

# Agenda



## Delegated Decisions - Cabinet Member for Assets, Equalities & Member Development

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Date: Thursday, 4 October 2018

Time: Not Required

Venue: Not Required

To: Councillor M Whitcutt

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Item	Wards Affected
1	<u>The Centurion, St Julians, Newport</u> (Pages 3 - 10)
2	<u>Former Malpas Depot, Newport</u> (Pages 11 - 16)

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# Report

## Cabinet Member for Assets, Equalities & Member Development (Deputy Leader)

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### Part 1

**Date:** 4 October 2108

**Subject** **The Centurion, St Julians, Newport**

**Purpose** To seek approval from the Cabinet Member for Assets, Equalities & Member Development (Deputy Leader) to declare the subject land surplus to the Council's requirements and to dispose of the freehold on terms agreed by the Head of Law and Regulation.

**Author** Housing and Asset Manager

**Ward** Beechwood

**Summary** This report sets out the rationale and consideration given to the disposal of the freehold owned by Newport City Council in relation to the The Centurion, St. Julians, Newport, the property is however subject to a long lease and was originally owned by the brewery. The pub it is believed was losing money and so the brewery sought to dispose of the pub to a publican / company that would maintain the building as a public house. Unfortunately there was no interest shown to maintain it as a public house and so as is permitted under the lease the property was advertised for sale acknowledging it would generate a change in use. In January 2018, P and P Builders purchased the leasehold interest with the intention of demolishing the Public House and providing affordable housing along with Newport City Homes (one of the Council's partner Housing Associations ). In light of one of the thirteen wellbeing priorities being that people have access to stable homes in a sustainable supportive community, the plan notes that the 'housing offer' must provide the right homes of the right tenure in the right place. The plan was developed by partners from all sectors, of which NCC is one and developed from extensive consultation and therefore the reuse of the land as housing was felt appropriate.

**Proposal** That the subject land be declared surplus and disposed of on terms recommended by Newport Norse and approved by the Head of Law and Regulation.

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate  
This report was prepared after consultation with:

- Strategic Director - Place
- Head of Finance – Chief Finance Officer
- Head of Law and Regulations – Monitoring Officer
- Head of People and Business Change
- Newport Norse
- Newport City Homes
- P & P Builders

**Signed**

## Background

Newport City Council own the freehold interest in the Centurion Inn on Heather Road. It is subject to a lease for a term of 99 years from 29<sup>th</sup> September 1958, with an annual rent of £305 per annum. P & P Building and Roofing Contractors Limited acquired the leasehold interest on 19<sup>th</sup> January 2018 for £145,000.

The lease contains provision that the premises are to be used as a public house only.

P & P have acquired the site with the intention to redevelop the site for 8 units of affordable housing by entering into a build contract with Newport City Homes. They are currently working with Newport City Homes on the Glen Court Scheme in Bettws.

P and P Builders are aware that there are legal issues that need to be resolved before they can submit a planning application, demolish the existing building and then redevelop the site.

According to P and P Builders a key driver for the redevelopment of the Centurion site is that The Welsh Government has set an ambitious target of 20,000 new homes. As a local contractor with a strong background in delivering social housing for RSL's it is within this context that they decided to acquire The Centurion and work with NCH to redevelop this site. This will ensure the long term future of the site and provide much needed affordable housing for the area

Their initial proposals for the scheme are below. These are subject to change but P and P builders do not anticipate the density of the scheme changing. This current proposal is agreed with NCH and has been subject to a pre-application meeting with planning colleagues who did not raise concern of the re-use of the site for housing.

The future of The Centurion and the intention of P and P Builders to demolish and develop the site for housing has become an issue for local residents and has made the local headlines. There was a neighbourhood Residents meeting on 15 March to discuss saving the Centurion. Neither NCC or P and P Builders were in attendance. No formal feedback has been received and the author can therefore not comment any further as to the outcome of the Residents meeting.

## Proposal

We understand from P and P builders that they have ascertained from the Council that there is a requirement for affordable housing in the area. They propose to build 8 properties (2 x 2 bedroom, 2 x 3 bedroom and 4 x 2 bed flats), although this is subject to change as it goes through the planning process.

