

	<b>REPORT TO CABINET TO BE HELD ON 17 OCTOBER 2017</b>				
<b>NOT FOR PUBLICATION: This report contains exempt or confidential information in a Private and Confidential Appendix</b>	<table border="0"> <tr> <td><b>Key Decision</b></td> <td><b>NO</b></td> </tr> <tr> <td><b>Forward Plan Ref No</b></td> <td><b>4</b></td> </tr> </table>	<b>Key Decision</b>	<b>NO</b>	<b>Forward Plan Ref No</b>	<b>4</b>
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<b>Corporate Priorities: Place Prosperity Council</b>	<table border="0"> <tr> <td><b>Cabinet Portfolio Holder</b></td> <td><b>Cllr. Helen Mallory</b></td> </tr> </table>	<b>Cabinet Portfolio Holder</b>	<b>Cllr. Helen Mallory</b>		
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## **REPORT OF THE DIRECTOR (NE) – 17/223**

### **WARDS AFFECTED: NORTH BAY**

<b>SUBJECT: DISPOSAL OF THE LONG LEASE INTEREST OF PREMISES AT ROYAL ALBERT DRIVE, SCARBOROUGH</b>
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### **RECOMMENDATION (S):**

Cabinet is recommended to:

- (i) note the offers received following the marketing exercise which are detailed within the Private and Confidential Appendix (P&C1);
- (ii) approve Bidder A as the Council's preferred developer for the subject land at Royal Albert Drive, Scarborough, edged red on the attached plan (Appendix 1);
- (iii) approve the financial offer from Bidder A as detailed in the Private and Confidential Appendix (P&C1);
- (iv) note that Bidder A's offer is subject to legal contract and obtaining planning consent;
- (v) delegate authority to agree the final lease terms to the Director (NE), or alternate as appropriate, following discussion with the Portfolio Holder for Finance, Procurement and Legal;

- (vi) note and consider the representations received in respect of the Public Notices displayed on site and in the local press in relation to the disposal of Public Open Space.

## **REASON FOR RECOMMENDATION (S):**

- To present the offers received following the tender exercise.
- To provide Bidder A the reassurance to progress to the planning stage of the proposed development.
- To achieve a capital receipt from the disposal of the long leasehold interest.
- To provide a mechanism to conclude negotiations of the lease.
- To comply with the Council's Constitution and Section 123 of the Local Government Act 1972 in respect of the disposal of Public Open Space.

## **HIGHLIGHTED RISKS:**

- (i) If the offer is not accepted then a capital receipt will not be achieved.
- (ii) Objections to the disposal of Public Open Space.
- (iii) Planning consent is not obtained.
- (iv) Final lease terms not being agreed.

## **1. INTRODUCTION**

- 1.1 The Council is the freehold owner of the subject site at Royal Albert Drive, Scarborough, edged red on the attached plan (Appendix 1), which measures approximately 2,000 square metres.
- 1.2 Cabinet approved the in-principle disposal of a long leasehold interest of land and premises that formed the previous café and retail units at Royal Albert Drive on the 15 December 2015 (ref 15/350).
- 1.3 Cabinet subsequently approved the in-principle disposal of a long leasehold interest (99 years) of a larger site, to also include the public toilets and public open space, on the 13 December 2016 (ref 16/269).
- 1.4 In January 2017 Cabinet approved the demolition of the premises to clear the site. This was a result of the dilapidated structure attracting vandalism and anti-social behaviour. It was also anticipated that a cleared site would be more attractive to developers (ref 17/11). The premises were demolished in April 2017.

## **2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN**

- 2.1 A disposal of the leasehold interest will meet the following corporate priorities:

**Place:** high quality planning and development;

**Prosperity:** develop sustainable tourism which is of high quality, varied and is all year round;

**Council:** ensure our service provide value for money and secure best use of our assets.

### **3. BACKGROUND AND ISSUES**

- 3.1 The site has been marketed twice previously which resulted in no acceptable tender submissions.
- 3.2 The premises were first marketed on the 7<sup>th</sup> March 2016 with a closing date of the 6<sup>th</sup> June 2016. Two tenders were received however neither of them put forward any financial offering.
- 3.3 The premises were remarketed on the 29<sup>th</sup> June 2016 with a closing date of the 15<sup>th</sup> August 2016 and one tender was received. However, this offer was rejected as the financial offer was below the Council's expectation and the design element was not considered favourable by the Council.
- 3.4 In order to understand why the significant levels of interest did not materialise into submitted tenders, feedback was obtained from interested parties/developers which suggested that the demised area was too small to facilitate a viable development.
- 3.5 In December 2016 in-principle Cabinet approval was obtained to market a new larger site which could include commercial, residential, outdoor seating and car parking elements, subject to consent from the Planning Authority.
- 3.6 The larger site was marketed from the 7<sup>th</sup> March 2017 until the 28<sup>th</sup> April 2017. The site was advertised both locally and nationally and tender information was made available on the Council's website and to specific previous interested parties.
- 3.7 Three tenders were received as detailed in the private and confidential appendix (P&C1).

