

Agenda



Delegated Decisions - Cabinet Member for Assets

Date: Friday, 11 June 2021

To: Councillors M Rahman

Item		Wards Affected
1	<u>Sale of Alacrity House to Alacrity Foundation</u> (Pages 3 - 10)	All Wards
2	<u>Land Adjacent to 39 Brangwyn Crescent</u> (Pages 11 - 16)	

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Report

Cabinet Member for Assets

Part 1

Date: 14 June 2021

Subject **Alacrity House**

Purpose To seek approval from the Cabinet Member for Assets for the disposal of Alacrity House on terms to be agreed by Head of Law and Regulation.

Author Acting Head of Regeneration, Investment and Housing

Ward Stow Hill

Summary The Alacrity Foundation currently part occupy Alacrity House by way of a lease. The Alacrity Foundation wish to take occupation of the whole building to expand and secure their operation in Newport. To achieve this an approach has been made for the freehold interest to be sold to the property company owned by one of the Alacrity Foundation principals. This report considers this and seeks approval to declare the property surplus to the Councils requirements and dispose of it on terms to be agreed by Head of Law and Regulation.

Proposal To seek the approval to sell the Freehold of Alacrity House to Orion Scott Limited in order to gain a capital receipt.

Action by Acting 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 Regulation – Monitoring Officer
- Head of People and Business Change
- Housing & Assets Manager
- Associate Director of Property Services, Newport Norse
- Associate Valuation and Estates Management, Newport Norse

Signed

Background

Alacrity House is managed by the Council arising out of a Joint Venture (JV) agreement between what was the Welsh Development Agency and Newport City Council. There are two Joint Venture Agreements, both dated 23 September 2005 and between Welsh Development Agency and Newport City Council. One relates to the “development of land at the “River Usk Riverfront” (referred to as “River Usk JV”) and the other relates to the “development of land south of George Street Bridge Newport” (referred to as

“George Street JV”). The JV’s were predominantly managed by a development company owned jointly by the Council and Welsh Government known as Newport Unlimited (NU). Both JV’s have expired, however the Council retains ownership and management of the properties within the JV’s. An agreement was reached with the Welsh Government now Senydd Cymru/Welsh Parliament (WP) that any proceeds from the sale of former JV properties will be re-cycled within Newport. Any disposal of the former JV assets has to be approved by both the Council and WP.

Legal Status

Alacrity House fell within the “River Usk JV” which provides that the proceeds are 100% due to WP, which also relates to any rental income received. However, upon the dissolution of NU, it was agreed with WP that the rental proceeds be reinvested into the building and be used to assist with the landlord’s covenants for maintaining the common parts as outlined in the occupier’s leases.

The property was refurbished and since 2012 has been let to both the Alacrity Foundation and University of South Wales by way of separate leases. The lease to the University of South Wales expired in April 2020 and they have now vacated the premises. The Alacrity Foundation’s lease has also expired and they are now occupying by way of a Tenancy at Will whilst the future ownership of the building is considered. When fully let the property generated a rental income of £65,000 per annum.

As noted above, University of South Wales have now vacated their parts of the building and do not wish to reoccupy. Alacrity Foundation want to remain in occupation of the areas in their current lease, but they also want to expand their operations in Newport city centre and occupy the remainder of the building now it is vacant. There are also plans to invest in repairs and improvements to the building. An approach has been made to Newport City Council and WP to enquire if they would be willing to sell the Freehold of the whole building to Orion Scott Limited, a property company owned by one of the principals of Alacrity Foundation. The reason for this is that the Alacrity Foundation themselves do not have access to the long-term funding to invest in the upgrading of the building. If a sale to the proposed purchasers is agreed, a 5 year lease will be granted to the Alacrity Foundation to secure their continued presence in Newport. Terms for a sale have been provisionally agreed. Whilst the property has not been formally marketed, the price agreed does reflect the market value of the property, which has been certified by Newport Norse and the WP’s independent valuers. The sale would also include an overage provision in favour of Newport City Council so that in the event of the purchaser selling the building for a use that increased its value any profit would be shared with the Council.

