

<b>Cabinet</b> 26 July 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Disposal of 255 – 279 Cambridge Heath Road, London E2 0HQ</b>	

<b>Lead Member</b>	<b>Councillor David Edgar, Cabinet Member for Resources</b>
<b>Originating Officer(s)</b>	Service Head, Corporate Property & Capital Delivery
<b>Wards affected</b>	St Peter's
<b>Community Plan Theme</b>	<b>One Tower Hamlets</b>
<b>Key Decision?</b>	Yes

### **Executive Summary**

The Council owns a number of assets that are currently vacant. These assets are an additional burden at a time of fiscal constraint.

The Council continuously reviews the opportunities that are available through these buildings and sites, including bringing them back into use, developing them as Council-led projects or as part of a disposal programme.

This report sets out the proposal for the disposal of the land and buildings at 255 – 279 Cambridge Heath Road, E2 0HQ.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the contents of this report;
2. Agree that the land and buildings at 255 – 279 Cambridge Heath Road, E2 0HQ (as shown on the plan in Appendix A) are surplus to requirements;
3. Agree to the disposal of the site by informal tender;
4. Agree to the disposal of the site on a 199 year lease;
5. Authorise the Corporate Director, Development & Renewal, to appoint

external agents to support the marketing of the site;

6. Authorise the Corporate Director, Development and Renewal to accept the best tender return for the site on conclusion of the marketing exercise;
7. Authorise the Corporate Director, Development and Renewal, to agree the precise boundary of the land to be sold in order to implement the recommendations above.
8. Authorise the Corporate Director, Development and Renewal, following consultation with the Director of Law Probity and Governance, to agree the terms and conditions of any agreements required to implement the recommendations above.
9. Note that the Direction issued by the Minister on 17<sup>th</sup> December 2014 requires the Council, until 31<sup>st</sup> March 2017, to “.... *Obtain the prior written agreement of the Commissioners **before** [emphasis added] entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than exisiting single dwellings for the purposes of residential occupation*”. This report relates to the disposal of land through the sale of a lease and accommodation written consent of the Commissioners will be required before any sale can take place.

## **1. REASONS FOR THE DECISIONS**

- 1.1 It is important at a time of reducing funding and budgets in the public sector to ensure that efficiencies are driven through the running and/or disposals of the Council's assets to reduce revenue costs.
- 1.2 The decisions in this report will contribute to the continual review and rationalisation of the Council's assets, and help reduce the operational portfolio to the minimum required.
- 1.3 The disposal will generate a capital receipt for the Council, which can be reinvested and directed to its principal expenditure priorities. It will also reduce revenue expenditure on upkeep, maintenance and security.
- 1.4 The development of the property will also bring a vacant and disused site in a prominent location back into use. By taking constructive action in this way the borough is meeting its strategic enabling role in promoting regeneration, bringing a derelict site back into use.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Council has considered developing the site directly for housing but it was considered that funding could be better directed towards alternative schemes in the borough. It is now proposed to let the market deliver the redevelopment.
- 2.2 Whilst it is possible to apply a sale condition whereby a minimum level of affordable housing must be provided this will have the effect of reducing the value and the capital receipt. Furthermore, if this condition requires the affordable housing to be provided for the benefit of the Council, this could trigger a Procurement and would need to be investigated and considered further in conjunction with the Council's Legal and Procurement teams.
- 2.3 Once the site is in new ownership it will be redeveloped in accordance with planning policy including policy relating to appropriate levels of affordable housing. Therefore the Council will retain some control over the delivery of affordable housing indirectly through the planning process. It should be noted that this will always be subject to viability in the usual way.
- 2.4 In the run-up to the May 2016 Mayoral election, the Mayor of London made a manifesto pledge that he would set a target of 50% affordable housing and the media have reported that this will be applied to the sale of public land. This manifesto pledge has not been formalised as an amendment

to the London Plan and it is unclear if it will ever become a planning policy requirement. However, the uncertainty generated is currently having an impact on the prices that residential developers are prepared to pay for Local Authority owned sites. In the short term, there is no end to this uncertainty in sight. A change to the current policies in the London Plan needs to follow a formal process of consultation and examination before it can be adopted, which could take 18 months as a minimum. Council officers are not aware of any changes being made in advance of the first iteration of the new London Plan being produced, which is expected to be published in Draft in summer/autumn 2017. The new London Plan is scheduled to be adopted in 2019. This will bring a fresh sweep of policies to the table.