### **4. CONSULTATION**

- 4.1 Section 123 (2a) of the Local Government Act 1972 requires the Local Authority to place a Public Notice in the local media for two consecutive weeks where an area of Public Open Space is proposed to be disposed.

- 4.2 The Council placed a Notice in the Scarborough News editions of 21st September and 28<sup>th</sup> September 2017. Notices were also placed on site, and a copy placed on the Council's website. This is to permit members of the public and other interested parties to submit any comments in respect of the disposal of Public Open Space, with a closing date of 5.00pm Monday 2<sup>nd</sup> October 2017.
- 4.3 Bidder A is also engaged in pre-planning discussions with both the Planning Authority and Historic England.
- 4.4 Statutory consultation will follow the submission of Bidder A's planning application.

## 5. ASSESSMENT

- 5.1 Bidder A's financial offer is detailed in the private and confidential appendix (P&C1). The proposal is subject to Bidder A obtaining planning consent and agreeing lease terms.
- 5.2 Officers have encouraged Bidder A to obtain pre-planning advice with both the Planning Authority and Historic England, and this is in train.
- 5.3 In respect of the disposal of Public Open Space three representations have been received from members of the public and these are summarised in the table beneath. However, please note that the three objectors raised more than one theme to their representation. The actual objections, with the names redacted, are appended as Appendix 2 (A-C).

Objection	Comment/Response
<u>Appendix 2A</u> Loss of amenity  Development would be an intrusion to the natural setting and scenic qualities.	There is significant other public open space within the vicinity.  The developers planning application would be subject to scrutiny from both the Planning Authority and Historic England.
<u>Appendix 2B</u> Lack of transparency around the sale procedure	The site has been openly marketed on three occasions.  The marketing particulars included narrative around the type of development that would be acceptable to the Planning Authority.  The Council did not specify exactly what a development must include.
<u>Appendix 2C</u> The Council demolished the	The previous offer was rejected as the financial offering was below the Council's expectation and

previous building on the site in spite of an offer having been received.	the design element was not considered favourable by the Council.
Not suitable for residential or holiday accommodation.	The nature of the development will be controlled through the planning process.

## **6. IMPLICATIONS**

### **6.1 Policy**

6.1.1 The proposal is in accordance with the Council's policy framework.

### **6.2 Financial Implications**

6.2.1 Outlined in the private and confidential appendix (P&C1).

### **6.3 Legal**

6.3.1 The Council will prepare all the relevant legal documentation pertaining to the long lease.

6.3.2 The Council has displayed all relevant legal notices in the local press and on site in relation to the disposal of Public Open Space in accordance with Section 123 of the Local Government Act 1972 Section 123 (2A). The responses received are detailed within paragraph 5.3

### **6.4 Risk**

6.4.1 Detailed in the attached Risk Matrix.

### **6.5 Planning Implications**

6.5.1 Bidder A will require planning permission to redevelop the site, to include footpath diversion orders where applicable. Bidder A has been encouraged to engage in pre-planning discussions with the Planning Authority and Historic England.

### **6.6 Crime and Disorder Implications**

6.6.1 None.

### **6.7 Environmental Implications**

6.7.1 The Council's Engineer is comfortable with development in this location as long as any new construction does not cut into the cliffside itself.

6.7.2 This is a prime seaview location and it is imperative that the successful development is constructed to a high, quality design, which will be controlled through the planning process.

## 7. ACTION PLAN

7.1 The proposed timeline to bring the proposed development to fruition is:

Cabinet report agreeing preferred developer	17 October 2017
Chosen developer has pre-planning advice	November 2017
Agree draft lease terms	December 2017
Submit Planning application	January 2018
Obtain planning permission	April 2018
Capital receipt received	April 2018
Commencement of development	September 2018
Premises to open for trading	May 2019

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## Risk Matrix

<b>Risk Ref.</b>	<b>Date</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	October 2017	Cabinet not approving the preferred developer.	<p>A capital receipt will not be generated</p> <p>The site will have to be remarketed</p> <p>The site will remain underutilised</p>		A4	A4	Estates	
2	October 2017	Objections to the disposal of Public Open Space persuade Cabinet not to approve the sale	<p>A capital receipt will not be generated</p> <p>The site will have to be remarketed</p> <p>The site will remain underutilised</p>		A4	A4	Estates	
3	October 2017	Planning consent for the development is not obtained	<p>The site will have to be remarketed</p> <p>The site will remain underutilised</p>		B4	B4	Planning	Bidder A is having pre-planning discussions
4	October 2017	Final lease terms not being agreed	<p>A capital receipt will not be generated</p> <p>The site will remain vacant and underutilised</p>		B4	B4	Estates/Legal	