If the building is sold Alacrity will be able to increase the number of students that they put through their business programme which will in turn increase the profile of Alacrity as a business which will be beneficial to Newport. They have indicated a desire to continue to invest further in the City and this is certainly a positive side effect of a sale to them.

WP have confirmed approval to the sale to Orion Scott Limited.

The proposed disposal will assist with meeting some of the seven well-being goals as set out in the Well-being of Future Generations (Wales) Act 2015;

- A prosperous Wales – sale of the building will enable Alacrity to increase the number of students through their programme each year and therefore potentially increase the number of start-up “tech” businesses in Wales.

- A resilient Wales – the increased number of students using Alacrity’s business programme and the resultant companies formed will add to Wales’ contribution to the tech sector.
- A more equal Wales

There are no staffing implications

Financial Summary

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs					Disposal will generate a capital receipt. Disposal will offer revenue savings in maintenance and management costs.
(Income)					
Net Costs (Savings) Net Impact on Budget					

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 building will result in no capital receipt for the Council	M	L	Seek to progress disposal without delay.	NCC & Newport Norse
Disposing of the building will result in loss of future rental income	L	H	Disposal will result in a capital receipt	NCC
Alacrity Foundation vacating the building if they cannot purchase and associated loss of income	M	L	Disposal to be approved	NCC
Difficulty re-letting the space recently vacated by USW if building is retained and associated loss of income	H	M	Incentives would need to be offered to attract a lessee	NCC and Newport Norse
Failure to dispose of building will result in continuing responsibility for management and maintenance of building	M	L	Seek to progress disposal without delay	NCC & Newport Norse

Links to Council Policies and Priorities

The proposal is in accordance with the Corporate Plan and the Strategic Asset Management Plan

Options Available and considered

The Council could:

1. Dispose of the Freehold to Orion Scott Limited to realise a capital receipt
2. Decline Orion Scott Limited's offer to purchase the Freehold and seek to offer them a new lease of the whole building.
3. Decline Orion Scott Limited's offer to purchase the Freehold and renew the lease of the space Alacrity Foundation currently occupy and seek a new tenant for the vacant space.

Preferred Option and Why

The recommendation is to seek Cabinet Member approval to declare the property surplus to requirements and dispose of the Freehold to Orion Scott Limited on terms to be agreed to include an overage to benefit from a capital receipt. As well resulting in a capital receipt selling the asset will also remove any ongoing responsibility for maintenance and management of the building, the risk of Alacrity Foundation vacating the building and any difficulty letting the already vacant space.

Comments of Chief Financial Officer

The financial summary explains the key impacts. This will give rise to a revenue budget pressure if a post currently funded from the rental received from this asset is permanently required.

A key consideration here is in the achievement of value for money and as the report explains, the valuation of the asset has been confirmed by NORSE and WG valuers and the sale agreement includes an overage if the new owners sell on the asset in the future, after a minimum period. These should secure value for money in this case, which also includes reducing financial risk from securing tenants for this building.

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 property assets that are surplus to the Council's requirements. Alacrity House is already appropriated for commercial asset management purposes as it is not required for operational use by the Council. The property has been leased to the Alacrity Foundation and the University of South Wales. Both leases have now expired and the University have vacated their parts of the building but the Alacrity Foundation are holding over under a tenancy at will. They wish to extend their occupation of the whole building in order to expand their operation, but they do not have access to the necessary investment funding in order to do this. However, an associated Company owned by one of the principals of the Alacrity Foundation, Orion Scott Ltd, has offered to purchase the freehold and to let the property to the Foundation on a 5 year lease. In accordance with section 123, the Council is required to secure the best price reasonably obtainable for the sale of the freehold of the whole of the building. The negotiated sale price to Orion Scott Ltd is considered to represent market value for the freehold title. In addition, an overage provision can be included within the transfer to secure a share of any future net development profit that the purchaser may derive from the redevelopment and sale of the property within a specified period. This will also ensure that the Council has not sold the property at an undervalue, based on any alternative development value as well as the current use. Although the Council would have the option of granting a long lease of the whole or part of the building to secure a rental income, an outright disposal would generate a capital receipt and avoid any future maintenance and management costs. The sale to Orion Scott would also secure the continued use of the building by the Alacrity Foundation, although a binding commitment and agreement for lease with the Alacrity Foundation should be in place before the sale of the freehold is completed. The capital receipt would accrue to the joint venture budget agreed with Welsh Government which is ring-fenced for regeneration purposes within Newport. Although the Council is the legal owner and manager of the building, the property is held on trust for the benefit of both the Council and Welsh Government. However, Welsh Government have already consented to the disposal of the freehold to Orion Scott Ltd at the agreed price.

