

<b>Committee:</b> Cabinet	<b>Date:</b> 29 July 2009	<b>Classification:</b> Unrestricted	<b>Report No:</b>	<b>Agenda Item:</b>
<b>Report of:</b>  Corporate Director Communities Localities and Culture  Corporate Director Development & Renewal  <b>Originating officer:</b> Bryan Jones / Toks Osibogun		<b>Title:</b>  Proposed acquisition of leasehold interest at 585-593 Commercial Road, E1 and temporary relocation of Leven Road car pound  <b>Wards Affected:</b> East India and Lansbury  St Dunstons and Stepney Green		

## 1 SUMMARY

- 1.1 This report recommends the acquisition of the tenant's leasehold interest in 585-593 Commercial Road, E1 and on a temporary basis the relocation of the Councils existing car pound at Leven Road, E14 thereto.

## 2 RECOMMENDATION

Cabinet is recommended to:

- 2.1 Approve the proposal to acquire the leasehold interest in the site at 585 – 593 Commercial Road, E1, as identified on the plan attached in the appendix 1, for a consideration set out in the exempt part of this report in full and final settlement;
- 2.2 Agree to the temporary relocation of the Authorities current car pound from Leven Road, E14, as identified on the plan attached at appendix 2, to 585-593 Commercial Road, E1 at a cost specified in the exempt part of this report;
- 2.3 Authorise the Corporate Director Communities Localities and Culture to finalise and agree any necessary terms to ensure the Authority is able to successfully vacate the current car pound at Leven Road and relocate the Service to Commercial Road;
- 2.4 Adopt the capital estimate for acquiring the leasehold interest in the site to which it is proposed that the car pound be relocated, temporarily, for the amount referred to in the exempt part of the report;

- 2.5 Agree that Prudential Borrowing is used to fund the acquisition, as referred to in 2.4 above, and the associated costs;

Local Government Act, 2000 (Section 97)  
List of "Background Papers" used in the preparation of this report

### **3 BACKGROUND**

- 3.1 The Council owns the freehold of 585-593 Commercial Road, E1. The site is held under a long lease in favour of the tenant and the lease has 41 years unexpired.
- 3.2 The site at 585-593 Commercial Road extends to some 1.5 acres comprising land and buildings and is located on the north side of Commercial Road at its junction with Belgrave Street and Bromley Street close to Limehouse DLR station. The site is shown verged black on the plan attached as appendix 1 of this report.
- 3.3 The tenant is attempting to dispose of its leasehold interest and marketed the site late last year. This exercise resulted in the tenant receiving conditional offers all predicated on acquiring the Council's freehold interest.
- 3.4 The Commercial Road site is considered to have strategic value and bearing in mind the state of the current commercial property market it was considered a unique opportunity to engage the tenant and seek to acquire its leasehold interest in the site.
- 3.5 In being able to negotiate reasonable terms with the tenant to take vacant possession of the site. Officers were of the view that the property could be put to a number of uses.
- 3.6 Currently the Commercial Road site is used as a new and used car show room with associated car parking. In the early part of 2009 the tenant attempted to dispose of its leasehold interest on the open market. In response to the marketing campaign undertaken by the tenant a range of offers were received, however all offers received were conditional upon the purchaser being able to acquire the Council's freehold interest.
- 3.7 Following a planning feasibility report undertaken by officers it was considered the site had considerable redevelopment potential for a mix of uses including different tenures of housing, business space and retail, subject to planning permission.

#### **4.0 The car pound, Leven Road, E14**

- 4.1 The Council currently operates a car pound from Leven Road that is used to store abandoned vehicles and vehicles which are removed from the streets and Housing Estates within Tower Hamlets. The site is shown verged black on the attached plan at Appendix 2.
- 4.2 The site measures approximately 2.5 acres and is held under two leases by the Council. The Council in turn sub-lets 1.0 acre to London Borough of Hackney who also operate a car pound from the site.
- 4.3 The site is used to store abandoned vehicles and vehicles left in contravention of parking regulations on the highway or parking conditions on housing estates. If a vehicle is stored at the car pound, the owner is able to retrieve the vehicle subject to proving ownership and full settlement of release fees owed.
- 4.4 It would not be possible for the Council to carry out these activities without a secure car pound. There is no legal obligation for the Council to remove vehicles parked in infringement of the parking regulations, but this is nevertheless particularly effective in responding to “persistent evaders” and dealing with vehicles left on housing estates. Section 3 of the Refuse Disposal (Amenity) Act 1978 places an obligation on the Council to remove vehicles abandoned on the highway.
- 4.5 The Council leases the site from a landlord who in turn leases the site from the freeholder.
- 4.6 The Council’s leases in respect of its occupation of the site expired on 31<sup>st</sup> March 2008 and as a first step in endeavouring to renew the Council’s lease, the landlord has proposed an initial rent figure which is considered excessive and not representative of the market rent for the site. The landlord has made a revised rental offer and together with the proposed terms of a new lease the proposal remains onerous for the Council.
- 4.7 Additionally it is understood the freeholder is contemplating a redevelopment of the site in the very near future and Officers are also aware that there is a proposal to introduce a linear park connecting East India Dock Basin to Bow Lock and beyond to the Olympic Park. Both aspects have potential operational and financial implications to the Council.
- 4.8 On the assumption the Fat Walk will go ahead it is likely that part of the site will be lost. The precise details of any land take are not known at this stage but it may mean that the car pound will need to operate from a much smaller site, which will also require the car pound to be significantly re-configured.

