

 <b>SCARBOROUGH</b> BOROUGH COUNCIL	<b>REPORT TO CABINET TO BE HELD ON 26 JULY 2022</b>				
<b>NOT FOR PUBLICATION - This report contains an appendix with exempt or confidential information relating to the financial and business affairs of a particular person (including the authority holding that information)</b>	<table border="0"> <tr> <td><b>Key Decision</b></td> <td style="text-align: right;"><b>YES</b></td> </tr> <tr> <td><b>Forward Plan Ref No</b></td> <td style="text-align: right;"><b>N/A</b></td> </tr> </table>	<b>Key Decision</b>	<b>YES</b>	<b>Forward Plan Ref No</b>	<b>N/A</b>
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<b>Corporate Aims Better Places, Brighter Futures</b>	<table border="0"> <tr> <td><b>Cabinet Portfolio Holder</b></td> <td style="text-align: right;"><b>Cllr Colling</b></td> </tr> </table>	<b>Cabinet Portfolio Holder</b>	<b>Cllr Colling</b>		
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**REPORT OF: DIRECTOR (MC) – 22/180**

**WARDS AFFECTED: Woodlands**

**SUBJECT: LAND DISPOSAL: FORMER INDOOR SWIMMING POOL SITE, SCARBOROUGH**

**RECOMMENDATION (S):**

Cabinet is recommended to:

1. Provide in principle and final approval of the sale of the former Indoor Swimming Pool site on the terms principally contained in the private and confidential appendix to this report.
2. Ring fence the capital receipt relating to the sale of the site for the delivery of the North Bay Masterplan.

**REASON FOR RECOMMENDATION (S):**

To realise a capital receipt and contribute to the regeneration of the area.

## HIGHLIGHTED RISKS:

A risk register is attached at Appendix A to this report.

The sale transaction does not proceed, the capital receipt is not realised and regeneration of the area is not achieved.

## 1. INTRODUCTION

- 1.1. An approach has been made by HQ Hotels to purchase the site of the Former Indoor Swimming Pool shown edged red below:



- 1.2. This report seeks approval for the disposal of this area of land for use as a hotel and associated car park on the terms principally contained in the private and confidential appendix to this report.

## 2. CORPORATE AIMS

- 2.1 The proceeds of the sale will provide a capital receipt which will assist in the delivery of the Council's Corporate aims and priorities. The development of a hotel on the site will contribute towards the Council's Corporate Aims of Better Places and Brighter Futures.

## 3. BACKGROUND AND ISSUES

- 3.1. The site of the Former Indoor Pool has not been in use since the Council's indoor sports facilities in Scarborough relocated to the Sports Village in 2017.

- 3.2. In November 2021 approval was granted by the Local Planning Authority to carry out the demolition of the Former Indoor Pool and in March 2022 the Council's appointed contractor, Jennings of Pudsey, commenced on site and are due to complete the demolition works in the summer of 2022. On completion of the demolition works the site will be ready for development.
- 3.3. During the same period and following consultation with elected members the Cabinet Member for Inclusive Growth approved the commissioning of a new masterplan for the North Bay.
- 3.4. Whilst the main focus of the masterplan was to determine uses for the former 'sands' development area the brief included a requirement to give consideration of possible future uses and the integration of adjacent sites and connecting infrastructure. Specifically this included the complimentary site of the former indoor swimming pool.
- 3.5. The final draft North Bay masterplan is now complete and was adopted by Cabinet on the 1 July 2022 as the framework for future development activity within the area (ref:22/157). In summary the masterplan proposes investment in three key areas:
  1. To enhance and improve infrastructure provision at the Open Air Theatre.
  2. The creation of new visitor attractions within the area based on all-weather family leisure and adrenaline and health activity.
  3. **The provision of new and distinctive accommodation ranging from self-catered camping pods to serviced lodges and a new high quality hotel offering (4 star plus)**
- 3.6. The masterplan specifically identifies the former indoor pool site as being the ideal location to provide additional high quality hotel accommodation. Located directly adjacent to the main development area this is a key gateway to all the North Bay has to offer and importantly hotel development on this site will act to support those developments proposed within the wider masterplan area.
- 3.7. This is supported by the Visitor Economy Strategy 2021-2035 which identified it as essential for Scarborough to provide an even greater range of good value and high quality accommodation to attract more staying visitors, extend the tourism season and continue recovery and growth of the borough's tourism economy. The strategy also recommended a more proactive approach to attracting new high quality and distinctive accommodation to complement that which already exists in the area and to actively open discussions with operators to attract destination hotels that can enhance the Borough of Scarborough's offering and attract a new visitor demographic.
- 3.8. In the disposal of its land the Council is required to comply with the requirements of section 123 of the Local Government Act 1972 as well as the provisions of its Constitution.

