

**COUNCIL MEETING
THURSDAY 24 JANUARY 2019**

ADDITIONAL ITEM

**DISPOSAL OF FREEHOLD INTEREST – LAND
AT STATION CAR PARK, MATLOCK BATH**

COUNCIL
24 JANUARY 2019

Report of the Chief Executive

DISPOSAL OF FREEHOLD INTEREST - LAND AT STATION CAR PARK, MATLOCK BATH

PURPOSE OF THE REPORT

The report recommends the freehold disposal of land at Station Car Park, Matlock Bath to Heights of Abraham Limited to enable the construction of a pedestrian access way to serve the Heights of Abraham Cable Car station.

RECOMMENDATION

1. That authority be delegated to the Estates and Facilities Manager to agree disposal of the Council's freehold interest in land adjacent to Station Car Park, Matlock Bath to Heights of Abraham Limited subject to protection of existing use rights and the Council's future interests on the terms outlined in paragraph 3 of this report.
2. That Council notes the proposed disposal comprises an undervalue transaction relating to the promotion or improvement of the economic, social or environmental wellbeing of the area as permitted under the General Disposal Consent 2003.

WARDS AFFECTED

Masson

STRATEGIC LINK

The disposal recommended in this report is in line with a number of the District Council's aims and objectives including achieving a thriving district and supporting business growth as expressed in the Corporate Plan 2015-2019

1. REASON FOR URGENCY

- 1.1 The Chairman of the Committee has agreed to the inclusion of this item as a matter of urgent business. The reason for urgency is to respond to externally set deadlines to facilitate the freehold transfer of land to construct an approved pedestrian access way in the interests of safeguarding the viability of a major tourist attraction which makes a significant contribution to the tourism economy in the Derbyshire Dales.

2. BACKGROUND

- 2.1 The District Council owns an extensive area of land in and around Station Car Park, Matlock Bath, the majority of which is used to provide public car parking and is shown shaded blue in the plan at Appendix 1. The base station which provides access to the Heights of Abraham site is shown edged in green.

- 2.2 In October 2018, planning permission (18/00970/FUL) was granted by the District Council for the creation of a new pedestrian access route on land between the Station Car Park and the railway bridge. The need for this access has arisen from the decision of Network Rail to permanently close the level railway crossing at Matlock Bath station on the grounds of public safety, in advance of the approved pedestrian access way being constructed. With immediate effect, this has closed the means of access to the footpath used by railway commuters from Starkholmes and the means of access for visitors to the Heights of Abraham and High Tor.
- 2.3 The Heights of Abraham attraction brings many thousands of visitors into the Derbyshire Dales and, along with Chatsworth, rates as one of the most significant and important contributors to the tourist economy not only in Derbyshire Dales but the whole of Derbyshire. The railway crossing provides the main pedestrian access to the Heights of Abraham and to the trails through High Tor. Without an alternative access in place the closure of the railway crossing threatens the future of the Heights of Abraham operation. This would have a devastating effect on the Derbyshire Dales economy, the town of Matlock Bath and would cause significant local job losses.
- 2.4 The closure of the level crossing effectively forces pedestrians to make a circuitous detour out of the station car park crossing the road bridge over the River Derwent, along the A6 and up steps to cross the footbridge back across the River Derwent. This route is not accessible to all, has narrow pavements and mixes pedestrians with vehicles entering and exiting the station car park. It is therefore, a wholly inappropriate access solution for a major tourist attraction.
- 2.5 In light of the decision taken by Network Rail and in order to safeguard the Heights of Abraham operation, there is a need to progress the construction of the recently approved pedestrian access way at the earliest possible opportunity.
- 2.6 Construction of the access way represents a significant business investment by Heights of Abraham and presents an opportunity to create a high quality access solution befitting a tourist attraction of its national standing. Accordingly, they wish to obtain the freehold interest in the land to facilitate construction of the access way but also the adjoining land in order to ensure that it is maintained to a standard which is befitting the main gateway access to their operation.
- 2.7 The current vehicular access which is the subject of this report originally provided the vehicular access to the now disused colour works site (also in the ownership of the Heights of Abraham directors in trust). The access also serves a small number of residential properties and land at High Tor. It comprises a track of single vehicle width with the railway embankment on one side and steep drops to the River Derwent on the other. Although it has a tarmac surface, this is in poor condition with a number of pot holes and uneven sections which make it unsuitable for pedestrian use in its current state.
- 2.8 The District Council has no operational need for the access road and, at the present time, it represents an ongoing maintenance liability. However, it may be of value to the Council should the colour works site or the riparian (river) rights that run with the land be developed in the future
- 2.9 Disposal of the site on the terms suggested below will allow HOA to obtain the security they need to enable them to make a substantial investment in the site whilst

also protecting existing use rights and the Council's future interests in the surrounding land.

