

**Bolsover District Council**

**Executive**

**4 December 2017**

**Land Sale - Bolsover**

**Report of the Leader**

This report is public

**Purpose of the Report**

- The report seeks approval for the surrender of the existing lease and disposal of land on Cotton Street to Old Bolsover Town Council for less than market value.

**1 Report Details**

- 1.1 Under the Local Government Order 1977 No 293, land and buildings were transferred to Old Bolsover Town Council (OBTC). The land identified below and in Appendix A was registered to Bolsover District Council but this has long been opposed by OBTC suggesting the land should have been registered to them rather than BDC. To resolve this dispute, when the disposal of the site (Leasehold) was agreed with Holymoore Developments Limited in 2009, the £2000 annual rent was agreed to be split 50:50 with OBTC.



- 1.2 In May 2017, Holymoore Developments Limited looked to dispose of the lease by way of an auction through local agent Mark Jenkinson and Son (See appendix B): <http://www.markjenkinson.co.uk/auctions/tuesday-16th-may-2017/display/Land+adjoining+7+Cotton+Street%2C+Bolsover%2C+Chesterfield-%7C-2290#lot>
- 1.3 Both OBTC and BDC opposed the disposal of the lease on the grounds that the Lease Hoder was in breach of their lease agreement with regard to clauses relating

to commencement of development. Subsequently the site was withdrawn from the auction.

- 1.4 OBTC have indicated they would like to obtain ownership of the site and have negotiated a price of £16,000 with the Lease Holder. Subject to OBTC paying £16k and BDC's agreement to surrender, lease holder, Holymoore Developments have agreed to surrender the lease.

OBTC have provided the following statement of use to support BDC's decision making:

*"The land has been used over the last four years for the two day food and drink festival and the Christmas Festival and Lantern Parade. Both these are major events for the town bringing visitors into the town from outside the area as well as being popular events for local residents.*

*Both these events are growing each year both in terms of traders but also visitor numbers. Both events are free to visitors. Whilst it is difficult to get accurate numbers we estimate that we get in excess of 6000 visitors each day to these events.*

*This particular area is used for licensed activities. The advantage of using this as the licensed area is that we can prevent access easily on three sides of the land making the area easier to control from a licensing point of view.*

*This area is also the only flat public space in the Town without having to consider taking the Car Parks outside the Castle and adjacent to Wetherspoons out of use.*

*If the land is transferred of the Council we intend to retain the area as a public open space. We would be looking to resurface the paved area and reinstate electrical connections in addition to adding AV connectivity to the four corners of the square.*

*We would also like to look at the feasibility of having a large canopy over the area to make the area more versatile in wet weather.*

*In addition to the main events described above, we would also aim to put on smaller events and activities during the year as well as having additional market space.*

*It would not be feasible to run large events in the town if this land was not available to us."*

- 1.5 Based upon the above and to support the events in the town, it is recommended that BDC agree with OBTC and Holymoore Development Limited to the surrender of the existing lease, subject to OBTC paying £16k to Holymoore Development Limited.

- 1.6 To protect BDC from any future liabilities in relation to the site it is then proposed to dispose of the freehold title to OBTC for the value on £1 subject to the following terms:

- Restrict the use of the site to 'community use' in line with the use outline by OBTC above.
- An overage provision in perpetuity, to protect the council's interests should land be disposed of for anything other than community use.

1.7 The Council's Senior Valuer has undertaken a valuation of the land resulting in a value in the region of £40,000. On this basis, whilst acknowledging the historic dispute regarding ownership, the recommendation in the report should be considered as disposing of the site £39,999 below market value.

1.8 The DCLG circular 06/03: 'Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained', states:

*"Generally it is expected that land should be sold for the best consideration reasonably obtainable. However, it is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action. The Consent has been issued to give local authorities autonomy to carry out their statutory duties and functions, and to fulfil such other objectives as they consider to be necessary or desirable. However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people."*

The terms of the Consent mean that specific consent is not required for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. It will be for the authority to decide whether these decisions taken comply with any other relevant governing legislation. In all cases, disposal at less than best consideration is subject to the condition that the undervalue does not exceed £2,000,000 (two million pounds).