#### 4. CONSULTATION

- 4.1 Consultation in developing the North Bay masterplan has been extensive (please see report ref:22/157 for detail). In summary consultation has included a programme of face to face meetings, traditional and electronic media engagement with stakeholders, developers, residents and visitors and elicited over 700 comments and contributions.
- 4.2 Consultation on the disposal has taken place with Executive Management Team and the Portfolio Holder for Inclusive Growth.

## **5. ASSESSMENT**

- 5.1. The Council has been approached by HQ Hotels to purchase the site of the former Indoor Swimming Pool for development as a hotel and associated car park. The red line on the plan above includes the site of the former pool building as well as some adjoining car park land.
- 5.2. The Council has obtained an independent valuation of the land from Aspinal Verdi – Property Regeneration Consultants which is attached as a private and confidential appendix to this report. The land has been valued for both restricted (i.e. hotel) use and unrestricted use. Details of the valuation can also be found in the P&C Appendix.
- 5.3. Officers and HQ Hotels have agreed in principle the terms of the disposal of the site for use as a hotel with ancillary car park which are set out in the private and confidential appendix to this report. The sale is conditional upon HQ Hotels obtaining planning permission for a hotel and associated car park.
- 5.4. HQ hotels have offered to purchase the site for a considerably higher price than its hotel use value. Whilst the theoretical unrestricted use value may be higher, the proposed hotel use accords in principle with the relevant Local Plan Policy (Policy TOU2 – North Bay Leisure Parks). This policy seeks to support the development of new leisure and tourism facilities within this defined area. Potential alternative uses of the site would be constrained by both local and national planning policy. For example, a supermarket or other retail/town centre use proposal would be constrained by both the sequential test and impact assessment test that seek to direct such uses to town centres and / or more sustainable locations.
- 5.5. Furthermore the agreed clawback and buy back provisions as well as the added social-economic value derived from this proposal mean that this disposal falls within the scope of the 2003 General Consent which is detailed in the legal implications section of this report.
- 5.6. The direct and wider regeneration benefits of the disposal and subsequent development must be considered when assessing the sale of the site. HQ Hotels are a locally owned business with a track record of delivery across the hospitality sector, of being a well-regarded employer and of striving to contribute to the local economy through ethical sourcing and operation.
- 5.7. In this instance the developer is proposing the creation of a 4star plus destination hotel, meeting the needs of a higher value market sector which is

not yet fully catered for within the area and so encouraging diversity in the visitor demographic within Scarborough.

### **Employment and Skills**

- 5.8. HQ Hotels are a living wage employer and propose the creation of 120fte direct jobs within the hotel operation ranging from catering and customer service roles to business management and finance. Importantly HQ Hotels believe the hospitality sector should offer fulfilling and professional career opportunities. HQ differentiate themselves by embedding a business ethos that investment in staff and workplace satisfaction will result in satisfied customers and profitable business.
- 5.9. In respect of this development HQ are proposing to deliver their “HQ Academy” model within the hotel operation. The HQ academy programme is established to provide direct investment in upskilling its staff to gain academic and industry qualifications relating to the hospitality sector. Training is delivered by a range of in house, local education and national service providers (including Scarborough Tech and Craven College) with qualifications from level 1 to level 5 and covering a wide range of subjects from advanced apprenticeships in catering to business management.

### **Growing Overnight Visitor Numbers**

- 5.10. Furthermore the hotel will provide in the region of 70,000 additional overnight bed spaces per annum (100 double rooms x 365 days) for the town and the operator predicts over 50,000 users of the hotel facility in a typical year (based on circa 70% occupancy). In creating a “destination” hotel HQ are specifically targeting new overnight visitors to the town i.e. those who don't currently stay overnight due to the present choice accommodation. Thus limiting the impact on existing accommodation provision within the town.
- 5.11. The current shortage of alternative 4star plus accommodation provision within the town has been highlighted in a number of assessments and studies of the Scarborough visitor economy (most recently the Scarborough Visitor Economy Strategy and the North Bay Masterplan) and is seen as a constraining factor limiting the growth and diversity of overnight visitor stays and extension of the tourism season. The HQ proposal has the potential to provide a direct contribution to the Visitor Economy Strategy objectives of growing the borough's provision 4 star and above visitor accommodation.