- 4.9 Whilst it is expected that any land take by the developer for the purposes of the Fat Walk will be agreed by way of a negotiated settlement with the Council, the developer is ultimately proposing to use its compulsory purchase powers, if necessary, in the absence of such agreement.
- 4.10 The Council would be entitled to compensation from the developer. However as the proposed land take is not yet known at this stage, it is not possible to estimate the likely level of compensation.
- 4.11 In view of the facts above it is quite possible that the Car Pound will need to be relocated at some point in the very near future.
- 4.12 It is noted that 12 months notice would be offered to the Council if we are required to move, however this must be viewed as inadequate time to source and secure an alternative location. It would also need to be borne in mind that within this time the site would need to be made operational to avoid any disruption to service.
- 4.13 With the foregoing in mind, officers consider it appropriate to purchase the Commercial Road site and relocate the car pound site on a temporary basis whilst officers start to progress options on future use of the acquired site.
- 4.14 Ideally the Parking Service would seek to relocate the car pound to a site offering good security of tenure so that set up costs can be defrayed over a long period and which would allow for long term service planning. However it is a fact that pressure on land in London is always going to militate against this and, while this is the ideal, it is more likely for a car pound to be temporarily located on land identified for future redevelopment (as is the case at Leven Road).
- 4.15 Public access to Leven Road (for the collection of removed vehicles) is poor because of its location, and would be greatly improved at 585-593 Commercial Road. In addition, with the Commercial Road site in the sole ownership of the Council, the risks of disruption to service or having to vacate at short notice would be greatly reduced and/or dealt with on the basis of what provided the greatest overall benefit to the Council and people of Tower Hamlets.

## **5.0 CURRENT POSITION**

- 5.1 Council officers, subject to Cabinet approval, have agreed with the tenant at 585-593 Commercial Road to acquire the tenant's leasehold interest on terms that are set out on the exempt part of the agenda.

- 5.2 The proposed acquisition is considered a unique position by the Council to take control of a site that will potentially give the Council scope to regenerate that part of the Borough or put the site to a significant operational use.
- 5.3 In addition to this, negotiations for a new lease for the car pound at Leven Road are continuing, however the landlord is proposing terms that are considered unreasonable by officers. Moreover the prospect of development of the site in the future takes away any degree of control of the Leven Road site and the proposal of the "Fat Walk" could adversely impact the Council's ability to properly utilise the site.
- 5.4 In view of the uncertainty associated with the existing site, the option to secure the vacant possession of the Commercial Road site and allow temporary use of the site by the car pound provides a viable short to medium term solution.
- 5.5 The location of this site is considered accessible for staff and residents. The site is well connected and in close proximity to several main road bus stations and Limehouse DLR and C2C stations.
- 5.6 The Commercial Road site meets the Council's requirements for a car pound and it is estimated that the site could easily accommodate 125 vehicles and more.
- 5.7 As currently laid out, the Commercial Road site is ideally suited for temporary car storage use and it is understood that that planning consent, should be forthcoming subject to a formal application.

## **6.0 OUTLINE BUSINESS CASE**

- 6.1 The business case sets out the rationale for the proposal to secure vacant possession of the site at 585-593 Commercial Road. The details of this aspect are the subject of a further report on the exempt part of the agenda.
- 6.3 The freehold interest in the site is owned by the Council and the acquisition will provide the Council with a number of options on future use of the site. Some of the benefits are as follows:
- The Council will control a strategically important site with opportunities for future regeneration of the area.
  - The site has potential to be put to significant future operational use(s)
  - A site from which the car pound can operate albeit on a temporary basis but nevertheless with greater security of tenure/less potential disruption than now appears to be the case at Leven Road.
- 6.4 Due to the current state of the commercial property market, the Council is now in a favourable position to purchase the lease.
- 6.5 In order to fund the purchase of the lease and associated costs, it is considered that use of Prudential Borrowing is appropriate.
- 6.6 The proposal provides the Council a regeneration site with significant development potential and in the short term a solution for the provision of a car pound.

## **7.0 COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1 The ongoing negotiations to purchase the leasehold interest in the property are commercially sensitive and consequently these comments concentrate on the principles of the proposal rather than the detailed costings which are set out in the corresponding report on the exempt party of the agenda.
- 7.2 The report proposes that the Council:
- Vacates the Leven Road car pound which is currently jointly occupied by the London Borough of Hackney.
  - Purchases the leasehold interest in 585-593 Commercial Road and temporarily relocates the car pound operations to this site. The arrangement with Hackney will be terminated at this time.

