

Gloucester City Council

Meeting:	Cabinet	Date:	11 October 2023
Subject:	Disposal of Herbert, Kimberley and Phillpotts Warehouses		
Report Of:	Cabinet Member for Performance and Resources		
Wards Affected:	Westgate		
Key Decision:	Yes	Budget/Policy Framework:	No
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Appendices:	1. Revised Sales Brochure		
	2. Tender Report (Confidential Restricted)		

EXEMPTIONS

The public are likely to be excluded from the meeting during consideration of appendix 2 of this report as it contains exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended). All sections of this appendix 2 are considered confidential and commercially sensitive.

1.0 Purpose of Report

- 1.1 The purpose of the report is to update Cabinet on the progress for the disposal of Herbert, Kimberley and Phillpotts warehouses in the Gloucester Docks, and to authorise negotiations with a new purchaser.

2.0 Recommendations

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

- (1) the actions taken to date be noted
- (2) the Head of Finance & Resources (S151 Officer) be authorised to continue negotiations with the interested parties and, in consultation with the Cabinet Member for Performance and Resources, to accept an offer of an assignment of the existing leases or the grant of a new lease, which taking into account the opinion of external advisers is considered to represent best value consideration to the Council provided that:
 - a) The consideration shall be payable in full upon the final assignment or grant of a new lease; and
 - b) The transaction shall be an outright assignment or grant of lease at arms' length, without any obligation for a continuing relationship with the Council other than as landlord

- (3) authority be delegated to the Head of Finance & Resources (S151 Officer) in consultation with the Cabinet Member for Policy & Resources and the Director, One Legal to take all necessary steps and undertake necessary procedures including entering into any legal arrangements or other documentation as may be required to implement the disposal of these three warehouses.

3.0 Background

- 3.1 Agents were instructed in February 2019 to market the three leasehold interests that the Council holds in Herbert, Kimberley and Phillpotts Warehouses
- 3.2 Following a marketing campaign with initial expressions of interest, more detailed offers were invited by 26th September 2019. Five such responses were received from potential purchasers for a variety of uses and on differing terms and subject to different conditions. Two of the offers were less attractive whilst the remaining three offers were all from developers looking to create a hotel in all or part of the accommodation.
- 3.3 All three offers which would have delivered a hotel were subject to planning approval and would have required a variation to the user clause in the Council's leases to allow a hotel use. Officers were in discussion with the Council's Landlord, the Canal and River Trust, and were able to agree a variation to the leases which permitted hotel use or residential use from February 2022.
- 3.4 Following a Cabinet report and meeting on 15th January 2020 and in accordance with the resolution, officers undertook due diligence on the three bidders and identified a preferred bidder. Extensive negotiations continued for some time with the preferred bidder, leading to draft Heads of Terms for an Agreement to Lease and for the submission of a planning application for a hotel use.
- 3.5 The preferred bidder commenced detailed negotiations with hotel operators, cost consultants, architects and planning advisors together with potential funding institutions. However, the onset of Covid severely restricted the potential hotel operators and funders especially for refurbishment of older buildings.
- 3.6 There was little activity during 2021 and hence detailed discussions with the preferred bidder once Covid had subsided led officers of the Council to doubt that a planning application would be forthcoming in an acceptable timeframe. There was still no hotel operator willing to engage, no funding available and the options put forward were unviable.
- 3.7 The preferred bidder was unable to proceed during 2022 and due to this uncertainty negotiations were brought to a close at the end of 2022.
- 3.8 Officers then instructed Bruton Knowles to remarket these premises with a wide use opportunity and the revised brochure is attached as Appendix 1. The Council received two offers initially and two further expressions of interest which resulted in an extension to the time frame being granted to all four bidders until the 30th April 2023. Attached at Appendix 2 is a confidential Tender Report on the four offers received by the due date.
- 3.9 The offers vary widely in their value and proposed use, and all are conditional on various assumptions and events, some to an unacceptable extent in the opinion of officers. In order to undertake due diligence and financial checks on the bidders, officers requested further details, plans and viability assumptions but only two bidders were able to provide such further information within the required time frame. A third bidder undertook some further investigation and produced a revised bid but this was not received until the end of July 2023.

4.0 Social Value Considerations

- 4.1 It is not possible to involve the community in this transaction at this stage, but it is anticipated that any future development and re-use will provide employment opportunities.

