



Cabinet 17 September 2008

Asset Management Plan – Nowton Court, Bury St Edmunds

1. Summary and Reasons for Recommendations

- 1.1 In accordance with the Asset Management Plan (AMP) Action Plan, all of the Council's property assets are being systematically assessed. The Council's ground lease portfolio was considered in August 2006 and it was concluded that poorly performing long ground leases should be sold when opportunities arose.
- 1.2 The tenant of Nowton Court and garden has asked to purchase the freehold. The AMP assessment processes and option appraisal have been undertaken and the conclusion is to sell the freehold on the basis of the terms negotiated. There is no conflict from a biodiversity, recreational or access point of view and Nowton Park will continue to be available for public use.
- 1.3 The reason for undertaking the AMP process and in recommending rationalisation of the portfolio is to make better use of property resources, in accordance with good asset management planning.

2. Recommendations

- 2.1 It is **RECOMMENDED** that:-
- (a) Nowton Court, Bury St Edmunds and garden be declared surplus to the Council's requirements; and
 - (b) the sale of the long leasehold interest of Nowton Court and garden to Euronite Ltd be approved, on the terms outlined in the report and in the Exempt Appendix 2 attached.

3. Corporate Objectives

- 3.1 The recommendation(s) meet the following, as contained within the Corporate Plan:-
- (a) Corporate Priority: *'To raise Corporate standards and efficiency'*; and
 - (b) Cabinet Commitments: *'Improving Efficiency and Value for Money'*.

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4. Key Issues

4.1 Background

4.1.1 The Council entered into a 150 year long ground lease of Nowton Court and approximately 3.5 acres of land in 1989. A capital premium was paid for the lease and the rent set at a peppercorn. The tenant was Matsuzato Hawaii Inc, which assigned to Keio University in the 1990s. An additional small area of woodland was added to the lease, co-terminus with the principal lease. The land is shown on the plan attached as Appendix 1 to this report.

4.1.2 Keio University assigned the lease to Euronite Ltd in October 2006. Euronite also purchased from Keio the freehold of the former Small House, see plan at Appendix 1. The house has been demolished and an alternative use of this land has not yet been established. Euronite is a Jersey based investment company which has a joint venture with an operator, Heritage Manor Ltd. Substantial refurbishment and alterations have been carried out to the main building, which opened at the beginning of the year as Nowton Care Village. The stable block is to be converted to independent 1-3 bed living apartments. There has been considerable investment to create a quality facility.

4.1.3 The ground lease has until 2139 to run.

4.2 Request to purchase the Council's freehold interest

4.2.1 The agent acting for Euronite has been in negotiation with the officers for the purchase of the freehold. The reason given for requiring the freehold is stated "for ownership and control". This is a specialist area of valuation and the advice of specialist agents has been sought.

4.2.2 The agent for Euronite was aware that the Council was reviewing and selling poorly performing ground lease assets which had been declared surplus, following the approval of this option for similar ground leases in August 2006 (Paper X151 refers) and that the Council had successfully sold the freeholds of some ground leases at auction in February 2008.

4.3 AMP considerations

4.3.1 The assessment processes established for the asset management review of ground leases in Paper X151 have been applied to the Nowton Court ground lease. The processes include assessment of the leasehold interest in terms of service return, financial return and value for money, and then ask a series of questions to assess if the Council should retain or sell the asset. Details are contained in Exempt Appendix 2.

4.3.2 The AMP review concludes that the reasons for continuing to own Nowton Court are limited to trying to protect the amenity of the land and buildings, which can be done as effectively without the Council being the landowner, and that more effective use can be made of any realised income by the sale. For these reasons, it would be appropriate to declare the freehold of Nowton Court and garden surplus to Council requirements.

4.4 **Negotiated terms**

4.4.1 A letter from the agent for Euronite has proposed the following terms:-

- (a) an amount for the purchase of the freehold (see Exempt Appendix 2);
- (b) Euronite to pay the Council's reasonable legal and surveyors fees, including those of an external agent;
- (c) the freehold to include a defined additional area of landscaping/woodland, to be appropriately fenced (see plan Appendix 1); and
- (d) Euronite to be given pedestrian access into Nowton Park from an existing gate.

