This Report will be made public on 10 October 2023

Folkestone & Hythe District Council

Report Number: **C/23/46**

To:	**Cabinet**
Date:	**18 October 2023**
Status:	**Key Decision**
Responsible Officer:	**Samuel Aligbe, Chief Officer – Corporate Estate and Development; and Helen Hensel – Estates & Assets Lead Specialist**
Cabinet Member:	**Cllr Jeremy Speakman – Cabinet Member for Assets and Operations**
SUBJECT:	**UNITS1-6 LEAROYD ROAD–POTENTIAL DISPOSAL**

SUMMARY: The council owns units 1 to 6 Learoyd Road, New Romney. Units 1, 2, 3/4 and 5 are in one block and are vacant pending refurbishment by the council. Unit 6 is standalone and leased to a tenant on a long-term basis. The tenant of Unit 6 has made an offer for the freehold of U1-6. The freehold of U1-6 is currently being advertised on the open market to ascertain best value for disposal. There are two main options available to the council; retain the freehold of units 1 to 6 (U1-6) and continue with the refurbishment and reletting of units 1 – 5 (U1-5); or dispose of the freehold of U1-6. If a disposal is agreed, a new application should be made to reallocate the Section106 funds currently assigned to the refurbishment of units 1 to 5 Learoyd Road to the refurbishment of units 1 and 2 Mountfield Road.

REASONS FOR RECOMMENDATIONS:
A disposal of the freehold of U1-6 at best value is recommended to:

1. Generate a capital receipt for the council.
2. The anticipated increased cost of the refurbishment works is £230,000. This is £34,000 above the current approved budget to undertake the refurbishment to bring the property up to the required standard.
3. Mitigate the risk that the units will not be compliant with anticipated strengthening energy efficiency standards and the council's net zero agenda; and
4. If the Section106 funds currently assigned to the refurbishment of U1-5 are instead used for the refurbishment of units 1 and 2 Mountfield Road, it is anticipated that this will generate an enhanced revenue outcome for the council.
5. Alignment with 2023/2024 Budget Strategy.

RECOMMENDATIONS:

1. To receive and note report C/23/46.

2. **To authorise the Chief Officer – Corporate Estate and Development to proceed with the disposal and achieve best value for the Council on the basis that an acceptable offer is received.**
3. **If a disposal is agreed, a new application should be made to reallocate the Section106 funds currently assigned to the refurbishment of units 1 to 5 Learoyd Road to the refurbishment of units 1 and 2 Mountfield Road.**

1. BACKGROUND

1.1 The council owns five units at Learoyd Road. All five units were built around 1986. Units 1, 2, 3/4 and 5 are in one block and offer lettable workshop/storage space. Unit 6 is standalone and leased on a long-term basis to Hotel Complimentary Products (HCP). The council's ownership includes the service yard.

1.2 Refer to Appendix A for a location plan (council land edged red; HCP adjacent site edged blue), Appendix B for general photographs, and table below for current property/letting details.

Asset No.	Unit No.	Approximate GIA (sqft)	Lease term	Current annual rent
AR0646	1	500	Vacant	N/a
AR0647	2	1000	Vacant	N/a
AR0709	3/4	1000	Vacant	N/a
AR0710	5	500	Vacant	N/a
AR0711	6	5000	125 years from 25/2/1997 (premium paid)	£1,400pa (10-year reviews based on 5% open market rent)

1.2.1 U1-5 comprise four units that are vacant and due for refurbishment. Following refurbishment and reletting, their total rental income is anticipated to be £21,000pa.

2. PROPOSED REFURBISHMENT OF UNITS 1 TO 5 LEAROYD ROAD

2.1 It is currently proposed that U1-5 are refurbished including the replacement of the external wall and roof cladding plus new doors and roller shutters. There is a remaining budget of £196,000 for this project; £52,000 from capital receipts and £144,000 from Section 106 contributions.

2.2 Initial tender returns for the refurbishment works were in the region of £220,000 to £230,000. The removal of some non-essential works from the project resulted in a revised tender sum of £188,000, as of February 2023. The acceptance period has now expired, and a retender could result in a higher figure due to rising costs. This could potentially be up to £230,000.

Current Budget	Tender Sum (Feb 2023)	Anticipated ReTender Sum	Potential Shortfall
£196,000	£188,000	£230,000	£34,000

2.3 One objective of the refurbishment was to achieve an EPC rating of at least B for all four units to meet the changing Minimum Energy Efficiency Standards (MEES) and to ensure the units remain compliant into the future. The current EPC ratings for U1-5 are D or E. A remodelling exercise was undertaken to establish what the EPC ratings would be following the refurbishment; this resulted in an EPC rating of C for all four units. Additional drylining to the party walls would achieve an EPC rating of B for the larger units although the smaller units would remain at a C rating.

2.5 In September 2023, the government announced a proposed relaxation of its net zero initiatives. Whilst all current requirements in place in respect of MEES remain in effect, clarification is required as to whether the government intends to scrap the proposed upgrades that were required of landlords in improving the energy efficiency of their properties into the future.

3. FREEHOLD DISPOSAL OF UNITS 1 TO 6

3.1 The leasehold interest in Unit 6 was recently assigned to an adjoining landowner, HCP. Appendix A indicates the council's and HCP's land ownership, and it is understood that HCP own other property nearby. HCP approached the council offering £275,000 to purchase the freehold of U1-6. HCP states that this is its final offer having already made earlier offers.

