

<b>DECISION-MAKER:</b>	CABINET		
<b>SUBJECT:</b>	SALE OF LAND AT TOWN DEPOT ADJACENT TO AMERICAN WHARF		
<b>DATE OF DECISION:</b>	15 FEBRUARY 2010		
<b>REPORT OF:</b>	CABINET MEMBER FOR RESOURCES AND WORKFORCE PLANNING		
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#### **STATEMENT OF CONFIDENTIALITY**

Confidential Appendix 1 contains information deemed to be exempt from general publication based on Category 3 of Paragraph 10.4 of the Council's Access to Information Procedure Rules. The Appendix includes details of a proposed transaction which, if disclosed prior to entering into a contract, could put the Council at a commercial disadvantage in the future. In applying the public interest test it is not considered appropriate to make public offers received as this could lead to a revision of bids and, in the event of the transaction failing to complete, prejudice re-marketing of the property, therefore reducing the amount receivable by the Council.

#### **SUMMARY**

American Wharf is a Grade II\* listed building which is currently on the English Heritage "buildings at risk" register. Its owner wishes to acquire Council owned land, currently used as a salt store at Town Depot, for car parking and landscaping to support the conversion of the building for commercial and residential uses.

The payment of market value for the Council's land would make the development unviable and a sale at less than market value is recommended as there are wider heritage and economic benefits which are considered to outweigh the relatively small financial loss on the land sale.

#### **RECOMMENDATIONS:**

- (i) To approve the sale of land adjacent to American Wharf, forming part of Town Depot, by way of conditional agreement for the grant of a long lease for less than best consideration to enable the conversion and re-use of American Wharf
- (ii) That the Head of Property and Procurement be given authority to finalise disposal terms and to take all appropriate steps in consultation with the Solicitor to the Council to complete the disposal.

#### **REASONS FOR REPORT RECOMMENDATIONS**

1. The Council will assist in saving one of the City's historic buildings from dereliction whilst also providing new homes and business premises. The improvement and re-use of this building will enhance the future use of the councils remaining land at Town Depot.

#### **CONSULTATION**

2. The City Council's Conservation officer has been consulted and is fully supportive of the proposals as American Wharf is an extremely important building both locally and nationally.

#### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

3. The Council could seek the market value of the land from the developer, however, this would make the scheme unviable.
4. The Council could refuse to sell the land to the developer however this would make the proposed uses unviable as no parking could be made available.
5. The Council could sell this land with the Town Depot site. However, it is unlikely that it could be used for anything other than storage or car parking in view of its proximity to American Wharf and is unlikely to realise any additional value. The sale of this land does not detrimentally affect future plans for the remaining land at Town Depot.
6. The Council could insist that the Council share in any increase in the value of the refurbished building between the date of exchange of contracts with the Council and the date the units are sold. This is a standard condition within normal commercial transactions. However the developer is not willing to agree to this on the basis proposed by the Council. He has agreed, however, that the price for the land will be increased by the change in the retail price index between the dates of exchange and completion.

#### **DETAIL**

7. American Wharf is a former steam mill, bake house and grain store built in 1781. It is one of only 20 Grade II\* listed buildings in the city and is in the top 8% of listed buildings in the country. It has been vacant for approximately 7 years and was most recently used as a warehouse.
8. The present owner, the Turnstone Group, acquired the building in 2004 and for the last four years has been attempting to sell or lease it on the open market. Even when the property market was at its strongest no firm proposals came forward. As a result the building is close to dereliction and is listed on the English Heritage "buildings at risk" register.
9. The Council's Conservation officer advises the building is no longer suitable for its original purpose neither is it suitable for warehousing etc owing to the construction and plan form of the building.
10. In March 2009, the owner submitted a planning application for the refurbishment and conversion of the building to provide 23 residential units with approximately 500 square metres of office space to the ground floor. The proposals include 0.19 acres council owned land, currently used as salt storage at Town Depot, for car parking and landscaping. This land materially enhances the commercial viability of the development proposals. The Council's freehold interest in the adjacent highway subsoil, which is to be closed, will also be transferred to the Developer. The land owned by the Council is shown cross hatched and American Wharf is shown hatched on the attached plan V2672.
11. The planning application has been approved by the Council's planning committee but the decision has been called in by the Secretary of State and will be determined by central government due to concerns about flood

mitigation. The Inquiry is due to take place on 9 March 2010 with a decision likely in June 2010.

