



## Cabinet 26 May 2010

### Asset Management Plan: Corn Exchange, Bury St Edmunds Options for Use (Jun 10/02)

#### 1. Summary and Reasons for Recommendation

- 1.1 Under its asset management process, the Council agreed in 2004 that the Corn Exchange in Bury St Edmunds would be declared surplus to operational use when the new public venue (The Apex) opens; the income from a new tenant being part of the original business planning for the new venue. The Apex is due to open later in 2010 and, therefore, the Council has been working towards the marketing of the leasehold for the Corn Exchange over the last year, culminating in a formal prospectus being issued to potential commercial and community bidders in March 2010. The Council received four formal offers for the leasehold, one commercial and three community. Two of these bids are currently regarded as representing potentially viable tenancies, but there are issues to resolve with both. Furthermore, the Cabinet wishes to carry out some targeted consultation before reaching a final decision.

#### 2. Recommendation

- 2.1 In accordance with the Council's adopted option appraisal process of the Asset Management Plan, which includes community management and ownership of assets, the two formal bids for the leasehold of the Corn Exchange, Bury St Edmunds received from JD Wetherspoon PLC and Abbeycroft Leisure are short-listed for further investigation, negotiation and consultation.

#### 3. Corporate Objectives

- 3.1 The recommendation meets the following, as contained within the Corporate Plan:-
- (a) Corporate Priority: *All four priorities are potentially relevant*
  - (b) Cabinet Commitments: *'Continue to improve efficiency and value for money'; and 'Shape the future development of the Borough and wider area (maximise the social and economic benefits of town centre developments in Bury St Edmunds);*
  - (c) Vision 2025: *St Edmundsbury will be a place: which is an international tourism destination with the town centres of Haverhill and Bury St Edmunds containing a thriving mix of retail, professional services, cultural outlets and hotels (V:E4); where the wide range of accessible leisure and cultural facilities on offer provide opportunities for all sectors of the community (V:L2); and which has successfully retained and enhanced its built and natural heritage and environment (V:S5);*

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## **4. Key Issues**

### **4.1 Background**

4.1.1 As part of the programme of Asset Management Plan (AMP) reviews, Cabinet considered a confidential report in March 2004 on future alternative use options specifically for the Corn Exchange. The report's purpose was to establish the potential uses for this public hall when its service use was replaced by The Apex, and to consider whether to lease or sell the asset. The report considered a broad range of asset management options and alternative uses and concluded that the most financially advantageous route for the Council would be to let the first floor for a commercial use and retain the ground floor leasehold interests.

4.1.2 The economic climate is somewhat different to that of 2004 when the previous AMP options report was approved. The previously favoured options have, therefore, been reconsidered and extended, and discussed from planning and conservation viewpoints. Major factors in the investigations have been the current economic and property climate, and the changed profile of Bury St Edmunds with the new facilities of the arc and a multiplex cinema and restaurant complex, and The Apex due to open later this year. The financial position of the Council and the Five Year Model are also critical in considering the options.

### **4.2 Soft market testing exercise/community uses**

4.2.1 As a result of the conclusions reached in 2004 on alternative use options, a soft market testing exercise was commissioned in 2009 to assess market interest in a wide range of commercial uses. The exercise particularly focused on national and regional A3 restaurant and A4 bars occupiers, as these had been identified in 2004 as the most likely to attract viable commercial tenants. The report concluded that the Corn Exchange first floor is not a strong enough location and opportunity for branding to meet the requirements of the majority of the national restaurant chains. These chains would be looking for smaller ground floor premises around the cinema or in the arc. The exception may be the new buffet operators. However, first floor accommodation may be more acceptable for the A4 bar market and the report identified a number of major national and regional bar establishments which might be interested, with more widespread marketing and advertising.