3.2 The council obtained the following valuations to enable HCP's offer to purchase the freehold disposal of U1-6 to be considered:

- £170,100 (this being a capital value of £358,100 less £188,000 refurbishment costs).
- £258,000 Marriage/Synergistic value (this assumes the refurbishment of U1-5 will be completed at the expected cost of £188,000). This value assumes the tenant of U6 would purchase the entirety of the site,

3.3 Subsequently, the freehold of U1-6 is being advertised to ascertain the best value for disposal. A deadline of 11th October 2023 has been set for offers.

4. UNITS 1 AND 2 MOUNTFIELD ROAD, NEW ROMNEY (U1+2)

4.1 The council owns U1+2, including the shared service yard. U1+2 have recently been vacated and the outgoing tenant has left the units in disrepair with the cost of the refurbishment works required estimated at least £70,000. The council is unable to pursue a claim for losses as the tenant has gone into liquidation.

4.2 There is currently no budget for repair or improvement works to U1+2. If the council disposed of U1-6, it could potentially submit a new application for the reallocation of the S106 funds currently allocated to the refurbishment of U1-5 to the refurbishment of U1+2 Mountfield Road.

5. OPTIONS

5.1 The two main options, in relation to U1-6 are:

- Retain the freehold of U1-6 and continue with the refurbishment and subsequent reletting of U1-5 (anticipated rental income £21,000pa); or
- Dispose of the freehold of U1-6.

5.2 The key financial implications for the retain and refurbishment option are:

- There is a budget available for the refurbishment works however it is anticipated that this may need to be increased (up to £42,000) if the works are retendered; and
- U1-5 are currently vacant with no rental income but with outgoings, including business rates, being payable.

5.3 The key financial implications for the disposal option are:

- The freehold disposal of U1-6 would remove the need to refurbish U1-5 meaning:
  - the £52,000 from capital receipts would no longer be required; and
  - the s106 monies would be freed-up for re-allocation, possibly to the refurbishment of U1+2 for which there is no budget; and

5.3.1 If a disposal is agreed, a new application should be made to reallocate the Section106 funds currently assigned to the refurbishment of U1-5 Learoyd to the refurbishment of U1+2 Mountfield Road.

5.3.2 The council's Budget Strategy 2023/24 recommends *Identification of Potential Asset Disposals* (with future funds deployed into capital schemes or through flexible capital receipts scheme) to help address budget gap. It is therefore recommended that the council proceeds with a disposal of U1-6 on the basis that best value is achieved for the Council.

6. RISK MANAGEMENT ISSUES

6.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Anticipated increase in refurbishment works budget if the works are retendered	High	High	Freehold disposal would remove need to refurbish U1-5
Longer term payment of U1-5 outgoings if units are refurbished	High	High	Freehold disposal of U1-6
Even if U1-5 are refurbished, they may not be compliant with strengthening energy efficiency standards	High	Medium	Additional energy efficiency improvement works required in the future to enable compliance with standards

Insufficient interest in U1-6 resulting in limited interest in the disposal	High	Low	Full and proper marketing to be undertaken to maximise interest in the freehold of U1-6

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (NM)

There are no legal implications arising directly from this report. The consideration must be the best reasonably obtainable in the current market. Section 123 of the Local Government Act 1972 (s123 LGA) provides that 'best consideration' in practice means that the appropriate evidence has been gathered regarding the valuation and subsequent offer. In other words, an audit trail must be shown; and one may pursue 'off market' offers so long as there is evidence, and that the consideration has economic value (i.e., is quantifiable).

A Council can be found in breach of Section 123, if it has "(i) failed to take proper advice; (ii) failed to follow proper advice for reasons that cannot be justified; or (iii) has followed advice that was so plainly erroneous that in accepting it the local authority must have known, or at least ought to have known, that it was acting unreasonably".

The only time Secretary of State consent would be required is if the undervalue was over £2 million.

7.2 Finance Officer's Comments (JS)

The financial implications are predominantly contained within the main body of this report. The Estates team consulted with Finance for the budget figures quoted. The sale of the site would generate a capital receipt for use on other capital schemes. Alternatively, if the site is retained and refurbished, the rental income would generate revenue income for the council's general fund.

Furthermore, information about the financial governance concerning disposals is provided within the Council's financial procedure rules, which provide guidance on the disposal of land and buildings. These guidelines must be adhered to by all officers. An extract from section 8.7 of the financial procedure rules is provided below:

Chief officers, and those other officers reporting directly to a chief officer, must ensure that records and assets are properly maintained and securely held. Any disposal of an asset, no longer required by the Council, must be done in a manner approved by the Chief Finance Officer (S151 Officer) and in accordance with the relevant law, regulations and government guidance, issued from time to time.

7.3 Corporate Property Officer's Comments (SA)

Having instructed an agent to market the assets, commenced a marketing exercise and obtained valuations to underpin and support any offers from the market, FHDC has carried out its obligations in respect of the s123 Local Government Act 1972. The team had also considered retaining the asset for the long term revenue, however given the refurbishment costs and compliance liabilities it was considered a better approach to dispose of the assets.

7.4 **Diversities and Equalities Implications**

The report does not have an impact on diversities nor equalities.

7.5 **Climate Change Implications**

There are no climate implications arising from the report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Helen Hensel, Estates & Assets Lead Specialist
Email: helen.hensel@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

(Note: only documents that have not been published are to be listed here)

Appendices:

Appendix A - Location Plan
Appendix B - Site Photographs