4.4.2 The terms have been considered by the officers as follows:-

- (a) the purchase price is discussed in Exempt Appendix 2;
- (b) newly defined boundaries should be in keeping with existing designs and specifications throughout the park. These are either post and wire or post and rail;
- (c) all trees should have Tree Preservation Orders assigned throughout (including land previously leased) and the agreement should re-enforce that any works to trees or works adjacent to trees that might compromise their health would require consent;
- (d) the area of landscaping to the front of Nowton Court which Euronite wishes to purchase is a very important vista for visitors to the park. The Council will impose a covenant on the sale to not allow any building or structures whatsoever on this area; and
- (e) the proposed access route into the park would be acceptable providing usage is restricted to the opening hours of the park.

4.4.3 In conclusion, there are no objections to the sale providing the above concerns are taken into consideration. There is no conflict from a biodiversity, recreational or access point of view.

4.5 **Section 123 Local Government Act 1972: confirmation of best price**

4.5.1 In order to feel confident to recommend a sale, the officers instructed Colliers CRE to prepare a ground lease market appraisal. The report dated 2 July 2008 analysed results of auction since 2003, specifically sales of ground leases producing a peppercorn (nil) rent. 82 lots have been auctioned which have sold for between £1,000 and £235,000. The higher prices have been achieved for ground leases which are nearing the end of the term and where adjoining freeholders are competing for the same site. Neither of these situations applies to Nowton Court, where lease expiry is 2139 and there is no competition for the land.

4.5.2 Colliers feel that since May 2008, there is a degree of uncertainty in the ground lease sector, which is believed to be able to ride out market downturns, and they await the results of the July auctions. Colliers conclude:-

"Taking these points into account in respect of pricing and the current state of the market I am of the opinion that this is an extremely strong offer for these peppercorn interests and I would recommend the sale at this level"

<p>4.6 Code of Procedure for the Disposal of Land and Buildings</p> <p>4.6.1 The Code of Procedure for the Disposal of Land and Buildings (March 2008) states that the Corporate Property Officer may have informal discussions with potential purchasers prior to making recommendations. A sale by private treaty requires the identification of a number of interested parties and she may accept the highest such offer after such consultation as is considered necessary, after certification that the transaction complies with Section 123 of the Local Government Act, 1972.</p> <p>4.6.2 The Code acknowledges that there may be occasions where it is not appropriate or possible to identify more than one interested party and a report needs to give reasons for conducting negotiations with a single interested party and justifying that the transaction complies with Section 123 of the Local Government Act 1972.</p> <p>4.6.3 The Corporate Property Officer is of the opinion that the highest price will be achieved by a sale to the sitting tenant. This view is confirmed by Colliers. Because of the length of lease remaining and the lack of potentially interested adjoining owners, coupled with a market which has recently shown a degree of uncertainty, it is likely that a sale by auction, tender or private treaty opened up to a larger audience will not achieve a higher offer.</p>
<p>5. Other Options considered</p> <p>5.1 The process for assessing ground leases includes options appraisal. The agreed options are: to retain; to consider the feasibility of alternative uses or use with partners, to better meet the Council's property objectives; or to sell and reallocate capital to better achieve corporate objectives.</p> <p>5.2 The options have been considered in coming to the conclusion to recommend the sale of Nowton Court, as explained in Section 4 above.</p>

<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 There is no adverse community impact and no implications for the Crime and Disorder Act 1998 in making the decision to sell. Nowton Park will continue to be available for public use.</p> <p>6.2 <u>Diversity</u></p> <p>6.2.1 There are no diversity implications.</p>

<p>7. Consultation</p> <p>7.1 The Portfolio Holders for Economy and Asset Management, Resources and Efficiency and Community have been consulted.</p>
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<p>8. Resource implications <i>(including asset management implications)</i></p> <p>8.1 The income received through rent from the ground lease of Nowton Court is nil. Therefore selling the freehold of Nowton Court will not impact on the Five Year Financial Model.</p> <p>8.2 The realisation of capital receipts through the sale of poorly performing ground leases, including Nowton Court and garden, is included in the Exempt Assets Disposal Programme approved by Cabinet in June 2008.</p>

