

Meeting:	Cabinet	Date:	16 September 2015
Subject:	23, 25, 27 and 29 Commercial Road, Gloucester		
Report Of:	Cabinet Member for Regeneration and Economy		
Wards Affected:	Westgate		
Key Decision:	Yes	Budget/Policy Framework:	No
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Appendices:	1. Property Particulars and plan showing extent of the freehold land to be acquired		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 The purpose of the report is to recommend approval of: (a) the intended acquisition of the freehold interests in the subject properties (b), if required the acquisition of additional access rights; and (c) the subsequent sale of the same, and of the Council's leasehold interests in the properties, at market value. Cabinet approval is sought to the intended sales, in order to comply with the requirements of the Constitution.

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) The freehold interest in 23/25 and 27/ 29 Commercial Road (including land to the rear) from the Canal and River Trust (CRT), edged red on the plan attached be acquired.
- (2) If so required to enable the proposal to proceed, that additional access rights over adjoining properties at a price the Asset Manager, in consultation with the Cabinet Member for Regeneration & Economy, considers to be appropriate be acquired;
- (3) The freehold and leasehold interests in the above-mentioned properties be disposed of, together with any access rights, to the bidder offering the most advantageous proposal in the opinion of the Cabinet Member for Regeneration and Economy, and in any event at not less than market value; and
- (4) Any ancillary documents the Council Solicitor (following consultation with the Asset Manager) considers necessary or desirable to enable the transaction to proceed including (if so required by the purchaser) an Agreement restricting the Council's pre-contract negotiations to the purchaser for a period not exceeding 4 months be entered into.

3.0 Background and Key Issues

- 3.1 These properties formed part of the South West Regional Development Agency (SWRDA) portfolio that transferred to the City in 2011 following the closure of the Regional Development Agencies (RDA).
- 3.2 Numbers 27 and 29 have been vacant for a number of years and are in a poor condition requiring refurbishment. Nos 23 and 25 are partly let, with a firm of solicitors occupying the ground and upper floors. The lower floor is currently vacant. (formerly the yacht club)
- 3.3 The City hold long (200 year) leases from CRT in respect of both 23/25 and 27/29 Commercial Road.
- 3.4 In principle terms were agreed with the Canal and River Trust for the City to acquire the freehold interest. Terms were agreed and authority obtained, signed off by the then Asset Manager and the interim Director of Regeneration in January 2013. The matter stalled following negotiations with CRT and some issues arising as to certain restrictions required by CRT. Matters have moved forward more recently.
- 3.5 Asset Management instructed external agents to formally market Nos 27/29 Commercial Road. Bruton Knowles, Chartered Surveyors offered the property, together with land to the rear, freehold with vacant possession with a guide price of £400k. Property particulars are attached to this report, best offers were sought with the best proposal received from the preferred bidder and subject to Listed Building Consent, planning consent for restaurant use and with the City undertaking to complete the outstanding public realm works at its own cost. Although with an expressed requirement seeking to improve the access stairs to the east and west of the building at the joint cost to the preferred bidder and the Council.
- 3.6 The preferred bidder's proposals look to secure a new access to the property from the steps adjacent to the Soldiers of Gloucestershire Museum. These steps are within the ownership of the Secretary of State for Defence. The Council have commenced discussions with the Museum with a view to securing their support for such proposals.
- 3.7 The preferred bidder's proposals represent a step change in the potential to attract good quality A3 / restaurant offers to this part of the Gloucester Docks that will assist in readdressing the pull of Gloucester Quays and possible detriment to the centre. The preferred bidder has recognised that it is important to seek to improve links between the Quays / Docks and the Cathedral and other attractions within the city centre.
- 3.8 27 and 29 Commercial Road have been widely marketed and attracted strong interest, although several offers sought to focus on residential uses. Two / three proposals sought to look at a mixed use proposal. The agents quoted a guide price of £400k. The Council's solicitors have advised that cabinet approval is required in order to comply with the Council's Constitution.
- 3.9 The preferred bidder expressed a wish for the Council to enter into a pre- contract Agreement whereby the Council's ability to negotiate with or accept bids from third

parties is prohibited. The intention behind the request is believed to be to protect the preferred bidder from wasted costs, particularly as the Council is not yet under contract to acquire some of the interests to be transferred to the preferred purchaser. Although it is unusual for the Council to enter into such an Agreement, and proper regard has to be given to the Council's duty to obtain best consideration, Cabinet may consider that the circumstances surrounding the proposal are such that such an Agreement, for a short period, would be acceptable.

