

EXECUTIVE DECISION RECORD

REF No 469.22

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| A1 Service Area | Leader and Economic Growth |
| A2 Title | Acquisition of High Street property from Molson Coors Beverage Company |
| A3 Decision Taken By | Leader/ Deputy Leader/ Chief Officer |
| A4 Chief Officer | Please print name: Thomas Deery Please sign name: Approval by Signature 271022 |
| A5.1 Leader | Please print name: Cllr George Allen Please sign name: Approval by Signature 271022 |
| A5.2 Deputy Leader | Please print name: Cllr Steve Sankey Please sign name: Approval by Signature 271022 |
| A6 Date of Decision | |

Confidentiality

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| A7 Is this Decision confidential by containing exempt information as described in Schedule 12A of the Local Government Act 1972? | No |
| A7.1 If yes, please state relevant paragraph from Schedule 12A LGA 1972. | NA |

Scrutiny

A8 Which Scrutiny Committee should this decision be submitted to? *(Please tick as appropriate)* ✓



Scrutiny Community Regeneration Committee ✓
Scrutiny Environment and Health and Well Being Committee
Scrutiny Value for Money Council Services Committee

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| B1 What is the Decision? | To approve the undertaking of the exchange and completion of contracts for the purchase of property at High Street, Burton upon Trent, from Molson Coors Beverage Company (MCBC) in order to facilitate the undertaking of the Towns Fund High Street project and to approve the decision to opt to tax the property (as outlined in Appendix 1) following acquisition in a submission to HMRC that covers the wider project site. |
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B2 What are the reasons for the Decision?

At the Council meeting on 21st March 2022, the prospective purchase of the High Street property from MCBC was considered with the principle of the final decision being delegated to the Leader of the Council and Deputy Leader for Finance, in consultation with the Leader of the Opposition, Leader of the Independent Alliance group and the Chief Executive (recommendation 12.3.).

Following that decision, the Council has engaged MCBC in contractual discussions following the principles of the agreed Heads of Terms, with the contract terms now agreed in principle between both parties. This decision approves the formal acceptance of the contract terms and progresses the contract to exchange and completion.

On completion of contracts, anticipated no later than December 2022, the Council will acquire the whole 7.2 acre property. At this stage, the Council will enter into a leaseback contract whereby MCBC will lease the Carling House building and the majority of the car parking for a period of time that ends no later than March 2024. The lease will be at a peppercorn rate and is made on the basis of facilitating the completion of any works at MCBC's intended relocation site prior to their full departure from the High Street property. Responsibility for the maintenance, management and insurance of any buildings occupied by MCBC during the lease will fall to MCBC.

In the interim, the Council will have the full ownership and occupation of the Town House, Old Bass House, Trent House and Water Tower buildings, along with a section of the car parking and access from Meadowside Drive (south side of the property). This is with exception of a three month period whereby MCBC will continue to access and maintain Trent House, in order to facilitate additional activities associated with vacating the premises.

The leaseback contract may be terminated at an earlier date by mutual agreement. Similarly, there are provisions that enable the transfer of car park land at an earlier date on the basis of re-providing car parking spaces to MCBC.

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| | <p>In terms of the land title and any rights and covenants benefitting the vendor, the property is restricted by a right associated with a water pipe running along and through the property and restrictive covenants associated with preventing any disruption or disturbance to the functioning of that pipe and any pollution or contamination of the water. These are fairly common covenants for land that has previously been used for brewing purposes and it is not considered that they prevent or limit the Council's ability to take forward the current regeneration proposals for the site. To that end, and at point of exchange, MCBC will consent the proposals in principle from the outset.</p> <p>Finally, the principles of this transaction have been discussed with the Leader of the Opposition, Leader of the Independent Alliance Group and the Chief Executive, covering the phasing of the transaction, parking arrangements, any rights granted and any restrictive covenants, with questions asked and answered about the transaction.</p> |
| <p>B3 What are the contributions to Corporate Priorities?</p> | <p>This decision is associated with Corporate Plan target CR25.</p> |
| <p>B4 What are the Human Rights considerations?</p> | <p>There are no Human Rights issues arising from this decision.</p> |

Financial Implications

B5 What are the financial implications?

