

Subject:	Charter Hotel 12-15A Kings Road – Disposal Update		
Date of Meeting:	11 November 2010		
Report of:	Strategic Director, Resources		
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Key Decision:	Yes	Forward Plan No: CAB18542	
Wards Affected:	Regency		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 To advise Cabinet on the outcome of marketing and seek approval to the disposal of the Charter Hotel, 12-15A Kings Road to the preferred bidder on a 150 year lease.
- 1.2 The report is complemented by a report in Part Two of the Agenda.

2. RECOMMENDATIONS:

- 2.1 That Cabinet approves and authorises:
 - (a) The disposal of the Charter Hotel on a 150 year lease to the preferred bidder for a premium and a peppercorn rent, following the marketing exercise, full evaluation of informal bids and recommendations by the Council's appointed agents.
 - (b) The detailed terms to be settled by the Strategic Director Resources and the Solicitor to the Council provided terms are certified by the valuer to be best consideration reasonably obtainable.
 - (c) Continuing with the disposal to the reserve bidder should the preferred bidder withdraw or are unable to agree detailed terms.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The property is located near the Thistle and other hotels on Kings Road, as illustrated on the attached plan at Appendix A. The building faces partly onto the seafront and has accommodation on basement, ground and three upper floors. Having been operated for over 20 years as a hotel the lease was assigned but the new operator encountered financial difficulties and the Council repossessed in October 2007. Under the law the Council was unable to resist that assignment

and both the law and successive tenants' financial circumstances made it difficult to enforce repairing obligations.

- 3.2 Following repossession the property was marketed on a new 25 year lease seeking a rent plus premium to reflect the established use of the premises as a night club, restaurant and hotel. Six bids emerged for hotel use and after evaluation a preferred bidder was selected that later withdrew in August 2008 following loss of funding.
- 3.3 Whilst marketing the property it has remained empty since October 2007 having been left in a very poor state by the previous tenant. There is serious concern about this situation, the property is not safe to provide accommodation and ongoing security is an issue. The property has been taken out of rating thereby saving on empty rates. Cluttons who manage the property as the council's agents reported in March 2009 identifying urgent work to make it safe and water tight and work has been undertaken to address the worst defects.
- 3.4 In addition to making the best use of the property, a pressing objective is to get an injection of capital to address the extensive repair and refurbishment required. With an estimated cost of repair of at least £330,000 it is clear that to attract the necessary funding a long ground lease would be required by the tenant.
- 3.5 Despite the economic situation there are clear signs that the hotel market has remained resilient, partly because overseas visitor numbers have grown and the city's conference programme remains strong. Indications from property consultants are that there is continuing activity in the market and interest in the building from hotel operators remains steady despite reducing room yield in common with the rest of the UK outside London.
- 3.6 Brighton & Hove Hotel Futures report identified the potential for growth and demand in the City in the conference and leisure break markets directing new hotel development to the City centre. Recent additions to hotel stock however have largely satisfied the new room requirements under low to medium growth conditions. However the progress of other major developments in the City including the Brighton Centre and Stadium would all support further growth.

4. OUTCOME OF MARKETING

- 4.1 In accordance with Cabinet approval preparation for marketing commenced and in January 2010. The joint letting agents, Cluttons and Savills, advised on the value of the achievable premium and recommended a guide price which allowed for a schedule of works amounting to at least £330,000.
- 4.2 A comprehensive marketing campaign commenced in March 2010 with boards, a brochure, web site entries, advertising, mailing, telephone and direct marketing. There was a good response and 13 parties viewed the building during the initial weeks of marketing. As a result of the level of interest and the comprehensive exposure, the joint agents recommended the Council instigate an informal tender with written offers to be received by Noon, Friday 21 May 2010. On the due date, eight parties submitted 9 proposals via the informal tender process. A schedule précisising all offers received, along with the individual bid packages was provided by the joint agents.

- 4.3 Offers were invited on the basis of a deposit to be paid on exchange of contracts for an agreement for lease. Under that agreement for lease the developer has to submit for planning and carry out the refurbishment and renovation and having met those obligations would then be granted the 150 year lease. The agreement for lease also contains a schedule of repairs that must be undertaken as an obligation under the agreement. The time limit for meeting all these obligations is 18 months from exchange. The agreement for lease is also not assignable so the council cannot find itself faced with a different developer at the building stage. This arrangement gives the council the greatest certainty for the works to get done in the shortest possible time scale.

Short listed parties

- 4.4 On 14 June 2010 Cluttons LLP and Savills recommended three bidders be invited to the presentation and interview stage by the Council’s evaluation panel. The evaluation committee comprised the case officer for the estates team, Cluttons and Savills, overseen by the Estates Manager. Two bidders attended the presentation and interview process on 29 June 2010 as one bidder was unable to attend.