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

9.1 Risk assessment is part of the AMP process. There are no health and safety risks.

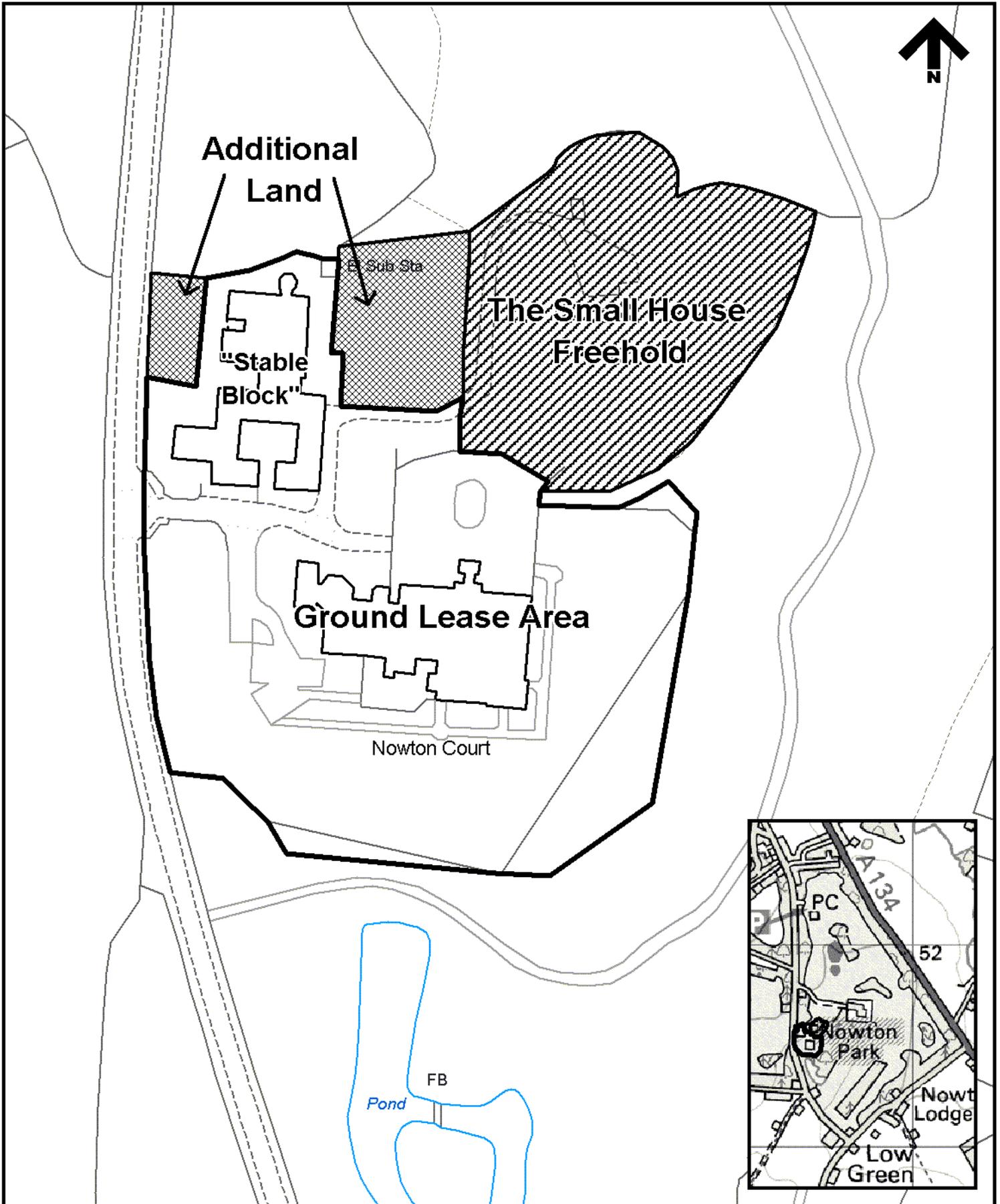
Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
Euronite Ltd may not proceed with the purchase of the freehold	Low	Proceed as soon as possible	Low

10. Legal or policy implications

10.1 See 4.5 and 4.6 above.

Wards affected	Bury St Edmunds	Portfolio Holder	Economy and Asset Management
Background Papers	Cabinet 2 August 2006 (Report X151); Cabinet 18 June 2008 (Report Z38)	Subject Area	Property Management

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