



Author/Lead Officer of Report:
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Report of: Laraine Manley: Executive Director PLACE
Report to: Cabinet
Date of Decision: 13th December 2017
Subject: Zest Centre & 54-56 Upperthorpe Road, Sheffield

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Cllr Mazher Iqbal Cabinet Member for Business and Investment		
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing Scrutiny and Policy Development Committee		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? Place 32		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Purpose of Report:

This report proposes a series of recommendations to review and rationalise the property leased by Netherthorpe and Upperthorpe Community Alliance (NUCA) and its associated organisations to address the organisations long term sustainability. Decreasing revenue support from the Council and the costs of repair and maintenance of the properties leased by NUCA is putting increasing pressure on the organisation and limiting its ability to develop and deliver services.

The report seeks Cabinet approval for a series of recommendations which will support NUCA to develop a viable medium term business plan and capital investment strategy and enable them to continue to deliver services to the local

community.

Cabinet are asked to consider:

1. The surrender of the existing lease of the Zest Centre (Marked as 1 in the attached Appendix) from the Upperthorpe & Netherthorpe Healthy Living Centre Trust and a re-grant of a lease to Netherthorpe & Upperthorpe Community Alliance.
2. The surrender of the lease of 54–56 Upperthorpe Road (Marked as 2 in the attached Appendix) from the Netherthorpe & Upperthorpe Community Alliance and disposal by the Council on the open market. The surrender will be conditional to the acceptance of a business case to re-invest the capital in the Zest Centre.

A separate business case is to be produced and submitted to the Capital Programme Group for consideration which will request that the capital derived from the disposal of 54-56 Upperthorpe Road be re-invested into the Zest Centre to assist in the group's investment into their retained property.

Recommendations:

That Cabinet approves:

The surrender of the lease of the Zest Centre, Upperthorpe, Sheffield, S6 3NA, currently held by the Upperthorpe & Netherthorpe Healthy Living Centre Trust.

The grant of a new lease of the Zest Centre to Netherthorpe & Upperthorpe Community Alliance and delegate authority to the Chief Property Officer to agree such Heads of Terms in line with this report.

The surrender of the lease of 54–56 Upperthorpe Road, currently held by Netherthorpe & Upperthorpe Community Alliance.

The release of Netherthorpe & Upperthorpe Community Alliance from a Debenture, dated 23rd December 1999 in relation to 54–56 Upperthorpe Road, upon the surrender of the lease.

The disposal by auction by the Council of 54–56 Upperthorpe Road.

A delegation of authority to the Chief Property Officer who in consultation with Director of Commercial and Financial Services and Director of Legal and Governance to take all other necessary steps, not covered by existing delegations, including any proposed capital works and improvements to give effect to the proposals set out in this report.

Background Papers:

None

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: Paul Schofield
	Legal: David Sellars / Henry Watmough-Cownie
Equalities: Annemarie Johnston	
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission: <i>Laraine Manley</i>
3	Cabinet Member consulted: <i>Cllr Mazher Iqbal</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.
	Lead Officer Name: Tammy Whitaker
	Job Title: Head of Property Services
Date: 31/11/2017	

1. BACKGROUND

1.1 Netherthorpe and Upperthorpe Community Alliance (NUCA) and Zest (NUCA's trading arm), currently operate from a series of premises leased from the Council. However, decreasing revenue support from the Council and repair and maintenance liabilities of the properties is putting increasing pressure on the financial sustainability of NUCA and constraining the income generating potential of the organisation. NUCA is currently developing a medium term business plan and capital investment strategy to address these issues.

1.1.1 Zest, previously known as the Upperthorpe & Netherthorpe Healthy Living Centre Trust (UNHLCT) is a registered charity and the trading name of Netherthorpe and Upperthorpe Community Alliance (NUCA), also a registered charity. As such it shares a number of common trustees and similar charitable objects to NUCA.

1.1.2 Zest delivers services to local people in the Netherthorpe, Upperthorpe and Langsett areas of the city. It manages the Zest Centre, a community building from which it delivers health, employment, training, social and physical activities to adults and children from across the city. The Centre houses a public swimming pool, two gyms, a library, café, meeting rooms and offices for hire and rent.

1.1.3 Zest's mission is:

To provide a healthy living centre delivering responsive services to tackle local inequalities, including:

- Health and wellbeing
- Employment and skills
- Sport, leisure and recreation

To foster communities where everyone feels welcomed, valued and can fully participate in the life of the community.

