

Agenda Item No:

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Report of: Head of Property Services

Report to: Chief Officer Asset Management and Regeneration

Date: October 2017

Subject: Land and premises at Spen Lane Kirkstall – Former Hark to Rover PH

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 subject property is owned by the Council and is occupied by way of a lease.
2. The existing leaseholders converted the public house to retail units but there has been limited demand and the majority are vacant. There are separate residential units above. An alternative sustainable use is required for the ground floor.
3. The leaseholder has enquired to purchase the Council's freehold interest with a view to conversion of the ground floor units and external areas for residential use for which Planning permission has been granted.

Recommendations

4. It is recommended that approval be granted to :
 - (a) Declare the property surplus to Council requirement.
 - (b) Enter into one to one negotiations with the existing leaseholders for the sale of the freehold interest by way of a conditional sale agreement.

1 Purpose of this report

1.1 The purpose of this report is to seek approval to declare the property surplus to Council requirement and to enter into one to one negotiations with the existing leaseholders for the sale of the freehold interest by way of a conditional sale agreement. Any provisionally agreed terms to be reported for approval.

2 Background information

2.1 The subject site is identified on the attached plan and extends to 0.52 acres. It is vested in City Development. It is situated in a residential location with its western boundary adjoining a railway embankment.

2.2 The site and building is held from the Council by way of a lease, the principal terms of which are detailed in the confidential appendix along with those of the leaseholder.

2.3 The current leaseholders acquired the existing lease from the previous leaseholder in January 2011, at which point the public house had already closed. The current leaseholders proceeded to convert the ground floor of the public house into five retail units with the necessary consents. There are four original maisonettes (x3 bed) above the shop units.

3 Main issues

3.1 The retail units have failed and a sustainable alternative use is required.

3.2 Discussions took place with the leaseholders in 2016 as to the potential to convert the shops into five flats. At the time the leaseholder's preference was to purchase the Council's freehold interest, as opposed to a leasehold extension, in order to be able to secure the investment required to undertake the conversion.

3.3 At risk the leaseholders submitted a planning application and planning permission was granted in April 2017 for the conversion of the ground floor into residential accommodation with new front gardens on the forecourt to the shops and secure car parking to the rear of the property (4 x 2 beds , 1 x 1 beds - ref 17/02318/FU).

3.5 An extension of the existing lease was the Council's preferred option at that stage and which is detailed in the confidential appendix. On 8 May 2017 the then Chief Officer Economy and Regeneration granted approval to a recommendation that the Council enter into negotiations with the tenant for a new long term lease.

3.6 Negotiations with the leaseholders progressed to a degree but were halted due to further issues arising associated with the overall management of the site. The issue is detailed in the confidential appendix and has been resolved. Land and Property subsequently discussed the site management issues with the leaseholders requiring that, before any further negotiations as to the future of the site could be held, a site management regime be implemented to ensure that no further issues arise. This has been implemented and no issues have arisen to date.

3.7 The leaseholder's remain interested in undertaking the ground floor residential conversion and are now also considering works to the upper floors. They have enquired again to purchase the freehold interest in order to support their investment. They have undertaken a number of similar residential conversion schemes in Leeds and have shown officers around these schemes and which have been finished to a high quality.

3.8 It is considered that negotiations as to the future of this property can now be progressed. In this regard informal discussions have been held with the leaseholders in relation to the principal of a sale of the freehold on a conditional basis under which the residential conversion works (including external areas) are first undertaken to the Council's satisfaction before any sale is completed. The leaseholders have indicated a willingness to progress on this basis.

3.9 Options

1. Do nothing and continue to receive the rental income from the lease

This is not recommended as there is an opportunity to facilitate private investment in Council owned premises which require an alternative use and which would secure additional residential accommodation and a capital receipt.

2. Enter into negotiations for the grant of a new long term lease for residential development on the basis of a premium payment and peppercorn thereafter.

This is not recommended as it is considered that the sale of the freehold by way of a conditional agreement (see option 3) should secure greater investment into the property and generate a larger capital receipt.

3. Dispose of the freehold interest to the leaseholders by way of a conditional sale agreement.

This is the recommended course of action for the reasons detailed in this report.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The Executive Member for Economy, Regeneration and Transport has been consulted and is supportive of a sale of the freehold for residential purposes by way of a conditional agreement.

4.1.2 Ward members have been further consulted in respect of the sale of the freehold by way of a conditional agreement and have confirmed their support.

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 The proposed course of action offers an opportunity to pro-actively deal with the issues relating to this site and to generate a small number of additional residential units for private rental or sale and a capital receipt to the Council.

4.4 Resources and Value for Money

4.4.1 The sale of the freehold would result in the loss of an annual rent. However, this represents an opportunity to realise a capital receipt and to secure private investment in a Council owned property facing decline.

4.4.2 The Capital Receipts Incentive Scheme would apply to a sale of the freehold of this site, whereby 15% of the net receipt would be retained by the Ward, with another 5% going to the general CRIS fund.

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 Asset Management and Regeneration 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.

4.5.4 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).

4.5.5 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 the risk that the opportunity to arrest the decline of a Council owned property maybe lost, along with an associated capital receipt and additional residential accommodation.

5.0 Conclusion

6.1 The proposal should be approved as it is considered to be the most effective approach to deal with the issues affecting this site.

6.0 Recommendation

3.1 It is recommended that approval be granted to :

- (a) Declare the property surplus to Council requirement.
- (b) Enter into one to one negotiations with the existing leaseholders for the sale of the freehold interest by way of a conditional sale agreement.

7.0 Background documents

7.1 None