

REPORT TO CABINET

REPORT OF: THE PROPERTY PERFORMANCE MANAGEMENT GROUP

REPORT NO. DLS48

DATE: 7th NOVEMBER 2005

| | |
|---|--|
| TITLE: | Use of Premises at Wake House Bourne by the Bourne Arts and Community Trust |
| KEY DECISION OR POLICY FRAMEWORK PROPOSAL: | No |

| | |
|--|---|
| COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION: | Councillor John Smith Portfolio: Economic |
| CORPORATE PRIORITY: | Town Centre Development |
| CRIME AND DISORDER IMPLICATIONS: | Minor |
| FREEDOM OF INFORMATION ACT IMPLICATIONS: | This report is publicly available on the Council's website www.southkesteven.gov.uk via the Local Democracy link |
| BACKGROUND PAPERS | Report to Cabinet dated 14th February 2005 |

1. INTRODUCTION

- 1.1 The Council is the freehold owner of the property shown edged red on the attached plan ("the Property"). The Property is leased to Bourne Arts and Community Trust for a period of five years ending on the 31st December 2005.
- 1.2 In accordance with the decision made by the portfolio holder on the 14th February 2005, the Council has been negotiating with the Bourne Arts Community Trust Limited to conclude a new lease of the Property excluding the car park on terms to be agreed.
- 1.3 The Trust requires a long term lease to enable them to make investment in the Property and carry out major repairs. The Trust has been reluctant to accept a lease at market rent with proviso for payment of that rent by the Council for a five year period only. A further short term lease for 5 years was proposed. This provides uncertainty for both parties. The Council will remain ultimately responsible for the building as landlord and the Trust will be unable to make investment in the Property and carry out improvements to the Property.
- 1.4 The current Lease to the Trust contains an option to purchase the Property for use for the purposes of the Trust only.

2. RECOMMENDATIONS

- 2.1 Considering the difficulties associated with any future lease of the Property, it is recommended the Cabinet:-
 - agree to the disposal of the Property to the Bourne Arts and Community Trust Limited at a price to be agreed with the District Valuer. The price will fully reflect the restricted use of the property by the Trust. The car park adjoining the Property be retained by the District Council for town centre development. The disposal to the Trust will be subject to the use of the premises for the Trust purposes only. In the event that the Trust ceases to exist and/or no longer occupies the Property then the property shall be sold back to the Council at a price set by the District Valuer using the same valuation basis. .
 - In the event that the Trust are unable to pursue the purchase of the Property prior to the 31st December 2005, it is recommended that the Cabinet agree a new short term Lease excluding the car park to enable the purchase to proceed.

3. DETAILS OF REPORT

- 3.1 The Council would wish to secure the future use of Wake House by the Trust. The presence of an active community trust in Bourne is complimentary to the Council's priority for town centre regeneration. It is uncertain this can be done by way of short term five year leases. The Trust is reluctant to accept a long term lease at a market rent after the first five years. It would be in both parties best interests for the freehold of the building to transfer to the Trust to enable them to continue to use the premises for the Trust purposes and invest money in the building without interference from the Council provided the building continues to be used for Trust

purposes by the Trust. In this way the Council would be able to secure a use for the Property for the benefit of the community.

- 3.2 In order to secure the Property for the benefit of the community, the Council would have to make sure the Property was only used for the purposes of the Trust. For so long as the Council retains the adjoining car park, it would have property which would enjoy the benefit of any such covenant imposed. On the disposal of the car park for town centre development, that benefit would pass to the new owner of the car park. The Council would not be able to enforce that covenant. For this reason it is proposed the Council impose a personal obligation on the Trust to sell the Property back to the Council in the event that they no longer wish to occupy the Property. If such an obligation is imposed, it could mean the Council does not obtain the best price for the Property.
- 3.3 The Council is able to consider a disposal of its land at less than best price by virtue of the General Disposal Consent 2005. Any disposal would have to be in accordance with that Consent. If the building can be secured for community benefit, the disposal could be in accordance with the General Disposal Consent.

4. OTHER OPTIONS CONSIDERED AND ASSESSED

4.1 Short term lease for five years at nominal rent

The Council could grant a new short term lease at a nominal rent provided it is prepared to commit to the payment of the rent for that period. Bearing in mind the Council's current priorities and future reassessment of such priorities, the Council cannot commit to a longer term than five years. The Trust would be prepared to except a short term Lease to enable the Trust to continue its use of the Property, however, it would not be able to invest in improvements on the Property and progress its proposals for the Trust.

4.2 Long term lease for period up to 25 years

If the Council were to commit to a long term lease, it could only do so at a market rent taking into account the restrictions on user imposed in respect of the Property that market rent would be considerably higher than the nominal rent currently paid by the Trustees and would have a significant impact on the amount available to the Trust to carry out improvements to the Property. The Trust is unable to commit to a long term lease at a market rent.

4.3 Disposal of the Property on the open market

The Council could sell the property on the open market to any buyer. This proposal has not been pursued because it would result in the loss of a building which is required for use for the benefit of the community.

5. COMMENTS OF THE DIRECTOR OF FINANCE AND STRATEGIC RESOURCES.

I support the recommendation contained in this report. The valuation of the property shall exclude the adjacent car park and will reflect the restriction that the property shall only be used by the Trust. In the event of the Trust no longer operating then the property shall be sold back to the Council using the same valuation basis.

6. COMMENTS OF CORPORATE MANAGER, DEMOCRATIC AND LEGAL SERVICES.

The report covers all options and requires no further comment

7. CONCLUSIONS

In conclusion, it would be appropriate for the Cabinet to make the decision in accordance with the recommendation included in this report to enable the Council to negotiate with the Trust to dispose of the freehold to them by no later than December 2006.

8. CONTACT OFFICER

Mrs L Youles, Solicitor to the Council – telephone 01476 406103, e-mail: l.youles@southkesteven.gov.uk