date of this report.
- 3.3 The opportunity for the Council to acquire the leasehold interest has now arisen given the liabilities faced by the tenant. This would give the Council control over the future of the site, including an early solution to the building. Demolition is proposed

as it is of no use to the Council and could not be easily re-let. The site is considered to be suitable for the development of affordable housing.

- 3.4 Following the successful acquisition of the lease of the nearby Squinting Cat public house and its demolition in 2013, via funding from the HRA, it was resolved that a similar course of action be pursued.
- 3.5 Upon the instruction of the Chief Asset Management and Regeneration Officer, negotiations have been undertaken with the tenant for the surrender of the lease and terms have been provisionally agreed and which are detailed in the confidential appendix. The tenant has expressed a willingness to complete the matter at the earliest opportunity but has also advised of a prospective sub-tenant, who wishes to re-open as a public house, if the Council cannot achieve an early completion.
- 3.6 Subject to further consultation and appraisal, there is considered to be the potential to provide a larger housing site by combining with the adjoining amenity space ( cross-hatched). The amenity space could potentially be re-provisioned in an enhanced form within a scheme for the former St Gregory's school site immediately to the north. A contribution towards the cost of the enhanced space could be funded from a receipt from a sale of the potential larger housing site, should that course of action be pursued. Given that the proposed funding source for the acquisition of the lease and demolition is the HRA, it is proposed to either provide some Council housing on the subject development site or use a sale receipt to first reimburse the HRA.
- 3.7 It is considered that the priority is to acquire the lease to secure control of the site in the first instance and thereafter resolve the detail of the source and form of affordable housing to be developed.
- 3.8 Planning officers have advised that the site of the public house would be suitable for residential development. The adjoining amenity space would be subject to further consultation.

### **3.9 Options Appraisal**

#### **1) Pursue negotiations for a joint disposal agreement as originally considered**

This is not recommended given the negotiations that have been undertaken and it would not provide an early solution to for building.

#### **2) Withdraw from current negotiations and allow the tenant to sub-let in order to re-open as a public house.**

This is not recommended as it is envisaged that the public house is very likely to close again and the existing problems would merely continue.

#### **3) Proceed with the acquisition of the lease with a view to early demolition**

This is recommended as it represents an opportunity to achieve both an early resolution to the immediate issue of the building and to bring forward a new site for affordable housing.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Ward members have been consulted and are supportive of the proposed course of action. The Lead Member for the Derelicts and Nuisance Property Programme is both a ward member and Deputy Leader of the Council and is supportive of the acquisition and demolition and its funding via the HRA.
- 4.1.2 The Executive member for City Development has been consulted and is supportive of the proposal. The Director of Environments and Housing has confirmed his support for funding from the HRA.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are considered to be no equality and diversity / cohesion and integration issues arising.

### **4.3 Council Policies and City Priorities**

- 4.3.1 This is a priority site on the Council's Derelicts and Nuisance Property Programme. The provision of additional sites for affordable housing is also a priority.

### **4.4 Resources and Value for Money**

- 4.4.1 The proposal to acquire the lease and demolish, whilst having an upfront cost to the Council, offers the opportunity to achieve an early resolution reflecting the priorities of the Council at a cost which has been budgeted for.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.
- 4.5.2 The Chief Asset Management and Regeneration Officer has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.
- 4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.
- 4.5.4 The Head of Property Services confirms that in his opinion the terms offered to the Council represent the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 ( or under the Housing Act 1985)
- 4.5.5 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the disposal of the property/land then it is not in the public interest to disclose this information at this point in time. Also it is considered that the release of such information would or

would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would have access to information about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be publicly available from the Land Registry following completion of this transaction and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

#### **4.6 Risk Management**

- 4.6.1 It is considered that if the recommended course of action is not pursued then there is a high risk of both the continued deterioration of the building and its associated impact on the immediate community. It would mean the loss of an opportunity to deal with the building and to bring forward an additional site for affordable housing.

#### **5 Conclusions**

- 5.1 The proposal should be approved as it is considered to be the most effective approach to dealing with the issues facing this site.

#### **6 Recommendations**

- 6.1 It is recommended :

- (1) That the terms provisionally agreed for the acquisition of the subject ground lease be approved and :
- (2) That the funding for the acquisition and demolition be met from the Housing Revenue Account (HRA).
- (3) That the site of the public house be declared surplus to Council requirement subject to further consideration of the options available in terms of delivering affordable housing on the site.

#### **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.