To play an active role in supporting other disadvantaged communities in Sheffield.

1.2 Funding

1.2.1 NUCA had a deficit of £77k in the year up to 31st March 2016 (with the previous year being £16k). Zest currently receives significant annual revenue support from the Council, (including £100k for the Gym from the Public Health budget and £24.5k for the Library). It also receives £16k pa rental income from the MAST team who rent office space within the former Slipper Baths.

1.2.2 Funding for NUCA and Zest is likely to decline in the near future due to a reduction in revenue funding from the Council. The accommodation

occupied by the MAST Team is coming to the point of being unfit for occupation due to roof leaks.

- 1.2.3 In addition the properties held by NUCA require significant capital investment in order to enable their continued use and maximise their revenue generating potential. In order to address these issues Zest is developing a medium-term business plan and capital investment strategy and there is continuous dialogue with the Council on revenue funding and business planning to generate income.

1.3 **Zest/NUCA Property Interests**

- 1.3.1 NUCA and Zest hold interests in several properties owned by the Council.

- Zest Centre
- 54-56 Upperthorpe Road
- 58 and 60- 62 Fawcett Street
- Housing Office Shipton Street

- 1.3.1 A number of these are now vacant and surplus to requirements. In order for NUCA to address funding issues and implement its medium term business plan it needs to rationalise its property interests and invest in the retained property.

1.3.2 **Zest Centre**

The Zest Centre comprises three Victorian buildings, the former Public Baths & Laundry, the Public Library and the former Caretakers Lodge. The Upperthorpe & Netherthorpe Healthy Living Centre Trust hold a lease from SCC for a term of 30 years from the 1st August 2002. The existing lease of the Centre makes provision for the whole of the property, or the part comprising the Pool only, to be handed back to the Council with 12 months' notice, should funding in one year be less than the previous year. There are potential clawbacks of grant funding involved should the Centre close or be sold.

- 1.3.3 The Centre represents a significant repair and maintenance liability due to the age and construction of the Grade II listed buildings. Nearly £4m of external funding has been invested in the property since the Council granted the lease in 2002. The Secretary of State for Health has a legal charge over the property.

- 1.3.4 Despite this investment, further repairs are required including roof replacement, addressing water penetration in the former Slipper Bath area, penetrating damp in the attic, and repair and refurbishment of office and studio space. Without these repairs the spaces will become unusable in the near future and will limit the income generation of Zest as some of these areas are let. Repairing liabilities for the property lie with Zest but are limited to the condition of the premises at the commencement of the lease as evidenced by a schedule of condition.

- 1.3.5 Zest is developing several options and costings for repair and

improvement works together with options for the use of the space to generate maximum revenue income. Zest is also assessing potential external funding support for the various options. However, in order to maximise external funding Zest requires a longer lease than that currently in place. The existing lease has only 23 years remaining and most funding regimes require a minimum period of 25 years.

1.3.6 54 – 56 Uppertorpe Road

The Council is the head lessee of shop premises on Uppertorpe Road, (shown edged red and marked 2 on the plan in the attached Appendix) via a lease for a term of 800 years from 25th March 1892, subject to a ground rent of £26 p.a.

1.3.7 The Council granted a lease to NUCA of two shops, 54-56 Uppertorpe Road, for a term of 99 years from 23rd December, 1999 at a peppercorn rent, for use in accordance with the Memorandum & Articles of NUCA. The properties were altered and improved to enable use by NUCA via a Funding Agreement involving a range of external funders, including ERDF and SRB, with the Council contributing the value of the properties, estimated at £25,000 at the time. It is understood that clawback provisions associated with this funding have now expired.

1.3.8 The Council took a Debenture charge over the property and other assets of NUCA at the same time as the grant of the lease to ensure that the Council could secure some share of the proceeds should the properties no longer be required by NUCA and the lease assigned. The Debenture does not mention any specific sum subject to the charge, but appears to be related to the original Funding Agreement.

1.3.9 NUCA no longer occupy the properties and do not wish to continue to provide services from them. Whilst they could assign the existing lease this would be difficult unless the existing charge over the property held by the Council is lifted.

1.3.10 Other Properties

NUCA currently hold other properties at 58 & 60 - 62 Fawcett Street on leases for a period of 99 years (or the residue thereof) from 4th March 2003 at a peppercorn rent and the former housing offices at Shipton Street under Licence. Heads of Terms for Shipton Street are close to agreement for a lease co-terminus with the existing leases for the Fawcett Street properties, also at a peppercorn rent.