5.0 Environmental Implications

- 5.1 The sensitive refurbishment of Listed Buildings often restricts the opportunities for significant environmental improvements such as solar panels, green roofs etc. The Council will encourage the preferred bidder to provide cycle storage and to explore such other improvements as permitted under the planning legislation.

6.0 Alternative Options Considered

- 6.1 The site is largely vacant hence under used and bringing the buildings into a full use that will contribute to the local economy is seen as important to the regeneration of this area of the city. It will also strengthen the link between the docks and the city centre. The site could be converted for a range of uses, some of which have been reflected in the tenders received for purchase. The site was marketed without uses being specified which has enabled an assessment of some alternative uses.
- 6.2 One alternative would be to leave the warehouses largely vacant. This is not considered desirable and would go against one of the key reasons for the Council vacating the properties originally.
- 6.3 Another alternative would be for the City Council to bring the buildings back into use itself, in order to achieve other Council outcomes, for instance to provide additional housing in the City. This option remains a possibility if the disposal options deliver less value than this alternative.

7.0 Recommendation and Reasons

- 7.1 Officers have assessed the four bids and recommend that the most viable and deliverable bid has been made by Developer C and therefore should be considered as the preferred bidder. The Council's appointed agents should be asked to prepare initial Heads of Terms and seek to achieve a deposit if an exclusivity agreement is signed. Ideally a down payment should be required on Agreement to Lease, if before planning determination, and the balance within 30 days of receipt of a satisfactory planning consent.
- 7.2 The recommendation is based on the detailed tender comments as set out in Appendix 2. Developer C has submitted a scheme that accords with the Council's aspirations, is in accordance with independent advice and has the lowest risk profile in the present market conditions. The developer has an excellent local track record for delivery and this bid should result in the necessary funds being paid to the Council earlier than any other bid.
- 7.3 Developer A submitted the lowest offer but has sought to impose conditions on the sale that in the opinion of officers add a level of risk to the disposal beyond other bids. For these two reasons, this bid is not recommended.
- 7.4 Developer B represents a high risk of delivery as the proposed use is financially challenging and the conditions attaching to the bid only result in the large majority of the purchase price being paid six months after the proposed development is

successfully completed and in operation. This results in the Council being tied into the development at least until the end of 2025 which means that full consideration would not be paid on final assignment of the lease and that there would be an ongoing contractual relationship between the Council and the developer which would mean that the aspirations of the Council would not be met as at 2.1(2).

- 7.5 Developer D requires additional conditions beyond the usual planning consent and the offer includes the Freehold title which is not held by the Council. This is not a compliant bid and would require a third party who owns the freehold to sell their interest which is outside the control of the Council and cannot be guaranteed.

8.0 Future Work and Conclusions

8.1 Officers will carry out the following work:

- (i) Seek to agree the best terms for the Council whilst considering the certainty for the delivery of the chosen scheme given the market conditions both financial and in relation to construction.
- (ii) Instruct One Legal to deal with the disposal should final agreement be reached.

9.0 Financial Implications

9.1 The release of capital formed part of the rationale for the move of Council staff from the Docks to Shire Hall and recently to the Council-owned Eastgate Centre. It is therefore important to achieve the disposal to realise the full benefits from the relocation.

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

10.0 Legal Implications

10.1 The Council has a statutory obligation to secure the best consideration reasonably obtainable when disposing of a long leasehold interest in land, unless the (general or specific) consent of the Secretary of State is obtained to the disposal at an undervalue.

(One Legal will be consulted in the final preparation of this report)

11.0 Risk & Opportunity Management Implications

11.1 This is a complex property transaction which will be subject to further negotiations and dependencies (Landlord's consent, planning etc), it is possible that the Council will not be able to agree terms with the preferred bidder. However, the Council have not closed off the possibility of a disposal to another bidder, or bringing forward the development of the property itself, so the Council does have some potential resilience for the delivery of the Council's interest.

12.0 People Impact Assessment (PIA):

12.1 At present, there are no adverse impacts identified for any of the Protected Characteristic groups; The applications for planning consent will ensure that due consideration is given to these groups as part of any redevelopment scheme. At this stage no PIA has been undertaken.

13.0 Other Corporate Implications

Community Safety

13.1 No impacts.

Sustainability

13.2 No adverse implications.

Staffing & Trade Union

13.3 There are no implications.