

Bath & North East Somerset Council		
DECISION MAKER:	Councillor Charles Gerrish, Cabinet Member for Finance and Efficiency	
DECISION DATE:	On or after 13 <sup>th</sup> April 2019	EXECUTIVE FORWARD PLAN REFERENCE:
		E3141
TITLE:	The Former Radstock Infants School – <i>Payment of tax liabilities arising from a property transaction and authority to dispose of asset</i>	
WARD:	Radstock	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
None		

## 1 THE ISSUE

- 1.1 This report seeks approval to dispose of the former Radstock Infants School on behalf of the Reverter Trustees. It also seeks approval to make an outstanding CGT (Capital Gains Tax) payment to the HMRC. The report covers the background to the property, the reverters and the outstanding CGT bill.

## 2 RECOMMENDATION

The Cabinet Member for Finance & Efficiency is asked to;

- 2.1 Authorise a disposal of the subject property on the open market on behalf of the trustees.
- 2.2 Authorise payment on a tax bill to the HMRC.

## 3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE).

- 3.1 There is a resource implication. The outstanding tax bill of £67,020.40 will be recoverable from the sale proceeds. However, the tax bill will need to be made prior to the sale and provision will need to be made to pay this amount from the suspense account.

## 4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Property Considerations: Acting on behalf of the Trustees the Council must obtain best consideration from the sale of the former Radstock Infants School.
- 4.2 It is not within the Head of Estates delegated authority to approve the disposal of property on behalf of Trustees and therefore Member approval is required.
- 4.3 Liability for Capital Gains Tax is a legal requirement by the reverter trust and will be paid by the Council acting as their agent.
- 4.4 Public Health and Inequalities: the Council has a statutory duty to promote the health and wellbeing of the inhabitants of its area and reduce inequalities amongst its population.

## **5 THE REPORT**

- 5.1 Radstock Infants School closed in 2005 and the pupils and staff relocated to the new Trinity school within the locality. When the school closed, the majority of the land, which was held on trust, reverted back to the original landowner. The remaining section is owned by the Council.
- 5.2 Capital Gains Tax was payable from the point the school ceased to be used as a school. The cessation of use of the site as a school would have been a chargeable event for the purposes of Capital Gains Tax.
- 5.3 The Reverter Trust, via its trustees (Bath & North East Somerset Council) should have reported the 'disposal' which occurred within the 2005/06 tax year.
- 5.4 The Council, acting as agent for the reverter trust, will eventually deduct expenses incurred towards the sale, including the capital gains tax. It should be noted that there is no certainty that the site will sell soon and will sums will be held on the balance sheet until sale. The Reverter Trust consists of descendants of the original benefactor of the land.
- 5.5 Bath and North East Somerset Council are acting as trustees on behalf of the Reverter. Therefore, the usual delegated authority by the Head of Estates to dispose of the property does not apply.
- 5.6 This report seeks authority from the Cabinet Member to dispose of the property on behalf of the trustees.
- 5.7 The trustees have been identified and are in agreement with the Council's proposals to put the site to the open market.
- 5.8 Capital Gains Tax should be paid immediately to avoid any further penalty payment.
- 5.9 The Council also owns a small plot of land within the school site which will also be sold to generate a capital receipt and will pay a proportional sum towards cost of disposal incurred.

## **6 RATIONALE**

- 6.1 The Council now needs to pay the capital gains tax bill with immediate effect. Authority will also be required to dispose of the asset on the open market to enable a sale.
- 6.2 This will enable the Council to realise a sale proceeds to pay the CGT and pay the funds realised net of the CGT and other outgoings connected with the trust and the sale to the reverters. The Council has held the asset on bare

trusts for the reverters since 2005 and the CGT liability is a liability of the trust and is deductible from the proceeds prior to distribution. Once the trust fund net of liabilities has been distributed the bare trust will have been terminated.

## **7 OTHER OPTIONS CONSIDERED**

7.1 The capital gains tax bill is outstanding and must be settled so no other option is available. Member approval to dispose of the site is also a requirement to enable a sale to progress. There is no other viable alternative option.

## **8 CONSULTATION**

8.1 Cabinet members; Section 151 Finance Officer; Chief Executive; Monitoring Officer

## **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.

<b>Contact person</b>	<i>Richard Long – Head of Property. Tel: 01225 477075</i>
<b>Background papers</b>	
<b>Please contact the report author if you need to access this report in an alternative format</b>	