

Agenda Item No: 9.6 **Report No:** 94/17
Report Title: Turkish Baths, Lewes
Report To: Cabinet **Date:** 26th June 2017
Cabinet Member: Cllr Bill Giles
Ward(s) Affected: Lewes Bridge
Report By: Nazeya Hussain, Director of Regeneration and Planning

Contact Officer(s)-

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Purpose of Report:

To seek Cabinet approval to negotiate and conclude a lease of the Turkish Baths and also Thebes Annexe.

Officers Recommendation(s):

- 1** To delegate authority to the Director of Regeneration and Planning, in consultation with the Deputy Chief Executive, the Leader of the Council, and the Strategic Property Board, to negotiate and conclude Heads of Terms for a lease of the Turkish Baths and to authorise completion of a lease based on the Heads of Terms.
 - 2** To delegate authority to the Director of Regeneration and Planning to enter into contracts to undertake essential refurbishment works at the Turkish Baths, Friars Walk, Lewes at a cost of up to £171,600 (including fees and planning) so that the Council can meet its Statutory Obligation under the Energy Act 2011.
 - 3** To recognise that the proposal for agreeing a lease at the Turkish Baths is being made as an exception to the Council's policy of achieving an open market rent on all new leases.
 - 4** To delegate authority to the Director of Regeneration and Planning, in consultation with the Deputy Chief Executive, the Leader of the Council, and the Strategic Property Board, to negotiate and conclude Heads of Terms for a lease of the Thebes Annexe and to authorise completion of a lease based on the Heads of Terms.
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Reasons for Recommendations

- 1 To deliver best consideration for the Council in relation to its property assets in accordance with S123 of the Local Government Act 1972.

Information

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- 2.1 The Turkish Baths is a single-storey building located at Friar's Walk, Lewes. It was constructed in the late 19th century as a purpose-built Turkish Baths but no parts of the original baths remain, having closed as a Turkish Baths in 1882 (see Appendix A). The building is not listed and is not registered as an Asset of Community Value. However, it is within the conservation zone and the South Downs National Park.
- 2.2 The building previously housed the Council's print unit, but the service transferred to Eastbourne in June 2015. As a result, the building is now empty and the building is surplus to the requirements of the service.
- 2.3 The building has a net internal area (NIA) of around 2,000 sq ft with a 600 sq ft garden to the side. It is a substantial and attractive property, in reasonable condition which would benefit from improvement and modernisation.
- 2.4 In July 2016, Cabinet considered three options for the future management of the building. They were:
 - (a) Refurbishment.
 - (b) Letting the building in its current condition.
 - (c) Sale of the freehold
- 2.5 Cabinet opted to set aside capital funding to refurbish the building with the aim of maximising rental income. This approach is consistent with the aims set out in the emerging Asset Management Plan, subject to a decision on this Cabinet agenda, to deliver a sustainable asset base by 2021 by:
 - (a) Improving yield from the investment portfolio.
 - (b) Reducing maintenance costs and liabilities.
 - (c) Delivering efficiencies through smarter procurement.
 - (d) Increasing the capital value of the Council's asset base.
- 2.6 Additionally, new legislation as a result of the Energy Act 2011, places a statutory obligation on all commercial landlords to ensure that premises

which are let after 1st April 2018 meet an energy performance rating no lower than Rating E. The statutory obligation widens to include all commercially leased buildings by 1st April 2023.

- 2.7** The Turkish Baths do not currently meet the minimum requirements of the Energy Act 2011 and irrespective of who the building is eventually leased to, works are required to improve the glazing, insulation, heating, ventilation, and electrics. It is the Council's responsibility to bring the building up to a lettable standard and to reduce ongoing running costs for future tenants.
- 2.8** It would be possible to lease the building now in its current condition, however there are risks associated with not doing the work now to be ready for the Energy Act 2011 requirements in 2023. A further six years of poor insulation and ventilation would be likely to accelerate the deterioration that is currently evident, leading to increased refurbishment costs.
- 2.9** There is a lot of wasted space within the building and the layout could be improved, making it more attractive to a wider range of prospective tenants. At the same time as carrying out the energy performance improvement works, it was also proposed to take down the internal walls and replace with a steel support, opening up the building to offer a more flexible floorspace. These works are not essential, and could be negotiated with prospective tenants.
- 2.10** The cost of refurbishment had been previously estimated at up to £220,000 (to include professional fees). A tender exercise was carried out and the lowest tender was £156,000 plus fees at 10%.
- 2.11** The proposed refurbishment would also improve the asset value. The building was valued at £250,000 in Feb 2015, but if the refurbishment was completed sympathetically, the resulting valuation could be £600,000 and would meet one of the aims of the emerging Asset Management Plan.
- 2.12** In December 2016, a petition was received by the Council which stated:
- "We the undersigned call upon Lewes District Council to fully explore a range of options for the future use of the building called the Turkish Baths in Friars Walk, Lewes. These options should include exploring the potential for a creative hub and other uses not relying on full refurbishment prior to use and ways to ensure that this public building remains accessible and used by a wide section of the local community."*
- 2.13** The petition was debated and referred to Scrutiny and Overview in March. At the Scrutiny meeting, two groups with a community interest were invited to present their vision for how the Turkish Baths could be used to promote economic, regeneration, and social value in the town. Both groups also highlighted that there may be alternative means of funding capital works through bids to external organisations.

