

Agenda Item No:

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**Report of:** Land and Property

**Report to:** Director of Environments and Housing & Chief Officer Economy and Regeneration

**Date:** November 2016

**Subject:** Land and premises at Kirkstall Hill - The Merry Monk Public House  
LS4

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Kirkstall	
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 site is owned by the Council and is subject to a ground lease originally granted for the construction of the existing public house. The public house has recently closed.
2. The leaseholder has requested to purchase the Council's freehold interest with a view to redevelopment of the site for housing.
3. The site is vested in Environments & Housing who are required to declare the land surplus to Council requirement.

### Recommendations

4. It is recommended that :
  - a) The Director of Environments and Housing declares the site surplus to Council requirements and thereafter;
  - b) The Chief Officer Economy and Regeneration grant approval to Asset Management entering in one to one negotiations with the existing leaseholder

for the sale of the Council's freehold interest for residential development only. Any provisionally agreed terms shall be reported for formal approval.

## **1 Purpose of this report**

- 1.1 The purpose of this joint report is to seek approval to declare the site surplus to Council requirement and to enter into one to one negotiations for the sale of the Council's freehold interest for residential development only.

## **2 Background information**

- 2.1 The site is identified on the attached plan and extends to approximately 0.45 acres. It is vested in Environments and Housing and is subject to a ground lease, the details of which and those of the existing leaseholder are contained in the attached confidential appendix.
- 2.2 The current leaseholder acquired the lease in August 2016. At the time the public house had been closed by the previous leaseholder. It has remained closed.

## **3 Main issues**

- 3.1 The leaseholder has requested to purchase the Council's freehold interest with a view to demolition and redevelopment for residential purposes. The leaseholder has a record of undertaking the redevelopment of public house sites for such uses and which is detailed in the confidential appendix.
- 3.2 There have been some informal discussions with the leaseholder and which are detailed in the confidential appendix to this report.
- 3.3 The Council's Housing Growth team has identified this site for the potential provision of additional social housing in response to the deemed shortage in this locality. The principal of the Council acquiring any houses constructed is being considered by the Housing Growth Team. If the recommendation is to acquire then a separate approval will be sought.
- 3.4 The Chief Officer Economy and Regeneration has recently approved a nomination to list the public house as an Asset of Community Value ( ACV). This will result in a land charge being registered against the leasehold interest.
- 3.5 The Council's Legal Services have advised that if the Council were to sell its freehold interest to the existing tenant it would not constitute a disposal for the purposes of the Localism Act which governs ACVs. In essence, it would not trigger the notification provisions of the act. The ACV listing would pass to the freehold title as the ground lease would disappear.
- 3.6 However, in considering an application for planning permission for residential development including the demolition of the public house, the existence of the ACV would constitute a 'material consideration' in any planning decision.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Ward members have been consulted on the proposed course of action and no objections have been received.

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

4.2.1 There are not considered to be any equality and diversity / cohesion and integration issues arising.

## **4.3 Council Policies and the Best Council Plan**

4.3.1 Disposal of the Council's interest will generate a capital receipt and thereby contribute to the Council's Capital Receipts programme. It also offers an opportunity for private investment in the site for residential development which may be purchased by the Council to provide social housing in an area where a shortage has been identified.

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

4.4.1 The sale will result in the loss of a nominal fixed annual ground rent but will generate a capital receipt.

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

4.5.1 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.

4.5.2 The Chief Officer Economy and Regeneration, Head of Asset Management and Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in 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.

4.6 The Head of Land and Property confirms that the proposed method of disposal set out above is the method most likely to result in the Council achieving the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985).

4.7 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 inviting of best and final offers for the property/land then it is not in the public interest to disclose this information at this point in time as this could lead to random competing bids which would undermine this method of inviting bids and affect the integrity of disposing of property/land by this process. 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 offers 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.

## **4.8 Risk Management**

- 4.8.1 If the proposed recommendations are not approved then the opportunity to generate a capital receipt and provide additional social housing in an area of need will be lost.

## **5 Conclusions**

- 5.1 It is considered that the proposed course of action represents good asset management in line with Council priorities.

## **6 Recommendations**

6.1 It is recommended that :

- a) The Director of Environments and Housing declares the site surplus to Council requirements and thereafter;
- b) The Chief Officer Economy and Regeneration grant approval to Asset Management entering in one to one negotiations with the existing leaseholder for the sale of the Council's freehold interest for residential development only. Any provisionally agreed terms shall be reported for formal approval.

## **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.