

Bath & North East Somerset Council		
DECISION MAKER:	Cllr David Bellotti, Cabinet Member for Community Resources and Cllr Crossley, Leader.	
DECISION DATE:	On or after 7th March 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2645
TITLE:	Community Asset Transfer- Lease of 4 Abbey Street . Grant of lease at less than market value	
WARD:	Abbey	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix One – Heads of Terms		

1 THE ISSUE

- 1.1 To consider the grant of a lease to a newly incorporated Community Interest Company, 44 AD C.I.C. for a term of 16 years at less than best consideration.

2 RECOMMENDATION

- 2.1 To grant a tenancy of the building at 4 Abbey Street to 44AD C.I.C. for 16 years at an abated rent for the first 4 years of the term.
- 2.2 The lease to contain a rent review to open market value, after 4 years and the Council will have the absolute right to determine whether to implement that review or to continue with the abatement.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The proposal is to abate the rent during the first four years of the lease, after which time the rent will be reviewed to market value. The market rental value of the building is assessed at £40,000 pa. This assumes the building is in good repair and let on full repairing terms. In circumstances where an internal repairing lease is granted the market rent would be in the region of £44,000 pa.
- 3.2 On the basis of other offers received during the marketing campaign for the building, the tenant would occupy the building on a full repairing lease. However if the lease is granted to 44AD C.I.C on the terms proposed , the Council will retain the obligation to repair the exterior of the property.

- 3.3 Heads of Terms have been negotiated with the proposed tenant, as set out in Appendix 1. This shows the rent is not based on market values but instead it will be 'stepped', rising from £10,000 in year one to £25,000 in year four.
- 3.4 Adopting the achievable market rent of £44,000 pa, the proposed letting, over the first four years, will result in a rent of £106,000 in total being foregone. Should the Council exercise its right not to implement the rent review at year 4, there may be further rental income foregone.
- 3.5 Within the Revenue Estate income forecasting no rent has been forecast for 2014/15; however an abated rent is an opportunity cost lost when considering future ability to generate income for the estate.
- 3.6 As indicated in 6.2 below, the relocation of 44AD to 4 Abbey St has facilitated the development of another property she was then occupying, resulting in a significantly higher rental opportunity for the Council.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Under s123 of the Local Government Act 1972, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain "best consideration", unless the General Disposal Consent (England) 2003 can be applied or a specific consent is obtained.
- 4.2 The General Consent allows specified circumstances where the consent can be applied:
- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
 - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 4.3 The disposal is not considered to constitute State Aid.

5 THE REPORT

- 5.1 On 1 August 2014 Katie O'Brien trading as 44AD was granted a licence to occupy 4 Abbey St. This facilitated delivering up vacant possession on a building she was already occupying which had been identified as a development opportunity. This is now being brought forward with a significantly increased rental income and based on the Rationale in 6.2 below, was considered to be an important factor.
- 5.2 Since the grant of the licence Ms O'Brien has incorporated 44 AD to a Community Interest Company (C.I.C) which is an acceptable status to negotiate terms with for a more formal interest under the community asset transfer policy.

5.3 In accordance with 6.1 below terms have now been agreed for a lease at less than market rent which has given rise to the purpose of this report.

6 RATIONALE

6.1 The proposal has been developed in consultation with the portfolio holder on the basis that this transaction would be entered into at less than market value because the Council wishes to increase the potential for the Arts sector to provide more opportunities for local residents and visitors.

6.2 It is considered that 44AD is a successful arts organisation which provides opportunities, training, support and outlets for local artists. It will contribute to the Cabinet's aspirations set out in the 2014/5 budget report to develop capacity in the voluntary sector to help achieve Council objectives.

6.3 44AD have previously occupied Council premises on a temporary basis under a Tenancy at Will. At the time of the discussions with the Chief Property Officer it was considered necessary to obtain vacant possession of the property as plans were afoot to redevelop it. This was considered an important factor as a significantly higher rent was envisaged following redevelopment and subsequent reletting.

7 OTHER OPTIONS CONSIDERED

7.1 Disposal of the property on the open market has been considered but not pursued. The alternatives offers received to lease the building have been rejected in favour of the proposed letting for the reasons stated and provided in 'Section 6 Rationale' above.

8 CONSULTATION

8.1 Cabinet members; Section 151 Finance Officer; Monitoring Officer, Chief Property Officer.

8.2 The report has been provided to the above parties and their responses if any have been incorporated in to the body of the report.

8.3 The Council's monitoring Officer (Council Solicitor) and Section 151 officer have had the opportunity to input to this report.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Richard Long (Estates Manager)</i> <i>01225 477705</i>
Background papers	<i>None</i>

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