

Lease of premises at North Lodge Park, Cromer

Summary: The District Council owns a premises, formerly used as café/tea room and nursery along with adjoining public toilets at North Lodge Park, Cromer.

The premises were advertised to let during 2022 and a number of bids have been received. These bids have been reviewed and assessed and recommendations are now made to Cabinet regarding a lease proposal.

Options considered: A variety of bids with different use options have been received and considered in detail.

As this asset is an integral part of North Lodge Park and its rental income supports Council services an alternative option to dispose of the premises was considered and discounted.

1. Proposal ref 1 outlined in the exempt Appendix A would demonstrate best financial consideration in accordance with s.123 Local Government Act 1972 and is the option recommended by officers
2. Proposals 2, 3, 4 and 5 in Appendix A may be considered where Members are satisfied that such bid promotes or improves social well-being in the whole or part of its area to such an extent that the general rule of best financial value should be departed from.*
3. The remaining proposals are of significantly lower financial value and these proposals are unlikely to meet best value consideration

Where departing from the best financial value option set out at option 1 above, any reason for the decision would need to detail that the lease disposal is likely to contribute to the promotion or improvement of social, economic or environmental well-being.

Conclusions: Following advertising of the vacant premises on the open market, ten bids were received for the lease of the Seaview buildings at North Lodge Park. Due diligence has been undertaken on each of these bids as outlined in section 2 of the report. Recommendation 1 is the officer recommendation on the basis of best financial value, but an alternative option, above, is provided for Members to consider where they are satisfied that another bid promotes the improvement of social well-being to such an extent that the general rule of best financial value, should be departed from.

Recommendations: It is recommended that Cabinet:
 Approve proposal ref: 1 as outlined in the exempt appendix A which demonstrates best financial consideration, in accordance with s123 of the LGA Act 1972

Reasons for Recommendations: A lease of the premises which brings the building back into use and will see an improvement in the Park through tenant investment. The proposal will generate income that will be used to fund Council services.

Where departing from the best financial value, if a bid in option 2 above is approved, the reasons for disposal will need to have regard to the contribution of that bid to the promotion or improvement of social, economic or environmental well-being.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

--

Cabinet Member(s) Cllr. E Seward	Ward(s) affected Suffield Park and Cromer Town wards
Contact Officer, telephone number and email: Renata Garfoot. Asset Strategy Manager. Tel: 01263 516086 Email: Renata.garfoot@north-norfolk.gov.uk	

1. Introduction

1.1 As part of the wider North Lodge Park land-holding, the District Council owns the freehold of a single storey detached group of properties known generally as Seaview. In this report the term ‘Seaview Premises’ is used to describe the whole of the detached premises comprising the former nursery, café/tea room and the public toilets. A plan is attached.

1.2 The building comprises:

- Former nursery premises - approximately 137.3 sq.m (1,478 sq.ft)
- Former café/tearoom - approximately 38.8 sq.m (418 sq.ft)
- Separate Male and Female public toilets - approximately 17 sq.m (183 sq.ft) which are in need of improvement. It is intended that these are replaced with new facilities as part of the North Lodge Park former tennis court lease arrangement agreed with the Friends of North

Lodge Park with a planning application having been recently submitted for those proposals by Cromer Town Council.

2. Letting

- 2.1 Following advertising of the premises on the open market, ten proposals were received from a range of businesses. A summary of these proposals can be found in the exempt Appendix A.
- 2.2 Officers have reviewed and assessed the bids for best consideration taking into account the requirements of Section 123 of the Local Government Act 1972 and the General Disposals Consent Order 2003 which considers issues of economic, social and environmental well-being. The following information was reviewed:
- Rent and rental terms including rent free periods, stepped rent
 - Lease term including break options and any lease conditions
 - Proposed use
 - Improvements to the buildings and their operations that support decarbonisation and climate change priorities.
 - Tenant covenant strength – is it an existing or new business, level of experience
 - Competition, financial, and economic risks
 - Potential planning or consent risks for change of use or alterations
 - Issues of community / social value
- 2.3 The governance process seeking consent to lease the premises was delayed in the latter part of 2022 to allow for the outcome of the Levelling Up bid for the Cromer seafront area, including proposals for North Lodge Park, to be known. As that has since been concluded, Officers now seek formal approval from Cabinet to the proposal as outlined in exempt Appendix B.

3. Corporate Plan Objectives and Council Policies

- 3.1 The redevelopment of the asset and lease will contribute to the following Corporate Priorities:
- Boosting Business Sustainability and Growth by providing commercial premises for long term lease.
 - Climate, Coast and the Environment with tenants improvements to support decarbonisation.
 - Financial Sustainability and Growth by providing income generation for the Council.
 - Quality of Life through the regeneration of North Lodge Park
- 3.2 In relation to Council's Policy, "Toilet Provision in Premises Open to the Public", Officers recommend that there is a single occupier for the whole of the Seaview premises, and not to lease parts of the premises separately.

The reason for this is that the former café/tearoom does not have the required internal toilet facilities that this policy requires and it would not be feasible or viable to either incorporate the existing public toilets (due to ground level changes) or to extend the café to construct new facilities.