Comments of Head of People and Business Change

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

The report writer has considered the sustainable development principle of the Well-being of Future Generations (Wales) Act 2015 when writing this report.

Local issues - Comments of Ward Members

Councillor Miqdad Al-Nuaimi

Alacrity House is an iconic building forming part of the land assembled in the 1980s and early 1990s as part of the Council's Barrage project. In 1995, that project was turned down by the then Welsh Secretary of State.

However, the assembled land enabled the Council to develop the Usk frontage into the attractive asset we see today. The Council, developed a vision for treating the River Usk frontage as a valuable asset for the city, to be earmarked for housing and leisure purposes. The Riverfront theatre and art centre is one notable example. This was followed by the new University Campus, the footbridge connecting the city centre to Rodney Parade and Victoria Ward in which one sees the extensive housing development on the Usk eastern bank. Regeneration continues with the soon to be developed Leisure Centre and the new Further Education College Campus. The long river walk and linear park for walking and cycling is another excellent outcome of that visionary land-assembly policy and its utilisation that followed the Barrage disappointment.

I consider the disposal of any property on the river frontage requires careful consideration. I would like Council to retain the freehold of Alacrity House.

I am sympathetic therefore, to either option 2 or 3, where the freehold remains with the Council. My preferred option is 3, though option 2 of offering Scott Orion Ltd a lease for the complete building would be compatible with retaining Council's options in the near future. However, I note the comment of the financial officer on the extra revenue pressure, which would arise, if the site is disposed of. I also note that in options 2 & 3, there will be no capital receipt, though in my view, this is not likely to affect our capital programme adversely.

Finally, with a site like Dudley Wharf (Alacrity House), it is imperative that, if we absolutely have to dispose of it, we need to ensure transparency is demonstrated at all stages in the disposal process.

Response from Acting Head of Regeneration, Investment and Housing

I have carefully considered the comments of the ward member and would offer reassurance that the decision to dispose of the property has been thoroughly scrutinised and as a property which forms part of the former joint venture, we have fully engaged with Welsh Government on this matter. We have already had discussions with Orion Scott Ltd regarding a lease arrangement, as opposed to a sale, but this was not considered appropriate for their business model and the substantial amount of investment they intend to spend on the property to bring it up to modern office standards.

It is important to note that the sale of the property to Orion Scott Ltd will secure the Alacrity Foundation's presence in our City and further help secure and grow tech based businesses within the City. The Alacrity Foundation wish to extend their occupation to the whole building in order to further expand their operation which is good news for Newport. The sale to Orion Scott Ltd is entirely appropriate provided the sale is at market value. The property has been valued by ourselves and Welsh Government's independent valuers and the agreed price represents the full market value. In addition, and as a precautionary measure, an overage provision will be included within the transfer to safeguard the Council's position.

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. Orion Scott Limited's purchase of the building and the lease to Alacrity Foundation will enable them to increase their cohort each year which in turn will add to the number of tech start-up companies coming from Wales which will assist with meeting some of the seven well-being goals including a prosperous Wales and a resilient Wales

The disposal also takes into account the sustainable development principles in the Act:

- Long term: the purchase of the building by Orion Scott Limited and the Alacrity Foundation taking a lease of the whole building demonstrates their long-term intentions to continue investing in Newport.
- Prevention: disposing of the building to Orion Scott Limited and the grant of a lease of the whole building to the Alacrity Foundation will hugely reduce the risk of them choosing to vacate Alacrity House and relocate out of Newport
- Integration: the disposal will contribute to the 7 wellbeing goals as detailed above
- Collaboration: allowing Orion Scott Limited to purchase the building enables them to invest in the building and the lease to Alacrity Foundation of the whole building will assist their business development programme further which can only be a positive thing for the City.
- Involvement: Alacrity Foundation have expressed desire to continue investing in Newport and enabling the sale to Orion Scott Limited and the grant of a lease of the whole building to Alacrity Foundation is the first step of this investment.