- 3.10 Steps will be taken when dealing with the proposed transaction to ensure that any obligations imposed on the Council by the SWRDA Agreement are met.

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 Not applicable to this transaction.

5.0 Alternative Options Considered

- 5.1 27 and 29 Commercial Road have been vacant for a number of years, the proposals will substantially improve the properties and the attractiveness of this general location for business.

6.0 Reasons for Recommendations

- 6.1 The proposals represent a good opportunity to bring the building into beneficial use, to consolidate this part of the docks, improve links with the City Centre, provide a capital sum that will pay for completion of public realm adjacent to the properties and provide a possible step change in the restaurant offer in the City.

7.0 Future Work and Conclusions

- 7.1 Following approval Officers will carry out the following work:
- Complete the legal documentation with CRT to secure the purchaser of the freehold interests;
 - Complete a conditional contract with the preferred bidder for the disposal of the freehold and leasehold interests;
 - Enter into further negotiations with the Secretary of State for Defence and the Soldiers of Gloucestershire Museum with regards the adjacent steps;
 - Work up final details with regards improvements to the adjacent public realm, and facilitate discussions with other Officers relating to the improvements to the buildings.

8.0 Financial Implications

- 8.1 The proposal will require the Council to use capital funds to purchase the freehold interest in the properties. These funds will be replenished by the sale of the assets creating a net receipt.

- 8.2 The properties were transferred to the Council from SWRDA and as a result the capital receipts must be utilised for regeneration purposes. The required public realm works would be a valid use of the funds. The decision on how to utilise the capital receipts would be the subject of a future cabinet report.
- 8.3 The properties generate a net surplus of funds each year from their current rental position. The surplus in 2014/15 was £16k. As SWRDA assets this income would not be lost to the General Fund but would reduce the amount that the Council is able to put into the regeneration reserve at the end of each financial year by that amount.

(Financial Services have been consulted in the preparation this report.)

9.0 Legal Implications

- 9.1 The Council has an obligation under s123 of the Local Government Act 1972 to dispose of land at the best consideration that can reasonably be obtained. This obligation applies unless there are specific circumstances in which a sale at an under value can be considered. The method of disposal for 27/29 Commercial Road, and the external valuation received in respect of the proposed transaction indicates that the Council's statutory duty under this section has been met
- 9.2 The Council has power under s120 of the Local Government Act 1972 to acquire interests in land. Whilst there is no express obligation reflecting that in s123 regarding "best consideration", the Council has a general overriding duty to act prudently, reasonably and responsibly. The Council's Valuers have confirmed that the price required by CRT for the acquisition of the freehold interests is appropriate for the interest being acquired.
- 9.3 Any obligation entered into by the Council which restricts its ability to negotiate with third parties to obtain a better price needs to be entered into with caution, to ensure that the Council's statutory obligation under s123 of the 1972 Act is not compromised. Any such obligation should be time limited (to a relatively short period) in order to minimise the risk of any breach of the Council's duty. In this instance the Council are proposing 4 months. The Councils approach is acceptable.
- 9.4 The Agreement with the South West Regional Development Agency (SWRDA) imposes various obligations on the Council in respect of properties forming part of the former SWRDA portfolio which were transferred to the Council in 2011. In general, the proposal appears to be consistent with the obligations imposed on the Council by the Agreement.

(One Legal have been consulted in the preparation this report.)

10.0 Risk & Opportunity Management Implications

- 10.1 The contract with the preferred bidder will be conditional on planning consent for the proposed restaurant use, and also Listed Building Consent for the required works. Asset Management are consulting with in house Officers to gauge their aspirations for the building, and to advise as to likely proposals, including intended uses.

- 10.2 If the preferred purchaser insists upon a pre-contract agreement being entered into whereby the Council's ability to negotiate with other interested bodies is excluded, there is a risk that the Council may lose an opportunity to sell at an increased price, although this risk is considered low.

11.0 People Impact Assessment (PIA):

- 11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

- 12.1 No real impacts. If sold and building works commence with regards the public realm works, contracts will be let and managed in accordance with the required safety requirements.

Sustainability

- 12.2 No adverse implications, the proposals bring a vacant property back into beneficial use.

Staffing & Trade Union

- 12.3 There are no implications.

Press Release drafted/approved

- 12.4 It is premature to consider this aspect.

Background Documents: None