4.2.2 The Council also considers community management and ownership of assets as part of options appraisal for asset management (Cabinet 19 September 2007, Paper Y221 refers). To reflect the changing profile of the town, a wide range of possible social/cultural uses which would increase the 'offer' of Bury St Edmunds could, therefore, be explored for the Corn Exchange, including those with a partially commercial or economic development aspect. External funding agencies may be called upon to help reduce ongoing running costs and capital set-up costs for any "community" occupier. However, it is worth noting that some of these community uses might be accommodated in the various flexible spaces of The Apex. The Council cannot subsidise any occupier of the Corn Exchange, nor should a use be allowed which would in any way compromise the business plan and utilisation of The Apex, the Athenaeum or the activities of other key partners. In the last year, many of the Council's partners have been encouraged to consider the potential of the Corn Exchange for their own operations. Several potential uses have been seriously examined with partners but have not been deemed feasible due to the cost, size or first floor location.

#### 4.3. 2010 Marketing Exercise

4.3.1 In order to ensure that the Council obtains a full range of potential users for the Corn Exchange, a prospectus (attached as Appendix A) for community and commercial uses was advertised regionally and circulated by direct mailing to relevant local organisations (public sector, commercial, voluntary, cultural, business support, community, etc) as well as commercial property agents in early March 2010. The prospectus and full supporting information were posted prominently on the Council's website (attracting over 300 'visits' during March 2010) and the leasehold opportunity was advertised in the business section of the East Anglian Daily Times. In addition, the availability of the leasehold was the subject of press releases and attracted significant coverage in news and letters pages.

4.3.2 The prospectus included the five wellbeing criteria adopted by the Council in 2007, against which all proposals will be judged alongside the market rent for commercial use. The scoring mechanism for assessing objectively the wellbeing criteria is attached as Appendix B. This mechanism was published with the prospectus on the Council's website so that bidders were aware of the scoring system in advance of making proposals. This process enabled interested community organisations to make a bid on the basis of wellbeing plus price criteria rather than a market rent bid. The scoring assessment against market price has been set on the principle that a wellbeing bid offering no rent, but which scores maximum points of 100, may have an equal footing with a commercial price bid at the market rent.

#### **The formal bids received**

4.3.3 The deadline for community and commercial responses was 7 April 2010. It is important to note that, if it wishes to make a decision to select one of the offers, the Cabinet can only consider bids made by this date under the formal process. If it wishes to pursue another option it must re-open the process in order to avoid risk of challenge, and to ensure fairness and transparency. Re-opening the process also increases the risk that a new tenant will not be selected in time for the closure of the Corn Exchange as a public hall.

4.3.4 Under the formal process, a price bid was received from a national operator, JD Wetherspoon PLC. Three additional price and wellbeing bids were received from local organisations by the deadline, as follows:-

- (a) Abbeycroft Leisure, which was interested in investigating the use of the Corn Exchange for children's soft play and activities for young people (similar to the successful facility at Haverhill Leisure Centre) and community café;
- (b) The Milkmaid Folk Arts Centre Community Interest Company (CIC), which wished to create an arts centre for people with disabilities; and
- (c) Supporting Contemporary Adolescence (SCA) CIC which wished to provide positive activities for young people, youth conference centre, office space, events (music events, young people events), youth clubs, extended schools, etc.

4.3.5 In addition to the four formal bids received, the Council also received a letter from the Bury Society which followed up previous discussions dating back to Autumn 2009 and which reiterated the Society's well-publicised desire to develop a proposal for a Business Design Centre with the Borough Council and other partners. As it would only be the facilitator of such a scheme, understandably, the Society did not feel able to make a formal bid for the leasehold which could be assessed under the AMP rules. The officers and Portfolio Holder met representatives of the Society and, as a result, the Society has approached a third party and established its interest in operating the scheme. The

Policy, Finance and Resources Committee of the Bury St Edmunds Town Council has also recommended support of the scheme to its full Council. The Society would want to work in partnership with the Borough Council to develop the scheme with a wide range of local stakeholders, and to seek grant funding. They propose, as a next step, that a feasibility study be initiated to develop a business plan. If the Cabinet wishes to pursue this option, it would need to re-open the process, as explained above.

