

Portfolio Holder for Education and Property



County Hall
Llandrindod Wells
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LD1 5LG

4 August 2020

For further information please contact

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NOTICE OF INTENDED PORTFOLIO HOLDER DELEGATED DECISION

The Portfolio Holder has received the following report for a decision to be taken under delegated authority. The decision will be taken on **10 August 2020** (i.e. 3 clear days after the date of this note). The decision will be published on the Council's website but will not be implemented until 5 clear days after the date of publication of the decision) to comply with the call-in process set out in Rule 7.36 of the Constitution.

1.	AMENDMENT TO THE DISPOSAL OF MARKET HALL AND VAULTS, MARKET ARCADE AND CAR PARK, BRECON (THE MARKET HALL)
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CYNGOR SIR POWYS COUNTY COUNCIL
PORTFOLIO HOLDER DELEGATED DECISION
by
COUNTY COUNCILLOR PHYL DAVIES
PORTFOLIO HOLDER FOR SCHOOLS AND PROPERTY

August 2020

REPORT AUTHOR: Commercial Property Manager

**REPORT TITLE: Amendment to the Disposal of Market Hall and Vaults,
Market Arcade and car park, Brecon (the Market Hall)**

REPORT FOR: Decision

1. Purpose

1.1 This report seeks approval from the Portfolio Holder for Schools and Property to agree a revised sale price for the Market Hall to reflect changes in the property market due to Covid-19, the outcome of property investigations undertaken since the sale was agreed, and the general deterioration in the fabric of this Grade II listed building. The original report is attached at Confidential Appendix 1. Draft Heads of Terms detailing the amended offer are attached at Confidential Appendix 2.

2. Background

2.1 The Portfolio Holder agreed a sale of the Market Hall in September 2019, and legal matters have been progressing but contracts have not been exchanged.

2.2 In the intervening period the Covid 19 pandemic has had a significant effect on the whole Country but particularly in the retail / leisure / commercial sectors. This has meant a significant reduction in active traders (anyone whose business has not been deemed to comprise “essential goods and services” have been forced to close) with resultant great uncertainty and increased risk going forward.

2.3 The prospective purchaser has confirmed that they wish to proceed with the purchase in a timely manner, however for the project to remain viable, they have proposed a reduction of £75,000 from the previously agreed sale price for several key reasons:-

2.3.1 that Covid 19 has caused increased risks in the retail sector where market activity and demand is uncertain

2.3.2 additional financial pressures that did not exist at the time of the original offer and

2.3.3 that the condition of the building roof has deteriorated since the sale was agreed with increased water penetration.

3. Advice

3.1 It is important to note that the offer originally submitted by the purchaser was in excess of the independent DVS Market Valuation of £200,000

3.2 The revised offer, although now lower than the previously reported Market Valuation, is made at a time when market uncertainty is high especially in the retail sector due to the implications of Covid-19. The revised offer, which should remain confidential until after the portfolio holder report is approved and any sale completed, is detailed in Confidential Appendix 2. The applicant's original offer is also enclosed as Confidential Appendix 3, detailing the previously approved Heads of Terms regarding the sale negotiated at that time.

3.3 Since the original offer was accepted, the purchaser has been able to undertake more significant investigations into the fabric of the building and it is apparent that the roof in particular is in a worse condition than originally believed, with many more leaks becoming apparent as time goes by. This is an area where the purchaser will have to take prompt action on completion of any purchase to prevent more serious damage being caused to the Market Hall.

3.4 At least one of the Market Hall tenants has served Notice to vacate their unit, thereby having an immediate impact on the income received by the Landlord, with no guarantee that a new tenant will be quickly or easily identified.

3.5 The revised offer is still considerably higher than that of the only other party who submitted Expressions of Interest following a four-week marketing period.

3.6 It is proposed that the revised offer should be accepted, subject to the sale being completed in as short a timeframe as is reasonably practicable, and without undertaking a further DVS valuation. Conversations with DVS staff, following receipt of the revised offer indicate that the new figure does seem within reason given what is happening in the market at the current time.

4. Resource Implications

4.1 The asset was valued at £352,800, as at 31st March 2019. The disposal will result in a valuation loss in the accounts which will be funded from the unusable reserves. The disposal will remove a significant

maintenance liability for the authority and safeguard an important asset for the future.

- 4.2 The capital receipt generated by the sale can be used to support the council's capital programme or transformational activity.
- 4.3 The Head of Finance (Section 151 Officer) notes the content of the report and the reasons for the reduced offer. Proceeding with the sale will secure the capital receipt and remove the ongoing maintenance liability.

5. Legal implications

5.1 Legal Services are already working on a proposed transfer of the property to the purchaser. The change in price has negligible implications on the capacity of the team to complete its work on this matter.

5.2 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: " I note the legal comment and have nothing to add to the report".