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

N/A.

Dated: 28 May 2021

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Report

Cabinet Member for Assets

Part 1

Date: 14 June 2021

Subject Land Adjacent to 39 Brangwyn Crescent

Purpose To seek approval from the Cabinet Member for Assets for the disposal of the land adjacent to 39 Brangwyn Crescent to the occupier of 39 Brangwyn Crescent.

Author Housing and Asset Manager

Ward Beechwood

Summary Agree to the disposal of Open Space adjacent to 39 Brangwyn Crescent in order to benefit from a capital receipt and reduction in maintenance costs.

Proposal To seek the approval to declare the land adjacent to 39 Brangwyn Crescent surplus and sell the freehold in order to gain a capital receipt.

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 Regulation – Monitoring Officer
- Head of People and Business Change
- Head of Regeneration, Investment and Housing
- Housing & Assets Manager
- Service Manager Environment and Leisure
- Team Manager – Parks and Recreation
- Associate Director of Property Services, Newport Norse
- Associate Valuation and Estates Management, Newport Norse

Signed

Background

The occupier of 39 Brangwyn Crescent has shown interest in purchasing the land adjacent to their property (See plan attached below) for use as off road parking, which would alleviate parking issues within the surrounding area, and erection of a garage. To satisfy planning requirements the garage would be required to attach directly to the house and face Brangwyn Crescent in the same direction. All of the adjacent land is required to facilitate this direction of access.

The land is owned freehold by Newport City Council, is appropriated to City Services and allocated Public Open Space. The land forms part of Kelly Road Park, but is separated from the main park area.

The Leisure department are happy to dispose of the land, due to its location being remote from the main area of the park and the reduction in maintenance costs the sale would bring. The collaboration between the occupier, Newport City Council and Newport Norse has meant that all parties would benefit from the future use of the land.

Due to the land being allocated Public Open Space the potential purchaser was notified that there is a statutory requirement to advertise the disposal in the South Wales Argus. The occupier has been made aware of and has agreed that these additional costs the statutory process requires will be borne by them, including any other associated fees and purchasers costs.

If the sale is approved by the Cabinet Members the process of advertising the sale of Open Space would be required and would appear in the South Wales Argus for two consecutive weeks. The public would have 28 days to offer any comments or objections and if any are received they would be reported to the Cabinet Member for consideration. If no comments or objections are received then the sale can proceed after the 28 day period.

Due to the size of the land there will be a restriction on the use of the land to garden, driveway, for off road parking and erection of a garage only. This use has been reflected in the asking price of £9,000 and to prevent further development, which could impact the value of the land. Due to the restrictions to be imposed on the future use of the land, overage provisions are not considered to be necessary in this case.

The Council would benefit from a capital receipt and would have reduced costs for the long-term maintenance of the land. Although the parcel of land is linked to Kelly Road Park it is separated by a road and therefore not utilised as Open Space as much as the Park is. There is no public right of way over the land and the only access through the land is to the occupiers house. The other houses in the same terrace all have their own separate access from the road and a number have fenced off their forecourts.

The disposal of the land may also assist parking issues for the adjacent occupier, which will in turn help to alleviate and prevent some of the wider parking issues within the area. This will also aid the local area and community to become a safer place if parking issues can start to be alleviated. The wider community have not been consulted in the process due to the land being sold to a special purchaser, the current occupier of the adjoining land. If the land was not adjacent to anyone who would directly benefit from the land, wider involvement and consultation in the community would have been sought.

