

Leader's Key Decision Form

REF NO

1940

Department

Development & Growth

Subject

Island Site: Renewal Trust Property – Exercise of Covenant

Decision

This is a Key Decision taken by the Leader of the Council:

Subject to call-in: No – this decision has been exempted from call-in by the Chair of the Overview and Scrutiny Committee who has agreed that the decision is reasonable and that the reasons for urgency are valid. 07/04/15.

Total value of decision: circa £2.5 million income (+reinvestment of this sum)

Revenue or Capital: Capital

Decision taken

1. The Council serve notice on Heathcote Holdings requiring monies due under the original Island Site sale agreement.
2. The capital sum generated be prudently reinvested to continue to fund council obligations to the Renewal Trust. This investment will be the subject of a separate report.

**Other Options Considered**

(with reasons for rejecting options not favoured)

**Do nothing.** This was discounted as it would lead to the loss of income to the council currently used to fund payments to the Renewal Trust.

**Reasons for Decision(s)**

This decision will safeguard the continuing income to the council in order that they can comply with payment obligations to the Renewal Trust.

**Affected Wards**

Bridge, St Anns, Dales

**Advice Sought**

	Yes	No
Legal	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Finance	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Human Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Equality & Community Relations Team	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Procurement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Details of Consultations undertaken**

	Yes	No	Name and Date
Portfolio Holder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cllr Chapman 03/02/15
Ward Councillors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	all Bridge, St Anns & Dales Cllrs 07/04/15
Area Committee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Other Council Bodies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Corp. Directors Affected	<input checked="" type="checkbox"/>	<input type="checkbox"/>	David Bishop, 05/03/15
Trades Unions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Minority Group	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Others (Specify)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cllr Parbutt, Chair of Overview and Scrutiny 07/04/15

Reasons for not consulting  
Those not consulted are not affected by the decision.

**Consultation Outcomes**

Legal Comments  
If Heathcote do not pay on expiry of the 4 months' notice the Council will have to rely on the HSBC bank guarantee. In order to rely on the guarantee the Council will have to issue a written demand accompanied by a certificate that we have demanded payment from the developer and that the developer is in default of its payment obligations. The Council's demand must bear confirmation of our bankers that the signatures on it are authentic. The guarantee provides that payment will be made within five working days of receipt of the Council's demand but it will be made to our Co-operative Bank Plc account and therefore our demand notice will need to include change of bank details.

Rebecca Beecroft  
18 February 2015

Finance Comments  
In 1998 the City Council entered into an agreement to assign the benefit of rental income from certain properties (the low level station on the Island site and a property in Sneinton Market) to The Renewal Trust, which gave rise to an annual obligation of £170k.

This obligation was in recognition of £2.5m that City Challenge had invested in Council property acquisitions/ development's (Renewal Trust are the successor body to City Challenge).

As the obligation to the Renewal Trust is ongoing the Council will take action to ensure it can maintain an income stream to meet the annual payments. It is therefore, recommended that any income received as a result of serving notice on Heathcote Holdings for the monies due under the 1996 Island sale agreement is ring-fenced for reinvestment in order for the Council to meet its future obligations to the Renewal Trust.

There is a risk that Heathcote Holdings may fail to pay the monies due under the 1996 agreement. In this event there would be no income for the Council to reinvest in an asset in order to generate an income to meet the future obligations to the Renewal Trust. There is a further risk that any investment that is made may fail to make the required return. In either of these events the Council would have a deficit on its Medium Term Financial Plan equal to the difference between the annual obligation to the Renewal trust and the return that the investment may generate.

Any reinvestment as stated above will be subject to a business case and approval prior to any commitment being made.

Tina Adams  
Capital and Taxation Manager  
3 March 2015

**Background to the decision**

When the Council sold the Island site to the current owner covenants were put in place in relation to part of the site referred to as the 'Renewal Trust Property'. The current owner of the Island Site (Heathcote Holdings) have personal covenants (which will not bind successors in title) obliging them to offer any investment leases to the Council up to a capital value of £2.2m (once the site is developed). In the meantime, and prior to the site being developed and investment leases offered, they will pay the Council a sum of £175,000 per year to cover the loss of income to the Council caused by us selling the Renewal Trust Property to them.

On or after 7 years of the date of completion (2 May 2008) Heathcote may discharge their obligation by paying to the Council the indexed capital value of £2.2m plus 10%. Prior to 7 years of completion – before 2 May 2015 – the Council may give 4 months' notice opting to take repayment of the indexed capital value plus 10%. The index will be assessed at the date of expiry of the Council's notice.

Although the contract is worded such that Heathcote may discharge their obligations the existence of a bank guarantee in the sum of £2.5m indicates that all parties intended for the capital value to be repaid to the Council at a point in time if Heathcote could not offer the Council investment properties with a capital value of £2.2m. This contract was drafted with the vision that the site would be developed. Therefore we need to serve 4 months' notice prior to 2 May 2015 in order to call for this payment to be made to us. If they do not pay we have the benefit of the bank guarantee until 1 May 2016.

By way of further background there is an agreement to pay rental income from part of the Island site and Sneinton Market to the Renewal Trust. This is currently £120k from the Island site and £50k from Sneinton Market. Under existing arrangements the Council would still have the requirement to make these payments, hence the recommendation at 2 above concerning prudent re investment of funds when received.

**Declared colleague/  
Councillor Interests**

Cllr Collins, Leader of the Council is the Council Appointed Director of the Renewal Trust, for this reason the decision is being taken by the Deputy Leader Cllr Graham Chapman.

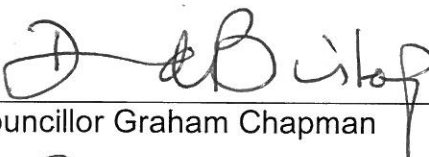

**Dispensation by  
Standards Committee**

Date:	Dispensation Reference:
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**Equalities**

Has the equality impact of the decision been assessed?	
NO	<input checked="" type="checkbox"/>
YES – equality impact assessment attached	<input type="checkbox"/>

<b>Social Value Implications</b>	The recommendations of this decision will help safeguard the activities of the Renewal Trust. The Renewal Trust is a nationally recognised regeneration trust that works in the St Ann's and Sneinton Areas of Nottingham. The trust supports a wide range of community projects including support and coaching for local businesses, supporting local people to get employment and training and helping a range of art and sports programmes to continue.	
<b>Crime and Disorder Implications</b>	N/A	
<b>Published Documents</b>	None	
<b>Background Papers</b>	None	
<b>Exempt/Confidential report</b>	No	
<b>Contact Person</b>	Mark Lowe	Contact No. 0115 8763532 Email: mark.lowe@nottinghamcity.gov.uk

Corporate Director or authorised colleague (Print name)	D. BISHOP	Date:	14-4-15
Signature			
Deputy Leader of the Council	Councillor Graham Chapman	Date:	
Signature			15/4/15
Date Published: 15/04/2015		Last Date for Call-in: N/A	

