

**REPORT OF: FINANCIAL SERVICES  
FINANCIAL SERVICES MANAGER**

**TO: EXECUTIVE**

**DATES: 26<sup>th</sup> MAY 2016**

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## **MATTERS REQUIRING FINANCIAL APPROVAL**

### **PURPOSE OF REPORT**

1. This report outlines a number of matters requiring consideration by the Executive under the Council's Financial and Contract Procedure Rules.

### **RECOMMENDATIONS**

2. The Executive is requested to consider the matters outlined in this report and:
  - (a) agree to write-off the debt outstanding of £8,493.81 due from ITHAAD in relation to Unity Hall;
  - (b) determine the request from the Friends of Earby Hostel for the Council to transfer £4,910 to the Friends for works at Earby Youth Hostel;
  - (c) agree to the transfer of the Council's freehold of the Brierfield Mill site to PEARL, subject to agreement from the HCA. This would be on the basis of the redevelopment obligations currently placed on PEARL being retained;
  - (d) subject to (c) above agree to transfer the freehold to Pendle Enterprise and Regeneration (Brierfield Mill) Ltd at nil value;
  - (e) to agree the disposal of land at Briercliffe Avenue, Colne to Cawder Construction subject to a back-to-back agreement being in place with Housing Pendle and,
  - (f) that the Strategic Director be authorised to approve the negotiated terms for this disposal.
  - (g) approve a payment of £200,000 to PEARL (Brierfield Mill) Ltd funded from the approved capital programme in 2016/17, and
  - (h) note the requirement for remediation works to be carried out at the Clitheroe Road, Brierfield site and agree that the cost of these works be met from the sale proceeds arising from disposal of the site, and
  - (i) agree to waive Contract Procedure Rules to enable the contract for remediation works to be awarded to Barnfield.

### **REASONS FOR RECOMMENDATION**

3. To seek approval from the Executive on specific matters that have financial implications for the Council.

## ISSUE

4. This report covers the following matters with further information on each provided below:
  - to write-off outstanding debt due from ITHAAD (re Unity Hall, Nelson);
  - to release capital funding of £4,920 to the Friends of Earby Hostel;
  - to transfer the Council's freehold interest of Brierfield Mill to PEARL subject to the agreement of the Homes and Communities Agency;
  - to agree the disposal of land at Briercliffe Avenue, Colne to Cawder Construction for affordable housing provision;
  - to authorise payment of £200,000 to PEARL (Brierfield Mill) Ltd, initially by way of loan which ultimately will convert to grant funding as part of the Council's overall contribution to the redevelopment of Brierfield Mill (Northlight);
  - the requirement for remediation works at the Clitheroe Road, Brierfield site and award of contract for these works to Barnfield.

### ***ITHAAD/Unity Hall Debt write-off***

5. In May 2015 the Executive agreed to write off rent arrears of £9,365.76 due from ITHAAD Community Development Trust in relation to the lease of Unity Hall, Nelson. The amount written off represented the balance of outstanding rent as at 31/3/2015. The debt write-off was agreed to help facilitate the transfer of the building to the Town Council.
6. It was anticipated that the building would be transferred during 2015/16 and hence the balance of rent due for that year would be subject to final assessment on completion of the transfer. The transfer has not yet completed but should do so during the current year. ITHAAD have signed a formal surrender of their lease of Unity Hall and at the time of writing this report there is a balance outstanding of £8,493.81 consisting of the following amounts:

• Annual rent due for 2015/16	£7,000.00
• Unpaid insurance premiums	£1,493.81
7. The Executive is requested to approve that the above amounts are written off in the current financial year.