### **Initial Assessment**

- 4.3.6 At this first stage, the Council carried out an initial scoring assessment of the wellbeing bids through a panel comprising the Corporate Director for Community Services and three independent people, external to the Council. The details of the community bids and commercial bid and the results of the initial scoring assessment are contained in exempt Appendix C. Part of the assessment process is also to assess the capital value of the proposed leasehold interests and to consider if the Council may grant a lease to a community organisation at less than best price, in accordance with its statutory duty.
- 4.3.7 The initial assessment of the formal bids highlighted areas for further investigation in all four cases. Accordingly, all four bidders were contacted in mid-April 2010 and asked to provide additional information by mid-May. Their responses are also included in Appendix C.
- 4.3.8 As a result of this second stage, the Milkmaid Folk Club withdrew its bid. However, it has been identified through the original bid that there is great potential to explore how the Club might be accommodated within the programming for The Apex and this is now being taken forward. Therefore, this bid has hopefully resulted in a really positive outcome.
- 4.3.9 While it also has merits, on the basis of the outline information provided, the bid from SCA is currently unlikely to meet the requirements of the AMP process. If this situation changes prior to the meeting of the Cabinet, an oral update will be provided and the recommendation in this report may be changed.
- 4.3.10 As a result of the process outlined above, the Council is left with two conditional bids which have the potential to meet the requirements of the AMP process and are worthy of further investigation. However, there are issues to be resolved in relation to both bids, as follows.

### **JD Wetherspoons PLC**

- 4.3.11 This bid is conditional upon planning and licensing consents. As part of its own marketing exercise, the Council submitted in January 2010 a speculative planning application for change of use to A4 Drinking Establishment, to establish if this option was acceptable. Supporting information on hours of opening, ventilation systems, noise levels, etc was left as flexible as possible, to allow for the needs of potential occupiers. Planning permission was refused on 1 April 2010, on the grounds that: "*The proposal would be contrary to Policy TCR2 of the Replacement St Edmundsbury Borough Local Plan 2016 in that it would create a large drinking establishment which, by virtue of its scale and size, would result in an unacceptable intensification of the present use of the site with late opening hours 7 days a week leading to an increase in associated, unsocial activities that would adversely affect the amenity of the surrounding area by virtue of noise, congestion on the pavement and disturbance. Furthermore, the increase in the activities associated with the proposed use would be harmful to adjacent businesses in a manner that would detract from the vitality and viability of the locality.*" The Cabinet will not appeal against this decision.

4.3.12 The company is aware of this decision and has not withdrawn its bid. It would be sensible therefore, in order to ensure that all options which could benefit the taxpayer are explored, to invite the company to explain how, were its bid to be successful, it might overcome the concerns of the Development Control Committee, the Abbeygate ward members and their local residents/businesses in any fresh planning application of its own (and also in relation to any licensing requirements).

### **Abbeycroft Leisure**

4.3.13 Abbeycroft's proposal is also conditional upon planning consent. The initial provisional rent offer could potentially meet the community wellbeing test but, as with all community bids, there are risks for the bidder (and Council) in terms of financial sustainability. Furthermore, as the Council is seeking a full repairing lease, Abbeycroft's bid is subject to a full survey of the building, after which the Trust may need to refine its initial business plan and may wish either to withdraw its bid or amend the level of rent or other terms it is offering. Officers will update the Cabinet at the meeting. Nonetheless, as the scheme has the potential to meet the Council's published requirements, it is suggested that it is also short-listed for the final stage of the evaluation process.

## **5. Other Options considered**

5.1 When The Apex opens the Council has already decided that it will no longer require the Corn Exchange as a public hall. The Apex has been designed to cater for, improve upon and widen all of the current uses of the Corn Exchange. The Council considered in 2004 a whole range of alternative operational and non-operational uses and these have been reconsidered in the context of the current economic and property climate, and the changed profile of Bury St Edmunds with the new facilities of the arc and a multiplex cinema and restaurant complex, and The Apex due to open later this year.