According to the builders, the Centurion had been losing money for a period of time. The brewery had offered the lease for sale initially to secure its use as a public house and it is understood to have been advertised for a period of 6 months but no Publicans come forward to purchase The Centurion. Within the terms of the lease on the property the brewery are able to dispose of the leasehold interest in the land and property for use as something other than a public house subject to the usual change of use and planning applications. Interest in the property and land was shown by P and P Builders and the leasehold interest was subsequently sold to P and P Builders. To try and continue as a public house The Centurion would have required a significant level of investment and no guarantee that it would still thrive as a local pub. P and P Builders have chosen to work with Newport City Homes to develop a housing scheme and this collaboration will end with affordable housing being available for the local community.

One of the thirteen Newport City Council wellbeing priorities is that people have access to stable homes in sustainable supportive community, the plan notes that the 'housing offer' must provide the right homes of the right tenure in the right place. The plan which was developed by partners from all sectors, of which NCC is one and developed from extensive consultation would support the reuse of the land as housing.

NCH have confirmed that if the freehold interest is available they would be interested in purchasing the freehold and then working with P and P Builders to develop the site through a back to back agreement.

There are no staffing implications.

## Financial Summary

- As the property is currently leased, the Council do not have any financial obligations. The Council currently receive a small income of £305 per annum. If the freehold of the property was to be sold this would give the Council a capital receipt of £15,000

## Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to dispose of the property will result in the potential of no capital receipt being forthcoming. .	L	L		Newport City Council
Risk of Vandalism and deterioration of the building	H	H	This is the responsibility of the tenant.	
On-going Maintenance	L	L	Responsibility of maintenance is down to the tenant.	

## Links to Council Policies and Priorities

Property Rationalisation Programme  
Medium Term Revenue Plan (MTRP)

## Options Available and Considered

- Take no action
- That the subject land be declared surplus and be disposed of to P and P Builders ensuring a back to back agreement is agreed to ensure that NCH are the end owners of the housing development, on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

## Preferred Option and Why

That the subject land be declared surplus and be disposed of to P and P Builders ensuring a back to back agreement is agreed to ensure that NCH are the end owners of the housing development, on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

This will bring the Council a small capital receipt, provide much needed affordable Housing and ensure that the site does not just become a vacant derelict property.

## **Comments of Chief Financial Officer**

Disposal of this land will benefit the Council by the realisation of a small capital receipt to be reinvested in the capital programme. The revenue loss is marginal and the service has confirmed can be accommodated within the overall commercial estate accounts.

## **Comments of Monitoring Officer**

The proposed action is in accordance with the Council's statutory powers under Section 123 of the local Government Act 1972 to dispose of surplus land. The land is already appropriated and held for asset management purposes and is not utilised for the purposes of any Council functions. As such, it is already surplus to requirements in terms of operational use, and is the subject of a long lease for 99 years at a small ground rent of £305 per annum. There are no break provisions in the lease, but it does contain a restrictive covenant which requires the buildings to be used for the purposes of a public house. The tenants are not required to maintain the pub buildings or to keep the pub open, but there is an obligation to deliver up the land and buildings to the Council at the expiry of the lease. They can apply to the Council for a change of use under the lease, if use as a public house is no longer viable, but the Council has a complete discretion as to whether or not to agree this. Therefore, even though the current leaseholders have purchased the lease with a view to redevelopment for social housing, there is no obligation on the Council to agree to this. However, if the Cabinet Member was minded to agree to the disposal of the Council's freehold reversion, to facilitate the development of the site for social housing, then there is an obligation under s123 to secure the best price reasonably obtainable for the land. Therefore, the Council would need to be satisfied that the £15k capital receipt represents best value, given that the sale of the freehold and the extinction of the restrictive covenants in the lease would create significant housing development value for the builders. Although the Council's freehold reversion currently has very little capitalised value, given the length of the term and the low ground rent payable under the pub lease, the release of the land for development purposes would effectively provide a "ransom" value and a potential share of the redevelopment profit.

## **Comments of Head of People and Business Change**

There are no staffing implications arising from this report.

