



Cabinet 17 September 2008

Asset Management Plan: 6 Angel Hill, Bury St Edmunds (Sep 08/13)

1. Summary and Reasons for Recommendation

- 1.1 An Asset Management Plan (AMP) and service review of the Tourist Information Centre (TIC) and Shopmobility was undertaken in 2005 and the concluding report was presented to Overview and Scrutiny Committee. Cabinet on 19 September 2007 (Report Y239 refers) agreed the outline terms for the sale and leaseback of 6 Angel Hill to the Town Trust, which was endorsed by Council on 2 October 2007 (Minute 53(B)(7) refers). It was agreed that the purchase would proceed as soon as the Trust had obtained Listed Building Consent for the conversion works to the upper floors.
- 1.2 The Trust proposes to purchase the freehold of 6 Angel Hill and the Council will take a simultaneous commercial lease back of the ground floor and basement for 10 years, with flexible terms to give the Council freedom on future service delivery options and with internal repairing and external decorating responsibilities only. The Trust will be responsible for all costs in repairing and refurbishing the upper two floors for onwards leasing as two flats.
- 1.3 Due to the lengthy consultation process in obtaining Listed Building Consent, which involved such bodies as English Heritage, consent has only recently been obtained. In the meantime, the residential market has declined considerably. Market effects in the last 6 months mean that it is too risky for the Trust to pay the agreed purchase price now, undertake all the works, then hope to sell immediately to recoup the outlay. However, the Trust remains totally committed to this project, but is extremely nervous of being put at undue risk in an uncertain market. A revised proposal has been discussed, to reflect the poorer market conditions and to try to limit the exposure of the Trust, while continuing to protect the Council from expenditure on maintenance.

2. Recommendation

- 2.1 Subject to the approval of full Council, the Council accept the revised Bury Town Trust proposals for the sale of 6 Angel Hill, Bury St Edmunds, with a simultaneous leaseback of the ground floor and basement.

3. Corporate Objectives

- 3.1 The recommendation meets the following, as contained within the Corporate Plan:-
- (a) Corporate Priority 1: *'To raise corporate standards and efficiency'*; and
(b) Cabinet Commitments 1: *'Improving efficiency and value for money'*.

Contact Details

Name
Telephone
E-mail

Portfolio Holder

Nigel Aitkens
(01294) 735258
nigel.aitkens@stedsbc.gov.uk

Lead Officer

Betty Albon
(01284) 757307
betty.albon@stedsbc.gov.uk

4. Key Issues

4.1 Background

4.1.1 An AMP and service review of TIC and Shopmobility was undertaken in 2005 and the concluding report was presented to the Overview and Scrutiny Committee on 7 September 2005. Cabinet on 19 September 2007 (Report Y239) agreed and the Council endorsed the outline terms for the sale and leaseback of 6 Angel Hill to the Town Trust. It was agreed that the purchase would proceed after the Trust had obtained Listed Building Consent for the conversion works to the upper floors.

4.2 Summary of Report Y239 (Cabinet, 19 September 2007)

4.2.1 Discussions with Bury St Edmunds Town Trust:-

- (a) the upper floors to be brought back into residential use, whilst retaining the ground floor and basement as the TIC. It is feasible to refurbish the upper floors to two apartments. The building is generally in "sound and adequate structural condition, with only minor localised repairs required. The proposed alterations are not considered to necessitate extensive or difficult structural modification" (The Morton Partnership); and
- (b) the Trust will purchase the freehold of 6 Angel Hill for an agreed sum and the Council will take a simultaneous commercial lease back of the ground floor and basement for 10 years, on internal repairing terms plus external decorations of joinery. The Trust will undertake the refurbishment of the upper floors to provide 2 self contained flats together with rear parking for 2 vehicles, accessed off Lower Baxter Street. The Trust will also be responsible for all structural repairs, including the roof of the single storey rear office which forms part of the TIC.

4.2.2 Key Features of the Trust's Proposal:-

- (a) the offer to the Council by way of a sale of 6 Angel Hill and lease back of the TIC accommodation is to pay the Council a fixed full market price for the proposed end uses of two apartments and ground floor offices, evidenced by the financial appraisal;
- (b) the Trust will be responsible for obtaining all consents for development and to undertake all works;
- (c) the development costs are based on the full research appraisal;
- (d) favourable rates of interest for the loans from the Architectural Heritage Fund (AHF) to purchase and repair are indirectly passed on to the Council by way of the fixed purchase sum;
- (e) no developer's profit is built into the appraisal and this again favours the Council;
- (f) the Trust will also have to invest its own capital, to bridge the shortfall, but the Trust wishes to secure its capital in a building asset, where it will make a return through the sale of the leasehold interest of the flats and the TIC rent; and
- (g) the net return to the Trust (cost of purchase plus cost of redevelopment plus on-costs, less income from sale of flats), represented as rental income, is one which is commercially acceptable.