- 2.14** Scrutiny have recommended that Cabinet review whether it is possible to let the building on terms which take into account economic, regeneration, and social value. This aim could be achieved either by letting the building with minimum refurbishments and therefore adjusting the anticipated rental income to deliver a good yield while making it affordable for a number of community-related groups; or by acknowledging the external funding opportunities a community group may be able to access, therefore reducing the amount of capital the Council would be required to invest.
- 2.15** There has been (and continues to be) considerable interest from a broad range of people who would like to lease the Turkish Baths. Some of these interests are purely commercial, including local businesses seeking to establish in the town or expand; and some are more community led. To ensure fairness to all, it is recommended that the building is marketed in a two-stage process as follows:
- (a)** Interested parties will be asked to complete an Expression of Interest which will then be assessed by officers (see Appendix B). The form has been developed to enable a fair assessment of strengths and weaknesses in each bid, therefore it should be easier to compare a purely commercial bid against a one which has stronger community benefits.
 - (b)** Those shortlisted as a result of the Expression of Interest will be asked to submit their Best and Final Heads of Terms. The results will be summarised and presented to the Director of Regeneration and Planning in consultation with the Deputy Chief Executive and Strategic Property Board.
- 2.16** The selection criteria will be a mix of qualitative and financial proposals. The criteria will be weighted with a total potential score of 100 as follows:
- (a)** Site use (20 marks)
 - (b)** Community benefit (20 marks)
 - (c)** Deliverability (eg business and project management, and funding) (20 marks)
 - (d)** Commencement (20 marks)
 - (e)** Indicative financial offer (20 marks)
- 2.17** To be shortlisted, bidders will need to score a minimum of 5 marks against each criteria.
- 2.18** It is also recommended that the Council proceeds with the works to improve the energy efficiency rating of the building, as without doing so, it will be unlawful to either issue a new lease after April 2018, or to continue to lease the building after April 2023, and there is a risk that the costs of such work will increase over time.

- 2.19 There is also an opportunity to issue a new short-term lease at Thebes Annexe, which may offer an alternative option to a community-led group to the Turkish Baths. It is recommended that both opportunities are marketed simultaneously using the same criteria and methodology.

Financial Appraisal

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- 3.1 The Council is able to borrow to fund capital expenditure on the purchase, improvement or enhancement of General Fund property assets. Before borrowing for capital purposes, it is necessary to ensure that it is prudent to do so, ie that the General Fund budget can afford any interest cost associated with the borrowing and to repay the amount borrowed over an appropriate period of time.
- 3.2 In the case of this project, the borrowing test is met with the additional annual borrowing costs expected to be outweighed by the additional rental income which will be generated. Following Cabinet's decision in July 2016, an allocation for this project was made within the Capital Programme and this remains available in 2017/2018 at an adjusted cost of £172,000.

Legal Implications

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Section 123 Local Government Act 1972

- 4.1 The Turkish Baths are held by the Council in the general fund rather than the HRA. Local authorities have the power to dispose of general fund land in any manner they see fit so long as they obtain the best consideration reasonably obtainable.

*In determining "best consideration" the **only** consideration that can be taken into account is that which has commercial or monetary value to the local authority so, for example, an undertaking by a purchaser to create a number of jobs for people in the area cannot be taken into account.*

This obligation to obtain the best consideration does not apply where:

- (a) the (explicit) consent of the Secretary of State has been obtained;
- (b) where the disposal of land is by way of a short tenancy (less than seven years); or
- (c) where the General Consent 2003 applies.

- 4.2** The General Consent 2003 permits local authorities to dispose of land at an undervalue of up to £2m where the disposal will promote the economic, social or environmental well-being of a local authority's area. Specific consent from the Secretary of State is not necessary where the General Consent applies. The General Consent is wide in scope and is a mechanism used where a local authority wishes to dispose of property at an undervalue as a means of recognising the social value of a particular disposal.