### **Monetary benefits of the proposal**

- 5.12. HQ Hotels project investment of circa £15m in the development and construction of the hotel, providing economic opportunity for the local construction supply chain.
- 5.13. Once operational and based on the number of projected overnight stays and using the average overnight visitor spend of £69 per visitor this equates to approximately £3.4m of additional spend within the local economy per year.

- 5.14. Furthermore, HQ hotels employ an Ethical Supply Chain policy in its operations and retains an “Environmental Team” which actively seeks to source the highest quality products from local, ethical and environmentally sustainable suppliers wherever possible, be that food and beverage supplies to laundry and energy service provision. HQ estimate that an operation of the scale proposed would spend somewhere in the region of £400-500k per annum within the local supply chain.
- 5.15. The proposed development would also attract business rates. Whilst a definitive assessment of business rates cannot be made prior to completion of the development, comparable operations within the area attract business rates payable of circa £130k pa. Based on current business rate collection regimes this would result in circa £50k pa being apportioned to the Borough Council.

### **Wider socio-economic benefits**

- 5.16. The indirect impacts of the HQ Hotels proposal are also beneficial to the wider North Bay masterplan area and the wider Scarborough economy. The provision of 4star plus accommodation on this key gateway site will include:
- An additional destination for visitors to the North Bay giving more reasons to use and dwell within the wider area.
  - Acting as a catalyst in supporting existing activity and new investment. For example new high quality accommodation local to the open air theatre supporting the take-up of the existing show programme but also providing supporting infrastructure for growth of the venue for additional shows and cultural events.
  - Improved perceptions of the town both locally, with visitors and the business community, bringing the Scarborough offer to wider visitor demographic through its marketing and promotion.

### **Impact on public parking provision**

- 5.17 The site proposed for disposal is currently the location of circa 137 public pay and display car parking spaces. During peak periods i.e. during summer holidays and when there are events and performances within the town this parking is often at or near capacity. Provision may therefore need to be made to offset any loss of public parking as a result of this proposal.
- 5.18 To offset this impact in the short to medium term it is possible that a portion of the current overspill car park, located on the grassed area to the west of the site be “grass-creted” and pay meters installed. This low impact intervention would provide accessible parking throughout the year and by delineating parking bays would also improve overall capacity of the overspill area.
- 5.19 In the medium term the North Bay Masterplan proposes the creation of circa 700 additional multi-storey parking spaces in support of the development area

and located at Northstead Manor Gardens Car Park and upon part of the former Atlantis Waterpark site.

5.20 In recognition of the requirement of the purchaser to achieve the direct and wider regeneration benefits of the proposal, the Council have put a number of safeguards in place as further detailed in the HoTs, in summary:

- i. A permitted use restriction is in place requiring the site to only be used / developed for the purposes of a hotel for a period of three years from completion of the sale.
- ii. The Council retain an option to re-purchase the site if HQ Hotels has not substantially started works to develop the hotel within a period of three years.

alternatively;

- iii. If commencement of development of the hotel does not occur within 3 years but one of the alternative uses detailed in the HoTs come forward from a third party then the Council could relax the permitted use restriction and receive an additional payment for the site.

## **IMPLICATIONS**

### 6.1 Policy Implications

There are no direct policy implications arising from this decision.

### 6.2 Legal Implications

6.2.1 Legal implications of the disposal are set out in the body of this report and its private and confidential appendix.

6.2.2 The Council's Constitution provides that as a general rule all land and property disposals shall be submitted to competitive tender; it is accepted, however, subject to the prior approval of the Cabinet Member, that an alternative disposal method might be preferable. This report seeks approval to sell the Former Indoor Swimming Pool site direct to HQ Hotels.

6.2.3 Section 123(2) of the Local Government Act 1972 (as amended) provides:

“Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.”

6.2.4 This provision provides local authorities with the power of sale enabling them to dispose of land in any manner they wish however a local authority cannot dispose of its land for a consideration less than the best that can be reasonably obtained except with the consent of the Secretary of State. Whilst section 123 imposes a duty on local authorities to achieve the outcome of best consideration it does not impose a duty to conduct a particular process. It is for the authority to satisfy itself that it can demonstrate achievement of

best consideration whether by carrying out a competitive tender to establish market value, obtaining an independent valuation or both.

