

Bath & North East Somerset Council

DECISION MAKER:	Richard Samuel, Deputy Council Leader and Cabinet Member for Resources	
MEETING/ DECISION DATE:	On or after 5 November 2022	EXECUTIVE FORWARD PLAN REFERENCE: E3397
TITLE:	Museum of Stone – Ralph Allen Yard BA2 5HZ – surrender and grant of new lease.	
WARD:	Combe Down	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
1. Market/Undervalue - Transfer Assessment		
2. Budget costings		
3. Property rental valuation – VOA		
4. Tenant's latest accounts [to 30.06.2021]		

1 THE ISSUE

- 1.1 This report relates to Ralph Allen Cornerstone [Museum of Bath Stone] at Combe Down.
- 1.2 The Tenant wishes to apply for museum accreditation status through the Arts Council of England and in order to do so requires a longer-term lease than that currently unexpired [ca 18 months].
- 1.3 Accreditation status will assist in the further development of the museum/centre.

2 RECOMMENDATION

The Cabinet Member is asked to delegate to the Director of Regeneration and Housing authority for;

- 2.1 a surrender of the existing lease dated 31.03.2014.
- 2.2 The granting of a new lease to expire on 30.03.2034 outside the 1954 Act at a peppercorn rent on generally the same terms as the existing but excluding the option to renew.

- 2.3 Instructing Legal Services to deal with any formal consent or certificate from Homes England where required.

3 THE REPORT

- 3.1 The property comprises a purpose-built heritage centre/museum [Stone Mines Interpretation Centre] providing a range of services and educative material as a legacy to the history of the Combe Down Stone Mines and the stabilisation project. The freehold of the property was acquired by the Council in 2014 following an approach by HCA [now Homes England].
- 3.2 The property was built as part of a development for residential housing of nine dwellings on the former Ralph Allen Yard.
- 3.3 The terms of the lease were imposed or agreed as part of the acquisition from HCA under the Agreement dated 26.03.2014 which encompassed/annexed the forms of transfer, lease and endowment agreements. The property was acquired for nil consideration and HCA provided an endowment fund [ca £216,000] for repairs and maintenance. The endowment is calculated over a 30-year period and remains with the Council.
- 3.4 The property was leased to the Tenant on 31.03.2014 for a term of ten years at a peppercorn rent and with an option to renew on the same terms. The contractual expiry date is 30.03.2024. The option to renew on the same terms as the existing lease is exercisable within a time window in 2023.
- 3.5 The Tenant is Combe Down Stone Legacy Trust a registered charity under No: 1148262 and limited guarantee company registered under CN: 07918833.
- 3.6 The property is used as a museum and community centre/hub for community events.
- 3.7 There is a restriction on title in favour of HCA which is for 10 years and expires on 31.03.2024. Any disposition requires their consent/certificate during this period.
- 3.8 It is proposed to assist the Tenant by taking a surrender and granting a new lease on the same terms as the existing lease. The lease will expire on 30.03.2034 and exclude the security provisions of the 1954 Act and further exclude any option to renew. The Council should be in no worse position than that envisaged by the current lease where the exercise of the option would be on the same terms.

4 STATUTORY CONSIDERATIONS

- 4.1 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.
- 4.2 As the Council is bound by the agreements it entered into in 2014, if the surrender and regrant were not to take place the Tenant would in any event be entitled to exercise the option to renew for which it has purported to give notice. However, for the purpose of the surrender and regrant an exercise analogous to one under a CAT transfer has been undertaken.

4.3 The Royal Institution of Chartered Surveyors (RICS) is the governing body for Chartered Surveyors and they have set out guidance specifically to deal with the disposal at less than market value which should be followed unless there are particular circumstances that mean that it is not appropriate. It puts in place an audit trail so that the decision 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. The assessment requires:

- a full valuation exercise is undertaken which identifies 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.

4.3 Property considerations: 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 Circular 06/03 The Local Government: General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained apply or a specific consent is obtained. 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;
- 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).

4.4 There are no current delegations or resolutions to allow these transfers to take place at less than best consideration; best consideration being based on market values. This report, therefore, seeks to give such authorisation to the Director/Head of Estates, who otherwise has the delegated powers to enter into property transactions on behalf of the Council.

RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 There is not considered to be any material implications on resources as the status quo is being maintained.

5.2 There is an endowment fund in place which is to provide resources for repairing the property.

- 5.3 The new lease will provide the Tenant with the ability to apply for museum accreditation and further develop and advance the Centre.
- 5.4 Notwithstanding the Council owns the freehold it appears it may be required to contribute to an Estate Service Charge. If this is not recoverable via the Endowment Fund then it would have to come from general resources.

5 RISK MANAGEMENT

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

6 CLIMATE CHANGE

- 6.1 The lease will enable a local facility to be retained for the community in the medium term [ca 10 years]. With any grant funding and resources, the Tenant will be able to further promote and invest in the building to improve its energy efficiency.
- 6.2 The development [residential] was built with sustainability in mind and BREAAAM compliant [very high] with solar panels and low carbon use/living.
- 6.3 The building does not currently have an EPC certificate. Any EPC works will have to be undertaken by the Council as Landlord. In view of the “green” construction no issues are anticipated with an EPC.

7 OTHER OPTIONS CONSIDERED

- 7.1 Other options are currently limited due to the existing lease and option to renew contained within it. Longer term an extension to the residential scheme or further residential development complementary to the existing may be possible.
- 7.2 The grant of a new lease enables the community to retain an important performing museum and community centre resource for the medium term.

8 CONSULTATION

- 9.2 There has been consultation with Finance, s151 and Monitoring Officer.

Contact person	Simon Martin, Director for Regeneration and Housing
Background papers	<p>1. RICS Guidance Disposal of Land at less than best Consideration</p> <p>https://democracy.bathnes.gov.uk/documents/s34180/Appx%201%20RICS%20Local%20Authority%20Asset%20Management%20Best%20Practice%2007%20Disposal%20of%20Land%20at%20less%20than%20Bes.pdf</p>
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