State aid and other issues

- 4.3** Aside from the issue of best consideration, if publicly owned land is disposed of at less than best consideration, the local authority is providing a subsidy to the purchaser. Therefore, where a local authority disposes of land at an under value there is a risk that the disposal may breach state aid rules.

A disposal at an under value is only state aid if it distorts or threatens to distort competition within the EU. There is no state aid where an organisation is carrying out activities which do not affect cross-border trade between EU member states. Local community uses are likely to fall within this description and therefore any disposal at an undervalue for the purposes of a community use is unlikely to constitute state aid.

Where the disposal does amount to state aid there is potential for it to be lawful aid in particular circumstances, including what is known as "de minimis" state aid. This is aid granted to a single undertaking up to £200,000 over a rolling three year period. The financial ceiling of £200,000 covers aid received from any part of the UK state over the rolling period and includes aid from other UK public bodies. It is not limited to aid received from the council giving the proposed aid.

- 4.4** Any decision by the Director under the delegated powers set out in recommendation 1 above will have to comply with the rules relating to best consideration and state aid.

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Risk Management Implications

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- 5.1** Being unable to let the property once modernised presents the largest risk. However, there are few vacant commercial properties of this size in Lewes and the Premier Inn is anticipated to bring new footfall and interest into the Friar's Walk area. With the level of interest already

shown in the building, it is thought that the risk of the building remaining empty post-refurbishment is low.

Equality Screening

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- 6.1** Equality impacts will be a consideration when assessing the Expressions of Interest.
- 6.2** Refurbishing the building to bring it up to modern standards, including improving accessibility, will bring positive impacts for many people who are protected under the Equality Act 2010.
- 6.3** All property decisions will have reference to the Asset Management Plan (also on this Cabinet agenda) and the policies that support the delivery of the Plan.

Background Papers

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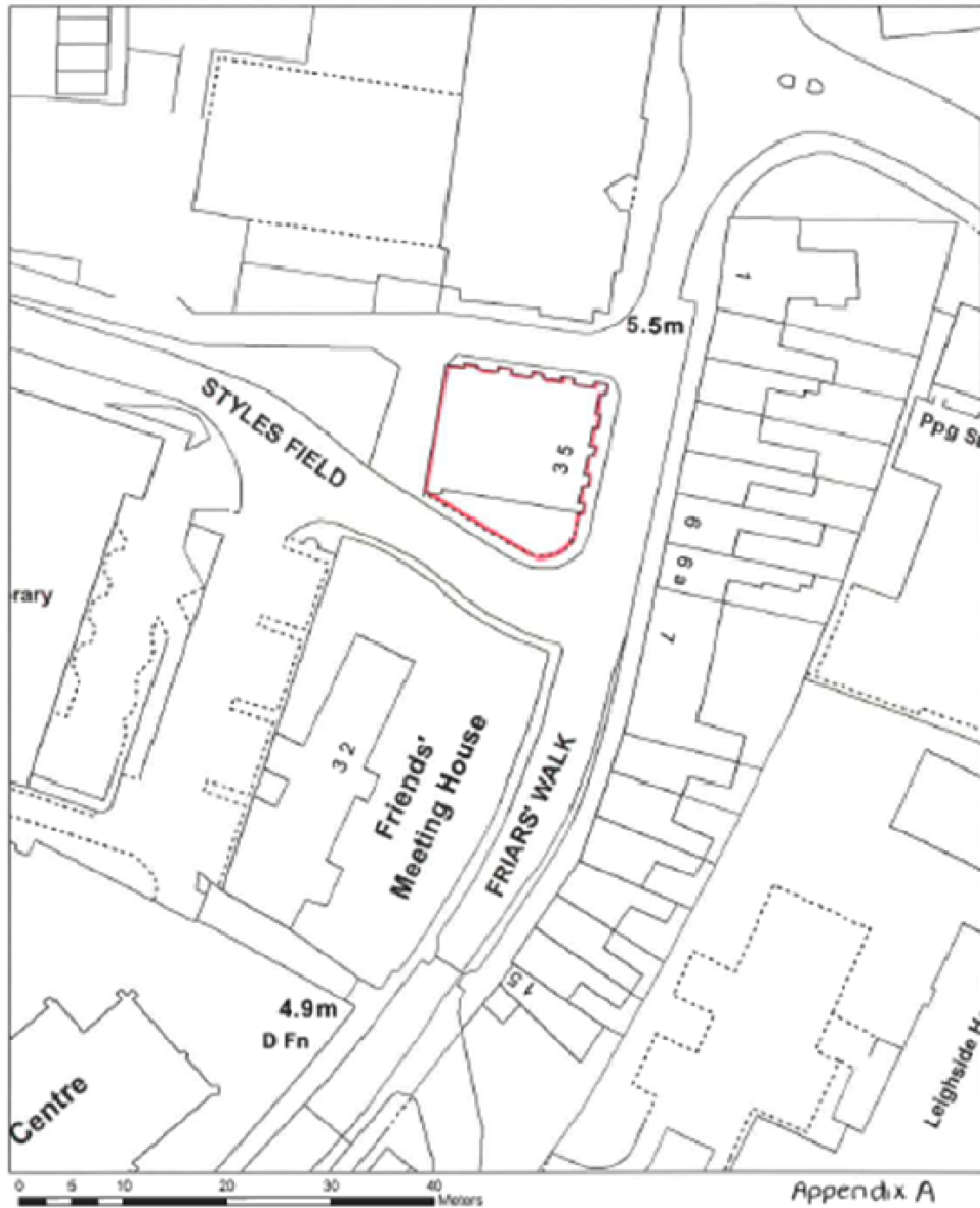
Appendices