- 2.5 It should also be noted that planning policy may permit other uses such as offices, hotel, hostel or student accommodation in which case housing may not be delivered. Whilst it is possible to apply a sale condition whereby housing must be provided this may have the effect of reducing the value and the resultant capital receipt.
- 2.6 The Council has also considered retaining the building and leasing it out for office purposes in order to generate a rental income. However, the building is in poor condition and does not comply with modern standards.
- 2.7 In order to attract office tenants a substantial refurbishment will be necessary based upon a retention and overhaul of the entire building fabric and a comprehensive internal re-fit to include new plant and equipment.
- 2.8 A high level assessment has been undertaken of both the refurbishment cost and the annual rental value that could be derived together with the letting voids and incentives necessary to secure tenants.
- 2.9 Given the substantial cost of refurbishment and the risk and uncertainty associated with speculative office development the Council has concluded that the optimum solution is for the market to deliver the redevelopment or refurbishment of the building.

### **3. DETAILS OF REPORT**

- 3.1 The Council has a significant operational and commercial portfolio that it manages. Officers continually review the property portfolio and bring forward sites for direct development and/or disposal from time to time. The direct development options depend on the availability of funding and the size of the redevelopment opportunity. Disposal of surplus sites reduces the revenue costs for the maintenance and security of vacant buildings, while generating a capital receipt.

- 3.2 This report focuses on a Council site that has been vacant since 2006. The buildings place a demand on a limited revenue budget to ensure security and safety are maintained.
- 3.3 The Council, through the disposal of the land and buildings, intends to achieve the maximum capital receipt that can be realised. It is therefore proposed that the site be sold with a Planning Advice Note prepared by the council as Local Planning Authority.
- 3.4 The location of the site is such that the Council is keen to ensure that active frontages along Cambridge Heath Road are incorporated at ground floor level within any redevelopment scheme. However, the Council, as landowner, is not in a position to control the design of the redevelopment in terms of land use and therefore it will be a matter for the Council, as Local Planning Authority, to consider during the pre-planning stages.
- 3.5 It is also proposed to sell a 199 year leasehold interest in the site rather than the freehold in accordance with Council policy. The respective valuations for a sale on a freehold or long leasehold basis are set out in the exempt report.
- 3.6 The success of the disposal will also be enhanced by undertaking pre-sale due diligence such as surveys and reports. This will help expedite the process of concluding exchange of contracts with the successful bidders.
- 3.7 It is anticipated that up to 4% of the capital receipt value may be used to ensure the successful marketing of the site. This will cover the appointment of an external marketing team, legal and property team support, and where necessary architectural / planning input.
- 3.8 Notwithstanding the uncertainty highlighted in paragraph 2.4, it is recommended that the property be brought to market at the earliest opportunity in order to take advantage of the relatively strong market conditions continuing to be experienced in Central London. The risk associated with this uncertainty will be managed by using the informal tender as the method of disposal.
- 3.9 The property is a potential development site. Informal tender is the method most often used by local authorities to sell properties of this type. Whilst it carries the risk that the buyer can withdraw or renegotiate and can be a lengthier process overall, it has the following advantages over the alternative method of formal tender :

- It is fully understood by the developer, house-builder and registered provider market and has their acceptance due to its common usage.
- It achieves best consideration by virtue of full exposure to the widest target market.
- The seller has the flexibility under certain circumstances to further negotiate some of the terms after bidder selection.
- It allows the buyer to carry out some detailed due diligence once they have been selected and whilst contracts are prepared.