- 6.2.5 The Government issued the General Disposal Consent 2003 which removes the requirement for authorities to seek specific consent from the Secretary of State in specified circumstances where the difference between the unrestricted value and the purchase price is £2m or less.
- 6.2.6 The specified circumstances are where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
- (i) the promotion or improvement of economic well-being;
  - (ii) the promotion or improvement of social well-being;
  - (iii) the promotion or improvement of environmental well-being.
- 6.2.7 In view of the regeneration benefits of the scheme, the proposed transaction is considered to fall within the scope of the above mentioned provisions. The Council has taken external advice to confirm that the proposals will not contravene subsidy control legislation subject to HQ demonstrating compliance with the relevant minimal financial assistance thresholds.

### 6.3 Financial Implications

- 6.3.1 Car Parking: Net car parking income for the existing car park is £76kpa. Any loss of this income will be offset by additional car parking income generated from the existing overflow car park, surrounding Council owned car parks and the additional business rates income derived from the completed Hotel Development. The longer term plan being to upgrade the existing overflow car park with grass-crete funded from the proceeds of the hotel sale.

### 6.4 Equality and Diversity

There are no direct equality and diversity implications arising from this decision.

### 6.5 Local Government Re-organisation

This transaction will fall within the scope of the Direction restricting transactions and made under section 24 of the Local Government and Public Involvement in Health Act 2007. Officers will liaise with the County Council's statutory officers as appropriate to ensure the Borough Council obtains agreement from the continuing authority.

- 6.6 "I have considered whether the following implications arise from this report and am satisfied that there is no identified implication that will arise from this decision:



Staffing implications, Communications, Planning implications, Crime and Disorder Implications, Health and Safety implications, Environmental implications.”

A handwritten signature in black ink, appearing to read 'M. Cole', with a horizontal line underneath.

**Marc Cole**  
**Director**

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**Background Papers:**

Please give details of all publicly accessible (non private) background papers applicable to the report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

## Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1		Cabinet authority for the transaction is not given.	Transaction is unable to proceed on the terms agreed resulting in loss of capital receipt and failure to deliver regeneration outcomes and outputs.	Transaction is in line with North Bay masterplan and Visitor Economy Strategy. Independent valuation supporting the agreed sale price carried out.	B3	A1	Marc Cole	This report
2		O & S call in and successfully oppose the transaction.	Transaction is unable to proceed on the terms agreed resulting in potential delays to progression of the scheme and or loss of capital receipt and failure to deliver regeneration outcomes and outputs.	Transaction is in line with North Bay masterplan and Visitor Economy Strategy. Independent valuation supporting the agreed sale price carried out.	B3	A1	NA	This report
3		Authorisation of transaction not approved by continuing authority.	Transaction is unable to proceed on the terms agreed resulting in potential delays to progression of the scheme and or loss of capital receipt and failure to deliver regeneration outcomes and outputs.	Transaction is in line with North Bay masterplan and Visitor Economy Strategy. Independent valuation supporting the agreed sale price carried out.	C3	A1	Marc Cole	This report
4		Site development does not proceed following agreement of transaction.	Site remains in the ownership of the Council until consents are secured and works commence. If works do not commence within three years Council have option to buy back the site.	External legal advice sought and appropriate clauses and conditions of sale in place.	C3	A1	Marc Cole	Legal agreements.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
5		Loss of parking revenue income	Car parking income not achieved Reduction in revenue to the Council	Short to medium term this will be offset through use of the existing overflow carpark and adjacent public parking. Medium term proposals will see investment in circa 700 additional parking spaces within the area.	B2	A1	Nick Edwards	Investment in enhanced local parking infrastructure if necessary.

**Glossary of Terms**

- Risk An event which may prevent the Council achieving its objectives
- Consequences The outcome if the risk materialised
- Mitigation The processes and procedures that are in place to reduce the risk
- Current Risk Score The likelihood and impact score with the current mitigation measures in place
- Target Risk Score The likelihood and impact score that the Council is aiming to achieve
- Service Unit Manager The Service Unit or Officer responsible for managing the risk
- Action Plan The proposed actions to be implemented in order to reduce the risk to the target score

***Risk Scoring***

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

- Likelihood:  
 A = Very Low  
 B = Not Likely  
 C = Likely  
 D = Very Likely  
 E = Almost Certain

- Impact  
 1 = Low  
 2 = Minor  
 3 = Medium  
 4 = Major  
 5 = Disaster