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Appendix A: Plan of land at Friar's Walk, Lewes

Appendix B: Proposed Expression of Interest Assessment Form

Appendix A



Turkish Baths, Lewes

Date: 23/05/2016

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Appendix B

PURPOSE OF THIS DOCUMENT

To determine the proposed use of the building to enable a fair and equal assessment of bids where there is more than one interested party.

Act as a base document against which the viability of the proposal can be assessed.

To determine what level of support (financial or other resources) may be required from LDC

PROPERTY PROPOSAL

Property Name:			
Organisation			
Name			
Position in Organisation:			
Address:			
Telephone:			
Email:			
Type of organisation			
Registered Charity		Company limited by guarantee	
Company limited by shares		Community Interest Company	
Unincorporated club or association		Public Sector	
Other (please specify)		Registration Number	

1. EXECUTIVE SUMMARY

Outline the proposed use of the building (or part of) – to include output(s) and tangible benefits expected from the proposal along with any measurement of success (where applicable). You may continue on a separate sheet if necessary.

2. PROPOSAL DETAILS

Does the proposal involve all or part of the building?	
If part, please identify approximate square footage required.	
Is there a specific area within the building that is key to the viability of the proposal? Please specify	
Would you consider a collaborative proposal with another organisation?	
Does the proposal involve a change of use of the building?	
Does the proposal involve any exterior or interior work? <i>If so, please submit no more than 1 side of A4 detailing the work needed, who would be responsible and how it would be funded.</i>	
Please specify how much per square foot (exclusive of rates and utilities) you would expect to pay in rent.	
There is no parking at the Turkish Baths, how will you manage your parking requirements?	
Length of lease required	
Preferred commencement date	
Does your proposal involve underletting?	

3. EXTERNAL FUNDING (where applicable)

3.1 Are there any expected sources of external funding / capital receipts to deliver the proposal or to cover on-going costs?

Funding Source	Amount	Comments
Total		

Externally-sourced professional advice / consultants / contractors

3.3 Additional comments on the financial information (if applicable)

Please note, for example, if the figures are estimated. Please indicate any assumptions and whether these figures are fixed or liable to increase over time.

4. ASSUMPTIONS AND RISK

The scope of this proposal includes	
This proposal does not include	

4.2 RISKS

Please state and explain the most significant risks to the successful completion of the proposal, and how they can be mitigated. Examples may include planning or leasing issues or unconfirmed external funding.

Risk	Likelihood (low = 1, high = 3)	Impact (low = 1, high = 3)	Mitigation

4.1 ASSUMPTIONS

Have any assumptions been made? E.g. grant scheme continues; key staff in place at start etc.

4.3 STAKEHOLDERS - including customers

Who has a stake in the proposal? Identify those whose interests may be affected.

4.5 EQUALITY

Explain how the proposal will meet the requirements of the Equality Act 2010.

4.4 ENVIRONMENT AND SUSTAINABILITY

Please describe the environmental impact of this proposal and explain how this will be managed. Include both positive and negative impacts.

Authorised Signatory

This section must be signed by someone authorised by the organisation (eg Chairperson). An electronic signature is acceptable.

I confirm that to the best of my knowledge and belief, all the information in this Expression of Interest is true and correct. I understand that, should this proposal be further developed, you may ask for additional information at any stage of the application process.

Signed		Print name	
Position		Date	