3.10 The alternative method of sale for the property would be sale by formal tender. We understand, from canvassing the views of our various external advisers, that this method is not commonly used by Local Authorities in Central London. It is occasionally used where a capital receipt must be secured to meet a time imperative such as the financial year-end. It has the benefit of certainty in that a deposit can accompany the bids and the bid is legally binding if selected. However, this must be balanced against the following disadvantages:

- This method appeals less to the mass developer market and larger house-builders as they consider it carries too great a risk.
- Whilst it works well for investment sales, development sites carry more inherent risk and significant capital is employed after the buyer has acquired the land.
- There is the risk that fewer buyers are willing to participate, potentially narrowing the market. This reduced interest may result in lower bids and failure to achieve best consideration.
- They may either decline to bid or may make allowances for any additional risk associated with the site by reducing their bid.
- Advising agents may apply caveats to their confirmation that they have achieved best consideration.

3.11 Sale by auction is not considered appropriate for this property as it is a potential development site and therefore carries a higher degree of risk for the buyer than properties typically sold at auction. It is also of a lot size that exceeds the normal value range of auctions. Advising agents may apply caveats to their confirmation that they have achieved best consideration. National house-builders are generally risk averse and appear to rarely buy at auction. Intermediate investors and developers would want to see a higher than normal margin for risk and profit.

3.12 In line with the Council's Disposal Policy, agreed by Cabinet in April 2015, the Service Head, Corporate Property & Capital Delivery has determined that informal tender is the most appropriate method of sale for the reasons set out above.

- 3.13 The site is located on the north side of Cambridge Heath Road fronting Bethnal Green Gardens. Bethnal Green underground station is located approximately 200 metres to the north.
- 3.14 The site comprises three principal buildings. The main building is a five storey 1960's office building measuring circa 38,700 sq ft Gross Internal Area. Two single-storey ancillary buildings to the south were previously used for community and conference facilities.
- 3.15 The site area totals 0.95 acres and the footprint of the existing buildings on site measures 0.48 acres (approx. 50% coverage). There are no listed buildings on, or near, the site and it is not located within a Conservation Area. The site does however adjoin Bethnal Green Gardens to the east which is a designated Conservation Area.
- 3.16 A raised railway track adjoins the site immediately to the west with residential accommodation on the other side. The immediate area supports a mix of uses with commercial uses concentrated around the tube station entrances. There are two new developments located to the south of the site providing student and hotel accommodation.
- 3.17 The Council currently receives £12,000 p.a. rental income from telecommunications equipment located on the roof of the property. Negotiations are at an advanced stage for relocation of the equipment to nearby Donegal House and this will either be concluded before the completion of the sale or will be concluded by the new owner.
- 3.18 In the current year the Council will spend approximately £70,000 on security by retaining this property although this will be offset by income from filming of £132,600. Whilst the income from filming is one-off the security costs are on-going whilst the property is vacant and disposal of this property will deliver an on-going saving to the Council.
- 3.19 The exact boundaries are indicated on the site plan attached as Appendix A. A small section of the site along the eastern boundary with Cambridge Heath Road coloured blue is currently unregistered. The Council is seeking to register this land prior to sale. Therefore authority is sought to include this land within the land to be declared surplus in the event that registration is successful.
- 3.20 An estimated capital receipt is contained in the exempt report.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 This report seeks the approval of the Mayor in Cabinet to declare the site at 255-279 Cambridge Heath Road (the 'LEB Building') surplus to requirements, and that it be marketed and disposed of on the open market by informal tender on a 199 year lease.
- 4.2 Section 2 of this report highlights that there are a number of alternative options that have been considered already and that there are a number of significant issues and uncertainties associated with this proposal. This also includes further uncertainty on the impact of a range of matters including levels of likely property receipts arising subsequent to the outcome of the EU Referendum. Members will want to be assured that all these have been fully considered given that the original proposal to dispose and ring-fence the receipt was taken in November 2015.
- 4.3 Details of the indicative value of the property are included on the restricted part of this agenda. The property is an administrative building held under General Fund powers and as such the sale receipts are 100% usable to support any capital expenditure incurred by the Council. However, as part of the consideration of the Civic Centre Project report on 3<sup>rd</sup> November 2015, the Mayor in Cabinet agreed to ring-fence the disposal receipts from the LEB site, along with those arising from the sale of Jack Dash House, Commercial Road, Albert Jacob House, Southern Grove, and Cheviot House, to finance the new civic centre.
- 4.4 This approach is also being reviewed as part of the Council's Medium Term Financial Strategy. This will also cover the Council's approach to investment and income generation, and its Capital Strategy which will specifically consider the use of Council assets and their use as a part of the Council's financing strategy.
- 4.5 It is proposed that the sites be marketed with a planning brief/statement already in place in order to achieve the highest possible capital receipt (paragraph 3.4). The cost of this and other marketing expenditure could be met through the 'top-slicing' of up to 4% of the receipt value. These costs will initially have to be forward funded in advance of the capital receipt being generated, and because they will be offset against the capital receipt raised, are at risk if they are incurred but the sale does not proceed for any reason. In these circumstances the costs would need to be met from General Fund revenue resources.
- 4.6 There are a number of costs and income streams currently associated with this building which are described in paragraphs 3.16 and 3.17. If the property

