

Various Freehold and Leasehold Asset Disposals

APPENDIX A

The Hill Shop, Hunsbury Hill, Northampton

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5. Report Background

- 5.1 On the 5th of March 2020, a report was submitted to the Cabinet of Northampton Borough Council (NBC), recommending several local neighbourhood community shops for disposal. NBC Cabinet agreed to the disposal of the assets to the existing tenants which includes this property.
- 5.2 Officers from NBC discussed the proposal with the tenant who expressed an interest in acquiring the freehold interest. A valuation was completed in July 2020 by a local and independent surveying firm. This valuation took into consideration the proposed freehold sale to the tenants, with a restrictive covenant being placed on the shop. The tenant also appointed their own professional advisor to review the value of the asset and conduct negotiations on their behalf.
- 5.3 The value proposed by the tenant's agent was below the level which NBC felt was reflective of best consideration in the market and given the parameters stated in 5.2 above.
- 5.4 In accordance with its financial protocols, NBC was required to value its investment properties (for accounts purposes) on an annual basis. The rolling valuation programme is undertaken by Wilks Head and Eve (WHE). WHE was enlisted by the council to revalue the shop and determine a market value for the asset. The market value given by WHE was £522,500.
- 5.5 Following negotiations with the Tenant, they have agreed to pay £522,500 and have secured bank financing. While it was anticipated that this disposal would be completed prior to Vesting Day, this was not possible.
- 5.6 This report therefore seeks approval to dispose of The Hill Shop to the current tenant at the agreed price of £522,500.

6. Issues and Choices

- 6.1.1 The Hill Shop is one of several community shops which the council owns. Out of the 15 shops that formed part of the original Cabinet decision, this has progressed furthest.

- 6.1.2 As identified above, the tenant had expected the sale to complete prior to vesting day and has secured any associated funding that they require to complete the purchase. As the original Cabinet decision made by NBC cannot be carried forward to WNC, the sale of the asset has been delayed. Given the progress that has been made and the previous commitments to proceed with the disposal, it is recommended that WNC proceed with the disposal on the terms previously agreed.
- 6.1.3 WNC could decide not to proceed with the disposal. If it did, it is possible that the tenant may seek recompense from WNC for the costs that he has expended on the process to date in good faith and in the knowledge of the previous NBC Cabinet decision.
- 6.1.4 As the original Cabinet decision directed disposals to the existing tenant, the market value of the asset has been determined via independent valuations. WNC could take the decision to openly advertise the investment opportunity. While this would be consistent with the approved WNC processes, it would be contrary to the original NBC Cabinet Decision upon which the current agreement has been structured. Any value implications to this have been mitigated through obtaining independent market valuations.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 By making this decision, WNC would dispose of the freehold interest in the property to the existing tenant and receive a capital receipt of £522,250. This value has been negotiated and provisionally agreed with the tenant and is consistent with the independent valuation advice that has been provided.
- 7.1.2 As part of this transaction, it has been agreed that each party will bear their own legal costs.

7.2 Legal

- 7.2.1 For the council to demonstrate it has complied with its duty to achieve the best price reasonably obtainable, it has sought an independent assessment of the open market value of each the asset covering such matters as value in existing condition, with proposed restrictions and for currently permitted uses. Whilst going to the open market us a well-established route to discharge the 'best consideration' obligation, it is not the only route possible and relying on independent valuation is an acceptable way of achieving the same outcome.

7.3 Risk

- 7.3.1 The principal risk associated with this transaction relates to value. The original NBC Cabinet decision directed that the assets should (where possible) be sold to the tenants. As no marketing is required for this approach, the value of the asset has been determined via independent valuations. While this approach is consistent with the original Cabinet decision, is does not follow the new procedures which has been implemented by WNC, which directs disposal by open market sale unless otherwise agreed by relevant officers / Cabinet. While it is not possible to

determine if a market participant would pay more for the property, this risk has been mitigated through the valuation process which has provided an independent assessment of the value of the asset, based on the specific parameters as set out in this report.

- 7.3.2 If the recommendation does not progress, it is possible that the tenant may seek recompense from WNC for the costs that it has incurred in progressing the disposal, which is has done in good faith and in based on the original NBC Cabinet decision.

7.4 Consultation

- 7.4.1 No additional consultation has been completed as part of this recommendation.

7.5 Consideration by Overview and Scrutiny

- 7.5.1 None.

7.6 Climate Impact

- 7.6.1 There are no environmental or climate implications identified.

7.7 Community Impact

- 7.7.1 The sale would allow the shop to continue to be managed for local use. There is some risk it might in due course be closed and, for example, converted in housing, thereby losing a community facility. However given that it is a viable business this is considered unlikely.

8. Background Papers

- 8.1 Disposal of Community Centre Shops (5th March 2020, Northampton Borough Council report)