

NAME OF COMMITTEE	Resources Committee
DATE	26th March 2013
REPORT TITLE	Old Mill Site, Okehampton.
REPORT OF	Corporate Director (Tw) and Economic Development Officer
WARDS AFFECTED	Okehampton East and West

Summary of report: The report outlines the current position with regard to the Old Mill Site in Okehampton and asks members to agree to appoint agents to re-market the site.

Financial implications:

The cost of re-marketing the site will be approximately £5,000 which could be funded from the capital budget for the Old Mill Site, which for 2012/13 is £25,000.

Meanwhile, there are ongoing liabilities associated with the maintenance of this vacant and semi-derelict site.

RECOMMENDATIONS:

That the Resources Committee **RESOLVES** to:

1. instruct officers to appoint agents to re-market the Old Mill Site in accordance with the criteria listed in the report below and
2. meet the cost of this appointment from the capital budget for the Old Mill Site as outlined in the report.

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1. BACKGROUND

- 1.1 In November 2011 the then Strategies and Resources Committee (Minute S&R 30) agreed to cease their interest in the community based approach and instructed officers to explore alternative ways forward.

- 1.2 This followed a prolonged period of working with the Devon Heartlands led community consortium, which had been selected as the preferred way forward after the initial marketing of the site in 2006.
- 1.3 Since then officers have met with a small working group of individuals (put together by the former owner of the Old Mill Site). Their scheme is broadly similar to the one that was being developed by Devon Heartlands. It creates flexibility within the building for different office/community uses and works on an understanding that any proposal would need to meet the terms of the covenant. (See 2.2 below). The working group have been seeking funding for their proposals and it is understood that this has resulted in recent positive consideration by Trustees of the United Charities in Okehampton.
- 1.4 At the same time officers have met with another interested party, who was one of the original bidders for the site. They have renewed their offer for the site, which involves developing it for a City and Guilds Skills Centre on a phased approach. This proposal was considered by the E&C Committee back in October 2007 and at the time the Community Led approach was preferred.

2. ISSUES FOR CONSIDERATION

- 2.1 The site remains derelict and poses a risk to the Council in terms of potential liabilities relating from vandalism to the fact that the Chimney is Grade 2 listed. There has been a longstanding expectation within the town that the site would be developed for community use.
- 2.2 There is an existing covenant on the site, which the previous owner is not prepared to release and wishes to be passed on in any disposal as follows:-

“ Not to use or permit the property for residential or commercial development save that the property may be developed and used for the benefit of the community and inhabitants of Okehampton as a whole.”

Furthermore, when the land was purchased in 2000 the intention was to develop within 3 years of that date otherwise certain conditions could be applied, namely that :-

 - (a) the Council could offer the land back to the Seller at open market value (not less than £70,000)
 - (b) the covenant could be released and the land sold with an apportionment of sale price as to one third to the Council and two thirds to the Seller.
- 2.3 Nonetheless, the previous owner has indicated that as long as the use is for “community benefit” he cannot envisage the penalties associated with the covenant will come into force. As a restrictive covenant it will pass to any future owner.
- 2.4 Due to the fact that a number of parties are still actively interested in the site and that there has been a considerable lapse in time since the original marketing exercise in 2006, it is suggested that a fresh approach to the disposal of the site involving the use of independent agents may be advised. Any agent would need

to ensure the legal requirements of any disposal, including the terms of the covenant, were enforced.

- 2.5 The use of an in-house team has been considered, but at present there is not the capacity to take on this work. In addition the introduction of an independent view is considered beneficial.
- 2.6 Members will also be aware that the current Borough Council accommodation at James Street in Okehampton is less than satisfactory for continued long term occupation. Footfall is considerably higher than originally anticipated and whilst the ground floor space is now too small the upper floor offices are underutilised. The Old Mill Site offers a possible opportunity to meet the Council's requirements in full as part of any new development on the site and therefore needs to be taken into consideration when considering offers.
- 2.7 The introduction of this as a criteria does mean that any disposal or invitation to tender is caught by the Public Contracts Regulations and/or the Contract procedure Rules and Treaty on the functioning of the European Union (depending on contract value).

