

**Cabinet**

**1<sup>st</sup> October 2013**

**Report of the Cabinet Member for Finance Performance and Customer Services**

**Disposal of Council Properties**

**Summary**

1. This report sets out the progress over the last 4 years in disposing of surplus Council property assets. Specific approval is also sought from Members to dispose of properties at St Anthony's House and 13/15 Redeness St

**Background**

2. One of the key principles for the asset review of all council property and land agreed by Cabinet in November 2012 was to identify opportunities to generate capital receipts by rationalising and sharing the occupation of properties so reducing the number of properties the Council owns and occupies. In addition opportunities are always looked at where the Council can significantly increase the value of its properties by working with third parties.
3. The principles for assessing disposals were set out in the November 2012 Cabinet report as follows
  - Reducing revenue costs by co-locating the service in another Council or non-Council buildings thus freeing up the building
  - Supporting economic development – adding value by creating jobs and encouraging new businesses into the City
  - Creating new homes – supporting Get York Building programme
  - Creating community value by asset transfer

- 4 The adopting of these asset review principles has built on many years of successful asset management by the Asset and Property Management Team. Since April 2010 £10.4m of capital receipts have been generated and this has included the sale of Edmund Wilson Pool (developed as a supermarket, land at Osbaldwick (for housing development), Kent Street Coach Park (for the new fire station) and land at Yearsley Bridge for housing and retail development.
- 5 In addition sales have also been agreed using these principles which are currently progressing including the sale of the Hungate site to Hiscox and the Parkside Centre for an office development
- 6 It is the responsibility of the Council to ensure it receives best value from the disposal of all its land and buildings using the principles for disposal detailed above. Obtaining this best value can be dealt with in a number of ways
  - Open market sale – the asset is placed on the market and offers are received with the highest one being accepted. These offers are made unconditionally and ensure a sale goes through quickly. Examples of these which have recently taken place are the sale of Hollycroft and it is proposed to sell Ashbank on his basis
  - Open market sale with conditions – the asset is placed on the market with a planning brief and offers are invited setting out the conditions (ie. obtaining planning permission) which the offer is subject to. These offers are then considered both on price and the risk of the conditions not being fulfilled. Examples of this type of approach recently done are the Yearsley Bridge site and the Edmund Wilson Pool site and this approach will be followed at 17/21 Piccadilly and part of the former Manor School site which are shortly to be marketed.
  - Direct negotiations with one party – this method is not often followed but is used when the other party has an interest in the property – ie. a current tenant – or there is a very good economic and financial reason for dealing directly with them such as the creation of new jobs or the assembly of a larger site for residential development. These other parties are known as ‘special purchasers’ or ‘particular buyer.’ Disposal by this method is permitted as long as an independent valuation is carried out by a firm of chartered surveyors not connected to the

case showing that market value has been obtained. An example of this would be the agreement to sell the Hungate site to Hiscox and Kent Street Coach Park for the new fire station

7. It is the responsibility of the Assistant Director for Finance, Asset Management and Procurement to ensure the right approach to the method of disposal is followed on a case-by-case basis using these principles. Proposed disposals of Council property assets are reported to the Capital and Asset Board and, where the capital receipt is above £100,000 are then reported to Cabinet for approval.
8. Detailed below are 2 proposed disposals which have followed the process outlined in the third bullet point of paragraph 6 for the reasons stated below which Member approval is now sought.

### **St Anthony's House, Clarence Street**

- 9 St Anthony's House (see plan at Annex A) was vacated earlier this year as part of the migration of staff to West Offices. The Council has no requirement for this building and therefore it was agreed to dispose of this property and seek to maximise the capital receipt.
- 10 York St John University (YSJU) have expressed an interest in this property as they have an urgent need for additional teaching and staff accommodation as part of the expansion plans for YSJU. Negotiations have taken place with a property professional for YSJU and the following terms have been provisionally agreed
  - St Anthony's House – sale with vacant possession for a figure detailed in confidential Annex B
- 11 An external firm of valuers have undertaken a valuation of this building and site, calculating the value for the current use, the proposed use by YSJU and alternative uses which could be permitted under current planning guidance such as residential. They have confirmed that the figure agreed is the best value.

### **13/15 Redeness Street, Layerthorpe**

- 12 This site is let on 2 long ground leases from 1970 to 2064 at a combined yearly rent of £8,250. The lessee was Yorkshire Water but they ceased using the site several years ago and Maple Grove Developments are the leaseholders. This development company have also agreed to buy the adjoining site (not owned by the Council) – (edged blue on the plan at Annex A) – and have

approached the Council, through their development partner, Yorvale, to buy the freehold so they can develop both sites, subject to obtaining planning permission, for a 325 bed student accommodation. Initial discussions with planners have been positive.

