

Council



Title:	Agenda
Date:	Tuesday 16 July 2019
Time:	6.30 pm
Venue:	Conference Chamber West Suffolk House Western Way Bury St Edmunds IP33 3YU
Membership:	<p>All Councillors</p> <p>You are hereby summoned to attend a meeting of the Council to transact the business on the agenda set out below.</p>  <p>Ian Gallin Chief Executive 8 July 2019</p>
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
Quorum	One third of the Council (at least 22 Members)
Committee administrator:	<p>Claire Skoyles Democratic Services Officer Tel: 01284 757176 Email: claire.skoyles@westsuffolk.gov.uk</p>

Public Information

Venue:	West Suffolk House Western Way Bury St Edmunds Suffolk IP33 3YU	Tel: 01284 757176 Email: democratic.services@westsuffolk.gov.uk Web: www.westsuffolk.gov.uk
Access to agenda and reports before the meeting:	Copies of the agenda and reports are open for public inspection at the above and following address: West Suffolk Council College Heath Road Mildenhall Bury St Edmunds Suffolk IP28 7EY at least five clear days before the meeting. They are also available to view on our website.	
Attendance at meetings:	West Suffolk Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public.	
Public participation:	<p>Members of the public who live or work in the District may put questions about the work of the Council or make statements on items on the agenda to members of the Cabinet or any Committee. 30 minutes will be set aside for this. 30 minutes will also be set aside for questions at extraordinary meetings of the Council, but must be limited to the business to be transacted at that meeting.</p> <p>A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online by sending the request to democratic.services@westsuffolk.gov.uk or telephoning 01284 757176 or in person by telling the Committee Administrator present at the meeting.</p> <p>Written questions, detailing the full question to be asked, may be submitted by members of the public to the Monitoring Officer no later than 10.00 am on the previous working day to the meeting of the Council. Email: democratic.services@westsuffolk.gov.uk Phone: 01284 757162</p>	
Disabled access:	West Suffolk House has facilities for people with mobility impairments including a lift and wheelchair accessible WCs. However in the event of an emergency use of the lift is restricted for health and safety reasons. Visitor parking is at the car park at the front of the building and there are a number of accessible spaces.	
Induction loop:	An Induction loop is available for meetings held in the Conference Chamber.	
Recording of meetings:	<p>The Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded).</p> <p>Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming.</p>	
Personal Information	Any personal information processed by West Suffolk Council arising from a request to speak at a public meeting under the Localism Act 2011, will be protected in accordance with the Data Protection Act 2018. For more information on how we do this and your rights in regards to your personal information and how to access it, visit our website: https://www.westsuffolk.gov.uk/Council/Data_and_information/howweuseinformation.cfm or call Customer Services: 01284 763233 and ask to speak to the Information Governance Officer.	

Agenda

Procedural Matters

Page No.

1. Minutes

1 - 8

To confirm the minutes of the meeting held on 22 May 2019 (copy attached).

2. Chair's Announcements

To receive announcements (if any) from the Chair.

3. Apologies for Absence

To receive announcements (if any) from the officer advising the Chair (including apologies for absence).

4. Declarations of Interests

Members are reminded of their responsibility to declare any pecuniary or local non pecuniary interest which they have in any item of business on the agenda **no later than when that item is reached** and, when appropriate, to leave the meeting prior to discussion and voting on the item.

Part 1 – Public

5. Leader's Statement

Paper No: **COU/WS/19/001 TO FOLLOW**

(Council Procedure Rules 8.1 – 8.3) The Leader will submit a report (the Leader's Statement) summarising important developments and activities since the preceding meeting of the Council.

Members may ask the Leader questions on the content of both his introductory remarks and the written statement itself.

A total of 30 minutes will be allowed for questions and responses. There will be a limit of five minutes for each question to be asked and answered. A supplementary question arising from the reply may be asked so long as the five minute limit is not exceeded.

6. Public Participation

Council Procedure Rules Section 6) Members of the public who live or work in the District may put questions about the work of the Council or make statements on items on the agenda to members of the Cabinet or any Committee. A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start.

(Note: The maximum time to be set aside for this item is 30 minutes, but if all questions/statements are dealt with sooner, or if there are no questions/statements, the Council will proceed to the next business.)

Each person may ask **one** question or make **one** statement only. A total of **five minutes will be allowed for the question to be put and answered or the statement made.** If a question is raised, one supplementary question will be allowed provided that it **arises directly from the reply and the overall time limit of five minutes is not exceeded.**

If a statement is made, then the Chair may allow the Leader of the Council, or other Member to whom they refer the matter, a right of reply.

Written questions may be submitted by members of the public to the Monitoring Officer **no later than 10.00 am on Monday 15 July 2019.** The written notification should **detail the full question** to be asked at the meeting of the Council.

7. Constitution Review Group

9 - 14

Report No: **COU/WS/19/002**

8. Representation on Suffolk County Council's Health Scrutiny Committee: 2019/2020

The Council is asked to nominate one Member and one substitute member to serve on Suffolk County Council's Health Scrutiny Committee. These should ideally be from the Council's Overview and Scrutiny Committee, although this is not essential as the necessary training will be given by the County Council.

The Committee, on 13 June 2019, considered nominations for a representative and a substitute Member for 2019/2020.

It is **RECOMMENDED** that Councillor Margaret Marks be nominated as the Council's representative and Councillor Paul Hopfensperger as the nominated substitute Member on the Suffolk Health Scrutiny Committee for 2019/2020.

9. Motion on Notice

15 - 16

Councillors Max Clarke and Cliff Waterman have given notice under paragraph 9.1 of the Council Procedure Rules of the motion **attached as Paper No: COU/WS/19/003.**

Paragraph 9.6 of the Council Procedure Rules states:

'Any motion on notice under paragraph 9.1 above of these Rules, on being moved and seconded, will usually, without discussion, be referred to the appropriate forum for consideration. If the

Chair considers it appropriate, allow the motion to be dealt with at the meeting at which it is moved and seconded provided that the motion, if carried, would:

- (a) *Not involve the Council incurring expenditure not included in the Council's approved revenue or capital budget.*
- (b) *Not involve the Council being committed to take action which would usually require public consultation or a statutory process to be followed prior to it being made.'*

10. Any Other Urgent Business

To consider any business, which by reason of special circumstances, should in the opinion of the Chair be considered at the meeting as a matter of urgency.