The main financial issues arising from this decision are as follows:

The purchase price for the High Street property is £5,250,000 plus VAT, which is the agreed position in the Heads of Terms.

To inform this price, the Council commissioned a valuation report from Cushman & Wakefield that considered the individual and collective values of the buildings and property for this transaction. Separately, MCBC commissioned property advice that incorporated a valuation assessment for the property.

The two valuation exercises were similar in their assessment of value per square foot, however the Council's valuers provided a nil value for Old Bass House on the basis of a presumed permavoid due to overprovision, resulting in surplus space. The same was applied to the Water Tower.

Reincorporating value for Old Bass House and the Water Tower resulted in the agreed purchase price for the property, which was separately supported by an independent and local assessment from a supplementary Council commissioned report, provided by Salloway.

The agreed purchase price was as a result of negotiations between the Council and MCBC, informed by the respective valuation exercises.

The purchase is subject to Stamp Duty Land Tax (SDLT), which is calculated as £252,000

An allowance has also been made for legal and associated fees of 1.5% of the purchase price, which equates to £78,750.

MCBC have opted to tax the property and so the transaction is subject to VAT, which means that the SDLT has an additional cost of £52,500, totalling £304,500 for SDLT.

The purchase will be financed through the use of S106 commuted sums for affordable housing at a percentage proportional level (circa 25%) and the Towns Fund award for the High Street project, as summarised in the table below. The

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| | <p>S106 funding is to be taken from the following agreements:</p> <ul style="list-style-type: none"> • P/2013/00406 • P/2014/01286 • P/2012/01467 • P/2014/01211 • P/2017/01058 • P/2018/01046 • P/2013/00432 <p>The running costs of the property will be met by MCBC during their period of occupancy, including the undertaking of appropriate insurances. Following their departure of any building on the property, the running costs will be met by the Council. All associated costs for 2022/23 will be covered by the £496k Towns Fund Provision approved by Council on 21st March 2022.</p> <p>Following acquisition, the Council will opt to tax this property along with the wider project site through a formal opt to tax submission to HMRC, safeguarding the Council's recovery of VAT on both the acquisition costs and subsequent construction/conversion costs.</p> |
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| Revenue | 2022/23 | 2023/24 | 2024/25 |
|---------|---------|---------|---------|
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| Capital | 2022/23 | 2023/24 | 2024/25 |
|---|------------------|---------|---------|
| <u>Funding</u> | | | |
| S106 Commuted Sums | 1,400,000 | | |
| Towns Fund (Project D) | 4,180,750 | | |
| Total Purchase (exc VAT) | 5,580,750 | | |
| VAT Liability (purchase price, SDLT uplift and fees) to be recovered (subject to option to tax) | 1,116,150 | | |

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| <p>The finance section has been approved by the following member of the Financial Management Unit:</p> | <p>Please print name: Sal Khan</p> <p>Please sign name: Approval by email 271022</p> |
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Policy Framework

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| B6 Is the Decision wholly in accordance with the Council's policy framework? | Yes |
| B6.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)? | NA |
| B6.2 Has it got the appropriate approvals under those provisions? | NA |
| B7 Is the Decision wholly in accordance with the Council's budget? | Yes |
| B7.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)? | NA |
| B7.2 Has it got the appropriate approvals under those provisions? | NA |

Equalities Implications

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| <p>B8 What are the Equalities implications: The project has a standalone Equalities and Health Impact Assessment that identifies any opportunities, benefits and threats associated with the project.</p> |
| <p>B8.1 Positive (Opportunities/Benefits): As outlined in the project EHIA.</p> |
| <p>B8.2 Negative (Threats): As outlined in the project EHIA.</p> |
| <p>B8.3 The subject of this decision is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.</p> |

