

<b>Decision maker:</b>	<b>Cabinet member contracts and assets</b>
<b>Decision date:</b>	<b>Monday, 18 February 2019</b>
<b>Title of report:</b>	<b>Strategic acquisition of development opportunity site</b>
<b>Report by:</b>	<b>Acting Assistant Director for Technical Services</b>

## **Classification**

Part exempt

This report is exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

3 Information relating to the financial or business affairs of any particular person or organisation (including the authority holding that information)

## **Decision type**

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

## **Wards affected**

College;

## **Purpose and summary**

To approve the strategic purchase of the southern campus of the Royal National College for the Blind (RNCB), Venn's Lane, Hereford within a defined budget of £6.25 million and to authorise

officers, following appropriate consultation and due diligence, to proceed with the purchase of the property.

The proposed purchase will be a strategic acquisition which would support the council's policies in respect of economic growth and ensure that a key education site within Hereford is retained and enhanced.

## **Recommendation(s)**

**That:-**

- (a) the purchase of the southern campus of the Royal National College for the Blind, Venns Lane, Hereford as set out in the redline plan at Appendix 1 ("the Site") be approved within a maximum budget of £6.25 million;**
- (b) subject to the Chief Finance Officer being satisfied that appropriate heads of terms have been agreed, due diligence has been completed and the purchase provides value for money, the acting director economy and place, in consultation with the cabinet member contracts and assets, be authorised to complete the acquisition of the Site;**
- (c) on acquisition, the Site be added into the council's property portfolio for all asset management and maintenance purposes;**
- (d) the acting director economy and place be authorised to take all operational decisions necessary to implement the above recommendations; and**
- (e) a further report be brought to the executive following any acquisition, in order to determine whether the Site should be entered into the council's development and regeneration programme.**

## **Alternative options**

- 1. Not to proceed with the acquisition. This is not the recommended option, because if the council does not acquire the site it is highly likely that it will be acquired by a private developer with little or no interest in retaining the site for education use which supports the long term economic objectives of the council and other stakeholders.
- 2. To acquire part of the site. This is not available as the RNCB are marketing the campus as a whole and will not sub-divide and sell in smaller lots.

## **Key considerations**

- 3. The southern campus of the RNCB, Hereford is identified in appendix 1 and comprises a number of buildings, including a grade II listed red brick Victorian building which is currently used by the Herefordshire Art College (HAC) under a lease. Other buildings vary in age and use (including a café) and the property includes car parking areas at different locations across the site.
- 4. The property is currently being marketed for freehold sale by the RNCB and a decision will be required within the next few weeks whether to proceed to purchase in order to meet the vendor's deadline. This is a 'one-off' opportunity to acquire the property which is only available for a limited period and it is understood that there is competing interest to

purchase the site. The RNCB therefore intend to dispose of the site at the earliest opportunity, subject to achieving an acceptable offer and related governance approval. Therefore the window of opportunity for the council to make a decision is time limited.

5. The acquisition of the property would be in accordance with the council's corporate objectives of supporting the growth of the economy and giving young people a great start in life. Securing the property for current and enhanced future use for higher education will ensure continuity in the provision of education at this level and avoid the loss of students to higher education institutions outside the county. Furthermore this could provide an opportunity to increase employment in the sector.
6. In addition, this acquisition provides an opportunity to strengthen partnership working across key education organisations (including RNCB, HAC and NMiTE) to support the vision of growing Herefordshire's economy, and enable the council to maintain a strategic landholding for education purposes which could be otherwise lost if alternative developments were to be proposed following the sale to another purchaser. If the site were acquired for alternative development, it would put current education providers at risk with regard to their growth plans for education in the county. Further to this, early engagement with current (HAC) and potential (NMiTE) stakeholders indicates a desire to work collaboratively with the council in progressing its key objectives should the property be acquired.
7. In the short term the property provides an income stream for the council under an existing lease to the HAC which is due to expire in 2023. This income could be deposited in a sinking fund to cover liabilities. There is potential to increase the income stream through further letting of accommodation to the RNCB, effectively a sale and leaseback arrangement in the short term.
8. Whilst becoming the economic enabler to safeguard education provision in the county, the council are also working with their key development partner to understand the commercial opportunities presented by the acquisition of the site.
9. The acquisition accords with the council's Corporate Property Strategy 2016-20 in so far as (1) it would maximise the economic benefits of the council's property base (2) support economic development and (3) provide a catalyst for physical and social regeneration. Furthermore it would meet the criteria of an asset held for investment or socio-economic purposes.
10. A location plan identifying the property is contained within the appendix.

## **Community impact**

11. The council's corporate plan 2016-2020 includes support the growth of our economy as a strategic priority. The wider Herefordshire economic vision sets out an ambitious framework for economic growth within the county and is supported by the core strategy. Delivery of the core strategy and economic vision will rely on significant investment in a variety of developments across the county.
12. Supporting the corporate plan and economic vision, the council's property strategy for 2016 to 2020 includes the objectives to maximise the economic benefits of the council's property asset base and to support economic development and housing growth.

13. The proposal will contribute directly to the Invest Herefordshire objective to make Herefordshire a great place to study.
14. Should the purchase proceed it will enable the council to enhance the delivery of its corporate plan.

## Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. The equality duty covers the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision does not discontinue services and has no detrimental impact for eligible service users.
  17. Should any improvement or refurbishment of the property be required, the council will ensure that it is compliant with the provisions of the Equality Act 2010 relating to physical access to and within the buildings, so far as this is practicable
  18. The proposed acquisition and use of the property will incorporate the general duties required of the Act.

## Resource implications

19. The capital finance to purchase the property will be provided from the Development Partnership activities capital budget in the approved capital programme. Purchase costs (in addition to the purchase price and stamp duty land tax) of circa £220k to cover legal, valuation, project management consultant fees and contingency costs is anticipated.
20. A significant part of the property is presently occupied under a lease to the HAC which has just over a further four years to run. The leased premises were subject to a rent review in May 2018 which set the passing rent at **figure exempt from publication**. In the short term the RNCB would require tenancy agreements in respect of their existing accommodation on the southern campus to enable them time to decant personnel to the retained northern campus on a phased basis up to August 2020. These tenancies will provide additional revenue which would be agreed as part of the purchase terms. These income streams would be placed in a sinking fund to cover liabilities as they arise.

21. In the short term the site will be fully occupied by the RNCB and HAC which will limit the council's cost overheads. Some cyclical maintenance costs and repair liability will pass to the council which will be underwritten from the sinking fund. As part of the due diligence process an assessment of all liabilities will be undertaken.
22. The revenue position will be managed within a sinking fund for the site with any surplus income retained for future use on the site and subject to due diligence it is anticipated that it will have no effect on the council's revenue budget.

<b>Capital cost of project</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>Future Years</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
<i>Purchase cost including stamp duty land tax</i>	<b>6,030</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6,030</b>
<i>Estimated purchase costs</i>	<b>220</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>220</b>
<b>TOTAL</b>	<b>6,250</b>				<b>6,250</b>

23. Due diligence will be undertaken before the final decision is taken and legal completion takes place and will comprise three elements: (a) potential liability of the property which will be subject to building condition survey, title enquiries, information on existing costs. A valuation report from a specialist valuation adviser will provide information in respect of the property's value and support an offer to the vendor (b) Investment return, both current and potential (this will form part of the valuation advice) (c) development potential of the site which will be provided by the council's development partner Engie/City Heart. The final element will provide the rationale for the purchase on the grounds of economic development.
24. The council will be effectively acquiring the property for long term economic investment reasons and should therefore not expect to recoup its initial capital investment in the site for the foreseeable future.
25. The development potential of the property does hold some inherent risk due to the limits provided by current planning permission and future uncertainty of the capacity of higher education providers to either take up all the accommodation or fund new facilities. This though is mitigated by the potential for future onward disposal of whole or part of the site.
26. The council has a comprehensive property service with expertise in acquisition, property management and maintenance. All property owned or leased by the council is held corporately and once acquired the property would be managed by property services.

## Legal implications

27. The council is empowered to acquire land for its statutory purposes, by a variety of statutes. Section 120(1) Local Government Act 1972 provides a specific power to acquire by agreement, any land inside or outside its area for the purposes of any of its statutory functions or the benefit, improvement or development of its area. In addition section 1 of the Localism Act 2011 conferred a power of competence on the council to do anything that any individuals may generally do.
28. The council may use these powers in support of reasonable and accountable decision making to deliver services in an innovative and collaborative way, amongst other things to enhance education provision, promote social and economic wellbeing, sustainable economic growth and development, equality, inclusion, and improve the quality of the local environment. However these power is not completely unfettered and the Council must act commercially and reasonably, ensuring state aid restrictions are not infringed, obtaining best value in accordance with its duty under section 3 of the Local Government Act 1999 and having regard to the implicit fiduciary duty owed to the local taxpayers and residents.
29. An independent valuation has been commissioned and all necessary due diligence will be undertaken and scrutinised to evidence the viability and soundness of the business case for acquisition.

## Risk management

30. In approving this recommendation the following risks may arise :

Risk / opportunity	Mitigation
The valuation report does not support the purchase	Due consideration will be given to the content of the report and the possibility of enhancing value through development and securing additional rental income
Delay in completing due diligence puts the acquisition at risk	Working pro-actively with all consultees will ensure that the timetable is met
Lack of officer resource	Establish a project team through matrix management of existing available personnel
The vendor decides to sell to an alternative bidder	This is always a possibility. Council officers will engage with the vendor and their agent so that all issues are understood and a clear unencumbered offer is made subject to due diligence.
The council enters purdah prior to elections which means the acquisition cannot complete	The decision is brought forward as an urgent decision to ensure that the acquisition can proceed without being delayed by purdah
Stakeholders withdraw their interest	

The resource and associated cost required to manage of property after acquisition adversely impacts on the council's operational capacity

The Property's value for alternative development and onward future disposal is determined prior to purchase.

A full assessment of the required property management resource and cost will be undertaken as part of the due diligence process.

## Consultees

31. The proposal has been circulated to all political groups on the 23 January 2019. No comments or questions have been received
32. The ward councillor strongly supports securing the continuation of educational needs at the site and the colleges that occupy it.

## Appendices

Appendix 1 – Location plan

## Background papers

None