11. Exclusion of Press and Public

To consider whether the press and public should be excluded during the consideration of the following items because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt categories of information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and indicated against each item and, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Part 2 – Exempt

12. Exempt Item: Referrals Report of Recommendations from Cabinet (para 3) 17 - 34

Exempt Report No: **COU/WS/19/004**

(A) Referrals from Cabinet: 28 May 2019

There are no referrals emanating from the Cabinet meeting held on 28 May 2019.

(B) Referrals from Cabinet: 25 June 2019

1. Exempt Item: Investing in our Commercial Asset Portfolio (para 3)

Portfolio Holder: Cllr Susan Glossop

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Annual Council



Minutes of a meeting of **Annual Council** held on **Wednesday 22 May 2019** at **6.30 pm** in the **Conference Chamber, West Suffolk House**, Western Way, Bury St Edmunds IP33 3YU

Present: **Councillors**

Richard Alecock	Susan Glossop	Robert Nobbs
Michael Anderson	John Griffiths	David Palmer
John Augustine	Pat Hanlon	Joanna Rayner
Trevor Beckwith	Brian Harvey	Karen Richardson
Mick Bradshaw	Diane Hind	David Roach
Sarah Broughton	Rachel Hood	Richard Rout
Simon Brown	Beccy Hopfensperger	Marion Rushbrook
Tony Brown	Paul Hopfensperger	Ian Shipp
Carol Bull	Ian Houlder	Andrew Smith
John Burns	Lisa Ingwall King	David Smith
Mike Chester	James Lay	John Smith
Patrick Chung	Aaron Luccarini	Clive Springett
Max Clarke	Victor Lukaniuk	Peter Stevens
Simon Cole	Margaret Marks	Jim Thorndyke
Jason Crooks	Joe Mason	Don Waldron
Andy Drummond	Jim Meikle	Frank Warby
Mary Evans	Sara Mildmay-White	Cliff Waterman
Robert Everitt	Robin Millar	Ann Williamson
Stephen Frost	Andy Neal	Phil Wittam
David Gathercole	David Nettleton	

1. **Remembrance**

This being the first meeting of the West Suffolk Council, the outgoing Shadow Council Vice-Chair, Councillor Brian Harvey, opened the meeting.

Before commencing business, all Members were asked to stand in order to observe a minutes' silence in remembrance of former Leader of St Edmundsbury Borough Council, Ray Novak, who had sadly died the day before.

2. **Election of Chair of the Council for 2019/2020**

The outgoing Shadow Council Vice-Chair then asked for nominations for the Chair of Council for 2019/2020.

Councillor John Griffiths nominated Councillor Brian Harvey and this was seconded by Councillor David Nettleton.

There being no other nominations and no objections, it was

RESOLVED:

That Councillor Brian Harvey be elected Chair of West Suffolk Council for 2019/2020.

Councillor Harvey then received his Chain of Office and signed his Declaration of Acceptance of Office before formally taking the Chair for the remainder of the meeting.

3. **Election of Vice Chair of the Council for 2019/2020**

The Chair advised that the next item of business was the election of the Vice Chair for the ensuing year; accordingly he nominated Councillor Margaret Marks as Vice Chair and this was duly seconded by Councillor John Griffiths.

There being no other nominations and no objections, it was

RESOLVED:

That Councillor Margaret Marks be elected Vice Chair of West Suffolk Council for 2019/2020.

Councillor Marks then came forward to the dais, received her Chain of Office and signed her Declaration of Acceptance of Office.

Before continuing with the business on the agenda, both Chair and Vice Chair of Council addressed the meeting and gave thanks to their fellow Members for their appointments.

Both looked forward to serving the West Suffolk Council in their roles and expressed great pride at being the first to be able to do so. Praise was also given to the PA to the Chair/Vice Chair of the Council for all her ongoing support.

4. **Apologies for Absence**

Apologies for absence were received from Councillors Terry Clements, Dawn Dicker, Roger Dicker, Elaine McManus and Peter Thompson.

5. **Election of the Leader of the Council**

The Chair sought nominations for the Leader of West Suffolk Council.

Councillor Sara Mildmay-White nominated Councillor John Griffiths and gave thanks to him for the work he had undertaken in order to bring the two former Councils together as West Suffolk Council. This was duly seconded by Councillor David Nettleton.

Upon being put to the vote and with 53 voting for the motion and with 6 against, it was

RESOLVED:

That Councillor John Griffiths be elected Leader of West Suffolk Council until the next post-election Annual Meeting unless determined before then in accordance with the provisions of the Constitution.

6. Appointment of Cabinet Members

The Leader thanked his fellow Members for his appointment as Leader of West Suffolk Council.

He paid tribute to the Members of the two former Councils and reminded all present that West Suffolk was now the eighth biggest District Council in the UK; the formation of which presented fantastic opportunities for all.

The Leader stated that he looked forward to working with all Councillors and welcomed their contributions on all business of the Authority.

Council were then advised of the list of Members to be appointed to the Cabinet, the Deputy Leader and the portfolios; together with those Members providing support roles:

Cabinet Member	Portfolio
Sara Mildmay-White (Support Role: Mike Chester)	Deputy Leader/ Housing
Sarah Broughton	Resources and Performance
Carol Bull	Governance
Andy Drummond	Regulatory
Robert Everitt (Support Role: Marion Rushbrooke)	Families and Communities
Susan Glossop (Support Role: David Roach)	Growth
Jo Rayner	Leisure, Culture and Community Hubs
Peter Stevens	Operations

The Leader explained that there was the possibility of appointing one further Cabinet post which may enable flexibility going forward.

Council were also advised that key future workstreams for the Authority would include the Local Plan and the Strategic Plan. The intention was for specific time-limited taskforces to be formed to help support these areas of work, in particular a rural taskforce and climate change taskforce, and Terms of Reference were currently being developed for these.

7. Review of Political Balance and Appointment to Politically Balanced Bodies 2019/2020 (Report No: AGM/WS/19/001)

The Leader presented this item and drew attention to the supplementary paper that had been circulated separately to the agenda and which contained the proposed allocation of Committee places to the Political Groups; having been developed in consultation with the three Group Leaders.