3. CONCLUSIONS

- 3.1 Whereas this has been a lengthy process since the original marketing of the site in 2006, there is a need to take a fresh approach involving a formal tendering process through an independent assessment of both the current offers and any new one's that might emerge.
- 3.2 This allows an opportunity to include an option to provide accommodation for the re-provision of Borough Council Okehampton Service Centre and office accommodation on the site.
- 3.3 Accordingly the key assessment criteria are suggested to be the following:-
 - Compliance with the covenant and any other legal considerations
 - Compliance with Planning requirements, including its location within the Conservation Area, the setting of the listed chimney, flood risk and other environmental considerations
 - Sustainability in terms of scheme viability over the next 5-10 years.
 - Opportunity to include space for the Borough Council to relocate its current Okehampton Service Centre and office requirements to the site
 - Timescales and ability to deliver
 - Value for money – in terms of return on investment for the Borough Council and the delivery of wider community benefits
 - Offer price
- 3.4 Accordingly, it is recommended that agents be appointed to re-market the site having due regard to our adopted procurement procedures. This may involve going out to tender for this advice which will prolong the process.

4. LEGAL IMPLICATIONS

- 4.1 Under Section 1 of the Localism Act 2011 the Council has a general power of competence to do anything an individual can do subject to any statutory restrictions.
- 4.2 The covenant outlined in paragraph 2.2 is a restrictive covenant and as such will be passed on to any future owner in the case of an eventual disposal. This also means that any agent working on our behalf must ensure the terms are properly considered and applied.
- 4.3 The requirement to consider possible occupation by the Borough Council for its own purposes, means the disposal process is likely to be caught by the Public Contracts Regulations and/or Contract Procedure Rules and Treaty on the functioning of the European Union (depending on total contract values).

5. FINANCIAL IMPLICATIONS

- 5.1 A capital budget of £25,000 exists for the Old Mill Site within the Council's Capital Programme for 2012/13 and the proposal is to use approximately £5,000 of this to commission agents to invite and assess tenders.
- 5.2 There could be financial implications if the terms of the covenant are not complied with. This includes any consequences resulting from work carried out by an agent on the Borough Council's behalf.
- 5.3 Meanwhile, there are ongoing liabilities associated with the maintenance of this vacant and semi-derelict site.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Economy; Environment; Community Well Being
Statutory powers:	Under Section 1 of the Localism Act 2011 the Council has a general power of competence to do anything an individual can do subject to any statutory restrictions The Council derives its power to dispose of this land from Section 123 of the Local Government Act 1972
Considerations of equality and human rights:	Not applicable
Biodiversity considerations:	Ecological surveys have been conducted several times over the last 10 years and no known issues are outstanding.
Sustainability considerations:	This will form one of the criteria for assessment of offers made.

Crime and disorder implications:	Not applicable
Background papers:	<i>Report of Regeneration Officer to S&R committee September 2010</i> <i>Report of Regeneration Officer to S&R 22nd March 2011</i> <i>Report of Regeneration Officer to S&R 15th November 2011</i>
Appendices attached:	<i>None</i>

6 RISK MANAGEMENT

6.1 The risk management implications are outlined below:-

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Derelict Site	The site continues to remain derelict with the ongoing liabilities and potential cost to the council	3	3	9	↔	Move forward as quickly as possible to identify a preferred development option for the site.	Resources committee
2	Covenant restrictions	Need to comply with the provisions of the covenant	4	1	4	↔	Ensure that this remains a key consideration when considering any offers.	Resources committee
3	Reputational	The council is seen as not enabling the development of the site for the benefit of the whole community	5	2	15	↔	Move forward with the recommended course of action at the earliest opportunity.	Resources committee
4	Legal issues	7 years has elapsed since the original marketing of the site took place.	5	3	15	↓	By re-marketing the site and commissioning an independent assessment of both the existing and any new offers.	Corporate Director (TW) & Senior Officers

Direction of travel symbols ↑ ↓ ↔