Based upon the Senior Valuer valuation at £40k and proposed use by OBTC, utilising the land to facilitate and enhance community events, contributing to the visitor economy and the proposed restrictions on title to securing this use, it is considered that Executive acknowledge that the disposal is at less than best consideration but the disposal will contribute to the economic and social well being of the area.

## **2 Conclusions and Reasons for Recommendation**

2.1 The surrender of Holymoore Development lease and disposal of the site to OBTC will secure the long term community use of the site to support the economic and social well being of the area, whilst protecting the Council from any future liabilities.

## **3 Consultation and Equality Impact**

3.1 Significant consultation has taken place with OBTC and Holymoore Development Limited with regards the future use of the site.

3.2 There are no Equality Impact issues arising from this report.

## **4 Alternative Options and Reasons for Rejection**

4.1 Do nothing and let Holymoore Developments sell the lease.

4.2 Agree to let Holymoore Development surrender the lease and transfer the lease to OBTC. However, in order to buy the lease, OBTC will need to pay the lessee £16k and have asked that if the lease is transferred that it is done so on a peppercorn rent.

## **5 Implications**

### **5.1 Finance and Risk Implications**

5.1.1 There are two main financial considerations:

- The surrender of the lease will result in a loss of £1000 PA which will mean a reduction of income which will be absorbed and managed within the service budget...
- The proposal to dispose of the land to OBTC at £1 is a disposal at below best consideration. The report outlines the full case for considering disposal at less than best value.

### **5.2 Legal Implications including Data Protection**

5.2.1 It is proposed that both the surrender and sales agreement will be drafted by BDC's legal services

### **5.3 Human Resources Implications**

5.3.1 There are no HR implications arising from this report.

## **6 Recommendations**

6.1 That Executive agree to surrender the Holymoore Development Limited lease on the terms outlined in the report.

6.2 That Executive agree to dispose of the land on Cotton Street, as shown in Appendix A, to OBTC for the value of £1, acknowledging the disposal is at less than best considerations.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  BDC: Revenue - £75,000 <input type="checkbox"/>  Capital - £150,000 <input type="checkbox"/>  NEDDC: Revenue - £100,000 <input type="checkbox"/>  Capital - £250,000 <input type="checkbox"/>  <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	Assess the potential revenue impact and develop an action plan to address issues arising from the implementation of the Minimum Energy Standards on commercial properties by April 2018.

## 8 Document Information

Appendix No	Title
Appendix A Appendix B	Site Plan Mark Jenkinson & Son Auction Particulars
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Commercial Property & Developments Manager	2210

Report Reference –

Appendix A – Site Plan:



## Land adjoining 7 Cotton Street, Bolsover, Chesterfield, S44 6HA

- Potential development site in the heart of historic Bolsover
- Approximately 475 square metres (0.12 acres)
- Level paved area with stone walling and arched entrance
- Lapsed planning for 3000 square feet Commercial and four flats
- Leasehold for 200 years at £2,000 per annum ground rent

### Location

Bolsover is situated approximately 6.2 miles to the east of Chesterfield and lies within easy reach of Junction 29A of the M1

The site is located in the centre close to the junction of Cotton Street and Church Street

### The Site

The land is identified on the adjoining plan and amounts to approximately 475 square metres

### Tenure

The land is leasehold for 200 years from 23 April 2009 at an annual ground rent of £2,000 per annum

### Planning

The property is suitable for a variety of uses subject to appropriate consents

Interested parties are advised to make their own enquiries in respect of potential schemes

### Services

All mains services are understood to be within close proximity of the site though interested parties are advised to make their own enquiries in respect of new connections

### Viewing:

On site at any reasonable time

### Lot 9

Land adjoining 7 Cotton Street, Bolsover, Chesterfield S44 6HA

### Guide price:

£60,000