On the motion of the Leader, seconded by Councillor Diane Hind, who gave thanks to Democratic Services for all their work on the report, and with 58 voting for the motion and with 1 abstention it was

RESOLVED:

That:-

1. The Committees and Sub-Committees listed in Paragraph 1.8 of Report No: AGM/WS/19/001 operate for 2019/2020 in accordance with the number of seats and Terms of Reference, as contained in Appendix C, subject to the membership of the Standards Committee being increased to 7 Members;
2. The Council agrees the political balance and allocation of seats on Committees as per Appendix A;
3. The Council agrees the political balance and allocation of substitutes on Committees as per Appendix B; and
4. The Council notes that based on the agreed allocations, Group Leaders have up to 14 days in which to notify the Monitoring Officer of their nominations to Committee places, on which the Monitoring Officer will appoint Members to Committees.

8. Appointment of Chairs and Vice Chairs of the Scrutiny Committees

The Chair explained that each of the appointments under this item would be taken and voted upon in turn.

(a) Appointment of Chair of Overview and Scrutiny Committee

Councillor Victor Lukaniuk nominated Councillor David Nettleton and this was seconded by Councillor Sara Mildmay-White.

There being no other nominations, it was put to the vote and with 51 voting for the motion, 7 against and with 1 abstention it was

RESOLVED:

That Councillor David Nettleton be elected Chair of the Overview and Scrutiny Committee for 2019/2020.

(b) Appointment of Vice Chair of Overview and Scrutiny Committee

Councillor David Nettleton nominated Councillor Simon Cole and this was seconded by the Leader who highlighted the fact that the Conservative Group had intentionally not made a nomination from the Group for the Chair of the Committee as the aim was to work across the Political Groups on scrutiny.

The Leader also gave thanks to Councillor Diane Hind who had previously served as the Chair of the St Edmundsbury Borough Council Overview and Scrutiny Committee.

There being no other nominations, it was put to the vote and with 55 voting for the motion and with 4 abstentions it was

RESOLVED:

That Councillor Simon Cole be elected Vice Chair of the Overview and Scrutiny Committee for 2019/2020.

(c) Appointment of Chair of Performance and Audit Scrutiny Committee

The Leader nominated Councillor Ian Houlder and this was seconded by Councillor John Burns.

There being no other nominations, it was put to the vote and with 57 voting for the motion and with 2 abstentions it was

RESOLVED:

That Councillor Ian Houlder be elected Chair of the Performance and Audit Scrutiny Committee for 2019/2020.

(d) Appointment of Vice Chair of Performance and Audit Scrutiny Committee

The Leader nominated Councillor Karen Richardson and this was seconded by Councillor Clive Springett.

There being no other nominations, it was put to the vote and with the vote being unanimous it was

RESOLVED:

That Councillor Karen Richardson be elected Vice Chair of the Performance and Audit Scrutiny Committee for 2019/2020.

9. **Councillor Allowances and Expenses (Report No: AGM/WS/19/002)**

The Leader presented this item which sought agreement of the Members' Allowance Scheme recommended for approval by the West Suffolk Shadow Council in February 2019.

The Leader spoke on the vast amount of work undertaken by the Independent Remuneration Panel in developing the scheme. He also advised Council that a review was to be undertaken during Autumn 2019 and he encouraged all Members to engage in the review.

Councillor David Nettleton made reference to the table setting out the rate of allowances in Schedule 1 of the report's appendix which referred to a single Vice Chair of the Development Control Committee.

Councillor Nettleton explained that the volume of work in respect of the Development Control Committee was considerable and in light of this he proposed an amendment to the table to read "*Vice Chair(s) of Development Control Committee*" – therefore enabling the Committee to appoint two, who would *each* receive the SRA for the appointment.

The Leader welcomed the proposal which he considered sensible and moved the report's recommendations inclusive of this amendment. This was duly seconded by Councillor Jo Rayner.

Upon being put to the vote and with 58 voting for the motion and with 1 abstention, it was

RESOLVED:

That:-

1. The Scheme of Allowances as attached to Appendix 1 of this report be agreed inclusive of the amendment to the table in Schedule 1 to read "*Vice Chair(s) of Development Control Committee*"; and
2. The Independent Remuneration Panel undertake a further review within the financial year to evaluate whether the scheme is working as intended or requires further amendment.

10. **Review and Representation on Outside Bodies 2019 - 2023 (Report No: AGM/WS/19/003)**

The Leader presented this item and spoke on the value of Council representation on outside bodies; for the organisations and Members alike.

He encouraged Members to put themselves forward for roles to their Group Leaders.

On the motion of the Leader, duly seconded by Councillor Margaret Marks and with 58 voting for the motion and with 1 abstention it was

RESOLVED:

That:-

1. The Service Manager (Democratic Services) and Monitoring Officer be given Delegated Authority to appoint the Council's representatives on outside bodies, in accordance with the nominations put forward by relevant Group Leaders, or the nominated body, or the individual listed, as detailed in Appendix A; and
2. Where no representative is nominated, the Service Manager (Democratic Services) and Monitoring Officer be given Delegated Authority to seek nominations from other bodies and individuals, to be approved by Council in due course;

3. The Council notes that where the outside organisation is discharging executive functions, or the Council is an observer on an organisation, these appointments will be made by Cabinet;
4. The Council notes that it is intended to continue to review representation on outside bodies to ensure that it remains beneficial for the organisation and for the Council; and
5. The Council notes that the nominations to the Suffolk County Council Health Scrutiny Committee, be proposed by the Overview and Scrutiny Committee at their meeting on 13 June 2019, for subsequent confirmation by Council on 16 July 2019.

The meeting concluded at 7.07pm

Signed by:

Chair

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Constitution Review Group

Report No:	COU/WS/19/002	
Report to and date/s:	Council	16 July 2019
Cabinet Member:	Carol Bull Portfolio Holder for Governance Tel: 01953 681513 Email: carol.bull@westsuffolk.gov.uk	
Lead officer:	Leah Mickleborough Service Manager, Democratic Services Tel: 01284 757162 Email: leah.mickleborough@westsuffolk.gov.uk	

Decisions Plan: **Not applicable, as not an executive function**

Wards impacted: **None**

Recommendation: **It is recommended that Council agrees to form the Constitution Review Group in accordance with the terms of reference attached at Appendix A to Report No: COU/WS/19/002 and the membership as set out in section 2.3 of the report.**

1. Background / Context

- 1.1 The Constitution serves as the overriding framework for the way that the Council works. It determines how we will make decisions and how Councillors and officers are expected to act and work together to achieve positive outcomes for the West Suffolk community.
- 1.2 In February 2019, West Suffolk Shadow Council agreed a new Constitution for West Suffolk. This was broadly based on the former joint Constitution developed for St Edmundsbury Borough Council and Forest Heath District Council, but through the work of the (then) Joint Constitution Review Group, took the opportunity to revisit a number of areas, redeveloping the guidance section and the way in which the scheme of delegation operates.

