

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**  
**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE**  
**CABINET**

**PART I**

**15<sup>th</sup> October 2014**

**1. FREEHOLD DISPOSAL – THE SQUARE, HIGH STREET NEWCASTLE**

**Submitted by:** Property Manager

**Portfolio:** Economic Regeneration, Business and Town Centres

**Ward(s) affected:** Town Ward

**Purpose of the Report**

To consider the disposal of the Council's freehold interest in The Square, High Street, Newcastle.

**Recommendations**

- (a) That officers be authorised to take the necessary actions to dispose of the Council's freehold interest of The Square complex and car park on the terms as set out in the confidential report (at Part II of your agenda).**
- (b) That steps be taken as part of the future budget-setting and MTFS processes to address the loss of annual rental income from the property.**

**Reasons**

- The Council will realise a capital receipt that reflects "best consideration" and will contribute to known demands within the Council's Capital Programme.**
- The loss of annual rental income will need to be mitigated.**
- Whilst it is not a consideration for the Council in terms of its land disposal process ("best consideration" judgement) it is worth noting that the prospective purchaser's investment plans should benefit the wider town centre economy.**

**1. Background**

- 1.1 The Council granted a 125 year full repairing and insuring lease to a Company known as Gatedale Limited in 1998 with the Council retaining the freehold ownership of the overall site including the multi-storey car park. Under the terms of the lease Gatedale redeveloped the site to its current mix: multiplex cinema, retail and leisure units.**

- 1.2 The rent review provisions within the lease provide that as from September 2005 the Council receives an annual rental income from the property, a summary of which is set out in the confidential report contained in Part II of your agenda.
- 1.3 Gatedale appointed a firm of liquidators to manage their affairs in August 2008 and the liquidators continued to trade the complex. In March 2012 Allsop LLP were appointed Law of Property Act receivers to act for Gatedale's creditors. Allsops marketed for sale Gatedale's leasehold interest and the asset was sold in May 2014 to KRNS Properties Limited.
- 1.4 KRNS Properties Limited has requested to purchase the freehold interest of this asset and have made an offer to the Council (as referred to in the confidential report at Part II of your agenda).
- 1.5 Officers have been appraised of significant investment plans by KRNS Properties Limited to rejuvenate the complex.
- 1.6 The premises occupy a prominent location in Newcastle Town Centre. The prospective purchaser's investment plans are expected to create wider economic benefits for the centre (although this should not influence the Council's judgement when assessing the achievement of "best consideration").

## 2. **Issues**

- 2.1 The first consideration in this instance is whether the prospective purchaser's offer represents "best consideration" (as defined in S.123 of the Local Government Act 1972 (as amended)). In view of the fact that the said purchaser has acquired the head lease it has been considered that an open market disposal would be inappropriate. So in order to satisfy the best consideration judgement the District Valuer was commissioned to provide an independent valuation of the Council's interest. His report confirms a valuation that is consistent with the offer received, so a disposal would comply with the best consideration test.
- 2.2 The capital receipt would contribute towards meeting the Council's future Capital Programme requirements.
- 2.3 However, there will be a loss of rental income to the Council and this will need to be mitigated as part of the revenue budget setting processes.
- 2.4 Whilst the prospective purchaser's investment plans are not an influencing factor when assessing 'best consideration' the acquisition should enhance the company's prospects of delivering their plans resulting in long-term regeneration benefits for the wider town centre economy.

## 3. **Options Considered**

### 3.1 **Option 1 – Retain the Council's interest**

- The Council will continue to receive rental income with the reasonable prospect of increased rental income in future years;
- The Council would not receive a significant capital receipt (which is considered to represent the market value of the Council's interest) thereby denying the opportunity of supporting the Capital Programme;

- The Council will continue to hold a freehold land asset within the centre of Newcastle town thereby providing a long term opportunity to directly influence redevelopment;
- There may be a risk that the Council's retained interest would inhibit the lessee's long term investment plans to the detriment of the wider town centre economy;
- There may be long term liabilities arising from the retention of the asset;
- Refer to Part II report.

### **3.2 Option 2 – Dispose of the Council's interest**

- The Council will receive a capital receipt that could be used to support known demands of the Council's capital programme;
- The Council will no longer receive a rental income thereby impacting adversely on the General Fund revenue budget;
- There are likely spin-off benefits to the wider town centre economy (not a 'best consideration' factor);
- The Council would lose its ability in the long term to directly influence regeneration of this part of the town centre (reliant on the Town Planning process);
- Any long term liabilities associated with retention of the asset would be mitigated;
- Refer to Part II report.

## **4. Proposal and Reasons for Preferred Solution**

- 4.1 The capital receipt meets the test of 'best consideration'.
- 4.2 The capital receipt will assist in meeting the Council's short-term Capital Programme requirements and this benefit is considered to outweigh the issues arising from the loss of annual rental income (which will need to be mitigated).
- 4.3 Any long term liabilities arising from retention of the asset would be mitigated.

## **5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1 The disposal of this asset will enable the achievement of priority outcomes in all four of the Council's corporate priorities.

## **6. Legal and Statutory Implications**

- 6.1 The Council has a duty, both fiduciary and operationally to utilise its Assets for the benefit of the community.
- 6.2 Local Government Act 1972 – Section 123 - the Council has a duty to achieve best consideration for its assets.
- 6.3 Local Government Act 2000 - powers to promote the economic, social and environmental wellbeing of the Borough.

## **7. Equality Impact Assessment**

7.1 There are no such issues arising directly from this report.

8. **Financial and Resource Implications**

8.1 The Council will receive a capital receipt that could be used to support known Capital Programme demands.

8.2 The disposal will result in a loss of rental income which will need to be mitigated as part of the annual budget-setting and MTFS processes.

8.3 Additionally the risk of the Council having to contribute towards long-term maintenance/repair will have been mitigated.

8.4 Refer to the Part II report for further information.

9. **Major Risks**

9.1 Loss of annual revenue income to the Council which will need to be mitigated.

10. **Sustainability and Climate Change Implications**

10.1 None

11. **Key Decision Information**

11.1 The report is referred to in the Forward Plan.

12. **Appendices**

12.1 Location plan showing the extent of the property.

13. **Background Papers**

13.1 File held by the property section.

13.2 Valuation report provided by the District Valuer.

13.3 Report at Part II of this agenda.