6. Data Protection

Not applicable

6.1

7. Comment from local member(s)

7.1 We are all pleased to hear that the sale is progressing and are committed to getting a vibrant Market Hall operating in the town which will meet local need and attract visitors. Ahead of sale, tenants, traders and stakeholders of Brecon Market Hall wish to meet with PCC and the prospective purchaser to ensure that they are clear/satisfied with the terms and conditions of transfer.

The local members have requested that a meeting be arranged as soon as possible so that final questions and points of clarification on terms and conditions of transfer can be raised by those who have an interest. It would be helpful if this could include local members who are regularly being asked by the public about the future of the market. A considerable period has lapsed since the last formal meeting with tenants, traders and stakeholders and it would be in everyone's interest to hold a meeting ahead of the sale. I am sure that you will agree that the responsibility of PCC in this matter goes beyond the technicalities of the sale. It is the future livelihoods of traders and tenants and the wider public interest which people of Brecon have in their Market Hall.

8. Integrated Impact Assessment

8.1 Not applicable – this is an update to the report attached at Confidential Appendix 1.

9. Recommendation

9.1 It is recommended that the sale of the property to the original purchaser should be approved at the lower price as detailed in Confidential Appendix 2, to reflect the impact of Covid-19 on the retail property sector, increased market uncertainty, and deterioration in the fabric of the building.

9.2 Appendix 2 should remain confidential until after the purchase has been completed

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Head of Service:	Gwilym Davies
Corporate Director:	Nigel Brinn

DELEGATED DECISION NEW REPORT TEMPLATE VERSION 2

CYNGOR SIR POWYS COUNTY COUNCIL
PORTFOLIO HOLDER DELEGATED DECISION
by
COUNTY COUNCILLOR PHYL DAVIES
(PORTFOLIO HOLDER FOR HIGHWAYS, RECYCLING AND ASSETS)
Date September 2019

REPORT AUTHOR: Commercial Property Manager

SUBJECT: Disposal of Market Hall and Vaults, Market Arcade and car park, Brecon

REPORT FOR: Decision

1. Summary

- 1.1 The Market Hall is a Grade II listed building which currently hosts the twice weekly (Tuesday and Friday) indoor Charter Market as well as other markets and events throughout the year. The Market Hall includes an arcade of shops leading into the main hall comprising of a number of lock up units let to local retailers, many of whom have successfully operated from the site for a number of years. Beneath the Market Hall are three vaulted rooms, all occupied by private businesses. Additionally, there is a small car park located off Market Street (currently Pay and Display) which is included in the Proposal outlined in this report.
- 1.2 The property is vested with the Highways, Transport and Recycling Service, and is managed day-to-day by the Parking Services team. It is something of an anomaly, having been vested with them since the days of Brecknock Borough Council.
- 1.3 The building is identified as having a significant maintenance backlog, and management and repair costs along with overheads substantially outstripping the revenue income stream: the last condition assessment undertaken in 2017 identified a current maintenance liability of £206,325 comprising a considerable list of works necessary to repair and improve the condition of the building. Following this survey, only minimal essential repairs have been undertaken. During 2018-19 financial year the market generated £76,301 income but cost £91,859 to operate.
- 1.4 Following an early expression of interest from a local community group, the managing service requested, and obtained, permission from the Strategic Asset Board (SAB) to formally market the property seeking expressions of interest from individuals or organisations wishing to be considered for the future

management/ownership of the building (subject to the existing tenancies and established rights). This would include refurbishment whilst continuing to allowing the established traders to operate their businesses, and developing the market hall to become a more vibrant and sustainable destination. In addition recognising the ongoing challenges imposed by the operation of the Charter market from the building.

- 1.5 Strategic Property conducted the marketing exercise, marketing the property on the Council's Internet site for 4 weeks, also gaining editorial coverage on the front page of the local press. A good level of interest was received..
- 1.6 Following this process, two firm expressions of interest were received, reviewed, and the findings reported to SAB.

2. Proposal

2.1 SAB recommended that the bid put forward by Applicant A – please refer to Confidential Appendix 1 (headed Brecon Market Hall Heads of Terms May 2019) for the full detail of the applicant and bid – should be put forward to the portfolio holder for acceptance.

3. Options Considered / Available

3.1 Option 1: To accept the recommendation of SAB and the offer from Applicant A, to ensure that the Market Hall can be successfully refurbished, and developed sympathetically, whilst preserving its established role in the heart of Brecon.

3.2 Option 2: To reject the recommendation of SAB to dispose of the property to Applicant A, and remarket the property.

3.3 Option 3: To reject the recommendation of SAB to dispose of the property to Applicant A, and to retain the property as part of the Council's asset base.