Asset management is a key area for consideration as part of the Well-being of Future Generations Act. The proposal to dispose of this land shows a collaborative approach and will secure its long term future, provide affordable housing, be of benefit to the local community and help prevent any anti-social behaviour incidents. The report has considered the five ways of working and the decision contributes to a number of well-being goals including a Wales of vibrant culture and a Wales of cohesive communities.

## **Comments of Cabinet Member**

Cabinet Member has been briefed on the report.

## **Local issues – Ward Member Comments**

Cllr D Davies

Thank you so much for being given the opportunity to comment on the proposed sale of the freehold, and proposed change of use of the Centurion Pub in Heather Road. The Centurion Public House was opened in 1958 when it became the hub of the local community, with residents from the newly built St Julians estate considering it to be their local amenity and several generations have now grown up enjoying its facilities and consequently there has developed a strong sense of parochial responsibility for the property. It is a building that holds memories and is an integral part of the estate's social history. Residents have been dismayed over recent years to see their local pub decline and poor maintenance and a lack of care by previous owners has been seen to be the cause. When informed the pub had finally been sold and to new owners who intended to demolish it residents were very angry as they felt

The Centurion had been allowed to fail. Many wanted to see the pub re-open and a residents meeting was held in March and as ward councillors we attended. Residents were hopeful that plans to demolish the pub could be reconsidered and it was explained how pubs in other parts of the UK have been taken on as a Community Asset and the work that local volunteers have then undertaken to make this a success, including fundraising activities etc. In addition a resident took it upon himself to write to some of the big breweries/family pubs to see if they would consider negotiating a purchase of the leasehold and reopen the pub as a going concern. Sadly none of these propositions have borne fruit. The Centurion Pub has not been refurbished for many years, which would mean an extensive amount of work and cost to make it a success and in addition public houses across the UK are closing as peoples drinking habits change. Any company who took The Centurion on would have to be convinced of its success. The buildings basic infrastructure is full of asbestos and a major refurbishment would be needed. For residents to take on the pub as a community asset would demand time, energy and commitment as well access to grants and funding and this was just too unrealistic given the extensive work needed to reopen the building and to then sustain it as a financial success. There was also an assumption that P and P builders would be willing to sell on the leasehold and this would always have been a major consideration.

Residents also requested a public meeting with the new owners of the lease, Pand P builders, so that the plans to build eight family homes could be discussed. A lot of rumours and speculation in regard to what the rebuild might be had caused concern and this request was passed onto them and Newport City Council Officers were also informed. Residents will be pleased to see this being organised.

As a ward councillor I stand with the residents and mourn the loss of a community asset which has been an integral feature of the St Julian's estate and agree with them that we should not have to see this happen. Sadly the success of a public house is reliant on regular use and a sustainable income and we are aware The Centurion had been failing financially for a number of years. Residents stopped going for reasons mentioned and ultimately the leasehold was sold to a property developer whose intention is to knock it down to build houses. It is a great shame that as a community or as a council we have not got the funding or the finances to be able to regenerate the Centurion into the hub that it once was. The Centurion since its closure has rapidly deteriorated further and has become an attraction to local youths who have historically congregated behind it. It has been subject to vandalism and P and P Builders have stripped the building as part of their plans for its closure. It has sadly become an eyesore and is at risk of further damage, degradation and vandalism and is daily reminder of what it once was. Given that all avenues appear to have been explored and there is no funding available the safest and most sensible option is to acknowledge that there are plans to demolish the building and to then build homes for families, albeit subject to planning permission.

I have noted that you are proposing that sale of the freehold and have set the price at £15,000. Given the recent increasing value of prime building land in Newport, and I am being aware of recent sales in the area, I wonder whether this price has been set too low? Would the price have been higher if the building had been well maintained? Can this please be reconsidered?

Cllr M Spencer

I fully endorse the comments made by Cllr Davies.

Cllr G Berry

The Centurion public house has long been a community asset and landmark. It's a [venue](#) which has stood the test of time and has over the years become a much enjoyed place to socialise. Indeed many wedding receptions, christening celebrations and after funeral gatherings were held there.