5.2 In order to give all community organisations and commercial operators the opportunity to use the listed Corn Exchange, the Council has undertaken a wide and targeted marketing exercise and has considered all options, in line with its adopted option appraisal process of the Asset Management Plan, which includes community management and ownership of assets. However, the Council acknowledges that any chosen use must be self-sustaining and should complement the services of the Council and its partners.

5.3 The only other alternative would be to mothball the building, which would still cost nearly £30,000 a year, and would not remove the potential liability for future repairs and investment.

## **6. Community impact** *(including Section 17 of the Crime and Disorder Act 1998 and diversity issues)*

### **6.1** General

6.1.1 The Corn exchange is in a prominent town centre site and its future uses are important to the community. It is desirable to ensure that the proposed tenants maintain the fabric and appearance of this listed building through active management of the responsibilities contained in the leases. It would also be desirable, if possible, to retain some public access to the interior of the first floor. This has been assessed as part of the disposal process.

6.1.2 The wellbeing assessment carried out for the three reduced rent bids is designed to evaluate their community impact and all have varying degrees of potential benefit in social and economic terms. The Council must also consider the social and economic impact of any commercial bids.

## 6.2 Diversity

6.2.1 Any potential tenant of the building will need to ensure that its operations are fully compliant with relevant equalities legislation. The Council's wellbeing assessment also allows the contribution of a scheme to promoting diversity and equalities in the Borough.

## 7. **Sustainability Impact** *(including environmental or social impact on the local area or beyond the Borough)*

7.1 The Corn Exchange is an important listed building in a prominent town centre location and makes a valuable contribution to the built environment of the town. Any future tenant will need to ensure that is properly maintained externally and internally, which will, at some stage in the future, require a large investment in areas such as the toilets and ground floor foyer. Heating systems and kitchen/bar areas (if retained) will also need updating in the future. Under a full repairing lease, these improvements would be of benefit to the local taxpayer and also users of the building. The bidders are all aware of this requirement. This level of future investment in a building, which did not meet the community's expectations for either a public hall or arts performances, was a factor in the Council's decision to invest in a new public venue in the arc.

7.2 Socially, the impact of losing the Corn Exchange as a public building is offset by the opening of The Apex, which is an exciting and flexible purpose built venue. There are fewer than 200 bookings a year of the Corn Exchange at present and it intended that these will all transfer to The Apex or the Athenaeum, and hopefully develop and grow. As explained elsewhere in this report, the Council can look at the social impact of potential tenants of the Corn Exchange in making its decision on the leasehold, and a key factor in this is evaluating whether they are financially sustainable, and the level of risk that they will require subsidy from the taxpayer (directly or indirectly, through lost income at the Council's own public halls for instance).

## 8. **Consultation**

8.1 The decision to build The Apex and seek a tenant for the Corn Exchange was made over five years ago, and consultation was carried out at that time. The matter has remained under consideration since that time, with discussions taking place with several partners. As outlined above, consultation for this last stage of the process has been widespread through the marketing and bid process. Consultation has also taken place with national agents to assess market interest in commercial uses, particularly focusing on national and regional A3 restaurant and A4 bars occupiers in the light of current market conditions.

8.2 There has been public consultation as part of the submission of the planning application for A4 Drinking establishment use, as there will for any further proposals requiring consent.

8.3 Information gathering and discussions have taken place as required for all of the four formal proposals, and in relation to other expressions of interest and potential uses.