2. PROPOSAL

2.1 In order to address financial pressures faced by NUCA and ZEST the following actions are proposed:

1. The Council accepts a surrender of the existing lease of the Zest Centre from the Healthy Living Trust and grant a new lease to NUCA for a longer period. This would allow NUCA to continue to seek new sources of external grant funding. It is proposed that

the new lease be co-terminus (i.e. ending on 3rd March 2102) with the existing leases for other NUCA properties in Fawcett Street and the lease approved for Shipton Street.

2. The Council accepts a surrender of the existing lease of 54–56 Upperthorpe Road from NUCA and releases the legal charge over the property. The Council then disposes of the property via auction which would generate a capital receipt.
3. The Executive Director PLACE will make a final decision on the terms of any new lease of the Zest Centre to NUCA.

A separate business case is to be produced and submitted to the Capital Programme Group for consideration which will request that the capital derived from the disposal of 54-56 Upperthorpe Road be re-invested into the Zest Centre to assist in the group's investment into their retained property.

3. HOW DOES THIS DECISION CONTRIBUTE?

3.1 The decision will:

- Enable continued and potentially enhanced use of the Zest Centre and provision of facilities, services and support for the benefit of the local community
- Help to sustain the medium-term business plan for Zest
- Enable Zest to apply for external grant funding to support the Centre and provision of services to the local community

3.2 The Council, with Zest, will be able to continue and improve delivery of the following corporate priorities set out in the Corporate Plan 2015 – 18:

- Thriving neighbourhoods and communities
- Better health and well-being; and
- Tackling inequalities

4. HAS THERE BEEN ANY CONSULTATION?

4.1 There has been continuous dialogue and consultation with Zest officers and Trustees of NUCA and the Healthy Living Trust to assess future funding options for Zest and to identify a way forward. Members are aware of the proposals.

5. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

5.1 Equality of Opportunity Implications

5.1.1 The Zest mission outlined elsewhere in this report fully embraces the equality of opportunity objectives of the Council. The proposed decision will enable both organisations to make a continued and improved contribution to achieving those shared objectives.

5.2 Financial & Risk Implications

5.2.1 This decision should be viewed in the context of the Council's diminishing ability to provide support from revenue budgets to Zest and other community organisations, due to continuing reductions in overall levels of local authority revenue funding from Government. A separate business case is being produced concerning the use of capital receipts generated by the disposal of 54–56 Uppertorpe Road for investment in the Zest Centre

5.2.2 Should Zest exercise the option to hand back the Centre to the Council it is unlikely that annual funding could be made available to keep the centre open. This would result in the loss of both services and facilities currently provided to the local community. This, in turn, is likely to lead to increased pressure on Council and other public sector services which will have financial implications for those services.

5.2.3 The Council would also be left with a significant repair and maintenance liability for a listed building for which no current revenue or capital budget provisions exist. It is unlikely that the Council could lease or dispose of the Centre to pass on these liabilities and any capital funding generated from the disposals would be limited given the condition of the building and its location.

5.2.4 The surrender of the lease and the disposal of 54–56 Uppertorpe Road will generate a capital receipt to the Council, estimated at approximately £130,000. The Council would not, however, receive this sum unless NUCA surrendered the lease and NUCA could not release any funding from an assignment unless the existing legal charge to the Council is lifted. NUCA could, if it chose, continue to occupy the property until the end of the current 99 year lease.

5.2.5 The proposed strategy, therefore, represents the best way forward for both parties.

5.3 Legal Implications

5.3.1 The grant of a longer lease for the Zest Centre at a peppercorn rent is not considered to represent disposal at less than best consideration for the purposes of s123 of the Local Government Act 1972. It is considered that there would be little or no opportunity for the Council to dispose of the Centre on the open market for other uses in order to secure a capital receipt. The reasons for this are detailed within this report. Further, it is considered that the continued use of the Zest Centre would help to deliver the vision for Sheffield as a sustainable community set out within the City Strategy.

In determining whether the disposal of 54 – 56 Uppertorpe Road would help to secure the promotion or improvement of the economic, social or environmental well-being of its area, the Council should have regard to its Sustainable Community Strategy prepared pursuant to Section 4 of the Local Government Act 2000.

