



ECONOMY REGENERATION & HOUSING COMMITTEE

19 October 2022

REPORT TITLE:	DOMINICK HOUSE, LISCARD
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

Further to the report to the meeting of the Economy Regeneration and Development Committee of 29th September 2021 (minute 30/2021 refers), this report seeks renewed consideration of the offer made to the Council for sale of the Council's freehold interest in the property, Dominick House to the lessee who wishes to develop the property from its previous use for office accommodation into residential apartments. The report also sets out other options for consideration.

The Wirral Plan 2021-2026 has been developed and the focus covers the following five themes:

- Safe & Pleasant Communities
- Brighter Futures
- Active and Healthy Lives
- Sustainable Environment
- Inclusive Economy

This proposal delivers in some form against most of the above themes.

The proposals within this report have an implication on Liscard ward.

The matter is not a key decision.

RECOMMENDATION

The Economy Regeneration and Housing Committee is recommended to consider the options set out in this report and authorise the Director of Regeneration and Place to take steps accordingly.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

- 1.1 To respond to the lessee's request for the sale of the Council's freehold interest in Dominick House.
- 1.2 To seek a means to enable the lessee to have sufficient legal interest in the property to convert and develop the property from office accommodation to residential accommodation.
- 1.3 To consider options to prevent the property becoming subject to deterioration or anti-social behaviour.

2.0 OPTIONS TO BE CONSIDERED

- 2.1 Agree to the sale of the freehold of the property to Prospect Estates Limited at the price of £230,000. This would generate a capital receipt in the place of the current rent but would enable the lessee to deliver a residential conversion of the property. The sum reflects the value of the Council's freehold interest, being the right to receive an income for the remainder of the lease term. Further valuation modelling to reflect the combining of the interests and potential for residential conversion does not show any significant increase. However, if this option were pursued provision should be included in any sale that the purchaser will not be permitted to undertake an onward sale of the property without the Council's consent within a period of 5 years.
- 2.2 The Council could seek to agree an extension of years to the current lease which could give the lessee sufficient lease term to enable the development of the property. Agreement would need to be reached as to the premium and level of any annual rent. This would enable the Council to retain a legal interest in the property with some ability to enforce the provisions of the lease. The lease would need to be drafted in such a way as to permit conversion to residential use but would not provide the opportunity to control the quality of the scheme. This would not be a preferred option for the buyer and would still only give very limited control to the Council and is not recommended.
- 2.3 The Council could seek to acquire the lessee's interest. Whilst it should be noted that an earlier offer by the Council to purchase the leasehold interest from the current lessee was rejected, further investigation of this option could be progressed. If this option were progressed the respective interests of the parties would merge and the lease would fall away. This would provide the Council with the opportunity to control the development of the property either directly with a procured partner or by a back-to-back sale under a specific development scheme. It should be noted that in acquiring the Leasehold the Council would also be taking on the responsibilities and liabilities which would include maintenance and holding costs.
- 2.4 Do nothing. This would continue the current position with the lessee and also may require the Council to seek to enforce provisions in the lease as to the condition of the building and attempt to avoid anti-social behaviour which the building can attract and its continued physical deterioration.

2.5 The Council could seek to compulsorily purchase the lessee's interest. This could be a protracted, uncertain and costly process and is not recommended.

3.0 BACKGROUND INFORMATION

3.1 The Economy, Regeneration and Development Committee considered a report at its meeting of 29th September 2021, which set out the background and current position in terms of the negotiations with the current lessee of Dominick House to sell the Council's freehold interest. The decision of the Committee was to note the position at that time (minute 30/2021 refers).

3.2 Dominick House is a five-storey office building which was constructed around 1970 and is centrally located in Liscard adjacent to the Cherry Tree shopping centre. The Council owns the freehold interest of the property, but the building is held on a long lease which is now owned by Prospect Estates. The lease was granted on 1st July 1970 for a term of 99 years and currently attracts a rent of £16,727 p.a.

3.3 The building, which comprises approximately 22,580 sq ft of offices, was built by the original lessee. From construction until 2018 the building was occupied through a sub-lease by the Secretary of State for Communities and Local Government but following its vacation, has remained vacant since. The nature of the building has meant that it is now not readily lettable as offices to a single occupier and marketing efforts by the previous lessee have demonstrated that there would be no demand for this use. The current lessee advises that it has stripped out the building in anticipation of a conversion to residential use.

3.4 The Council's freehold interest in this property has previously been identified for a possible sale to generate a capital receipt. At that time, the lessee, Espalier Property Project 008 Ltd, expressed an interest in acquiring the Council's freehold which would enable them to combine the interests to give them an unencumbered ownership which would enable more flexibility in any future plans. Consequently, a sale price in the sum of £230,000 was agreed and Cabinet Member approval to the sale was granted in January 2019.

3.5 The sale did not proceed and Espalier's interests were later acquired by Prospect Estates Limited who now currently own the long leasehold interest. Following the purchase Prospect Estates Ltd approached the Council about buying the freehold interest and had initially agreed to match the figure accepted by Espalier.

3.6 The proposal is to convert the property to residential accommodation. Three separate planning applications for prior approval on the site has been obtained under the following application references:

- 20/00233 – change from B1 to 50 residential units
- 20/00234 - change from B1 to 54 residential units
- 20/00235 – change from B1 to 70 residential units

The current lessee also asserts that they would have consent to develop 45 apartments across the 5 floors under Permitted Development rights.