8.4 Local organisations and businesses have made direct representations to the Portfolio Holders, Councillors Aitkens and Mrs Alexander. The two local ward members, Councillors Farmer and Rout, also asked all households in the Abbeygate Ward (circa 2,700) for their views regarding the possibility of a pub use via a recent newsletter. There were 25 replies, of which 23 were against and two very positively for. A further survey carried out by Councillors Nettleton and Ereira-Guyer with residents of the Tower Division of Bury St Edmunds elicited over 60 responses, over 50 of which did not want to see the Corn Exchange turned into a pub, or for the Council to appeal against the refusal for change of use. The remainder wanted to see the Corn Exchange turned into a pub

and/or asked for new drinking establishments within the town centre. A variety of other uses were proposed by residents in the survey, some of which matched the bids actually received or the Bury Society's proposal. Other suggestions included indoor markets of various types, drop-in centre for older people, museum and restaurant. Through the Councillors' consultation, the Council has also received a suggestion from a local resident who specialises professionally in developing business cases that the Council or partners should explore the commercial case for a use combining smaller-scale bar, café, and permanent indoor market (of a farmers' market/food hall type). As with all of these suggestions, should Cabinet want to explore this option, it would need to re-open the process. Any market use would also have to be considered as part of the current markets review.

8.5 As part of its evaluation of the short-listed bids, the Cabinet intends to carry out a targeted consultation exercise of its own, details of which are still to be developed.

**9. Resource implications** *(including asset management implications)*

9.1 The Council has a duty to local taxpayers to ensure the best value is obtained from its property assets. Although the latest business plan for the Apex is not dependent upon income from leasing the Corn Exchange (and no provision for this income has yet been made in budget estimates, pending completion of this process) it has always been clear that the Council expected a good rental income from the building when the new public venue opened. Failure to achieve such an income, or any increase to the Council's revenue or capital expenditure through a community use of the building, will increase the pressure on future budget setting.

9.2 By leasing the Corn Exchange to a tenant, the Council will not incur property running costs estimated at £70,000 a year. Additionally, the current Planned Maintenance Programme for the building could be considerably reduced, or in fact abandoned, as responsibility would no longer lie with the Council as landlord, nor as service operator. It currently includes works of replacement and refurbishment, including roof glazing, boiler replacement and hall floor improvements. There is no certainty that these major repairs will be carried out by the new tenant, either on the basis of no identified need by the tenant, or insufficient funds to do these works.

9.3 Further details on the capital and revenue effects are contained in exempt Appendix C.

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

10.1 The following risks have been identified:

Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
Corn Exchange is empty when Apex opens	High	Wide marketing of leasehold	Medium
Corn Exchange leasehold fails to provide expected level of income	High	Wide marketing of leasehold and strong wellbeing test for non-market rents	Medium
Planning permission is not obtained for any new use	High	Potential operators to provide full supporting information to accompany the planning application	Medium
Community operators do not have the expertise or capacity to operate from the listed building	Low	Expertise at the Council to assist	Low
Community operators cannot meet the expectations of their business plan	High	Expertise at the Council to assist. Proper risk evaluation of bids.	Medium

Community operators terminate their lease early, leaving the Council with responsibilities for vacant premises	High	Expertise at the Council to assist, but ultimately there will always be the risk with any community use that the tenant will not be able to generate sufficient income to properly maintain this listed building	Medium
Proposed community use does not complement the services of the Council or its partners	Medium	Addressed in assessment process and through joint working.	Low
Future use of Corn Exchange has negative implications for community safety, etc	Medium	Tenant to provide evidence of proper management plan to satisfaction of planning and licensing authority and local police. Appropriate monitoring and enforcement.	Low
Suitable use overlooked in marketing process	Medium	Wide and targeted marketing and continuing dialogue with stakeholders. Ability for community uses to compete with commercial uses.	Low

**11. Legal or policy implications**

11.1 The assessment of the options for the Corn Exchange has been carried out in accordance with the approved Asset Management Plan.

11.2 The proposed lease will also need to comply with s123 of the Local Government Act 1972/

<b>Wards affected</b>	Abbeygate (directly) All wards indirectly	<b>Portfolio Holder</b>	Economy and Asset Management
<b>Background Papers</b>	Paper Y221 Cabinet 19 Sept 2007	<b>Subject Area</b>	Property Management