### ***Release of capital funding to the Friends of Earby Hostel***

8. In 2014/15, the capital programme included a budget of £4,910 in respect of Earby Youth Hostel. This budget had been carried forward for a number of years and with no known plans to spend the money it was allowed to lapse when the year-end position was reported to the Executive in June 2015.
9. In March of this year the Secretary to the Friends of Earby Hostel wrote to the Strategic Director to ask if this funding could be released to the Friends. A reply was sent to the effect that the matter would be reported to this meeting for a decision.
10. In their letter the Secretary advised that the Friends had been working with the YHA's Buildings Manager and had drawn up a list of necessary works and were seeking quotes. The Secretary confirmed that the Friends of Earby Hostel is a properly constituted body with a formal constitution and elected officers.
11. Whilst the budget has technically lapsed it could be reinstated should the Executive wish to respond favourably to the request.

### ***Brierfield Mill – transfer of freehold to PEARL (Brierfield Mill) Ltd***

12. The Council acquired Brierfield Mill in March 2012 through a grant of £1.58m from the Homes and Communities Agency (HCA). As part of the funding arrangement it was acknowledged by HCA that the site would be transferred by way of long lease to a newly formed company, Pendle Enterprise and Regeneration (Brierfield Mill) Ltd. On 21st June 2012 Executive agreed to the terms of the lease on the following basis:
  - a 250 year lease. A long lease was required so that PEARL (Brierfield Mills) Ltd's ability to secure funding for redevelopment against the site was not fettered in any way;
  - a peppercorn rent for the first 15 years and thereafter, rent of £10k pa with a 10% uplift every 5 years. This reflected the significant redevelopment obligation that the Council placed on PEARL (Brierfield Mill) Ltd
13. As the scheme has progressed and a range of different end users have been identified it has become apparent that the current leasehold arrangements are making delivery of the scheme problematic, due to the range of different leasehold arrangements being negotiated, common areas, insurance and ground rent. PEARL's legal advisors have advised that to ensure delivery of the scheme, approval should be sought from HCA to allow the transfer of the freehold of the full site to PEARL in advance of refurbishment works beginning. The current grant funding agreement between HCA and Pendle Council requires the Council to retain freehold ownership of the site until works have been completed unless prior written consent is given by HCA. Initial discussions with HCA about an earlier transfer have been positive in principle, subject to agreeing amendments to the funding agreement.
14. Liberata have provided a valuation of £35k for the Council's freehold interest. So as not to put an additional burden on the scheme it is proposed that this is waived and the property disposed of at less than market value. It may be necessary to repay this amount to HCA and if this is required the payment could be funded from the Council's capital programme budget for Brierfield Mill in 2016/17.

### ***Disposal of land at Briercliffe Avenue, Colne to Cawder Construction***

15. Over recent years the Council has been working with Housing Pendle (part of Together Housing Group) to bring forward the development of a number of sites in Pendle for affordable housing using grant funding from Central Government. The Government has recently changed its grant programmes and for new schemes will no longer be providing grant to deliver affordable rented schemes, only affordable home ownership schemes such as shared ownership and starter homes. Housing Pendle have recently managed to secure funding for 3 affordable rented units as a result of a scheme in another district not proceeding and are looking for a suitable site to develop.
16. The Executive agreed in 2008 to declare a site at Briercliffe Avenue, Colne as surplus. At the time it was not considered viable to develop as it would only be suitable for 3 to 4 houses. Together Housing had recently indicated an interest in this site for affordable housing but could not make it viable if developed on its own. We are currently working with them to bring forward another site in Colne, the White Grove Garage site. The following was approved by Executive on 10th December 2015:
  - (1) *To agree the disposal of land at White Grove Garage Site, Harrison Drive, Colne to Cawder Construction subject to a back-to-back agreement being in place with Housing Pendle*
  - (2) *The Strategic Director be authorised to approve the negotiated terms for the disposal.*

17. Since that approval we have received an offer for the site from Housing Pendle/Cawder Construction and Liberata Property Services are in negotiation. Housing Pendle believe that if the 2 sites could be delivered as part of one build contract they could make the Briercliffe Avenue site viable as there would be reduced contract costs. If agreement could be reached on the sale of both sites they would look to start on site by end of September 2016, subject to receiving planning permission. Executive are therefore asked to agree a similar approach to the White Grove Site.
18. This would ensure that the allocation of grant funding for the provision of affordable housing is not lost to Pendle. Disposing of the site in this manner would reduce the costs of marketing and ensure that the site is developed in a timely way.