The current status of the building and the site is bordering on the unsightly and unsafe. [To](#) see this once proud centre of the community falling apart is a poor end of life for an iconic amenity and landmark.

## **Comments of Non-Executive Members**

### Councillor M Al-Nuaimi

In reading the report I came across the last paragraph in the "Background" section, which says: "The future of The Centurion and the intention of P and P Builders to demolish and develop the site for housing has become an issue for local residents and has made the local headlines. There was a neighbourhood Residents meeting on 15 March to discuss saving the Centurion. Neither NCC or P and P Builders were in attendance. No formal feedback has been received and the author can therefore not comment any further as to the outcome of the Residents meeting."

This paragraph raises important questions about the lack of engagement between NCC & PP Builders (NCH) on the one hand and the stakeholders, the local residents and local community, which consider the Centurion to be a hub for the community. The lack of engagement is contrary to the Wellbeing of Future Generations Act recommendations on the need to consult and engage seriously with the stakeholders likely to be affected by a Council decision.

I was very pleased to read the comments from the ward councillors, and in particular the detailed comments made by Cllr Deb Davies. I fully support those comments and urge that the request (reproduced below), made in those comments is implemented before the Cabinet member makes a decision.

"Residents also requested a public meeting with the new owners of the lease, P and P builders, so that the plans to build eight family homes could be discussed. A lot of rumours and speculation in regard to what the rebuild might be had caused concern and this request was passed onto them and Newport City Council Officers were also informed. Residents will be pleased to see this being organised."

Against the rumours circulating on social media, a meeting to inform the residents is both necessary and beneficial. Such a meeting could help to explain why perhaps the Centurion could not continue as a pub or a community hub. It can also engage with the residents on the type of housing development that can feasibly replace it.

I fully endorse the Ward Councillors comments.

## **Scrutiny Committees**

N/A

## **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging



people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

## **Children and Families (Wales) Measure**

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## **Wellbeing of Future Generations (Wales) Act 2015**

The author has given consideration to the Act throughout the background of the report. Long term the provision of affordable housing will provide much need affordable homes for the area and give a new lease of life to a site that had become unviable as a Public House.

