

Report



Cabinet Member for Assets & Equalities (Deputy Leader)

Part 1

Date: 22 May 2019

Item No: 01

Subject 86/87 Lower Dock Street Newport

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

Author Housing and Assets Manager

Ward Pillgwenlly

Summary The current leaseholder of the premises wishes to purchase the freehold from the Council. They are currently occupying the premises on a lease for 99 years from 28th February 2007 with a current rent passing of £250 per annum.

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:

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

Signed

Background

86/87 Lower Dock Street is a mixed use property with retail on the ground floor and residential on the upper floors. The property is situated at the southern periphery of the city centre near the Asda superstore and Mission Court.

The Council own the freehold, which is subject to a lease for 99 years from 28th February 2007. The rent passing is £250 per annum, which is under review and represents a geared ground rent. Rent reviews are every 10 years throughout the term.

The tenant Crestwell Developments Ltd. wishes to acquire the freehold interest. There is no obligation on the Council to sell to the current tenant and the potential loss in revenue, albeit relatively small needs to be weighed against any capital receipt that could be achieved.

Due to the length of the lease and the remaining long unexpired term, the value of the Council's reversionary interest is relatively low.

This property was acquired for regeneration and is now held as an investment. The income is a ground rent and will only provide a relatively small income as it is geared at 3% of the full market rent.

The current tenant has wanted to purchase the freehold for some time and is very persistent in his ambition. He has until recently only offered a relatively modest sum to purchase, but one that does exceed our opinion of the value. He has now increased this to a level that is significantly in excess of the market value.

The Council have not been seeking to sell this property and the approach from the current tenant is an almost perfect special purchaser situation where his offer far exceeds what would be achieved through any other method of sale.

On balance and bearing in mind the level of offer our recommendation is to sell the freehold interest on terms to be agreed and approved by the Head of Law and Regulation.

Financial Summary

There is currently no cost implication for the Council due to the terms of the Lease. The disposal of the land will mean that the council will receive a capital receipt which can be reinvested in the capital programme. The loss of income will be absorbed within the commercial estate.

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?
Freehold remains with the Council	L	L	All maintenance costs are borne by the tenant as part of the Lease agreement.	Tenant

Links to Council Policies and Priorities

Property Rationalisation Programme
Medium Term Revenue Plan (MTRP)

Options Available

1. Take no action
2. Decline the offer to purchase the Freehold and continue receiving the income generated from the Lease on the property.
3. Agree to the sale of the Freehold and receive a capital receipt from the disposal of the asset.

Preferred Option and Why

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

Comments of Chief Financial Officer

Disposal of this freehold will benefit the Council by the realisation of a small capital receipt which will be reinvested in the capital programme. The Head of RIH would need to be satisfied that the revenue income loss, minimal as it is, will have no impact on the achievement of the overall income target for the Council's Commercial estate and the MTFP.

Comments of Monitoring Officer

The proposed sale of the Council's freehold reversion to the current leaseholder is in accordance with the Council's powers to dispose of land under section 123 of the Local Government Act 1972. The mixed use property has already been allocated for investment purposes and has been "disposed" of by way of a 99 year ground lease. The passing ground rent is a modest geared rental and the capitalised value of the Council's freehold reversion is very small because of the unexpired term of the 99 year lease. Therefore, if the leaseholder is prepared to pay more than market value for the purchase of the Council's reversionary interest, then this would clearly represent best value for the Council as it is effectively a special purchaser offer, as the freehold is worth considerably more to the sitting tenant as compared with any other purchaser.

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 decision to dispose of this land will secure its long term future, 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 this report.

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

This is an opportunistic minor property transaction instigated by the current leaseholder and the reality is that it is between the council and leaseholder with no impact on surrounding areas or individuals hence the difficulty in achieving some areas of the five ways of working in detail. The long term benefit of the property has been considered and whether the income from the property is more beneficial than the capital receipt. Selling the property to the current occupier will prevent any future liability for the Council, in case something drastic were to happen to the property. Collaborating with the current occupier regarding the sale will result in terminating all liabilities of the Freehold. As with any generation of a capital receipt it creates an increase in resources for the Council to use to meet its Wellbeing objectives.

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: 22 May 2019

