

Cabinet Member for Housing Strategic Assets and Asset Transfer – Cllr Phil Alford

Assets Service

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Grant of lease to Warminster Town Council for Warminster Hub

Purpose of Report

1. This report seeks approval for the grant of a 99 year lease to Warminster Town Council at nil consideration (being at less than best consideration), as set out in the Heads of Terms.

Relevance to the Council's Business Plan

2. This proposal fits within the aim for vibrant, well-connected communities through the transfer of assets to communities.

Background

3. The Council have approved a revised Service Devolution and Asset Transfer Policy in September 2022 which enables the transfer of property and services to town councils. This policy seeks to create efficiencies through having whole area discussions with town councils rather than isolated property or service discussions.
4. Warminster Town Council have approached Wiltshire Council to take on the ownership of Warminster Hub as a single asset.

Main Considerations for the Council

5. Wiltshire Council lease the property to Warminster & Villages Development Trust by way of a 25 year lease that expires on 28 February 2033. The current rent payable by the tenant is £1,900 per annum. Warminster Town Council provide grant funding to Warminster & Villages Development Trust.
6. It has been set out that Warminster Town Council will soon take over the role of Warminster & Villages Development Trust and would then seek to take the remainder of the existing lease. To provide longevity to Warminster Town Council they have sought a longer term agreement, initially seeking the freehold.
7. Wiltshire Council have ownership in the immediate area including Central Car Park and the Library. Given Warminster Hub's proximity to these strategic assets it would not be appropriate to transfer the freehold and instead terms of a long lease have been proposed to Warminster Town Council.

8. The lease terms allow for Wiltshire Council to bring the lease to an end should planning permission be obtained for Warminster Hub as part of a wider development.
9. In April 2021, Warminster Town Council put in an application for a Community Asset Transfer for the community hub building in Warminster. That policy is not relevant to the request as it is focused on community organisations.
10. Warminster Town Council have confirmed that they do not wish to engage in discussion for a wider asset transfer and/or a service devolution, as such this request is being considered in outside of the policy and as a disposal at less than best consideration.

Overview and Scrutiny Engagement

11. Given the nature of the report, Overview and Scrutiny engagement is not considered necessary.

Safeguarding Implications

12. There are no safeguarding implications of this decision as it relates to an existing facility but a change to the lease arrangements.

Public Health Implications

13. There are no public health implications of this decision as it relates to an existing facility but a change to the lease arrangements.

Procurement Implications

14. There are no procurement implications of this decision as it relates to a land transaction and outside of procurement remit.

Equalities Impact of the Proposal

15. There are no equalities implications of this decision as it relates to an existing facility but a change to the lease arrangements.

Environmental and Climate Change Considerations

16. There are no environmental or climate change implications of this decision as it relates to an existing facility but a change to the lease arrangements.

Workforce Implications

17. There are no workforce implications of this decision as it relates to an existing facility but a change to the lease arrangements.

Risks that may arise if the proposed decision and related work is not taken

18. None, the existing lease arrangements would remain.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

19. There are seen to be limited risks to the proposal, as continues an existing arrangement with a slightly different tenure arrangement.
20. The disposal is considered as a disposal at less than best consideration, but as the undervalue is less than £2m the Council has the power by virtue of the Local Government Act 1972: General Disposal Consent 2003 (“General Consent Order”) to dispose of the property on this basis (subject to complying with the requirements of the General Consent Order referred to below) and this decision justifies the use of that power.

Financial Implications

21. The proposal will result in a loss of £1,900 per annum rent, which will create a minor budget pressure.

Legal Implications

22. There is a requirement to satisfy satisfying the requirements of s123 of the Local Government Act 1972 which sets out that “best consideration” is required from disposal of land and assets. In this instance, the transfer at nil value would be considered a disposal at less than best consideration as no value is being paid.
23. The General Consent Order gives permission for Councils to dispose of land at less than best consideration without the consent of the Secretary of State provided the value forgone is less than £2m (in capital terms) and the transaction is likely to achieve any one or more of the following for the area:
- i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being;
24. If the value forgone is greater than £2m approval from the Secretary of State is required. The asset value, and the market value, of the property is recorded as £80,000 meaning that the value is less than £2m.
25. Warminster Town Council have provided a justification paper to set out the social benefits of their proposal and on review of the reasons, together with authority under the principles of the Service Devolution & Asset Transfer policy, are sufficient to justify the sale (by way of long lease) at less than best consideration and the justification for disposal at an undervalue.
26. The proposal is the for lease to be granted at nil consideration, which may be caught by the Subsidy Control Act. An assessment of the proposal has been undertaken and given the recipient will be the Town Council and the purpose for community provision, the criteria to be considered a subsidy has not been met. The transaction is therefore compliant with the Subsidy Control Act.

Options Considered

27. Wiltshire Council could continue the existing arrangement and this would mean having to grant further leases in the future, thus not recommended.

28. Wiltshire Council could seek to continue to achieve a rent for the site, yet under the principles of the Service Devolution and Asset Transfer policy this type of asset and arrangement would be recommended for transfer at nil consideration to Warminster Town Council.

Conclusions/Proposal

29. On the basis that Warminster Town Council have declared no interest in engaging in wider service or asset transfers, the request is being considered outside of the Service Devolution & Asset Transfer and instead is a disposal at less than best consideration. The terms agreed protect Wiltshire Council's long term position and it is recommended that this proposal proceeds.

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Appendices

Appendix One – Heads of Terms

Appendix Two – Plan of the site to be leased

Appendix Three – Warminster Town Council justification

Background Papers

None