

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	9 September 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2784
TITLE:	97-101 Walcot Street	
WARD:	Walcot	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1: Principal terms for disposal of 1-3 James Street West Appendix 2: Decision E2741 - 97/101 Walcot Street. Grant of long lease at less than market value under Community Asset Transfer policy Appendix 3: Key facts for Genesis Trust and Statement of Social Objectives Appendix 4: E2625 - Community Asset Transfer - Granting of long leases - March 2014		

1 THE ISSUE

- 1.1 To provide an update to cabinet on the proposed Community Asset Transfer of the above premises and in particular note work to establish agreed social objectives to be delivered by the proposed occupier as part of the transfer terms.

2 RECOMMENDATION

Cabinet is requested to:

- 2.1 Note that the transfer was approved under the Community Asset Transfer policy by the previous Administration
- 2.2 Note the transfer facilitated the release of 1-3 James Street West for development generating both a capital and revenue income.
- 2.3 Note the community benefits as currently assessed under the transfer in Appendix 3
- 2.4 Note the range of uses that are considered inappropriate for the environment stated in Appendix 3
- 2.5 Note that the transfer is subject to Genesis obtaining planning permission

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 This transaction facilitates the disposal of 1-3 James Street West which is due to generate the capital receipt and annual rental income as set out in Appendix 1.
- 3.2 The Council are committing £100,000 to enable the refurbishment scheme of 97/101 Walcot St. If this sum is decapitalised over the 99 year term of the lease this would equate to an annual equivalent of roughly £6,500 per annum
- 3.3 The proposal is to abate the rent to nil during the entire term of the lease. The estimated rental value of the property, assuming the building is in good repair, is £21,000 pa. Genesis will be committed to investing a minimum of £60,000 to carry out a scheme of improvements subject to approval by the Council. The value of those works can be rentalised and equates to a deduction of £4,000 pa. Therefore the net revenue forgone is £17,000 pa.
- 3.4 The capital input of £100,000 was approved and included in the 2014/15 Corporate Capital Estate Planned Maintenance cost plan and this has been carried forward into 2015/16.
- 3.5 The total annual revenue amount of the rent forgone together with the decapitalised capital works delivered by the Council is approximately £23,500 per annum, equating to a theoretical capital value of the leasehold interest at £260,000.
- 3.6 It will be necessary to demonstrate that the value of the services to be delivered by Genesis from these premises is equal to or greater than the annual revenue forgone.

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 RICS is the governing body for Chartered Surveyors and they have set out guidance specifically to deal with this issue which should be followed unless there are particular circumstances that mean that it is not appropriate. It essentially puts in place an audit trail so that the decision to dispose at less than

market value is demonstrably robust. It is, therefore, considered that this is an appropriate model for sign off of the individual transactions which should be undertaken in liaison with the Section 151 Officer. In summary the guidance requires:

- a full valuation exercise is undertaken which understands the maximum theoretical Market Value for the asset to be transferred.
- calculation of the reduced values that apply because of any restrictions that the Council applies relating to things such as use, alienation, clawback, etc.
- the value added to the Council through the outcomes of the transfer has been assessed and found to be not less than the difference between market value and the actual price to be paid.

4.4 The disposal is not considered to constitute State Aid.

5 THE REPORT

5.1 Until recently Genesis occupied premises at 1-3 James Street West. This was the latest of several temporary addresses occupied by Genesis.

5.2 1-3 James St West is a development opportunity and the Council required vacant possession of the property in order to facilitate a disposal for its re-development in return for a capital receipt and ongoing revenue income which will be derived by taking back the ground floor accommodation within the completed development.

5.3 Under a Joint Single Member Decision E2741 (Appendix 2) by the then Cabinet Member for Community Resources and the Leader of the Council, approval was granted to the Chief Property Officer to enter into negotiation to grant a lease of premises at 97-101 Walcot Street to the Genesis Trust under the Community Asset Transfer policy.

5.4 The proposed Lease and Building Agreement are currently under negotiation and the transaction is subject to the Genesis Trust obtaining planning permission for the works and proposed use of the premises.

5.5 Whilst the basis for the transaction at less than market value has been properly set out and recorded as part of the single member decision process under the previous administration, there remains the opportunity to further improve the clarity around not only the social objectives which are to be delivered in favour of the community through this transfer but also identify the range of uses that are considered inappropriate for the particular environment within which the premises are located. This will assist in addressing and reducing concerns now being expressed within the local community.

5.6 Key Facts about Genesis Trust Bath and a statement of their social objectives including limitations on future use of the premises are set out in Appendix 3 and will form the basis for the assessment required in 5.7 below.

5.7 Cllr Gerrish, Cabinet member for Finance and Efficiency has accordingly requested that further work be undertaken with Genesis Trust to:

- More fully identify the social objectives which are to be delivered from these premises in favour of the community
- formally agree and record these social objectives to be delivered by Genesis Trust
- Undertake an assessment to ensure that the value of those services if externally procured is equal to or greater than the value of the rent abatement and works to the building which the Council would potentially be funding.
- identify specific uses which should not be carried out from the premises which otherwise form part of Genesis Trust's activities.

5.8 It is recommended a further report is brought back to cabinet within the next 4 months to consider and approve that the provisions in 5.7 have been satisfied.

6 RATIONALE

6.1 At its meeting of 19th February 2013 Council resolved to note the approach to Community Assets as set out and support the progression of transfers to the organisations identified in the Annexe. It was agreed, as set out at Appendix 2 - Annexe 6 to the February 2013 Council report, that a number of potential organisations be identified to be taken forward and Genesis Trust was one of those listed.

6.2 The application of this policy is in line with guidance to Local Authorities on asset transfers. The idea is to help secure community benefits in line with Council priorities and objectives by transferring property at a peppercorn rental, in exchange for arrangements designed to secure community benefits in line with Council objectives.

6.3 The majority of the quick wins were considered in a joint Single Member Decision - E2625 Community Asset Transfer - Granting Long Leases, (Appendix 4) which confirmed the disposal of the assets on long lease at a peppercorn, but the Genesis Trust proposal was excluded because discussions were not sufficiently advanced.

6.4 As there are no current delegations in place to officers it is necessary to give specific authority to enter into this transaction. The proposals give a structure which can demonstrate the audit trail that led to the grant of a leasehold disposal at less than market value.

6.5 The grant of a lease to Genesis will enable the realisation of the capital receipt from the sale of premises at 1-3 James St West.

7 OTHER OPTIONS CONSIDERED

7.1 None. This proposal is in accordance with the approved policy of community asset transfers in relation to one of the subject organisations identified as a "Quick Win"

8 CONSULTATION

8.1 Finance Team; Section 151 Officer; Strategic Director - Resources; Monitoring Officer.

The report has been circulated to the above consultees and any comments or amendments incorporated in to the final document.

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.

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Background papers	
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