- 3.7 The matter was reported by the Assistant Chief Executive to this Committee on 29th September 2021 and the minutes record that he “provided background to matters relating to Dominick House and informed members of current discussions with the leaseholder. Selling of the freehold had been agreed by Cabinet but the Council had been cautious about the selling over concerns about the management of the building and about the type of residential community that could result”.
- 3.8 Since that meeting the property has been the subject of significant anti-social behaviour. The anti-social behaviour has resulted in a fire and the Fire Service has expressed concern around the risk of further fires, particularly given the size and height of the building and its proximity to other properties. It is clear that the position with regards to the property needs to progress.
- 3.9 It should be noted that if the Council sells its interest, its control over the form of development of the site would be through the usual Planning and Building Regulations. The lessee has continued dialogue with Council officers and has sought to provide some more assurances over its proposals for the building. Examples of previous similar schemes that have been developed by Prospect Estates are:
- Melbourne House, Eastgate, Accrington – Change of use of former offices to 31 residential apartments;
 - Douro House, Willington Road South, Stockport – Change of use of former offices to 24 residential apartments;
 - Camera House, Tatham Street, Sunderland – Change of use of vacant building to 50 residential units;
 - Regent House, Regent Street, Barnsley – Change of use of offices to 54 residential units; and
 - Raines House, Deby Dale Road, Wakefield – Change of use of offices to 46 residential units.
- 3.10 Prospect Estates Limited has continued to offer to purchase the freehold at the price agreed with their predecessor of £230,000, based on their stated potential to deliver the scheme. In pressing its desire to purchase the property the company has expressed what they see as its frustration at the perceived lack of progress on this matter given that the offer to purchase the freehold was made over two years ago. The company is seeking a decision and point out that the building is sitting derelict in the middle of Liscard, with no benefit to anyone. They point to the benefits of the development of this derelict site in that luxury affordable apartments would be of mutual benefit to all parties and would provide some much needed regeneration, and homes, to the area and people of Liscard.
- 3.11 The relevant options are set out at section 2 of this report. Consideration of the relevant terms of the existing lease are set out in section 5 of this report.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The current lease runs until 2069 and currently generates an annual income of £16,727.

4.2 A sale would generate a capital receipt of £230,000, although this would be in lieu of the rent.

5.0 LEGAL IMPLICATIONS

5.1 Prospect Estates Limited has the benefit of the 99-year lease as described, which has 47 years unexpired. The property is vacant and it is considered unlikely to be let as offices in the near future, which is the key consented use in the User Clause.

5.2 Under the lease, any consent for change of use away from offices and for works is not to be unreasonably withheld. The context that the market for offices is in decline is a key argument for obtaining consent to the principle of conversion to other uses. The Council would have to respond to such a request promptly and there would have to be a significant reason to refuse such a request. An unreasonable response can lead to a claim against the landlord for the lost commercial opportunity.

5.3 There are obligations to maintain the property in good and tenable repair including having the exterior painted every four years. The interior must be painted every eight years. In addition, there are provisions about the premises not being used for illegal and immoral purposes.

5.4 The lessees must take all reasonable precautions to prevent the business carried out in the premises causing any nuisances annoyances or inconvenience to the Council or nearby residents or occupiers. There is also a provision about the premise not being used for illegal or immoral purposes.

5.5 There is provision for forfeiture and re-entry by the Council, but the courts would normally expect the Council to enable the lessee to be given the opportunity to remedy any breaches.

5.6 The Council is required to obtain best price reasonably obtainable under s 123 of the Local Government Act 1972. A sale price of £230,000 is believed to achieve this. In terms of any potential purchase by the Council of the leasehold interest in order to satisfy the Council's fiduciary duty to its residents it would need to ensure that such purchase represents market value.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no IT or staffing implications arising from this report. The asset implications are as described in the report.

7.0 RELEVANT RISKS

7.1 In the event that the Council sells its freehold interest, there is a risk that the quality of the finished product will be outside of the control of the Council, other than through the usual building regulations and planning process. The Council may however endeavour to include provisions in the sale as to the final number of units in the scheme.

7.2 The property is currently the subject of anti-social behaviour, which is likely to continue if an agreement is not reached between the Council and current lessee on an appropriate way forward and to ensure the property is protected from further deteriorating.

8.0 ENGAGEMENT/CONSULTATION

8.1 Ward Councillors have been made aware of some of the discussions with the previous lessees. The lessees were also asked to engage with the Council's consultants in the delivery of the Liscard masterplan.

9.0 EQUALITY IMPLICATIONS

9.1 This report has no direct equality implications.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The sale of the Council's interest will enable the refurbishment of property to residential use which will need to be undertaken in accordance with current regulations for energy efficiency.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 The aim of this report is to secure the best possible outcome for the future of this building and neighbouring communities.

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APPENDICES

Appendix 1 -Site plan.

BACKGROUND PAPERS

Internal valuation assessment (commercially confidential).

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Disposal of freehold reversionary interest – Dominick House, St Albans Road, Liscard. Delegated Member Decision	5/1/2019
Dominick House, Liscard – Economy, Regeneration and Development Committee.	29/09/2021