Risk Assessment

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| <p>B9 What are the Risk Assessment implications: The project has a standalone risk register that identifies any opportunities, benefits and threats associated with the project.</p> |
| <p>B9.1 Positive (Opportunities/Benefits): As outlined in the project risk register.</p> |
| <p>B9.2 Negative (Threats): As outlined in the project risk register.</p> |
| <p>B9.3 The risks are referred to in the project risk register numbered 1 – 20. Any financial implications to mitigate against these risks are considered above.</p> |

Legal Considerations

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| <p>B10 What are the Legal Considerations:</p> |
| <p>B10.1 The main legal issues arising from this decision are as follows:</p> <p>There are a number of powers that permit a Local Authority to acquire property (land and buildings), each with its own conditions as to how the power can be applied. The most relevant in this instance is section 120 of the Local Government Act 1972. This provides Local Authorities general powers to acquire land (inside or outside of their area) for the purposes of any of their functions, or to benefit, improve or develop their area.</p> |
| <p>This section has been approved by the following member of the Legal Team</p> |
| <p>Please print name: John Teasdale</p> |
| <p>Please sign name: Approval by email 261022</p> |

Sustainability Implications

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| <p>B11 What are the Sustainability implications: The subsequent development proposals for the property are subject to planning determination, requirements and associated gain. As such, a fuller assessment will be undertaken following any future planning decision. In project planning, a financial allowance has been made for undertaking sustainability measures in order to enable project development to meet the BREEAM Excellent standard of sustainability.</p> |
| <p>B11.1 The proposal [would/would not] result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures). The positive/negative impacts are set out below (please refer to guidance notes).</p> |
| <p>B11.2 Positive (Opportunities/Benefits):</p> |
| <p>B11.3 Negative (Threats):</p> |

Health & Safety Implications

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| <p>B12 What are the Health & Safety implications:</p> |
| <p>B12.1 A Risk Assessment has not been carried out and entered into Safety Media for all significant hazards and risks because there are no significant hazards or risks arising from this decision. Any subsequent hazards and risks identified would be captured by the project risk register.</p> |
| <p>B12.2 [The significant hazards and risks have been identified in the Safety Media Risk Assessment numbered []. Any financial implications to mitigate against these hazards and risks are considered above.]</p> |
| <p>B12.3 [Control measures and an action plan have been identified for any significant hazards and risks identified in the risk assessment. The positive/negative impacts are set out below]</p> |
| <p>B12.3.1 Positive (Benefits)</p> |
| <p>B12.3.2 Negative (Threats)</p> |

Key Decision

B13 Is this a Key Decision? Yes

Note: A Key Executive Decision is one where:

