



## **Delegated Officer Report**

NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and it is not in the public interest to disclose the information because it includes the financial and business affairs of an individual and/or the parties concerned.

**Decision Maker:** **Helen Lockwood - Deputy Chief Executive – People and Place**

**Date of Decision:** **12<sup>th</sup> December 2018**

**Subject:** **Brownhill Visitors Centre, Wool Road, Dobcross, Oldham (L01223)**

**Report Author:** **Nikolaj Dockree, Senior Consultant Surveyor, Unity Partnership Ex.4146**

**Ward:** **Saddleworth North Ward**

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**Reason for the decision:** The purpose of this report is to confirm that the subject property is surplus to the Council's operational requirements and Officers are authorised to dispose of the property via either a private treaty sale to the existing lessee or via Auction at the earliest opportunity.

**Summary:** **Background**

Under its continuing commitment to good Asset Management Planning, the Council seeks to make best use of its land and property assets. It therefore looks to identify land and property surplus to the Council's requirements that can be disposed of to generate a capital receipt and reduce operational costs to support service delivery.

The café is a popular local destination and the business is well run and likely to continue to grow.

The current rent is inclusive of service charge, but not surprisingly in view of neither party being aware of the drainage situation at the outset, the lease is silent with regard to recovery of costs associated with emptying the septic tank, which occurs on weekly basis. This means that drainage costs cannot be recovered from the tenant by virtue of the service charge. Furthermore, the Council currently meets all utility costs for the building which are not separately metered for the two floors.

Regular septic tank servicing has been arranged by the Council at an annual and non-recoverable cost of circa £60,000.

There is no obligation on the Council arising from the lease to provide the drainage service to Mr & Mrs Stewart's business. This means that technically the Council does not have to service the septic tank. However the Council has set a precedent by servicing the septic tank for many years so withdrawing the service could cause adverse publicity.

The Council holds the Freehold interest.

### **Current Position**

Negotiations have opened with the existing tenant regarding a possible lease renewal. This includes a discussion on the management of the on site septic tank.

The Visitor Centre has now closed leaving the first floor vacant.

The proposed rent for ground and first floors **exclusive** of service charge would be circa £15,000 pa. The tenant is represented by a surveyor and he is aware of the fact that drainage relies upon the septic tank and that the associated drainage servicing costs are substantial.

**What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):**

### **Option 1**

To retain the property and agree a new lease with the existing tenant.

This option is not recommended as the Council

has no further operational use for the visitor Centre Property and its retention would create an on-going maintenance responsibility & revenue liability due to the cost of emptying the septic tank.

### **Option 2**

The sale of the property with vacant possession. This will require the Council to serve a hostile s.25 notice to remove the tenant on the basis of development. The necessary evidence of intention to develop by the Council would have to be established to proceed on this statutory ground and compensation in a sum equal to twice the annual rateable value of the part of the building which is let would also be due to the dispossessed tenant. This option will result in additional costs for the Council and most likely a challenge from the tenant as to the Council's intention to develop so this option is not recommended.

### **Option 3**

The sale of the freehold to the existing tenant via a private treaty sale. In parallel the asset will be prepared for and entered into an Auction on the basis of the tenant remaining in situ. This is proposed to ensure an agreed time line is worked towards. If the Private treaty sale is concluded before the Auction date, the asset will be sold to the existing tenant

The Council will include a buy back provision at Auction if the tenant vacates and the site is not developed within 3 years so to protect the Councils commercial position.

The authority to agree the private treaty price and auction reserve is to be delegated to the Interim Director of Economy & Skills prior to Auction.

#### **Consultation :**

Consultation has been undertaken with the following: Legal, Finance, Ward Councillors and Property.

#### **Ward Member Consultations :**

8.12.18 – Cllr G Harkness – “I think that is a reasonable plan”

**Recommendation(s):** The preferred option / recommendation is to approve **OPTION 3.**

As part of the terms of sale, it is proposed that the Council seeks to recover its professional fees. It is proposed that these amount to £3,000 including disbursements.

**Implications:**

**What are the financial implications?**

**Capital Implications**

The proposal would be a disposal of asset number L01223 which has a total current net book value of £255,159 as at 31 March 2018 in the Council's asset register and balance sheet.

The net book value represents the value that those assets are held at. Any profit or loss on sale will be reflected in the balance sheet of the Council and not impact on the revenue position.

The disposal would realise a potential capital receipt, yet to be agreed, which is not included in current or future estimates, which in turn would be wholly available to support the Council's capital programme.

(Jit Kara)

**Revenue Implications**

Oldham Council holds a budget of £46k per annum for the asset within the Corporate Landlord service area. However, the actual expenditure being incurred is £76k pa, principally due to additional costs relating to the septic tank.

Following the sale of the asset, the adverse variance compared to budget will be removed and the available budget will be allocated to support the other assets held within the Corporate Landlord service area.

The Council will seek to recover professional fees, including any disbursements, up to £3k.

(Jamie Kelly)

**What are the *procurement* implications?**

None

**What are the *legal* implications?**

By virtue of Section 123 of the Local

Government Act 1972 the Council has the necessary statutory powers of disposal of land.

On a disposal of its land under Section 123 the Council is under a statutory obligation to obtain the open market value of the interest and best consideration that can reasonably be obtained unless the consent of the Secretary of State is obtained or an exemption applies. It is prudent that an independent valuation is obtained in order to demonstrate that best consideration is being obtained.

Any marketing exercise must follow due process and be carried out in accordance with the principles of fairness, equality, proportionality and transparency. It is recommended that heads of terms are kept flexible to allow for reasonable negotiation during the legal process and amendments required by legal officers acting for the Council.

