



Cabinet 20 July 2011

Asset Management Plan: Ground Lease Shopping Centre St Olaves Precinct, Bury St Edmunds (Aug11/06)

1. Summary and Reasons for Recommendation

- 1.1 This report reconsiders the Asset Management Plan (AMP) option for the future Council ownership of the freehold of St Olaves Shopping Parade in Bury St Edmunds. The land is subject to a long ground lease. Cabinet considered a full Asset Management Review on 15 September 2010 (Report B205, Minute 58 refers). The paper recommended its sale.
- 1.2 The decision to sell St Olaves Shopping Precinct was deferred pending further consultation with Ward Members. Those consultations have taken place.
- 1.3 Selling the freehold interest of the land does not have any impact on the individual leases between the tenants of the shops and the ground lease tenant.

2. Recommendation

- 2.1 It is **RECOMMENDED** that St Olaves Shopping Parade in Bury St Edmunds is declared surplus and the site is sold, either by auction or by private treaty, as outlined in Report C70.

3. Corporate Objectives

- 3.1 The recommendation meet the following, as contained within the Corporate Plan:-
 - (a) Corporate Priority 4: *'to raise standards and corporate efficiency'*; and
 - (b) Cabinet Commitments: *'Sustainable Council Tax'*.

Contact Details

Name
Telephone
E-mail

Portfolio Holder

Sara Mildmay-White
(01359) 270580
[sara.mildmay-
white@stedsb.gov.uk](mailto:sara.mildmay-white@stedsb.gov.uk)

Lead Officer

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

4. Key Issues

4.1 Background

4.1.1 On 15 September 2010 Cabinet considered the standard AMP review and options appraisal of two ground lease shopping parades (Report B205 refers). Both parades are managed by head tenants, who hold long ground leases from the Council and then underlet each shop unit on short term commercial leases to individual under-tenants. The ground lease also includes the new underlease granted to Havebury Housing Partnership. The report recommended the sale of both Hardwick and St Olaves Shopping Parades.

4.1.2 The Ward Councillors for St Olaves considered that additional consultation should be undertaken with them, as they had received some concerns, particularly from the shop tenants on the parade. It was further discussed at full Council on 28 September 2010. The Minute was:-

4.1.3 **52(B)(4) Asset Management Plan: Ground Lease Shopping Centres in Bury St Edmunds**

Councillor Mrs Mildmay-White, Portfolio Holder for Economy and Asset Management, reminded the Council that as part of its asset management planning regular reviews were undertaken in respect of its assets. Report B205 considered the future ownership of the two shopping parades in Hardwick and St Olaves and the recommendations were that the two shopping parades be declared surplus to the Council's requirements and sold. She also reminded the Council that the Borough Council, as landlord, had very little influence when it came to dealing with those shopkeepers that leased the premises. For the reasons stated in Report B205 and because the Ward Members had raised no objections she proposed that the Hardwick Shopping Parade be sold.

Councillor Mrs Mildmay-White continued that in the case of the St Olaves Shopping Centre consultation was undertaken with the tenants on the sale of the freehold and no objections had been received. However, the Ward Members had objected but had not come forward with any alternative suggestions or solutions. Therefore, she considered that the decision to sell St Olaves Shopping Centre should be deferred to allow discussions to be held with the Ward Members.

Councillor Ereira-Guyer, one of the Ward Members for the St Olaves Ward, considered that selling the shopping parade in St Olaves would not be acting in the best interest of the community or the Council Tax payers, having recently spent approximately £130,000 to improve the area, which was a credit to the Council. He considered that the community really valued the input of the Council on this estate and welcomed the opportunity to discuss options.

It was RESOLVED:- That

*(1) the Hardwick Shopping Parade in Bury St Edmunds be declared surplus and the site sold, either by auction or by private treaty, as outlined in Report B205; and
(2) the decision be deferred to enable further consultation to be undertaken with the Ward Members in respect of St Olaves Shopping Parade in Bury St Edmunds.*

4.2 Consultations

4.2.1 On 26 October 2010 a meeting was held between the Ward Members, the Portfolio Holder and officers. The potential concerns of the sale were discussed, most of which had been raised by the tenants' representative of the shopping parade. The Ward Members agreed to relay to the shop tenants the reassurances given, including an

explanation of those areas of landlord management over which the Council had no control or influence. Ward Members agreed to report back to officers, if they received any further comments or concerns.