The sale proposed without being subject to planning and will need to apply separately for the garage/parking use. Therefore, any ongoing and long-term maintenance for the Council will be alleviated as the occupier would become responsible for the maintenance and upkeep as garden land. This will contribute to the long-term well-being for the purchaser and have no adverse impact for the wider community. Therefore, the Well-being and Future Generations Act goal of a Wales of cohesive communities will be achieved, without adversely affecting any of the other Well-being goals.

Financial Summary

	Current Income	Potential/Projected Income	Capital Receipt	Ongoing Costs
	£0	£0	£9,000	Unknown
Notes				

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 asset will result in no capital receipt for the Council	L	L	Position will remain and land will stay as Open Space with responsibility of maintenance remaining with NCC.	NCC and Newport Norse
Interested party does not wish to purchase the freehold	L	M	As above	NCC and Newport Norse

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's corporate plan 2017-2022 provides a number of well-being objectives. The proposed disposal meets the objectives by looking at the long term plan for the land, and alleviating the ongoing maintenance costs for the Council. Although, the community may lose out on some land the overall benefit maybe provided by less cars parking on the road and pavements meaning a safer place for the public.

Options Available and considered

The Council could:

1. Dispose of the freehold title with a restriction for use as garden land, off-road parking and erection of a garage only to gain a capital receipt and alleviate maintenance costs.
2. Keep the land as Open Space but continue paying for the maintenance costs.

Preferred Option and Why

The recommendation is to declare the property surplus and for the Cabinet Member to approve the freehold sale, with the use restrictions mentioned above, to the occupier of 39 Brangwyn Crescent to benefit from a capital receipt of £9,000, which provides best value.

Comments of Chief Financial Officer

Disposal of this asset will benefit the Council by the realisation of a capital receipt, which is reinvested into the Council's overall capital programme. Disposal of the asset will also reduce any maintenance liabilities.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's statutory powers to re-appropriate and dispose of surplus land in accordance with Section 122 and 123 of the Local Government Act 1972. Because the land is public open space, it will be necessary to give 2 weeks public notice of the intention to re-appropriate and dispose of the land under sections 122 (2A) and 123 (2A) of the Local Government Act 1972. These notices will need to be published in consecutive weeks in the South Wales Argus and the Cabinet Member will need to consider any objections received during this period before deciding whether or not to proceed with the proposed appropriation and disposal to the owners of the adjoining property. It is noted that the owners have agreed to pay for the costs of the statutory notices. The land is not required for any specific Council services and the only issue from a property perspective is whether this is an unacceptable loss of public open space. Given the informal nature and location of the open space, it appears to have little public amenity use and it only has a special purchaser value for the owners of the adjacent property for use as a garage parking area. Although the Council has a duty under s123 to secure the best price reasonably obtainable for the land, it would appear to have no alternative use, except as part of this adjoining property. Therefore, the proposed purchase price would represent best value, with an appropriate restriction on the sale in relation to garage/parking use and it would generate a small capital receipt for the Council, as well as a saving on maintenance costs. If the cabinet member is minded to approve the disposal and there are no objections to the statutory notice, then the sale can proceed. If there are objections, then a further Cabinet Member report will be required to consider those objections.

Comments of Head of People and Business Change

From an HR perspective there are no staffing implications.

The report writer has considered the sustainable development principle of the Well-being of Future Generations Act (Wales) 2015.

Local issues – Comments of Ward Members

Cllr D Davies - As the land is unused and its sale would not impact on any public rights of way or community activity I am comfortable with this proposal.

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

No consultation has taken place.

Wellbeing of Future Generations (Wales) Act 2015

The author has given consideration to the Act throughout the background of the report. Consideration has also been given for the well being objectives as allowing the sale to proceed will begin to create a safer community by alleviating some of the parking issues in the area. Although the land is Open Space plenty remains in the park meaning the local community still have a large area to maintain a healthy and active lifestyle, participating in sports and recreation in the park. This will also help increase the cohesiveness of the community by keeping recreational space but also providing a safer environment with off street parking. If the prospective purchaser makes the suggested changes it will allow work to be undertaken that would not have previously been available.

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

Consultation has taken place with relevant Council Officers; Ward Members will be invited to comment through the consultation process.

Background Papers

None

Dated: 28 May 2021