Any procurement of works or services must comply with the Council's Contract Procedure Rules.

The exemption from publication is justified on the category stated in the report.

The report author has confirmed that the Council's Land and Property Protocols have been complied with. (Rebecca Boyle)

**What are the Human Resources implications?**

None

**Equality and Diversity Impact Assessment** attached or not required because (please give reason)

None

**What are the property implications:**

Property Implications are fully covered within this report. (Rosalyn Smith)

**Risks:**

None

**Co-operative agenda:**

The reduction and / or efficiency improvement of the Council's property portfolio is fully aligned with the Council's Cooperative agenda.

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with

Yes

the Council's Constitution?

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

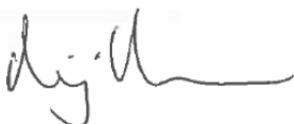
Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

**Reason(s) for exemption from publication:**

Information relating to the financial or business affairs of any particular person including the Council

**List of Background Papers under Section 100D of the Local Government Act 1972:**

Title	Available from
	Unity Partnership (Property Services), Henshaw House, Cheapside, Oldham OL1 1NY

<b>Report Sign-off:</b> Nikolaj Dockree Senior Consultant Surveyor Unity Partnership	
<b>Date: 10<sup>th</sup> December 2018</b>	

Please list and attach any appendices:

Appendix number or letter	Description
Appendix 1	Site Plan
Appendix 2	Site Photos

**In consultation with:**

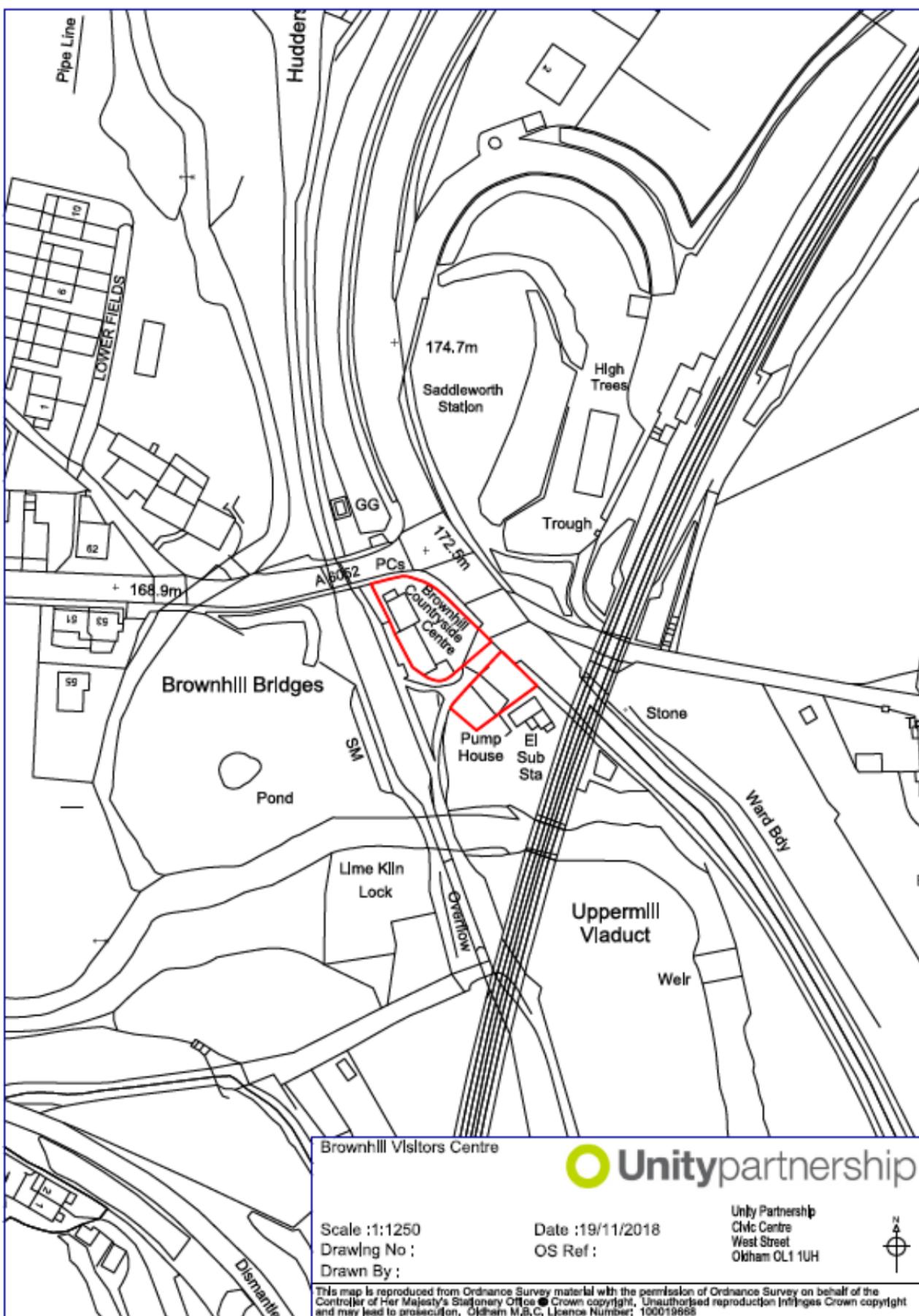
Helen Lockwood - Deputy Chief Executive – People and Place

Signed:



Date: 12 December 2018

## APPENDIX 1 – SITE PLAN



## **APPENDIX 2 – SITE PHOTOGRAPHS**