2. Proposals

- 2.1 When the new Constitution was agreed, it was recognised that it would be helpful to assess how it was operating, and make recommendations where necessary. In particular, the former Joint Constitution Review Group recognised the need to assess the Scheme of Delegation for both executive and non-executive functions to ensure they are operating as was intended when the Constitution was agreed.
- 2.2 In order to facilitate review of the Constitution, it is proposed to form a small review group, the Constitution Review Group, with similar terms of reference to the former Review Group. These are attached at Appendix A.
- 2.3 It is proposed that the review group would be formed of 7 members, on a politically balanced basis. The group shall elect its own chair and vice-chair from amongst its membership. The Group will have no decision making powers itself, as Council has agreed all substantive amendments to the Constitution must be approved by Council directly.

3. Alternative Options

- 3.1 Development and assessment of the Constitution could be undertaken by Council itself. However, this is often a very detailed, technical task and can be more effectively undertaken by a small review group to explore points raised in detail.

4. Consultation and engagement

- 4.1 None.

5. Risks

- 5.1 There are no specific risks arising from this paper.



6. Implications arising from the proposal

6.1 There are no specific implications arising from this proposal.

7. Appendices

7.1 **Appendix A:** Terms of Reference for the Constitution Review Group



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Terms of Reference West Suffolk Constitution Review Group

Purpose and remit

The Constitution Review Review Group has been established by Council to review the Constitution and ensure that it remains fit for purpose. It will undertake this role by:

- a) Responding to requests to review certain areas of the Constitution;
- b) Considering changes proposed by Members, Officers and Committees;
- c) Period reviews of the whole Constitution
- d) Recommending proposed changes to Council for approval.

Membership and meeting arrangements

The Constitution Review Group will comprise up to 7 Members, and will respect the political balance of the Council. Members will be appointed based on the nomination of group leaders. The quorum for the Constitution Review Group shall be 3.

The Chair and Vice-Chair shall be appointed by the Constitution Review Group from amongst its membership

Voting shall be by a show of hands and a simple majority.

The Constitution Review Group shall meet as and when required to do so.

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Council: Tuesday 16 July 2019

Agenda Item 9: Motion on Notice submitted by Councillors Max Clarke and Cliff Waterman

Council notes:

- That the impacts of climate breakdown are already causing serious damage around the world.
- That the 'Special Report on Global Warming of 1.5°C', published by the Intergovernmental Panel on Climate Change (IPCC) in October 2018, (a) describes the enormous harm that a 2°C average rise in global temperatures is likely to cause compared with a 1.5°C rise, and (b) confirms that limiting Global Warming to 1.5°C may still be possible with ambitious action from national and sub-national authorities, civil society and the private sector.
- That all governments (national, regional and local) have a duty to act, and local governments that recognise this should not wait for their national governments to change their policies.
- That strong policies to cut emissions also have associated health, wellbeing and economic benefits.
- That, recognising this, a growing number of UK local authorities have already passed 'Climate Emergency' motions.

Council therefore commits to:

1. Declare a Climate Emergency that requires urgent action.
2. Make the Council's activities net-zero carbon by 2030.
3. Achieve 100% clean energy across the Council's full range of functions by 2030.
4. Ensure that all strategic decisions, budgets and approaches to planning decisions are in line with a shift to zero carbon by 2030.
5. Support and work with all other relevant agencies towards making the entire district zero carbon within the same timescale.
6. Produce an action plan within 12 months, together with budget actions and a measured baseline.

Cont/d....

7. Report on the level of investment in the fossil fuel industry that our pensions plan and other investments have, and review the Council's investment strategy to give due consideration to climate change impacts in the investment portfolio.
8. Call on the UK Government to provide the powers, resources and help with funding to make this possible, and ask local MPs to do likewise.
9. Consider other actions that could be implemented, including (but not restricted to): renewable energy generation and storage; providing electric vehicle infrastructure and encouraging alternatives to private car use; increasing the efficiency of buildings; in particular to address fuel poverty; proactively using local planning powers to accelerate the delivery of net carbon new developments and communities, coordinating a series of information and training events to raise awareness and share good practice.

Proposed by Councillor Max Clarke

Seconded by Councillor Cliff Waterman

Referrals Report of Recommendations from Cabinet

Report No:	EXEMPT COU/WS/19/004	
Report to and date:	Council	16 July 2019
Documents attached:	Appendix 1: Exempt Report No: CAB/WS/19/009 'Investing in our Commercial Asset Portfolio'	

(A) Referrals from Cabinet: 28 May 2019

There are no referrals emanating from the Cabinet meeting held on 28 May 2019

(B) Referrals from Cabinet: 25 June 2019

1. Investing in our Commercial Asset Portfolio

Portfolio Holder: Cllr Susan Glossop

Exempt Report No:
CAB/WS/19/009
(attached to this
Referrals Report)

RECOMMENDED:

That:

- (1) Subject to satisfactory negotiation, due diligence, contract and surveys, delegated authority be given to the Assistant Director (Growth), in consultation with the Portfolio Holders for Growth and for Resources and Performance, to exercise the purchase of the freehold interest of land and property at Flats 1-5 and 8 Elsey's Yard, Bury St Edmunds for a maximum sum of £319,000 (three hundred and nineteen thousand pounds), allowing for the £656,000 discount due, excluding VAT, fees and Stamp Duty Land Tax, to be funded from the Investing in the Growth Agenda fund; and;**

- (2) The establishment of a capital budget of £379,400 be made available to facilitate the purchase, including fees and Stamp Duty Land Tax, to be funded from the Investing in our Growth Agenda Fund; in addition a one-off revenue budget of £64,311 as set out in the 2.2.7 of the Financial case, to be funded from the Strategic Priority and MTFS reserve; and:**
- (3) Should the purchase be made, the Council's Section 151 Officer to make the necessary changes to the Council's prudential indicators as a result of Recommendation (1) above.**

- 1.1 For ease of reference, the full Cabinet exempt report and its Appendices are attached to this referrals report.
- 1.2 An exempt Addendum to this report providing further details on the current situation regarding the proposal may be despatched to Members during the period leading up to the Council meeting.