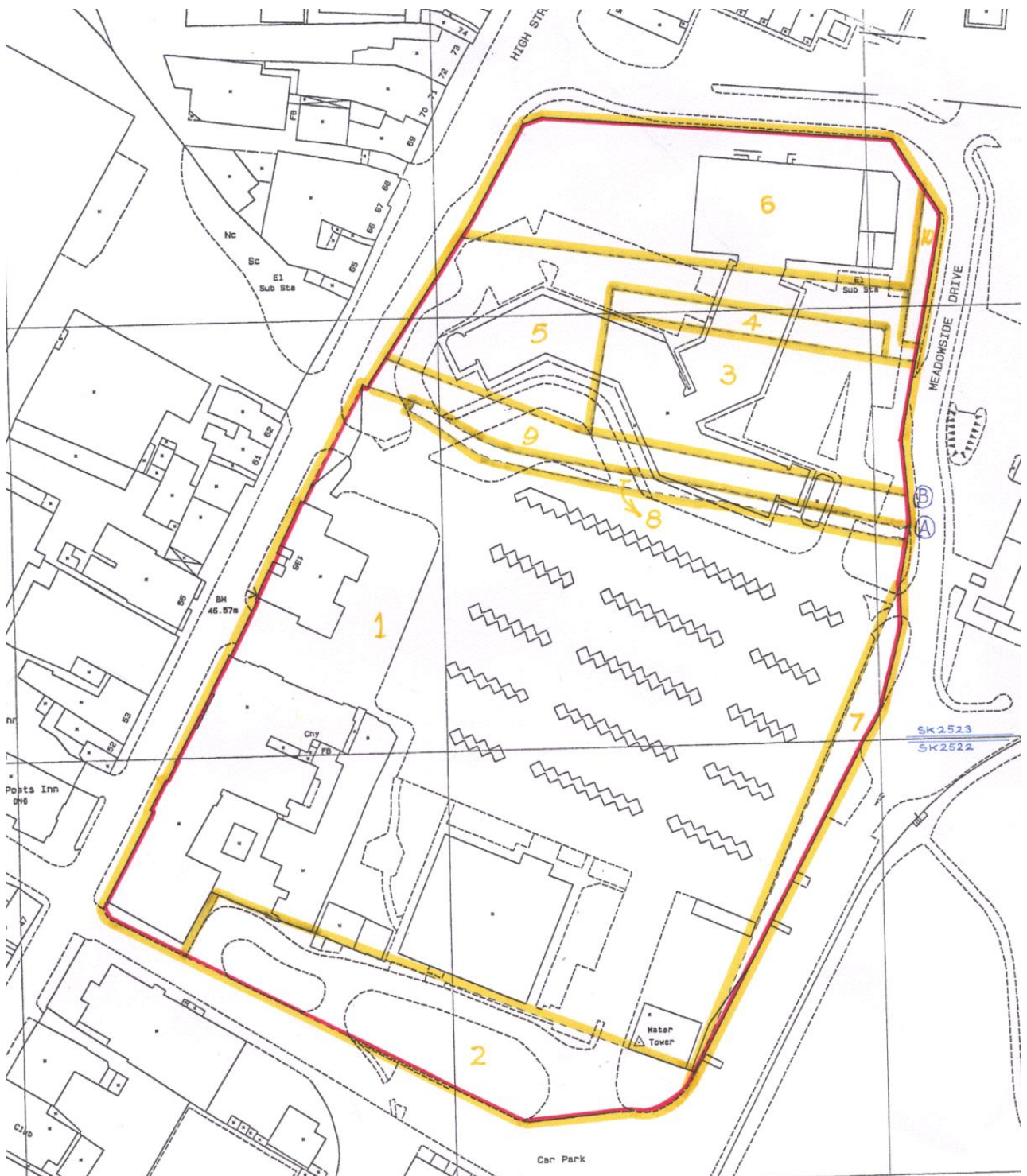
1. **REVENUE** – Any contract or proposal with an annual payment or saving of more than £100,000
2. **CAPITAL** – Any capital project with a value in excess of £150,000
3. A decision which significantly affects communities living or working in an area comprising two or more wards.

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| B13.1 If this is a Key Decision, is this an urgent decision such that a delay caused by use of the Call-in Procedure would <u>seriously</u> prejudice the public interest? | No |
| B13.2 If yes, has the Mayor or in his/her absence the Deputy Mayor or in his/her absence the Chair of the relevant Scrutiny Committee agreed that the decision will be exempt from Call-in? | NA |

NOTE: If this decision is subject to the Call-in Procedure it will come into force, and may then be implemented, on the expiry of 3 working days after publication – unless 10 Members of the Council call in the decision.

Please send the original signed document to andrea.davies@eaststaffsbc.gov.uk

Appendix 1 – Title Plan Boundary (to be opted to tax)



The questions contained in this questionnaire are not to be altered in any way. If you have any queries regarding the contents of this document, please contact Andrea Davies Ext 1306 or refer to Part 3 Section 6 of the Constitution.