4. Preferred Choice and Reasons

4.1 The preferred choice is to support Option 1 above – this will see the Market Hall transferred to a buyer at a figure substantially higher than its independently assessed Market Value (and in the process delivering a significant capital receipt to the Council), and will be revived as anticipated by the proposed Buyer.. In doing so, the future of the market hall will be secured, a listed building will be refurbished and improved, which is significant for the future of this important local building. The last condition assessment undertaken in 2017 identified a £206,325 list of works necessary to repair issues and improve the condition of the building.

4.2 Options 2 and 3 are not supported. Option 2 would be unlikely to result in a better offer than the one already made, given appropriate market exposure has already been undertaken, whilst option 3 does not assist in disposal of the asset, for capital receipt under the managed capital development programme..

5. Impact Assessment

5.1 Is an impact assessment required? Yes

5.2 If yes is it attached? Yes

6. Corporate Improvement Plan

6.1 The proposal supports the Council's Vision 2025 priorities. This is true particularly in respect of the Economy, Learning and Skills, and also Residents and Communities. The sale of the property to Applicant A ensures that the Council receives a strong capital receipt for this property, which can then be used to help develop a vibrant economy by delivering capital improvement schemes, and creating employment opportunities. The capital receipt may support the Council's development programme for new facilities for its learners and in doing so, will also support the priority to enhance services and facilities for our Residents and Communities. Additionally, the investment will enhance the retail offering in the Town creating a destination for start up business/ pop up shops etc.

7. Local Member(s)

7.1 The local members for Brecon have all been advised of the proposed marketing of the property. They are also aware that an item was presented to SAB and that a recommendation was recorded by that Board. Whilst the three local members for Brecon were asked for their comments for inclusion in this report (20 June 2019) no responses have been received.

8. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council? Yes

The proposed transfer of the property will potentially impact on Highways, Grounds and Street Scene, who currently receive approximately £21,500 from Highways Technical Services for their provision of caretaking and cleaning services to the Market Hall. This loss will be accommodated within the service and offset by the overall operating loss of over £15k and reduced liability of future essential

maintenance to maintain the building to the minimum requirements to ensure it is safe and secured.

9. **Communications**

Have Communications seen a copy of this report? Yes

The Communication Manager comments: The report is of public interest and requires use of proactive news release and appropriate social media to publicise the decision.

10. **Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

10.1 Legal - The Professional Lead supports the proposal and can confirm that legal services will expedite the transaction upon receipt of instructions.

10.2 Finance:-

The Capital and Financial Planning Accountant supports the disposal of Brecon Market Hall. The asset is currently valued at £352,800, as at 31st March 2019. The disposal will result in a loss in the accounts which will be funded from the unusable reserves. The disposal will reduce the maintenance liability for the authority and safeguard an important asset for the future.

The Finance Manager notes the contents of the report. The service are faced with increasing maintenance costs for the Market Hall due to it's state of repair which has resulted in an over spend against budget in 2018-19 for the Market Hall. This will only worsen as the building deteriorates further. The HTR service may lose income from the proposed transfer of the car park, average income over the last 3 years is £8,410 however those currently using the car park may be displaced to other car parks within the town not resulting in a loss of income.

10.3 Corporate Property (if appropriate): N/A – report authors.

10.4 HR (if appropriate)

10.5 ICT (if appropriate)

11. **Scrutiny**

Has this report been scrutinised? No?

If Yes what version or date of report has been scrutinised?
 Please insert the comments.
 What changes have been made since the date of Scrutiny and explain why Scrutiny recommendations have been accepted or rejected?

11.1

12. Data Protection

If the proposal involves the processing of personal data then the Data Protection Officer must be consulted and their comments set out below.

13. Statutory Officers

13.1 The Deputy Monitoring Officer notes the legal comment and has nothing further to add.

13.2 The Head of Finance (Section 151 Officer) notes the comments of the Capital Accountant and the Finance Manager. The capital receipt generated by the sale can be used to support the council's capital programme or transformational activity.

14. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

15. Future Status of the Report

Members are invited to consider the future status of this report and whether it can be made available to the press and public either immediately following the meeting or at some specified point in the future.

The view of the Deputy Monitoring Officer is that the Appendix to this report must remain confidential due to the sensitive information contained therein.

Recommendation:	Reason for Recommendation:
To dispose of the freehold of Brecon Market Hall to Applicant A.	To ensure the Grade II listed Market Hall can be refurbished to a high standard, and its community use

	maintained and enhanced for current and future generations to enjoy.
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Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	Cllr Sarah Lewis
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Person(s) To Implement Decision:	David Micah
Date By When Decision To Be Implemented:	As soon as possible

Is a review of the impact of the decision required?	N
If yes, date of review	
Person responsible for the review	
Date review to be presented to Portfolio Holder/ Cabinet for information or further action	

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Background Papers used to prepare Report:

DELEGATED DECISION REPORT TEMPLATE VERSION 6

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of the Local Government Act 1972.

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