Investing in our Commercial Asset Portfolio: Option to Purchase Property at Elsey's Yard, Bury St Edmunds

Report No:	CAB/WS/19/009	
Report to and dates:	Cabinet	25 June 2019
	Council	16 July 2019
Cabinet Member:	Cllr Susan Glossop Portfolio Holder for Growth Tel: 01284 728377 Email: susan.glossop@westsuffolk.gov.uk	
Lead officer:	Julie Baird Assistant Director - Growth Tel: 01284 757613 Email: julie.baird@westsuffolk.gov.uk	

Decisions Plan: The decision made as a result of this report will usually be published within 48 hours. This decision is not subject to call-in, as the decision is being recommended onto Council. This item is not included on the Decisions Plan, but has been published by way of a General Exception Notice on 14 June 2019.

Wards impacted: Abbeygate, Bury St Edmunds

Recommendation: It is recommended that, subject to approval of Council:

- (1) Subject to satisfactory negotiation, due diligence, contract and surveys, delegated authority be given to the Assistant Director for Growth, in consultation with the Portfolio Holders for Growth and Resources & Performance, to exercise the purchase of the freehold interest of land and property at Flats 1-5 and 8 Elsey's Yard, Bury St Edmunds for a maximum sum of £319,000 (three hundred and nineteen thousand pounds), allowing for the £656,000 discount due, excluding VAT, fees and Stamp Duty Land Tax, to be funded from the Investing in the Growth Agenda fund; and;**
- (2) The establishment of a capital budget of £379,400 to be made available to facilitate the purchase, including fees and Stamp Duty Land Tax, to be funded from the Investing in our Growth Agenda Fund; in addition a one-off revenue budget of £64,311 as set out in the 2.2.7 of the Financial case, to be funded from the Strategic Priority and MTFS reserve; and:**
- (3) That should the purchase be made, the Council's Section 151 Officer will make the necessary changes to the Council's prudential indicators as a result of Recommendation (1) above.**

1. Background / Context

- 1.1 The Council has the opportunity to acquire land and property at Elsey's Yard in Bury St Edmunds via an option with the current owner of the property – Notting Hill Genesis Housing Association. The property comprises five occupied social housing flats and a separate office and café, both of which are currently vacant. A location plan showing land ownership is attached as Appendix A.
- 1.2 The option arises from a contribution made by the former St Edmundsbury Borough Council in 2006 towards the development/refurbishment of the scheme (then owned by St Matthews Housing) and allows for the Council to purchase the property with a discount of £656,000. If the option is not taken up, the Council will not be able to recoup that sum by any other means.
- 1.3 The option has been triggered by Notting Hill Genesis deciding to dispose of its portfolio of properties in Norfolk, Suffolk and most of Essex. This option allows for a three month period for the Council to submit a purchase notice – a commitment that the Council will purchase the property, so effectively an exchange of contracts. After this period and if we do not submit a notice, the property will go onto the open market and, whilst the Council could still bid for the property, it would be without the £656,000 discount. As it stands this purchase notice is required to be served by 22 July, however Legal Officers have requested an extension of the option period on the basis that the vendor and its agents have not provided all the required information to date.
- 1.4 In addition to a purchase allowing us to claw back the previous investment by St Edmundsbury, ownership of the property also provides the following opportunities:
 - The five flats, including two specially adapted, provide important social housing accommodation close to the facilities in the town centre.
 - The office and commercial space previously used as a café would be treated as part of our commercial portfolio, helping to support local businesses as well as generating an income to help support the delivery of services.
 - In the longer term, ownership of this land offers the potential to improve links between the Arc shopping centre and St Andrews Street car park and support any potential redevelopment of the latter in the future.
- 1.5 Negotiations are ongoing with the vendor as to an agreed sale price and due diligence is being undertaken. Therefore we are seeking Member approval to proceed with issuing the purchase notice, subject to the appropriate due diligence as deemed by the Section 151 and Monitoring officers. As part of this we will be seeking a delegation for the Assistant Director for Growth in consultation with the Growth and Resources and Performance Portfolio Holders to approve the final purchase price, up to a maximum of £319,000 (with the £656,000 discount applied). The breakdown of this is set out in the Financial Case **(2.2)**.

- 1.7 This report sets out the position at the time of writing, but as negotiations and due diligence are still ongoing, an update will be provided by the Portfolio Holder for Growth in the Council meeting and/or in any addendum as necessary.

2. Proposals

2.1 Strategic Case

- 2.1.1 The property is located between Risbygate Street and the Council-owned St Andrews Street car park. As can be seen on the plan in Appendix A, it is immediately adjacent to land already in Council ownership and therefore would complement any future re-development in the area.
- 2.1.2 Ownership of the site could, in future, also contribute to improving links between St Andrews Street Car Park and the Arc shopping centre, helping to support the Bury Masterplan aspiration of improving the character and appearance of the St Andrews Quarter.
- 2.1.3 The commercial element of the property would complement the Council's existing commercial property portfolio, providing good quality accommodation with parking in a location which local agents confirm is in demand. The investment overall would be in line with three of the four principles of our Investing in Growth Strategy: (i) investing in our place and people; (ii) behaving more commercially for a blended return; and (iii) making our process and policies work for our communities.

2.2 Financial Case

- 2.2.1 As set out above, the option allows the Council to purchase with a £656,000 discount. The option agreement states that the price is to be agreed between the two parties – the Council and Notting Hill Genesis.
- 2.2.2 The Council has obtained an RICS "Red Book" valuation report of the property. The opinion of Market Value in this report is £812,000. With the deduction of £656,000, this would equate to an actual purchase price of £156,000. We are in the process of negotiating a price with the vendor so the purchase price has yet to be fixed. The agreement allows that in the event that agreement of price cannot be reached between the Council and the vendor, the matter will be referred to a third party expert valuer for determination. Whilst Strategic Property Officers are working to ensure that the third party route will not be required, we have reflected the risk that the final price may be higher than our valuation in **Recommendation (1)**.
- 2.2.3 In assessing the income potential of the property, we have worked on the basis that the social housing would be managed by a social housing provider and therefore there would be no direct income to the Council (see **2.3 Housing Case**).