## **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

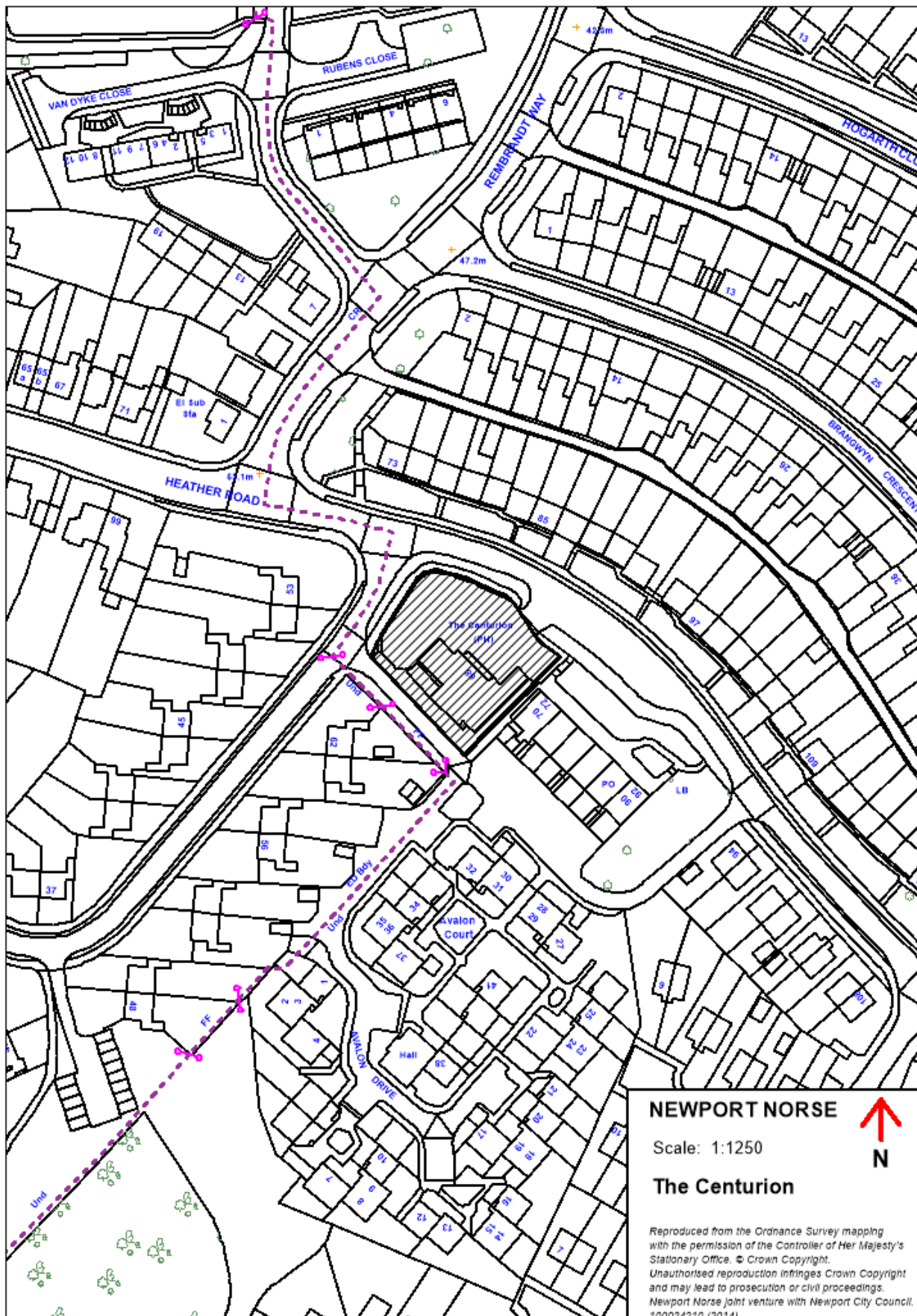
## **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

Site plan attached.

Dated: 4 October 2108





# Report

## Cabinet Member for Assets, Equalities & Member Development (Deputy Leader)

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### Part 1

Date: 4 October 2018

**Subject** Former Malpas Depot, Newport.

**Purpose** To seek approval from the Cabinet Member for Assets, Equalities and Member Development (Deputy Leader) to declare the subject land surplus to the Council's requirements and to dispose of the freehold on terms agreed by the Head of Law and Regulation.

**Author** Housing and Asset Manager

**Ward** Shaftesbury

**Summary** Newport City Council owns the subject land. NCH owns the buildings standing on the site and has requested to purchase the land, in order to rationalise the tenure, in preparation for more intensive use of the accommodation.

**Proposal** That the subject land be declared surplus and disposed of on terms recommended by Newport Norse and approved by the Head of Law and Regulation.

**Action by** Newport City Council and Newport Norse

**Timetable** Immediate

This report was prepared after consultation with:

- Strategic Director - Place
- Head of Regeneration, Investment and Housing
- Head of Finance – Chief Finance Officer
- Head of Law and Regulation – Monitoring Officer
- Head of People and Business Change
- Newport Norse
- Newport City Homes

**Signed**

## Background

The Council owns the subject land freehold, as shown edged in a thick black line, on the attached plan.

At the time of Housing Stock Transfer, the three buildings shown hatched on the plan, were transferred to Newport City Homes (NCH). Currently there are two tenants of NCH in their buildings, together with NCH staff. The Council retained the subject land, comprising approximately 0.88 acre.

NCH is undergoing a reorganisation, in order to make it more resilient in the long term. As part of that process, it will be increasing the number of office based staff and maintenance operatives based at Malpas Depot. This will enable more effective use of resources and prevent waste. In order to ensure there is sufficient space available, notice has been served to terminate the leases of their tenants. All stakeholders at the site have been involved in NCH's communication strategy.

Whilst reviewing its plans, NCH has noted the title anomaly and proposes to resolve this by applying to the Council to purchase the land. As the land has no operational role, this would be a logical action on the Council's part and enable NCH to better integrate its services. It will be necessary however, to incorporate rights of access for the Council, to the retained Malpas Quarry, into the sale.