4.2.3 Key Features for the Council:-

- (a) the Council will receive a capital sum based on market value. This sum is significantly higher than the estimate in the sale and lease back option in the AMP report in 2005;

- (b) the Council will pay a rent of £15,000 per annum for ground floor and basement;
- (c) the lease will be internal repairing & external decoration only (excluding structural elements and the rear single storey roof), which will limit future maintenance liabilities and will mean the large sum for refurbishment of the upper floors can be deducted from the Planned Maintenance Programme;
- (d) the Council will not have to share in the service charge for repairs to the roof, etc (to be the responsibility of the flat owners only);
- (e) there will be a rent review for the TIC lease in 5 years, but to 83% of open market rent (ie the estimated current reduction on full market rent);
- (f) if the Council wishes to relocate the TIC service, it will be able to either assign the lease (transfer to a third party) or create an underlease with a third party at full market rent and keep any profit rental income to help subsidise the service elsewhere. Alternatively, the Council could exercise a break clause at rent review time after 5 years and remove all property liabilities;
- (g) the 10 year lease will be statutorily renewable on similar terms (ie there will be security of tenure for the Council, as long as required);
- (h) the sale does not include the former shopmobility building, but is restricted to 6 Angel Hill and curtilage. It does, however, include access to a potential parking area for 2 cars, from Lower Baxter Street at a higher level, with pedestrian access through the garden). Therefore the sale and lease back of 6 Angel Hill should not be detrimental to the sale of the Borough Offices; and
- (i) the Trust believes that TIC can remain in occupation during the repair and refurbishment works.

4.2.4 Conclusions

- (a) The Town Trust proposal gives the Council flexibility in where it delivers future TIC services, the financial offer is one which gives the Trust a strategic property holding for which they have expressed a strong commitment to repair and hold, but the sale and lease back proposal is on favourable terms to the Council because of the particular financial position of the Trust. It relieves the Council of considerable future maintenance liabilities. It is in the interests of good asset management to bring the upper floors into use and to avoid possible public criticism of holding an underused asset.

4.3 The Trust's revised proposals, July 2008

- 4.3.1 Due to the lengthy consultation process required for determining the listed building application, which involved such bodies as English Heritage, the Town Trust has only recently obtained consent. In the meantime, the residential market has declined considerably. Market effects in the last 6 months mean that it is too risky for the Trust to pay the agreed purchase price now, undertake all the works, then hope to sell immediately to recoup the outlay. However, the Trust remains totally committed to this project, but is extremely nervous of being put at risk in an uncertain market. Nevertheless, the Trust has stressed that the initial works will be undertaken, to meet the aims of the Trust in its commitment to protect important historic buildings. A revised proposal has been discussed, to reflect the poorer market conditions and to try to limit the exposure of the Trust, while continuing to protect the Council from expenditure on maintenance.
- 4.3.2 To reflect market conditions, the revised terms maintain the same sale price, but also limit the amount of borrowing required by the Trust, by acknowledging that it is sensible to restrict initial works to items of external repair, decorations and drainage and internal works to make the building accessible, timber treatment, fire proofing, rewiring and insulation. These works are still extensive, but protect and improve the fabric of the building at an estimated cost, plus fees, of around £120,000. The additional works of

fitting kitchens, bathrooms, and decorations will be postponed until prospective purchasers are found.

4.3.3 The main changes to the terms, therefore, are:-

- (a) the Trust to undertake the agreed schedule of initial works within 1 year of completion of sale. During that period, the Council will have a concurrent rent free period;
- (b) if the Trust does not substantially complete the initial works within the year, the Council can call for the whole property to be sold (as in (f) below);
- (c) the Trust to seek to dispose of the upper floor flats within 3 years of completion of the initial works and to pay the balance of the purchase price (95%) when the first flat is sold;
- (d) deferred period for payment of balance may be extended for 1 year if house prices are no higher than at the date of sale of 6 Angel Hill (by reference to a national house price index);
- (e) the Trust to share 50:50 with the Council any profit made by the Trust, after sale of the two flats; and
- (f) if after the agreed deferred period the flats have not been sold, the Council can require the whole property to be sold on the open market (with the Council as ground floor tenant) and proceeds used to repay the Trust's loans, the Council to take the agreed purchase price and then split 50:50 any additional profit.