A further business case is to be produced regarding the disposal of any capital following the sale of 54 – 56 Uppertorpe Road, which will include a proposal to re-invest such capital to the Zest Centre.

5.4 Property Implications

5.4.1 The capital value of the properties at 54–56 Uppertorpe Road, if sold at auction by the Council following surrender of the existing lease, is estimated at £130,000. Disposal via auction would be an open market transaction thereby satisfying the requirements of s123 of the Local Government Act 1972 relating to best consideration.

5.4.2 The surrender and grant of a new lease for the Zest Centre offers the best way forward for the Council to ensure that this property is kept in beneficial use and that a significant repair and maintenance liability does not fall upon the Council.

5.4.3 Should Zest no longer operate the Centre and it returns to the Council it is considered that there would be no potential for another community group to take a lease of the property and that there would be no demand in the open market to operate the property as a library, swimming pool etc.

5.4.4 It is considered that there would be little opportunity for the Council to dispose of the Centre on the open market for other uses in order to secure a capital receipt. The planning designation is as part of a Neighbourhood Centre and the main alternative use of the property is considered to be a mix of retail and residential but the level of any capital receipt for a disposal for that use is considered to be constrained by:

- Grade 2 Listed Building designation
- The age, layout and construction of the property
- Current capital maintenance and investment needs for the fabric of the building
- High levels and costs for future maintenance
- The costs of conversion (for say apartments)
- Low Gross Development Value given overall property values in the local area and likely demand for apartments in this location

5.4.5 The costs for repair, maintenance and conversion of the Zest Centre are considered to be far in excess of any resultant end value given the

above issues and it is doubtful whether areas of the property, such as the former Laundry, would be capable of being brought into any beneficial use, as part of a comprehensive conversion.

5.4.6 Whilst there may be theoretical potential for use of the property as offices, perhaps with retail units on the ground floor, it is not considered that there is a level of demand for either of these uses in this location that would generate significant rental and capital values.

5.4.7 The grant of a longer lease at a peppercorn rent is, therefore, not considered to represent disposal at less than best consideration for the purposes of s123 of the Local Government Act 1972.

6. ALTERNATIVE OPTIONS CONSIDERED

6.1 The Council has a limited number of different options due to the existing leases in place and the wish to maintain the facilities and services which the Council considers are important to the delivery of key corporate policy objectives. These are summarised in the table below, together with the potential implications:

	OPTION	IMPLICATIONS
1	Do Nothing	<ul style="list-style-type: none"> • Reducing funding support from the Council to Zest • Inability of Zest to seek external grant funding • Zest finances become unviable • Zest no longer operate the Centre • Centre closure & loss of facilities and services • Centre & other properties return to the Council • Significant financial liabilities for the Council and limited options for disposal and generation of capital receipt
2	Sell Upperthorpe Road properties and Council retains capital receipt	<ul style="list-style-type: none"> • Zest not likely to surrender lease making option undeliverable • Other implications as for Option 1 • Subject to a separate business case
3	Focus Zest operation on lease/ use of Centre only and hand back other properties to Council	<ul style="list-style-type: none"> • Zest assessing this option as part of business plan process and implemented in part by decision by Zest not to use Upperthorpe Road properties • Main costs for Zest relate to the Centre itself • Council could dispose of other properties (e.g. Fawcett Street, Shipton Street) and release further capital receipts for re-investment in the Centre

		<ul style="list-style-type: none"> • Council would incur some interim cost liabilities for properties prior to disposal • May lead to reduction in some services offered by Zest and reduced income • Implications in option 1 may still apply • This option could be considered at a later date if preferred option is insufficient to resolve financial issues
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6.2 The current proposals represent the best way forward in seeking to achieve the objectives of the Council and Zest within the constraints outlined earlier.

6.3 The Council will continue to work with Zest to assess potential options and to seek to ensure that the above objectives can be met as far as possible.

7. REASONS FOR RECOMMENDATIONS

7.1 The recommendations will assist the Council to deliver key corporate policy objectives set out in the Corporate Plan 2015 – 18 by supporting NUCA to develop a viable medium term business plan and capital investment strategy. Specifically:

7.1.1 The disposal of 54–56 Upperthorpe Road will release capital funding for potential reinvestment in the Zest Centre (subject to an approved business case by Capital Programme Group) to support the continued provision of facilities and services to the local community

7.1.2 The grant of a longer lease of the Zest Centre will assist in bidding for external grant funding for capital investment

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