- 13 The freehold value of the site, subject to this lease, is low (for details see confidential Annex B). The Council cannot terminate the lease as the lessees are fulfilling the covenants contained in the lease including paying the rent. Negotiations have therefore taken place with the tenants/prospective purchasers on merging the 2 interests with the added value this creates for the development – often referred to as the ‘marriage value’. Normally this marriage value is split 50:50 between the 2 parties in arriving at any sale price but the Council has negotiated a 68:32 split in the Council’s favour. Full details of the proposed offer are contained in Annex B and again a report and valuation has been carried out by an external firm of valuers which supports the sale figure and confirms this is the best value for this site.

### **Consultation**

14. All properties which are suitable for sale are first checked to see if there are any service requirements or any potential community use for the buildings as part of the disposal policy. Then a report is taken to the Capital and Asset Board on offers which have been received and any other interest in the property. Both the above sales have been approved by the Capital and Asset Board.

### **Analysis/Options**

15. The only 2 alternative options to the disposal of both properties detailed in paragraphs 8 to 12 would be to either refuse to sell or put the properties on the open market. However for the reasons already stated it is highly unlikely that a higher offer would be received for either property as both purchasers have a special and particular interest in buying the freeholds which has been reflected in the sale prices which have been negotiated.
- 16 In addition if these sales did not proceed then, in the case of St Anthony’s House, YSJU would have to find an alternative site to meet their immediate need which would be further away from the current University Campus. For the Redeness Street proposal then an opportunity to develop accommodation for students could be lost

as development on the adjoining non- Council site only would be less viable and therefore may not proceed.

### **Corporate Objectives**

- 17 The proposed sales would meet the Council priorities for **Creating Jobs and Growing the Economy** by supporting the YSJU in providing teaching accommodation for staff and students and also **Building Strong Communities** by providing accommodation for students from all learning centres. In addition the substantial capital receipts raised from these sales will provide funding to also help meet the Council's priorities through its capital programme.

### **Implications**

- 18 **Financial** – the capital receipts from the sale of St Anthony's House and 13/15 Redeness Street will be used to support the Council's capital programme
- 19 **Property** – all the implications are contained in this report
- 20 **Legal** - as the report indicates the Council must generally obtain best value on land sales. This duty to achieve the best consideration which is reasonably obtainable is contained in section 123 of the Local Government Act 1972. The Council is under no duty to dispose of land through particular means such as through open marketing. A failure to market does though increase the risk of a sale being challenged. However, the Courts though have said that a breach of section 123 is only likely to be found if:

“the council has (a) failed to take proper advice or (b) failed to follow proper advice for reasons which cannot be justified or (c) although following proper advice, followed advice which was so plainly erroneous that in accepting it the council must have known, or at least ought to have known, that it was acting unreasonably.”

In this case the valuation evidence provides a proper basis for the recommendations.

- 21 **Equalities and Human Resources** – no implications

## **Risk Management**

22. There are no major risks associated with the sale of the properties detailed above. Obviously if planning approval is not given for the development on the Redeness Street site then the sale will not proceed.
23. Property disposals generally do carry risks such as the
  - Legal title which the Council has for the property – this is being mitigated by the Council registering it's title with the Land Registry to all its property assets
  - Uses to which vacant sites and buildings can be put to – this requires close liaison with Planning and also the Local Plan development to bring more certainty when any disposal takes place
  - The state of the market – for buying the type of properties which come forward. This is more difficult to control but, as has been done in the past the sale of vacant properties can be delayed until market conditions are suitable with temporary occupation in the meantime to reduce the cost of retaining vacant properties.

## **Recommendations**

24. That the Cabinet
  - notes the work which is being undertaken to ensure that properties are disposed of to maximize the benefit to the Council from any sale and
  - approves the sale of St Anthony's House and 13/15 Redeness Street for the capital receipts detailed in confidential Annex B.

Reason: To support corporate priorities with respect to jobs and economic growth and to provide capital receipts to fund the Council's capital programme.

## Contact Details

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	<b>Report Approved</b>	√	<b>Date</b> <i>20 September 2013</i>
<b>Specialist Implications Officer(s)</b> Ross Brown – Technical Finance Manager Brian Gray – Senior Legal Assistant			
<b>Wards Affected:</b> All			√
For further information please contact the authors of the report			

**Background Papers:** None

### Annexes:

1 – Site Plan

2 – Confidential – Details of sale terms and summary of independent valuers report