4.4 **Comments on the revised proposals**

4.4.1 All of the reasons for partnering with the Trust are still pertinent. The only real loss to the Council is the deferred receipt of the capital sum, but hopefully, prospective purchasers of the 2 flats will come forward much sooner.

4.4.2 Most importantly, the Council will shed maintenance responsibilities as soon as completion takes place. It is hoped that the limited scope Phase One costs will mainly be met from the Trust's own resources, to limit borrowing from the Architectural Heritage Fund but the remaining costs will require borrowing. An accurate breakdown of works and costs will be required for the sale documentation and is awaited.

4.4.3 The revised proposal of sharing in any net profit potentially "compensates" the Council for deferment of capital receipt. While this is more risky than the Council earning interest on the sale price, it is unrealistic to consider in the current market that the Council could improve upon the revised partnering proposals. Additionally, the Council will benefit from a rent free period on the rent payments to the Trust, until the initial works are substantially completed.

4.4.4 The Trust has indicated that it wishes to exchange as soon as possible, once the new arrangements are built into the documentation.

5. Other Options Considered

5.1 Paper Y239 outlined the options of sell 6 Angel Hill with vacant possession and use the capital receipt or interest on that receipt to relocate the TIC and shopmobility services to suitable alternative freehold or leasehold premises. At that time, that option was not cost effective. This remains the case.

5.2 Alternatively, the Council could market the residential development opportunity on the open market now. Because of the poor market, it is unlikely that there would be much demand for the property, there would be delay in prospective purchasers working up a scheme, and it is unlikely that the Council could share in the financial advantages negotiated with the Trust (see 4.4.3 above).

<p>6. Community impact <i>(including Section 17 of the Crime and Disorder Act 1998 and diversity issues)</i></p> <p>6.1 <u>General</u></p> <p>6.1.1 The proposed sale and lease back will enable flexibility of service delivery, to general community benefit. Additionally, two apartments will be available on the open market.</p> <p>6.2 <u>Diversity</u></p> <p>6.2.1 The proposal has no adverse impact on diversity.</p>
<p>7. Consultation</p> <p>7.1 Further consultation of the revised proposal has been undertaken with Cabinet members.</p> <p>7.2 For many years the Trust has expressed an interest in repairing and bringing back into use the upper floors of 6 Angel Hill, but this had not previously been viable. Although that position had changed when Report Y239 was approved, the risks have increased significantly as the housing market and credit limitations have worsened. The Trust's commitment to the project remains.</p>
<p>8. Resource implications <i>(including asset management implications)</i></p> <p>8.1 The resource implications outlined in Report Y239 remain the same, except:-</p> <ul style="list-style-type: none"> (a) the Council will benefit from a rent free period of £15,000 for approximately one year; (b) the Council will forego interest on the capital receipt until the Trust is able to sell the first flat; and (c) the Council will share 50:50 any net profit made by the Trust when the upper floors are sold. <p>It is not possible to quantify (b) and (c) above at this stage.</p> <p>8.2 The sale and leaseback will still result in longer-term savings on property running costs and will avoid the unfunded backlog maintenance, which would have to be addressed in the medium term.</p> <p>8.3 The worst case position is that the Trust is not able to sell the upper floors within the agreed timescales and the Council will have to market the building. It is difficult to estimate the market value of 6 Angel Hill at that time, but the Council will be able to share in the increased value of all the works undertaken by the Trust and should not be in a poorer financial position. In the interim, the risk and liabilities will remain with the Trust.</p>

9. Risk Assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

9.1

Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
The Trust's costs overrun and the project is not economic	High	The Council will already have a simultaneous lease when the sale is completed and will have no liability	Low
The Trust will not proceed with the initial works	Low	Inclusion of rent free period to the Council acts as an incentive; legal controls in the transfer document	Low
The property will not be exposed to the market	Low	The Trust's Options Appraisal is based on professional advice of costs and values and the proposal can be analysed in accordance with current market conditions. The Council shares in the benefit of the Trust's circumstances	Low

10. Legal or policy implications

10.1 Report Y239 considered the sale and leaseback proposal. The revised proposals of the Trust reflect current market difficulties, but the Council is still able to benefit from the specific circumstances of the Trust. It is, therefore, possible to confirm that the transaction complies with s123 of the Local Government Act 1972.

Wards affected	All	Portfolio Holder	Economy and Asset Management
Background Papers	Report Y239 Cabinet 19/09/07	Subject Area	Property Management