12. Owing to the use, and lack of use, the building has had over the past 5 – 10 years, the age of the building and the lack of maintenance it has undergone under previous owners, any future use will be verging on the fringes of viability. This is because of the cost of specialist repair, the works needed to bring the building up to modern standards, the conversion costs, landscaping costs and the additional works needed because of its waterside location. In addition the downturn in the residential and office markets have detrimentally affected the value of the refurbished building.
13. As the viability of the scheme is marginal, the developer can only afford to pay a fixed sum for the Council's land as shown in the confidential appendix attached. An independent valuation has been undertaken on the Council behalf which verifies the developers offer. The current value of the land is shown in the confidential appendix. It is unlikely that planning permission would ever be granted permitting any structure on this site which would affect the setting of this Grade II\* listed building.
14. The developer is prepared to wait until the salt store is relocated as part of the town depot relocation plans but wishes to enter into a conditional agreement for lease with the Council which stipulates a fixed price for the land to secure its position in the meantime. In normal commercial circumstances, because of the likely delay between the dates of exchange and completion, the Council would require a "claw back" condition within the contract which would enable it to share in the value of the completed development. However as the scheme is barely viable the Developer is unwilling to agree this condition but is willing to agree that the price he has offered will be subject to increase in line with increases in the Retail Price Index between the two dates.
15. It is recommended that the Council support the wider benefits of bringing American Wharf back into use for the sake of a relatively small financial loss on the land sale. Assuming the planning Inquiry is successful, this could be a rare opportunity to assist in saving one of the City's historic buildings from dereliction whilst also providing new homes and business premises. The Councils conservation officer considers this is an exciting scheme that will go a long way in setting standards for enhancing development on this section of the riverside.
16. The improvement and re-use of this building is highly likely to enhance the future use of the councils remaining land at Town Depot and the disposal of this small area is not detrimental to the future use of the Town Depot site
17. It is considered that the wider benefits of supporting the refurbishment of American Wharf can reasonably justify a less than market value transaction.

### **Capital**

- 18 The proposed reduction in market value is shown in the confidential appendix. The capital receipt plus any increase in line with increases in the Retail Price Index will be payable upon completion of the sale. This is likely to be 2 or 3 years from now.

## **Revenue**

19. There are no revenue implications.

## **Property**

20. In undertaking this transaction the Council must comply with all normal and prudent commercial practices and obtain clear and realistic professional valuation advice to verify the actual Undervalue. The under value has been verified and is as set out in the confidential appendix. The other main terms of the agreement are also set out in the confidential appendix.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

21. The GENERAL DISPOSAL CONSENT (ENGLAND) 2003 exists which removes the requirement for Local Authorities to seek specific approval from the Secretary of State for disposals at less than best consideration where the undervalue does not exceed £2 million and where the disposing Authority considers the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area or all or any persons resident or present in its area.

### **Other Legal Implications:**

22. Before deciding to Dispose at an Undervalue the Council must comply with a number of statutory and other obligations. It must :
- a) Keep firmly in mind its` accountability & fiduciary duty to local people – By assisting with this proposal new homes and business premises will be provided which will benefit local people.
  - b) Believe that it will help to secure promotion or improvement of the economic, social or environmental well-being of its area – This proposal complies with the City Priority Theme– “Getting the City Working” and with Strategic Objective 3 within the City of Southampton Strategy “A Dynamic Business Environment” through the promotion of economic prosperity in the City by assisting the provision of local businesses and enabling more residents to enjoy rewarding employment.
  - c) Ensure the Undervalue does not exceed £2M- the under value does not exceed this figure as detailed in the Confidential Appendix.
23. A State Aid issue on any price received under best consideration or by way of subsidy must be considered. However, in these circumstances, the issue is remote due to the market conditions and value. In addition, the fact that the sale at a lower price may save one of the city’s historical buildings that may otherwise be lost is a consideration

## **POLICY FRAMEWORK IMPLICATIONS**

24. This proposal complies with the Council’s Medium Term Plan and the City of Southampton Strategy.

## SUPPORTING DOCUMENTATION

### Appendices

1.	Heads of Terms / Developers Offer - Confidential
2.	Plan V2672 showing Council land cross hatched and American Wharf hatched.

### Documents In Members' Rooms

1.	None
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### Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules/Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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**Background documents available for inspection at:** N/A

**KEY DECISION?** NO

<b>WARDS/COMMUNITIES AFFECTED:</b>	BARGATE
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