- 3.3 The Council's Asset Management Plan and Commercial Property Strategy, states that "The Council will seek rents from its existing commercial land and property portfolio and any new acquisitions, that reflects the current open market rental values in that area. It is important to optimise the level of rental income where possible as this revenue is used to fund Council services people value" The strategy seeks tenants with strong covenant/financial strength. New startup businesses may not be able to offer such assurance and, as appropriate, the Council may seek a guarantor or deposit or different payment terms to minimise such risk exposure.

4. Medium Term Financial Strategy

- 4.1 The rent and tenant investment of the recommended proposal will support the MTFS in creating new income from a vacant and partially obsolete range of premises.
- 4.2 The recommended proposal rent is an increase on the overall income previously obtained.
- 4.3 The financial return to the Council is above the 4% average as recommended in the Councils Asset Management Plan, seeks to optimise rental income to support Council services.

5. Financial and Resource Implications

- 5.1 The Council has a duty under s.123 Local Government Act 1972 to obtain best value. The starting position is that best financial consideration be obtained, though a departure from this may be permitted in certain circumstances, including where it is considered that the disposal is likely to achieve one of the objectives in the General Disposals Consent Order 2003, one of which is where the disposal is likely to contribute to the promotion or improvement of social well-being in the whole or part of its area, of all or any residents in its area.
- 5.2 An independent valuation of the premises for lease purposes has been undertaken and a summary can be found in the exempt Appendix B.
- 5.3 Officers recommended proposal would not require Council investment into the property as the tenant would undertake the improvement works and the ongoing repairs and maintenance liability would fall to the tenant during the lease term.

6. Legal Implications

- 6.1 Local Authorities are able under the Local Government Act 1972 to dispose of land (including leasing) for the best consideration that can reasonably be obtained. Best consideration is not limited to the purchase price or rental value but may include a term or condition attached to the disposal which identifies a specific commercial benefit to the vendor.
- 6.2 Exceptions to the best financial value principle, in relation to this specific

case, is with either consent from the Secretary of State, or utilising The LGA 1972 General Disposal Consent that enables the Council to consider a lease disposal at less than best financial consideration if there are clear environmental, social or economic benefits and that the under value is less than £2,000,000.

- 6.3 Where an offer at less than best consideration is considered the Subsidy Control Act 2022 may apply. Whilst a Minimal Financial Assistance (MFA) allows public authorities to award low-value subsidies up to £315,000 in certain instances and where the subsidy is over £100,000, such decisions are subject to transparency rules.
- 6.4 Legal advice has been obtained regarding the Councils public law obligations for the lease of the premises - See Exempt Appendix C.
- 6.5 Whilst some lease proposals received are for long-term leases being above a 10 year term, Officers would require a Landlord break to enable the Council to review its position at that point. It would allow the Council if it needed to, break from the lease.

7. Risks

- 7.1 Financial risks of a building remaining empty and becoming an increasing repair liability will cease with the lease proposal.
- 7.2 Usual asset management risks include rent arrears and tenant dilapidations, however the risks have been considered as part of the due diligence.
- 7.3 Potential missed opportunities for proposals to contribute to the wider regeneration of North Lodge Park through the premises accommodating uses which drive footfall, serve as a destination / attraction in their own right.
- 7.4 Specific risks around each proposal and best consideration risks are outlined in the exempt appendix.

8. Sustainability

- 8.1 A lease of the premises will help support the sustainability of the North Lodge Park for the community.

9. Climate / Carbon impact

- 9.1 The current energy performance certificate information for the premises are as follows:

Building	EPC Rating	Heating	Building emission rate (kgCO2/m2)	Primary Energy use (required for lighting, heating, hot water)
Nursery	C	Gas	87.48	505
Café	E	Electric	171.43	1014
Toilets	N/A	None	-	-

- 9.2 The bids received included a range of decarbonisation and environmentally friendly initiatives. These were considered as part of the due diligence process which included an analysis of the environmental and social benefits of each proposal. This can be found in the exempt Appendix B.

- 9.3 The Council is developing a template green lease that will require tenants to positively contribute to the Council's Net Zero priorities and not undertake works to the premises that might have a negative impact. This document will be utilised for this letting.

10. Equality and Diversity

- 10.1 Having marketed the premises on the open market and all bids have been assessed on equal terms, there are no direct implications with the proposed lease. The ingoing tenant will need to comply with relevant legislation in connection with the operation of their business.

11. Section 17 Crime and Disorder considerations

- 11.1 There are no direct implications.

12. Conclusion and Recommendations

- 12.1 Following advertising of the vacant premises on the open market, ten bids were received for the lease of the Seaview buildings at North Lodge Park.
- 12.2 Due diligence has since been undertaken on each of these bids as outlined in section 2 of the report.
- 12.3 Options have been identified for consideration.

It is recommended that Cabinet:

- 1) Approve proposal reference 1 as outlined in the exempt appendix A which demonstrates best financial consideration in accordance with s123 of the LGA Act 1972.**

Note:- Recommendation 1 is the officer recommendation on the basis of best financial value, but alternative options are provided for Members to consider where they are satisfied that another bid promotes the improvement of social well-being to such an extent that the general rule of best financial value, should be departed from.