- 2.2.4 Although the offices and café are currently vacant, we have reviewed current market demand and spoken with local commercial agents who confirm that there is demand for good quality office accommodation with car parking in central Bury. Strategic Property Officers are of the view that a rent of £39,600 per annum could be achieved from letting out the commercial accommodation, including the seven car parking spaces which form part of the asset.
- 2.2.5 The table below shows the financial implications of purchasing the site based on the maximum budget requested. These figures reflect an increase of 20% on our Red Book valuation, which Officers consider should provide adequate tolerance in the event that the value is determined by a third party expert valuer (£819,000 multiplied by 20% equates to £974,400, which has been rounded up)

Capital Implications of Elseys Yard, Bury St Edmunds	Based on maximum budget
Purchase Cost of building	975,000
Stamp Duty (SDLT)	50,650
Purchaser's costs - 1% of purchase price	9,750
Sub Total	1,035,400
Discount amount	(656,000)
Total Capital Cost	379,400
Revenue Implications of Elseys, Bury St Edmunds	
Rental Income from development	(39,600.00)
Building maintenance (1.1%)	10,725.00
Net income per annum	(28,875.00)
Overall (surplus)/deficit per annum before borrowing	(28,875.00)
Borrowing - Interest	11,382.00
Borrowing - MRP	5,032.00
Overall (surplus)/deficit per annum after borrowing	(12,461.00)
Return on total investment (before borrowing)	7.61%
Return on total investment (after borrowing)	3.28%

- 2.2.6 The figures in the table above include the full cost of prudential borrowing, however, actual borrowing would only take place when the Council’s treasury management activities identify such a need. For example, this could be when the Council’s cash flow management activities anticipate that an external cash injection is required to maintain the appropriate level of cash balances for the council to operate and fulfil its budget and service delivery requirements.
- 2.2.7 In addition to the total capital required, there is also a one off revenue ask comprising the following, representing the first year holding costs:

Revenue ask for Elsey's Yard	
Building maintenance (1.1%)	10,725.00
Borrowing - Interest	11,382.00
Borrowing - MRP	5,032.00
Business rates for commercial space (1 year)	17,172.00
Commercial space potential improvements/rent free	20,000.00
Total	64,311.00

Given the commercial space is currently vacant we have factored in potential holding costs for the first year, including the building maintenance provision, costs of borrowing and empty property rates. However this is likely to be mitigated well within the first year when analysing current market demand, including seeking the views of local commercial property agents.

Whilst the property is lettable in its current condition, there is scope for improvements which might benefit marketability and/or incentivise a tenant seeking to take on a longer lease term. The advice we have received from agents is that no works should be carried out unless requested specifically by a prospective tenant as part of their negotiations. This could also be reflected in the form a rent free offer to the tenant.

Future revenue costs are proposed to be funded by the income anticipated as set out in 2.2.5.

- 2.2.8 This report set out a robust strategic case to acquire the property. If members were minded not to support the strategic case then, from a purely financial perspective, it is recommended that the purchase of the property still takes place in order to secure the return of the original 2006 investment of £656,000 in the site. The Council can then, if considered appropriate, subsequently sell the property to realise the £656,000 (full value achieved will be subject to any onward sale value and costs).

2.3 Housing Case



- 2.3.1 We would look to retain the tenants in occupation and work with a registered provider to ensure that the properties are managed and stay within the social housing stock.

Should the Council opt not to purchase the property, some of the current tenants could be served a notice to end the tenancy and referred to the Council as homeless. This would place additional burdens on the Council.

By purchasing the property we would benefit from having access to these units and would ensure that future allocations are for the benefit of applicants on the housing register. The ground floor units are particularly attractive given that they are wheelchair accessible and these types of properties are identified as an area of short supply particularly in the town centre.

- 2.3.2 Three of the existing dwellings are assured tenancies and the Council should therefore be mindful that there is a risk, albeit low, that the existing tenants could apply for the right to buy.

2.4 Legal issues

- 2.4.1 Given the deadline of submitting the Purchase Notice by 22 July, we have been undertaking the necessary legal due diligence, including searches, to support a potential acquisition - should this be approved by Members. Legal Officers have also undertaken a full review of the Option agreement so we are clear on what actions the Council is required to undertake in order to benefit from the agreement.
- 2.4.2 There are difficulties arising for the Council in meeting the deadline imposed within the Option Agreement as the Agreement specifies submission of the purchase notice on 22 July. Such submission is effectively exchange of contracts and the Council is then committed to purchase the property. Further, the Option Agreement has made no provision for repayment of the £656,000 if it declines to take up the option by that date. The solicitors for the seller have disclosed very limited information thus far. The Council's Legal Team is pressing for the disclosure of all relevant information and we are also carrying out research to ensure that on acquisition the Council is not in breach of any of the provisions of the Housing Acts by taking on the tenancies. The results of our searches so far have revealed a chancel liability for which we will need to obtain indemnity insurance and a foul sewer running underneath the property that could potential hinder re-development in the future.
- 2.4.3 As set out in 1.4, we are seeking an extension of the option in reflection of the time it is taking for the vendor to provide the Council with the necessary information. If an extension is not agreed then officers will take a view (in discussions with S151 officer and Monitoring Officer) on issuing the purchase notice in order to secure the return of the £656,000, subject to the progress of due diligence by 22 July.

3. Alternative Options

- 3.1 The option to purchase this property with the associated discount is specific to this property and agreement with the vendor. The alternative is not to purchase the property, however this would lose the Council the opportunity to recoup the £656,000 discount from the purchase price. It would lose the Council opportunity to secure the social housing units and add a source of revenue from the commercial space to help support the delivery of services and meeting the MTFs targets.

4. Consultation and engagement

- 4.1 This is set out within the report as above.