4.2.2 Below is a summary of the points discussed:-

(a) *Is the market right for a sale?* There remains strong interest at auctions in long term ground leases like St Olaves Precinct. The Council will only sell at auction if the market remains buoyant. The Council will only sell to the head tenant prior to the auction if the sale price could be certified by the auctioneers as meeting the statutory duty of best price.

(b) *Isn't the rent more lucrative than interest on the capital receipt?* Interest rates are set to rise, but the ground lease rent is not due for a rent review until 2018. There is no certainty that the ground rent will increase in 2018 as it is dependent on the perceived level of market rents for the shops. The Council must also take into consideration estates management costs.

(c) *Sale terms of the freehold should protect the retail uses and the traders (including free parking).* The Council will be selling the freehold with the ground lease in place. Therefore all the lease controls concerning the use, maintenance, etc will still be in place and unchanged. It would not be in the interests of any new landowner to impose car parking charges because it would probably cost more to manage and enforce than the money collected from parking tickets, and any adverse impact on the trading for the shops would affect the investment value of the precinct.

(d) *There were specific concerns about the management style of the landlord.* This is where the shop tenants' expectations of the amount of control that the Council as landlord/landowner has are likely to exceed what the Council can easily make the ground lease tenant do. In particular, the Council cannot interfere in negotiations and communications between the head tenant and the occupying shop tenants.

4.2.3 The Corporate Property Officer has subsequently contacted both Ward Members. Neither had received any further comments from the shop tenants.

4.3 **Current position**

4.3.1 Hardwick Shopping Parade was successfully sold at auction in March 2011, at its guide price. The purchaser was the ground lease head tenant, which had previously shown an interest in buying the freehold by private treaty, but had made a much lower financial offer which could not be recommended for acceptance.

4.3.2 The Council's auctioneers have recently confirmed that good quality, reviewable commercial ground rents are still in short supply and St Olaves will be looked upon as a reversionary asset and a number of their larger ground rent investors will look upon it as being extremely affordable. St Olaves Precinct could be entered for their autumn auction.

4.3.3 In 2010 the Council did undertake considerable hard and soft landscaping improvements, particularly in creating a memorial area. This area will be retained. The land to be sold is shown on the plan attached as Appendix A to the report.

