

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

FERNBANK, LADYWELL, - PROPOSED SALE OF 0.077 HECTARES (0.19 ACRES) TO KR WEST LOTHIAN LTD

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for sale of 0.077 hectares (0.19 acres) of land at Fernbank, Ladywell, to KR West Lothian LTD.

B. RECOMMENDATION

it is recommended that Council Executive:

1. Approves the sale of 0.077 hectares (0.19 acres) of land at Fernbank, Ladywell, to KR West Lothian Ltd for £125,000 (one hundred and twenty-five thousand) subject to the terms and conditions set out in this report; and
2. Agrees to provide delegated authority to the Head of Finance and Property Services to carry out any further negotiations and conclude the sale of the property, on the basis that any revised terms and conditions still represent best value for the council.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Being honest, open and accountable and making best use of our resources.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) regulations 2010.</p> <p>The covenant of the existing ground lease is considered very weak and is an identified risk associated with the current arrangements. As a consequence, the liabilities associated could transfer to the council in the event of the transaction not proceeding.</p> <p>The council's interest was previously subject to a Community Asset Transfer Request in terms of the Community Empowerment (Scotland) Act 2015. Despite approval by the Council, this was subsequently withdrawn by the applicant and therefore there is no restriction on the council disposing of its interest.</p>

III	Implications for Scheme of Delegations to Officers	The report seeks approval for delegation to the Head of Finance and Property Services to carry out any further negotiations and conclude the sale of the property, on the basis that any revised terms and conditions still represent best value for the council.
IV	Impact on performance and performance Indicators	<p>Disposal proceeds will contribute towards the council's 2021/22 approved capital receipts target.</p> <p>Rental Income for the Commercial Property Portfolio will reduce as a result of the existing ground lease being renounced and the land sold.</p>
V	Relevance to Single Outcome Agreement	Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.
VI	Resources - (Financial, Staffing and Property)	A capital receipt of £125,000 will be received during the 2021/22 financial year. The transaction will be managed within existing staff resources. Commercial Property Portfolio revenue income would reduce by £11,500 per annum due to the renunciation of the ground lease.
VII	Consideration at PDSP	Not applicable.
VIII	Other consultations	The local elected members for the ward have been provided with a copy of the report for information.

D. TERMS OF REPORT

D.1 Background

The land at Fernbank, Ladywell is held on the council's Commercial Property Portfolio. A ground lease is currently in place to the current tenant, Mr Imran Arif (the tenant) comprising an area of 0.77 hectares (0.19 acres) and accommodates the Ferns Public House which has remained closed for a number of years. The location of the site is shown on Appendix 1.

The current ground lease expires in 2031 and the council receives a passing rental of £11,500 per annum however the premises are considered to be in poor condition and likely to remain so if circumstances do not change.

The tenant has expressed difficulty in meeting the ongoing liabilities of the ground lease such as rental, repair and maintenance costs relating to the property.

D.2 Community Asset Transfer

The Ladywell Good Neighbourhood Network and wider community previously agreed to purchase the tenant's interest, and submitted an asset transfer request for the council ground lease interest. This was subsequently approved subject to them securing the necessary funding and concluding the purchase.

The tenant stated that they were unwilling to progress the transaction any further. As a consequence, the asset transfer request has been withdrawn and the council is therefore not restricted in negotiating the disposal of its interests.

Officers are working with the Ladywell Good Neighbourhood Network on options to meet their property requirements.

D.3 Current Proposals

The tenant has agreed the sale of the Ferns public house and requested the council's consent to an assignment of the ground lease to KR West Lothian LTD.

During initial negotiations, it was determined that KR West Lothian Ltd (KRWL) propose to redevelop the Ferns public house for residential use as a House in Multiple Occupation (HMO). The representatives of the purchaser KRWL have requested an outright sale of the land

The proposed use for residential purposes is not compatible with the purposes of the Commercial Property Portfolio. The proposed redevelopment of the site by KRWL will improve the location and reduce potential financial risk to the council in terms of ongoing rental demands for a property currently in need of investment.

Whilst it is the council's standard practice to advertise land and property on the open market, Council Executive at its meeting on 28 October 2014 agreed that, on occasion, it is appropriate for officers to enter into negotiations for the disposal of property on a one-to-one basis without advertising on the open market. Such circumstances might include selling land to an adjoining owner or tenant. In these circumstances, officers are authorised to undertake negotiations, subject to any final agreement on a disposal being approved by the Council Executive.

Officers consider that a negotiated, off-market sale to KRWL is justified in this instance due to them purchasing the tenant interest and because there is no current, viable prospect of another party being able to develop the land.

D.4 Proposed Development

KR West Lothian Ltd has advised officers that the proposal will comprise three individual HMO dwellings comprising three, five and six bedrooms respectively. A total of seven of the fourteen bedrooms will have full disabled access to comply with current building standards. In order to successfully comply and complete the construction phase, proposals also include plans to extend the premises but retaining the existing site boundary.

It is understood that the proposed accommodation will also include communal facilities such as an exercise room, meeting space and ancillary accommodation. KRWL have emphasised their desire to contribute positively to the local community and work collaboratively with groups and other organisations. Officers understand that they intend to operate a small “soup kitchen” every Wednesday and provide accommodation managed on a socially responsible basis reflecting humanitarian and equality values.

The company forms part of a group of businesses who have delivered a number of similar developments and own / manage four at present in West Lothian with another two proposed (including the Ferns proposal).

D.5 Proposed terms

The negotiated terms of the sale are as follows:

- 1. Purchaser:** KR West Lothian Ltd (SC600531).
- 2. Purchase Price:** £125,000 (One hundred and twenty-five thousand pounds Sterling) excluding VAT.
- 3. Planning Permission:** An application for change of use is to be submitted within 3 months of exchange of Missives. Should planning permission be refused the sale will not complete.
- 4. Fees:** The council's legal costs in relation to the transaction will be borne by KR West Lothian Ltd together with all appropriate consents, taxes and liabilities.

It is proposed that the Head of Finance and Property Services is authorised to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms still represent the achievement of best value for the council.

E. CONCLUSION

It is considered to be in the council's best interests to dispose of its ground lease interest at Fernbank, Ladywell, to KR West Lothian LTD on the basis of the terms set out in the report.

F. BACKGROUND REFERENCES

None.

Appendices/Attachments: Location Plan

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Fernbank, Ladywell, Livingston

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