Under the circumstances of the case, NCH is a special purchaser. It is therefore appropriate to collaborate and sell the land by negotiating directly with NCH.

The land will be sold for its current use so there is no benefit in seeking planning permission. As NCH will pay the open market value, there is no need to incorporate overage provisions.

There are no staffing implications.

## Financial Summary

Sale will produce a capital receipt for the Council. It also will avoid potential maintenance and management costs.

## Risks

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>
Failure to dispose of the property will result in the potential of no capital receipt being forthcoming. .	L	L	Seek to conclude the sale expeditiously.	Newport City Council and Newport Norse
Risk of Vandalism and deterioration of the land.	L	L	The land should be inspected.	Newport City Council and Newport Norse.
On-going Maintenance	L	L	Maintenance is reactive only.	Newport City Council and Newport Norse.

## **Links to Council Policies and Priorities**

Property Rationalisation Programme  
Medium Term Revenue Plan (MTRP)  
Strategic Asset Management Plan

## **Options Available and considered**

1. Decline the request and continue with present arrangements
2. That the subject land be declared surplus and be sold to Newport City Homes, on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

## **Preferred Option and Why**

That the subject land be declared surplus and be sold to Newport City Homes, on terms to be recommended by Newport Norse and agreed by the Head of Law and Regulation.

This will bring the Council a capital receipt, eliminate the risk of future maintenance/management costs and support the service operation of Newport City Homes.

## **Comments of Chief Financial Officer**

Disposal of this land will benefit the Council by the realisation of a small capital receipt, particularly as it is of no economic or strategic value to the authority. The elimination of any maintenance liabilities is an additional benefit.

There is a base 'target' for capital receipts in the new 5 year Capital Programme and capital receipts are used to meet this target.

## **Comments of Monitoring Officer**

The proposed action is in accordance with the Council's statutory powers to dispose of surplus land in accordance with section 123 of the Local Government Act 1972. Although the Council still retains the freehold of the land at Malpas depot, the buildings on the site were transferred to NCH as part of the housing stock transfer because they were used for housing purposes and, therefore, formed part of the HRA. The Council retained the freehold, by arrangement with NCH, in case they were no longer required for housing offices. However, as NCH now intend to expand their use of the buildings, then the transfer of the Council's freehold interest will facilitate this and regularise their legal title. The land is of no value to any other prospective buyer, given NCH's rights of occupation, and therefore, the Council can treat with NCH as a special purchaser for the purposes of the disposal. Their special purchaser position is also a factor in determining the market value of the freehold, for the purposes of securing best value under s123. The transfer documents will need to reserve rights in favour of the Council in relation to the future use of the adjoining retained land.

## **Comments of Head of People and Business Change**

The Well-being of Future Generations (Wales) Act 2015 has been considered when developing this proposal. The sustainable development principle has been taken in to account by looking at each of the five ways of working in the section provided.

From an HR perspective there are no staffing implications for this report.

## **Comments of Cabinet Member**

Cabinet Member has been briefed on the report.

## **Local issues – Ward Member Comments – Shaftesbury**

Cllr H Thomas - I understand why we are selling, but hope a realistic price/market value is achieved.

Cllr P Cockeram – I am concerned that if Planning permission was granted, the value would be far in excess of what we would achieve rather than just negotiating with NCHs.

## **Scrutiny Committees**

N/A

## **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

## **Children and Families (Wales) Measure**

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## **Wellbeing of Future Generations (Wales) Act 2015**

In considering the five ways of working outlined within the Act there has been limited collaboration across the wider area and population because of the technicalities of the land and buildings ownership. However, NCH is clearly looking to improve the long term benefit of this site by increasing its usage and no doubt will have a more integrated service delivery model from the site.

When changing service delivery aspects such as this there will be involvement with NCH tenants and discussion on the long term benefits for the tenants of NCH.

Whilst the impact may be limited in terms of the wider area and population the new ways of working can be seen in this proposal.

## **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

## **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

Site plan.

Dated: 4 October 2108