- Finances the capital costs associated with the relocation by prudentially borrowing and funding the annual debt charges by budgetary savings.
- 7.3 The report proposes that the capital costs be financed by prudential borrowing repayable over a 60 year term which reflects the fact that this is a purchase of land. The associated revenue costs of the relocation will be a charge to revenue in the year in which they are incurred.
- 7.4 However the potential cost increases can be considered in the context of the rental payable on the existing site at Leven Road currently being the subject of negotiation with the landlord and cost rental increases of up to 150% being projected by the Council's Valuer. In addition there are concerns over the long term future of the site.
- 7.5 The projected running costs of Commercial Road are predicated on obtaining a considerable reduction in the rates payable on the property resulting from the alteration in use. In addition the enhanced facilities on the site will inevitably increase the running costs. As the cost differential is marginal these costs need to be the subject of further scrutiny.
- 7.6 The report indicates that the site will provide a temporary solution as a car pound facility, which will ensure business continuity given the risks at the existing site. However the long term provision of the service has not been the subject of a comprehensive option appraisal and the current condition of the commercial property market emphasises the potential risks associated with property ownership.
- 7.7 The fines chargeable for parking offences are fixed on a London wide basis and consequently there is no scope to increase these to finance the additional costs. The additional costs will have to be absorbed within the existing Parking budgets.
- 7.8 Additional costs arising will be met each year from within the Parking Control account.
- 7.9 The Prudential Borrowing is within the annual borrowing limits set by the Council as part of the 2009/10 budget process, but no budget provision has been made to service this debt so the scheme needs to be self-financing in order for the prudential borrowing to be prudent, affordable and sustainable as required by legislation".

## **8. COMMENTS OF ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 8.1. Cabinet is asked to approve purchase of the leasehold interest in 585-593 Commercial Road, E1.
- 8.2. The Council is empowered, pursuant to section 120 of the Local Government Act 1972 to acquire land by agreement for the purposes of any of the Council's statutory functions or for the benefit, improvement of development of Tower Hamlets. The power to acquire includes acquisition of a leasehold interest. The land does not have to be

immediately required for the purpose for which it is acquired and may be used in the interim for any of the Council's functions.

- 8.3. In this case, the land is said to have strategic value and redevelopment for housing is nominated as feasible. This may be viewed as being for one of the Council's statutory functions (e.g. that in section 9 of the Housing Act 1985), although the precise function will depend upon the mode of delivery. It may also be for the benefit, improvement or development of Tower Hamlets.
- 8.4. Cabinet is asked to approve temporary use of the land as a car park. As set out above, temporary use for one of the Council's functions is permissible. In this case, the obligation on the Council to remove abandoned vehicles under the Refuse Disposal (Amenity) Act 1978 and the power to dispose of such vehicles provides sufficient statutory foundation for the operation of a car pound.
- 8.5. The Financial Regulations set a threshold of £250,000, above which Cabinet approval is required for a capital estimate. The Financial Procedures supplement this requirement. In accordance with Financial Procedure FP 3.3, senior managers are required to proceed with projects only when there is a capital estimate adopted and adequate capital resources have been identified. Where the estimate is over £250,000 the approval of the adoption of that capital estimate must be sought from the Cabinet. There is no legal impediment to approval of the estimate, as the proposed purchase is capable of being carried out within the Council's statutory functions.
- 8.6. Cabinet is asked to approve prudential borrowing. The Council is empowered by section 1 of the Local Government Act 2003 to borrow money for any purpose relevant to its statutory functions, or for the purposes of prudent management of its financial affairs. The Council is required to have regard to the code of practice entitled the "Prudential Code for Capital Finance in Local Authorities" published by CIPFA when exercising its power to borrow.

## **9.0 ONE TOWERHAMLETS CONSIDERATIONS**

- 9.1 In relocating the car pound to the Commercial Road site the services offered by the facility will be better accessed by all at its new location. Additionally staff working at the car pound will also be able to consider using public transport to arrive to work. This is because the Commercial Road site has better accessibility than the current provision at Leven Road.

## **10.0 RISK MANAGEMENT IMPLICATIONS**



- 10.1 Detailed risk implications relating to the proposal are contained within a further report on this item in section 2 of this Agenda.

## **11.0 SUSTAINABLE ACTION FOR GREENER ENVIRONMENT**

- 11.1 The Council is proposing to acquire the leasehold interest at 585-593 Commercial Road for future regeneration purposes that will aim to provide greener buildings creating a better environment for all in that part of the Borough.

- 11.2 In the short term it is proposed to use the site as a car pound, which will ensure that buildings are kept in beneficial use and not left empty. As a result the site will not attract fly tipping and other health and safety concerns associated with empty buildings.

## **12.0 EFFICIENCY STATEMENT**

- 12.1 The proposed temporary relocation of the car pound to the Commercial site will improve overall efficiency since the services provided by the car pound can be better accessed. Additionally since the existing buildings can be re-used as offices efficiencies in working practices will also occur as a result.

## **13.0 APPENDIXES**

- 13.1 585-593 Commercial Road site is shown edged black on site plan appendix 1.
- 13.2 The current Council car pound at Leven Road is shown edged black on site plan appendix 2.