Evaluation of presentation and interview stage:

- 4.5 Following the interviews the evaluation panel individually scored each party using a formal matrix process. This was assessed under 6 criteria; Bid Compliance, Terms Offered, Theme, Experience, Financial Status and Response to Site Setting. The resultant total scores were as follows:

Party	Evaluation Panel Scores			Totals
	BHCC	Cluttons	Savills	
Party A	68.75	67.00	71.75	207.50
Party B	65.75	63.50	69.00	198.25

Preferred Bidder

- 4.6 The preferred bidder, Party A, initially submitted an offer on an unconditional basis and not subject to any planning consents for its intended use. They subsequently tabled an unsolicited higher alternative bid with a non refundable deposit. This would be subject to planning consent and payable on entering into a development agreement with the balance paid following practical completion of works, say, early 2012. A break clause in the development agreement would allow the Council to terminate if the developer has not met their obligations within 18 months.
- 4.7 This is a powerful lever as the developer would lose the deposit and any monies expended on planning and construction. Until the works are finished the developer does not have the security of the 150 year lease and is unable to assign its interest. If we merely grant a lease and take full payment at the outset we forgo all the leverage offered by our preferred route as control passes to the developer who could delay with impunity or even sell the lease on whilst we

waited to see the works started let alone completed. The Council as freeholder would have limited control over the situation. The company has an interest operated under a franchise agreement in Brighton and a similar operation in Hove.

- 4.8 The preferred bidder's intention is to create 9 serviced hotel apartment suites and 2 no. retail / restaurant units at ground floor level (the latter to be separately sub-let). The preferred purchaser has a proven track record on funding and deliverability.

Reserve Bidder

- 4.9 The reserve bidder, Party B, submitted an offer for the long leasehold interest, subject to contract and on the basis of an agreement for lease being entered into and completion to take place after practical completion of their works. They have recently completed a refurbishment which comprises a six bedroom "respite" hotel in South Woodford, London and which opened for business earlier this year. This is a unique specialist hotel catering for people who have learning difficulties and/or disabilities and their carers. This is the only operation that they have completed. A similar operation is proposed at the Charter Hotel and would also provide employment/training for people with learning difficulties/disabilities which accords with an idea touched upon in the previous Cabinet report. The applicants are confident of securing staff and trainees locally. There is the potential for people with learning disabilities to be attracted to the City who have on going needs that the Council might be legally obliged to pick up at a future date. However the applicants have confirmed that the lettings will be on a short term basis of days, weekends, weeks possibly up to a month but would not be long term lets.
- 4.10 To safeguard the Council's position it would be a condition of the lease that stays are for a maximum of one month. Proof of future funding was provided comprising bank statements and correspondence confirming that the necessary funds were in place to acquire the property and undertake works. Subsequently draft management accounts were provided and considered by the evaluation panel and Strategic Finance. It seems their funding is coming from private individuals as opposed to a limited company and it is not possible to give an opinion on the historical financial viability of these individuals. There is no confirmation of track record, experience and start-up funding costs which would be required to ensure that this is successfully delivered. A non-refundable deposit, subject to planning has been confirmed with the balance payable after practical completion of the intended works say 2012. This bidder represents a higher risk as they only have experience of delivering one project that has been running for over 6 months.

5. CONSULTATION

- 5.1 Ward Councillors have been consulted in accordance with the consultation protocol. Consultations have been held with the joint agents Savills and Cluttons and relevant officers within the Council.

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 The vacant property has received no rental income since 2007 and currently incurs ongoing costs associated with security and maintenance, however the property has been removed from the rating list and the council does not pay empty rates on the property. Disposal on a long lease will generate a capital receipt less any associated disposal costs. The net capital receipt will be used to support the corporate Strategic Investment Fund for future years' capital investment.

Finance Officer Consulted: Rob Allen

Date: 07/10/10

Legal Implications:

- 6.2 A long lease disposal entails a straight forward property transaction to proceed in the usual way, as set out in recommendation 2a. Provided that the marketing results in competitive bids, there would be a presumption that section 123 of the Local Government Act 1972 which relates to the council achieving best consideration reasonably obtainable would thereby be complied with. It is not considered that any individual Human Rights Act rights will be adversely affected by the recommendations in this report.

Lawyer Consulted:

Anna Mackenzie

Date: 05/10/10

Equalities Implications:

- 6.3 Refurbishment as a hotel will offer employment opportunities to an important sector of the local employment market.

Sustainability Implications:

- 6.4 The building will require refurbishment to high sustainable design standards.

Crime & Disorder Implications:

- 6.5 The long leasehold approach would address these issues in a timelier manner, re-providing an active use in this prominent frontage.

Risk & Opportunity Management Implications:

- 6.6 The hotel market is well tested ; the "respite" hotel concept is higher risk.

Corporate / Citywide Implications:

- 6.7 Hotel use will deliver employment opportunities.

7. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 7.1 In the previous Cabinet Report on 17th September 2009 consideration was given to the possibility of working with joint venture partners to establish a training hotel to improve the training and employment prospects for those who face barriers to

employment. However as it represents a high risk strategy which would take some time (about 2 years) to work up the previous Cabinet decision confirmed proceeding with marketing on a long lease.

- 7.2 The long lease disposal would be a more straightforward financial transaction for the Council, quicker and easier to deliver than a training hotel. It will produce a capital receipt, will address the urgent issue of the deteriorating building more quickly, will readily appeal to hotel operators and create employment for an established local market.
- 7.3 For these main reasons and the other factors identified in this report the commercial disposal option is considered as the most beneficial and appropriate way forward.

8. REASONS FOR REPORT RECOMMENDATIONS

- 8.1 The hotel disposal on a long lease would enable the building's deterioration to be addressed at the earliest opportunity, avoid the need for the council to spend any further money on maintenance and provide a capital receipt. The preferred purchaser has a good track record on funding and deliverability in the hotel sector and of providing local employment.

SUPPORTING DOCUMENTATION

Appendices:

1. Plan

Documents in Members' Rooms

None

Background Documents

None