5. Risks



5.1

Risk	Mitigation
Losing the £656,000 investment should we fail to or be unable to submit the Purchase Notice within the option period.	We will seek to submit the notice by the deadline date (see 2.4.3). We are also obtaining Counsel opinion to ensure that we have options covered in the event that either we need to withdraw from the Purchase Notice or are unable to submit it due to the lack of performance on the part of the vendor.
The tenants could exercise their right to buy, and a relative may be able to exercise such right on their death.	Minimal risk if they are in receipt of Housing Benefit. This can be mitigated against if the houses are let through a registered provider – which is the working assumption and currently subject to discussion with potential providers.
Because of any possible restrictions imposed by the Housing Acts we would not be able to take on the tenancies directly and would have to appoint another registered provider or indeed because of the protracted due diligence required could mean we would not be able to meet serving the purchase notice effectively exchanging contracts, before 22 July.	Discussions with Housing Providers ongoing. All options being considered. Counsel advice being sought in respect of whether the housing units can be held by the Council for a short while.
Structure and building condition requires significant investment post acquisition.	The Council's Building Surveyors have inspected the property and are content as to its condition given the relatively recent re-development. Some further due diligence on drainage is currently being undertaken.
We are unable to secure a tenant for the commercial space	We have sought the views of local commercial property agents. Their advice is that the property should command a good level of demand in the property. If we are unable to secure a tenant, the potential business rates liability has been included in the revenue ask.

6. Implications arising from the proposal (delete where either they are not relevant to the report or are already covered in the main report)

6.1 Financial

Covered in the main report.

6.2 HR / Staffing

The Seller's Solicitors have argued that TUPE applies with regard to an employee on the basis that they provide a Facilities Management role for the site. The Council has challenged this position and our present understanding is the employment would not meet TUPE requirements.

7. Appendices

- 7.1 **Appendix A** – Site and Location Plan
- Appendix B** – Photographs

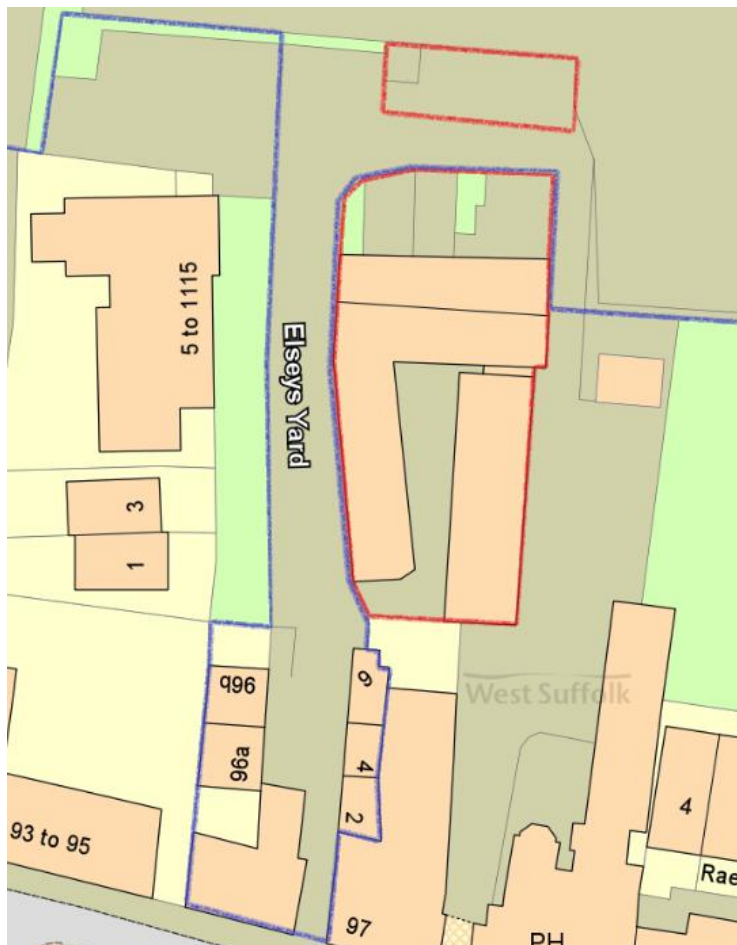
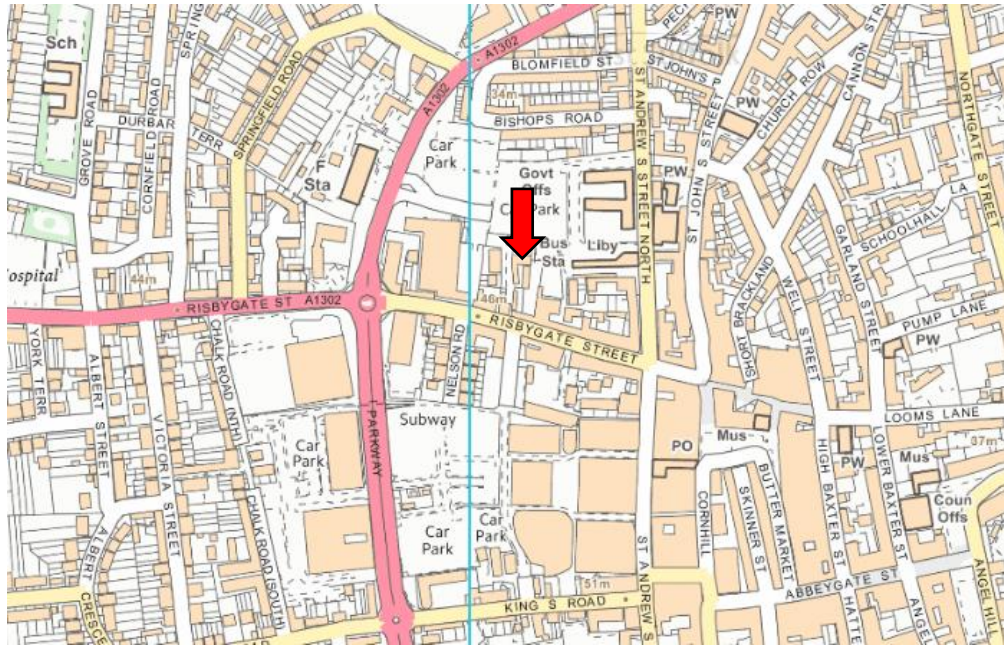
8. Background documents

- 8.1 No background documents.



