

Decision maker:	Cabinet member, commissioning, procurements and assets
Decision date:	Monday 18 May 2020
Title of report:	Strategic Acquisition of a leasehold in Herefordshire and to award a facilities management contract post completion
Report by:	Head of management accountancy

Classification

Part exempt

This report is open but appendices 2 and 3 are 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.

Information relating to the financial or business affairs of any particular person (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

Central;

Purpose

To approve the strategic purchase of a site in the central ward within a defined budget (set out in appendix 1) and to authorise officers, following appropriate consultation and due diligence, to proceed with the acquisition.

The proposed purchase will be a strategic acquisition which would support the council's policies in respect of economic growth and enable the council to plan for any future demand or development opportunity that may arise in line with the cabinet's county plan objectives.

Recommendation(s)

That:

- (a) the purchase of the freehold premises in the central ward, as detailed in appendix 1 is approved; 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,**
- (b) the director economy and place, in consultation with the cabinet member commissioning, procurement and assets, be authorised to complete the acquisition; and**
- (c) the director economy and place be authorised to take all operational decisions necessary to appoint a fully managed management company.**

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, unlikely to align with the long term economic objectives of the council and other stakeholders.

Key considerations

2. The council is the current proprietor of the freehold of the majority of the site. By accepting a surrender of the leasehold premises and acquiring additional freehold premises, the council will be in a position to control the asset and development of the central ward. This is a strategic site in the central ward area, and gives the council the opportunity to develop the site in line with the county plan on economic growth. As a background paper this is attached at appendix 2.
3. The council appointed Montagu Evans LLP to provide a 'red book' valuation of the site, to ensure value for money in the proposed purchase. As a background paper this is attached at appendix 3.
4. The purchase would provide an income generating asset, where the rental income will cover costs of running and maintenance, leaving a surplus cash return for the council to meet its key priorities.

5. The council will require an agent to manage the site. The agent would provide a fully managed service dealing with the rental and the maintenance requirements. This provides the council with the expertise for managing the commercial elements site running and doesn't required additional resource from the council. The fees of the management company would be covered by the rental income. The management company will be procured in compliance with the council's contract procedure rules.
6. If the council doesn't purchase the site there is potential for a private investor to purchase the site, it is unlikely that any investor will carry out any improvement or re-purpose the facility. There is also the lost opportunity to control and develop the use by the council.

Community impact

7. The council's county plan 2020-2024 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.
8. Should the purchase proceed it will enable the council to enhance the delivery of its county plan.

Equality duty

9. 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.
10. 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.
 11. 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
 12. The proposed acquisition and use of the property will incorporate the general duties required of the Act.

Resource implications

13. Capital funding will be used for the acquisition, from the Development Partnership allocation in the capital programme funded by borrowing to be repaid using additional rental income to what is currently received. Any income received above the current income budget and loan repayments will be retained in a sinking fund for future development of the site. The proposed acquisition provides an income generating asset, there will be no ongoing revenue costs.
14. The running of the site will be the responsible of a fully managed management company, including the maintenance and running costs of the site.
15. There is a small element of revenue cost for Legal costs, which will be covered by the rental income.
16. The detail of the finances are detailed in appendix 1

Legal implications

17. The council is empowered to acquire land for its statutory purposes, by a number of enabling statutes. Section 120(1) Local Government Act 1972 provides the power to acquire by agreement, any land inside or outside the council's area for the purposes of any of its statutory functions or for the benefit, improvement or development of its area. Section 1 of the Localism Act 2011 confers a power of competence on the council to do anything that any individuals may generally do however the council must act commercially and reasonably, ensuring state aid restrictions are not infringed, and having regard to its general fiduciary duty in the management of public finances, as well as its specific duty to obtain best value in the delivery of all of its functions, under s3 of the Local Government Act 1999.
18. In order to demonstrate the council has met its legal obligations, an independent expert valuation has been commissioned to evidence the viability and soundness of the business case for acquisition. All necessary due diligence will be undertaken and scrutinised prior to entering into contractual obligations.

Risk management

Risk / opportunity	Mitigation
The current national picture with COVID-19 leaves a number of questions about the future of rental income, business rates, economic stability, growth, cash flows, both short term and long term.	Having control of the asset, enables the council to react and choose the options.

Consultees

19. The proposal was circulated to the political groups on 5 May 2020. Comments have been received and will be included as part of acquisition proposal.
20. The ward councillor, Cllr Milln, strongly supports securing the site for economic development.

Appendices

Appendix 1: Financial costing

Appendix 2: Montagu Evans site brochure (exempt)

Appendix 3: Red book valuation (exempt)

Background papers

None Identified

PART EXEMPT