- 2.10 Other than general enquiries about land availability in the District and the enquiry forming the subject of this report, no other specific expressions of interest have been received in the subject site.

3 PROPOSED TERMS

- 3.1 The land shown edged red in the plan at Appendix 2 will be transferred freehold to HOA Ltd. in its existing condition subject to all existing encumbrances, covenants and third party rights currently existing including a lease of a small car parking area and building curtilage occupied by Derbyshire Wildlife Trust in exchange for a consideration of £10,000 (ten thousand pounds) plus payment of the District Council's reasonable legal and surveyors costs.
- 3.2 The purchasers will be required to maintain the roadway and new access way and provide suitable health and safety signage and provide suitable fencing or barrier between the roadway and the river commensurate with its proposed use as the main gateway access to their operation.
- 3.3 Rights will be retained over the roadway/new access way for pedestrian access for the public between the Station Yard Car Park and public footpaths 19 and 69 to the A6 and Starkholmes respectively and for the benefit of the Council's retained land.
- 3.4 If required to do so, the purchaser will also concur with DDDC/DCC to dedicate footpaths as public footpaths, public cycle ways or public multiuse trails and will execute such deeds and agreements as may reasonable be required but at the Council's expense
- 3.5 The purchaser will be required to pay a fair proportion of repair, maintenance and renewal costs of the right of way shown in yellow on the plan based on relative use.

4 VALUATION

- 4.1 In its current use , taking into account the various rights across it (both formal and prescriptive), the value of the roadway itself comprises the value of the riparian rights which go with it and the "hope" value of future redevelopment of the colour works site.
- 4.2 Under the proposed terms, the riparian rights would be retained by the Council and the future hope value would be protected by retaining land at the colour works entrance.
- 4.3 On the basis of the terms proposed, and the restrictions contained therein, the Council's Valuer considers the consideration proposed to be the "restricted value" of the land. However, the unrestricted value of the land would be higher than this and disposal on the terms proposed would not represent the best price reasonably obtainable for the land.
- 4.4 The proposed terms for the transfer of land would therefore comprise an undervalue transaction as permitted under the General Disposal Consent 2003.

- 4.5 Under the General Disposal Consent 2003, Local Authorities are permitted to dispose of any interest in land held under the Local Government Act 1972 which they consider to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area at less than best consideration subject to various conditions.
- 4.6 It is considered that the proposed terms for the transfer of land at Station Car Park would comply with this legislation.

5 CONSULTATION

- 5.1 The relevant Ward Members have been consulted and raise no objections to the proposed course of action. Matlock Bath Parish Council has been consulted on the proposed transfer and any comments received will be reported verbally at the meeting.

6. RISK ASSESSMENT

6.1 Legal

The Council has a statutory duty under s.123 of the Local Government Act 1972 not to dispose of land for a consideration less than the best that can reasonably be obtained. Under the Local Government Act 1972 General Disposal Consent (England) 2003 general consent is given to local authorities to dispose of land 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;

The legal risk is therefore low.

At Paragraphs 3.3 and 3.4 above the Council relinquishes control as landowner of any future discussions about dedicating the access road as a permanent public footpath between the Station Yard and Footpaths 19 and 69. On the other hand, it still retains ownership of the River Bank.

The legal risk is therefore medium.

6.2 Financial

While this is an undervalue transaction, the disposal will generate a one-off receipt for the Council. Sale proceeds greater than £10,000 would generate a capital receipt, which will be credited to the Capital Receipts Reserve to fund future capital projects. If the sale proceeds are £10,000 or less, the income will be credited to the revenue account. As well as bringing in some income, this disposal also removes a liability for maintenance of the land. The Heights of Abraham will pay the Council's reasonable legal costs.

The financial risk is assessed as low.

7. OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

8. CONTACT INFORMATION

Paul Wilson, Chief Executive.

Tel. 01629 761125

email paul.wilson@derbyshiredales.gov.uk

Mike Galsworthy, Estates and Facilities Manager.

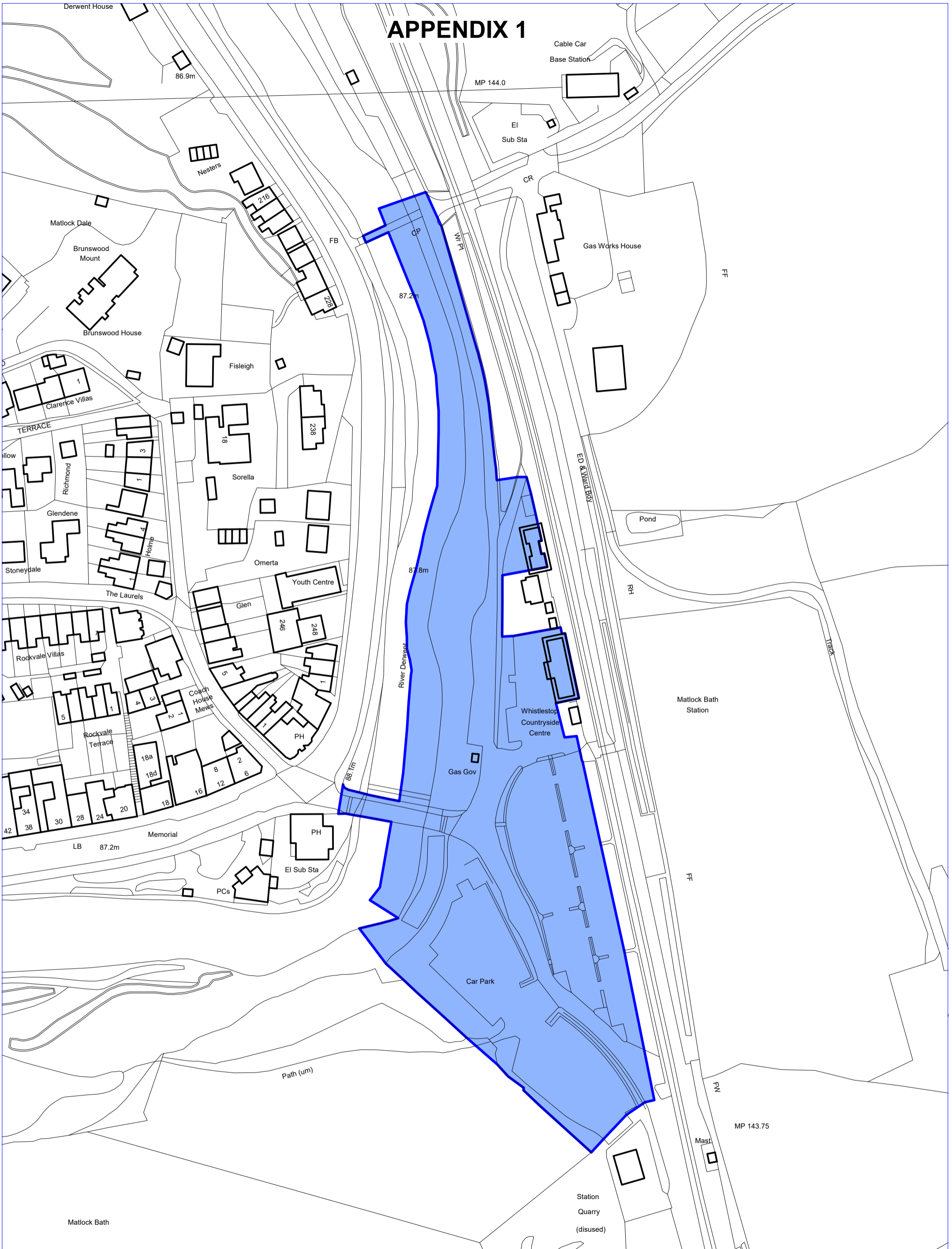
Tel. 01629 761207

email mike.galsworthy@derbyshiredales.gov.uk

9. BACKGROUND PAPERS

Planning Application 18/00970/FUL

APPENDIX 1



APPENDIX 2