#### ***Payment of £200,000 to PEARL (Brierfield Mill) Ltd***

19. The Council has an approved capital programme budget of £1.56m to support the redevelopment of Brierfield Mill. The redevelopment is being undertaken by PEARL and the Executive has received periodic updates on progress. Aspects of the programme are now at a stage where PEARL (Brierfield Mill) Ltd needs to incur expenditure in advance of funding being received from the Lancashire Enterprise Partnership (LEP) particularly linked to enabling ways to facilitate the provision of the Training element of the overall project. To support PEARL in managing this cashflow requirement approval is requested to advance the sum of £200,000 by way of temporary loan to PEARL (Brierfield Mill) Ltd. The temporary loan would be converted to grant funding in due course funded from the Council's approved capital programme allocation for the project.

#### ***Clitheroe Road Site, Brierfield***

20. The Executive has previously agreed to the disposal of the Council owned Clitheroe Road site in Brierfield to PEARL2 for a new housing development and the entering into a Development Agreement and Overage Agreement with PEARL2 for the scheme. All the legal documentation has been prepared and has been based on the Heads of Terms originally agreed by the Council's Executive on 25 March 2014 and revised Heads of Terms for sale of the site in 2 phases, agreed on 28 May 2015. The sale of Phase 1 was expected to yield an initial capital receipt of £342k with a further £82k from Phase 2.
21. A survey of the site has identified the requirement for remediation works before work on the development of housing can commence. The works required are estimated to cost c£125k. The Council will have to contract for the completion of these works with the costs funded from the capital receipt arising from the sale of the site. This will significantly reduce the net capital receipt to the Council from the disposal. Under terms agreed previously by the Executive, whilst the Council was due to receive £424k from the sale, £200k of this was to be loaned to PEARL to support the development cashflow.
22. Given Barnfield are to carry out the housing development it would be beneficial to award them the contract for remediation works. Their cost for doing so has been assessed by external consultants as offering value for money and to award on this basis would avoid further delays in terms of procurement and the introduction of another external party in to this arrangement.
23. The Executive is asked to waive Contract Procedure Rules (requirement for tenders) and agree that the contract for remediation works be awarded to Barnfield. This mirrors the approach taken when similar circumstances were identified with the disposal of the nearby Lob Lane Mill site.

## **IMPLICATIONS**

### **Policy**

24. There are no new policy implications arising from the contents of this report.

### **Financial**

25. The financial implications are generally as provided in the report. If approval is given to the debt write-off requested above, this will be charged against the accumulated Provision for Bad Debts which as at 31<sup>st</sup> March 2016 stood at £299k.

### **Legal**

26. The proposed transfer of the Council's freehold to Pearl (Brierfield Mill) Limited will require the approval of the Homes and Communities Agency to ensure that the Council does not breach the terms of the Grant Funding Agreement in connection with the funding of the site acquisition and the conversion scheme.

### **Risk Management**

27. With any external grant funding there is the potential risk for grant conditions to be breached leading to repayment obligations hence the importance of working closely with the HCA to secure their consent to what is being proposed in relation to the Council's freehold of Brierfield Mill.

### **Health and Safety**

28. There are no health and safety implications arising from the contents of this report.

### **Climate Change**

29. There are no climate change implications arising directly from the contents of this report.

### **Community Safety**

30. There are no community safety issues arising from the contents of this report.

### **Equality and Diversity**

31. There are no equality and diversity issues arising from the contents of this report.

## **APPENDICES**

None

## **LIST OF BACKGROUND PAPERS**

None