Appendix A – Location & Site Plan

Flats 1-5 and 8 Elsey's Yard, Bury St Edmunds



Proposed acquisition in red.
Existing WSC land ownership
in blue.

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Appendix B - Photographs

Flats 1-5 and 8 Elsey's Yard, Bury St Edmunds



The Offices and café from St Andrews Street car park side.



Looking towards the property from Risbygate Street end



Office space





Flats and Courtyard



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Investing in our Commercial Asset Portfolio: Option to Purchase Property at Elsey's Yard, Bury St Edmunds

Report No:	EXEMPTION REMOVED: CAB/WS/19/009 (The removal of the exemption also relates to the Appendices A and B attached to this report)	
Report to and dates:	Cabinet	25 June 2019
	Council	16 July 2019
Cabinet Member:	Cllr Susan Glossop Portfolio Holder for Growth Tel: 01284 728377 Email: susan.glossop@westsuffolk.gov.uk	
Lead officer:	Julie Baird Assistant Director - Growth Tel: 01284 757613 Email: julie.baird@westsuffolk.gov.uk	

Decisions Plan: The decision made as a result of this report will usually be published within 48 hours. This decision is not subject to call-in, as the decision is being recommended onto Council. This item is not included on the Decisions Plan, but has been published by way of a General Exception Notice on 14 June 2019.

Wards impacted: Abbeygate, Bury St Edmunds

Recommendation: It is recommended that, subject to approval of Council:

- (1) Subject to satisfactory negotiation, due diligence, contract and surveys, delegated authority be given to the Assistant Director for Growth, in consultation with the Portfolio Holders for Growth and Resources & Performance, to exercise the purchase of the freehold interest of land and property at Flats 1-5 and 8 Elsey's Yard, Bury St Edmunds for a maximum sum of £319,000 (three hundred and nineteen thousand pounds), allowing for the £656,000 discount due, excluding VAT, fees and Stamp Duty Land Tax, to be funded from the Investing in the Growth Agenda fund; and;**
- (2) The establishment of a capital budget of £379,400 to be made available to facilitate the purchase, including fees and Stamp Duty Land Tax, to be funded from the Investing in our Growth Agenda Fund; in additional a one-off revenue budget of £64,311 as set out in the 2.2.7 of the Financial case, to be funded from the Strategic Priority and MTFS reserve; and:**
- (3) That should the purchase be made, the Council's Section 151 Officer will make the necessary changes to the Council's prudential indicators as a result of Recommendation (1) above.**

1. Background / Context

- 1.1 The Council has the opportunity to acquire land and property at Elsey's Yard in Bury St Edmunds via an option with the current owner of the property – Notting Hill Genesis Housing Association. The property comprises five occupied social housing flats and a separate office and café, both of which are currently vacant. A location plan showing land ownership is attached as Appendix A.
- 1.2 The option arises from a contribution made by the former St Edmundsbury Borough Council in 2006 towards the development/refurbishment of the scheme (then owned by St Matthews Housing) and allows for the Council to purchase the property with a discount of £656,000. If the option is not taken up, the Council will not be able to recoup that sum by any other means.
- 1.3 The option has been triggered by Notting Hill Genesis deciding to dispose of its portfolio of properties in Norfolk, Suffolk and most of Essex. This option allows for a three month period for the Council to submit a purchase notice – a commitment that the Council will purchase the property, so effectively an exchange of contracts. After this period and if we do not submit a notice, the property will go onto the open market and, whilst the Council could still bid for the property, it would be without the £656,000 discount. As it stands this purchase notice is required to be served by 22 July, however Legal Officers have requested an extension of the option period on the basis that the vendor and its agents have not provided all the required information to date.
- 1.4 In addition to a purchase allowing us to claw back the previous investment by St Edmundsbury, ownership of the property also provides the following opportunities:
 - The five flats, including two specially adapted, provide important social housing accommodation close to the facilities in the town centre.
 - The office and commercial space previously used as a café would be treated as part of our commercial portfolio, helping to support local businesses as well as generating an income to help support the delivery of services.
 - In the longer term, ownership of this land offers the potential to improve links between the Arc shopping centre and St Andrews Street car park and support any potential redevelopment of the latter in the future.
- 1.5 Negotiations are ongoing with the vendor as to an agreed sale price and due diligence is being undertaken. Therefore we are seeking Member approval to proceed with issuing the purchase notice, subject to the appropriate due diligence as deemed by the Section 151 and Monitoring officers. As part of this we will be seeking a delegation for the Assistant Director for Growth in consultation with the Growth and Resources and Performance Portfolio Holders to approve the final purchase price, up to a maximum of £319,000 (with the £656,000 discount applied). The breakdown of this is set out in the Financial Case **(2.2)**.
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Portfolio Holder for Growth in the Council meeting and/or in any addendum as necessary.

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- 2.2.2 The Council has obtained an RICS "Red Book" valuation report of the property. The opinion of Market Value in this report is £812,000. With the deduction of £656,000, this would equate to an actual purchase price of £156,000. We are in the process of negotiating a price with the vendor so the purchase price has yet to be fixed. The agreement allows that in the event that agreement of price cannot be reached between the Council and the vendor, the matter will be referred to a third party expert valuer for determination. Whilst Strategic Property Officers are working to ensure that the third party route will not be required, we have reflected the risk that the final price may be higher than our valuation in **Recommendation (1)**.
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- 4.1 This is set out within the report as above.

5. Risks

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- | Risk | Mitigation |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
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Structure and building condition requires significant investment post acquisition.	The Council's Building Surveyors have inspected the property and are content as to its condition given the relatively recent re-development. Some further due diligence on drainage is currently being undertaken.
We are unable to secure a tenant for the commercial space	We have sought the views of local commercial property agents. Their advice is that the property should command a good level of demand in the property. If we are unable to secure a tenant, the potential business rates liability has been included in the revenue ask.

6. Implications arising from the proposal (delete where either they are not relevant to the report or are already covered in the main report)

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6.2 **HR / Staffing**

The Seller's Solicitors have argued that TUPE applies with regard to an employee on the basis that they provide a Facilities Management role for the site. The Council has challenged this position and our present understanding is the employment would not meet TUPE requirements.

7. **Appendices**

- 7.1 **Appendix A** – Site and Location Plan
- Appendix B** – Photographs

8. **Background documents**

- 8.1 No background documents.

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