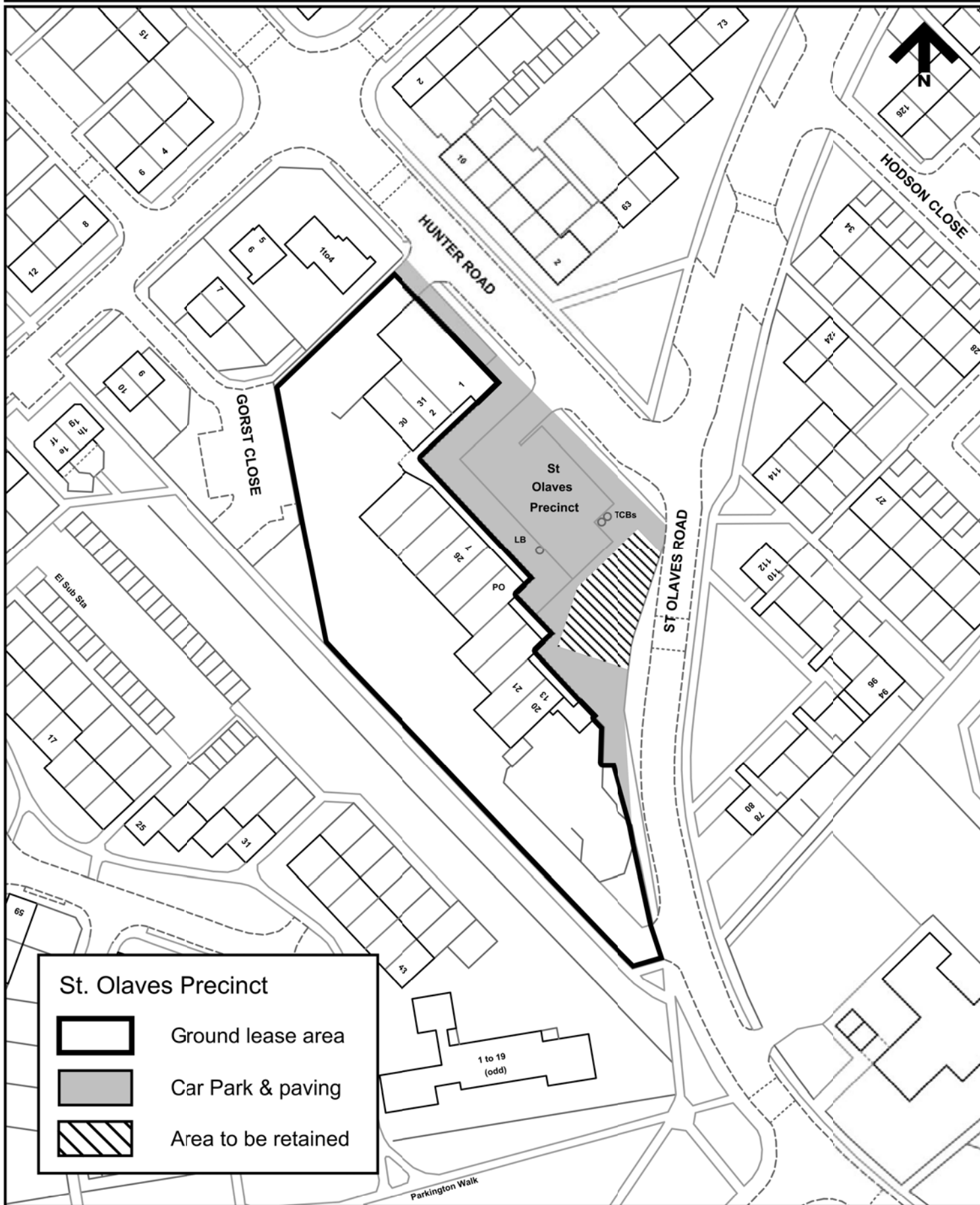
5. Other Options considered			
5.1 The Council could retain the freehold. However, the Asset Management Assessment process and options appraisal contained in Paper B205 concluded that in the context of current economic and financial conditions, sale of St Olaves Precinct, subject to the ground lease, may be more compelling than retaining it.			
5.2 The outcome of the further consultations has not changed the previous conclusion and recommendation.			
6. Community impact <i>(including Section 17 of the Crime and Disorder Act 1998 and diversity issues)</i>			
6.1 <u>General</u>			
6.1.1 There is no adverse community impact, nor any implications for the Crime and Disorder Act 1998 in selling the asset. There will not be any changes to the tenancies of the shops or the new residential accommodation, nor will it have an effect on the community and customers which use them.			
6.2 <u>Diversity and Equality Impact</u> <i>(including the findings of the Equality Impact Assessment)</i>			
6.2.1 There are no diversity implications.			
7. Sustainability Impact <i>(including environmental or social impact on the local area or beyond the Borough)</i>			
7.1 There is no impact on sustainability. Ownership of the land will change from the Council to a private investor but there will not be any changes to the facilities provided which is a direct result of the sale. The shopping parade should continue to support the objective of providing facilities for communities, to improve well being.			
8. Consultation			
8.1 Ward Councillors have been consulted, as outlined in 4.2, with the Portfolio Holder for Asset Management in attendance.			
9. Resource implications <i>(including asset management implications)</i>			
9.1 The resource implications were covered in Paper B205. These have not changed. There will be no adverse impact on the Five Year Financial Model.			
10. Risk Assessment <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>			
10.1 The following risks are identified:			
Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
The sales do not achieve the anticipated financial expectations.	Medium	Effective marketing through an experienced auction house. Establish reserve prices and do not sell if bids do not meet revenue expectations.	Low
Individual shop tenants become concerned that as landowner the Council will no longer be in control.	High	Active communication with the tenants to explain the sales prior to marketing.	Medium
The long leasehold tenant is critical of not being given first chance of buying the land.	Medium	Active communication with the long leasehold tenant to explain the sale prior to marketing.	Low

11. Legal or policy implications
11.1 The proposed sale of land at St Olaves Precinct is in accordance with the adopted asset management options appraisal.
11.2 There sale will be made in compliance of s123 of the Local Government Act 1972.

Wards affected	All Bury St Edmunds	Portfolio Holder	Economy and Asset Management
Background Papers	B205 Cabinet, 15 September 2010; Minute (B)(4) Council, 28 September 2010	Subject Area	Economy and Property Management

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Plan 2



St Edmundsbury
BOROUGH COUNCIL

Ivan Sams FRICS - Head of Property Services and Engineering
West Suffolk House - Western Way - Bury St Edmunds - IP33 3YU

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Date 31/08/2010

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