is disposed of the on-going costs associated with the maintenance and security of the site will be saved. Similarly the opportunity for either one-off income through for example filming costs or on-going income from a tenant will also be lost. Largely because of the one-off income received, it is estimated that the building has generated a surplus of c£75k in 2016/17.

- 4.7 The Council receives income in respect of telecommunications equipment sited on the roof of the building, which currently accrues to the General Fund. On disposal of the property, it is proposed that the equipment is relocated to the roof of Donegal House on the nearby Collingwood Estate, which as a Housing Revenue Account asset will mean that future income will accrue to the HRA. The costs of relocating the equipment will be met by the Council from within the 4% 'top-slice' referred to in paragraph 4.3

## **5. LEGAL COMMENTS**

### **5.1 Disposal Powers**

- 5.2 The specific power to dispose of the land depends upon whether or not it is held for housing purposes. Whenever a local authority disposes of land held by it for housing purposes it has to have regard to section 32 of the Housing Act 1985. Section 32 states that a local authority may not dispose of any land held by them without the consent of the Secretary of State. In order to facilitate the disposal of land held for housing purposes the Secretary of State has issued a series of general consents, which permit the disposal of land held for housing purposes without the need to obtain express consent. The consents are collectively known as The General Housing Consents 2013.

- 5.3 In accordance with paragraph A2.2 of the General Housing Consents a disposal includes the grant of a lease of any duration.

- 5.4 If the land is not held by the Council for housing purposes and by virtue of section 123 of the Local Government Act 1972 ('the 1972 Act'), the Council may dispose of its land in any manner that it may wish. However, except in the case of a short tenancy (i.e. leases of less than 7 years), the consideration for such disposal must be the best that can reasonably be obtained. Otherwise the Council requires consent of the Secretary of State for the disposal.

### **5.5 The Council's procedure for disposals and lettings**

- 5.6 The Council's procedure for disposals and lettings, adopted at Cabinet on 8<sup>th</sup> April 2015, specify that disposals may be by one of the following means: (a) informal tender; (b) formal tender; (c) auction; and (d) sale by negotiation.

The procedures provide that the Service Head, Corporate Property and Capital Delivery will determine the most appropriate method of disposal, based on the type and location of the property and the prevailing property market and subject to the Council meeting its legal requirements. In this case, it has been determined that disposal be by informal tender process.

#### 5.7 **The Direction**

5.8 The Direction issued by the Minister on 17th December 2014 requires the Council, until 31<sup>st</sup> March 2017, to “..... *obtain the prior written agreement of the Commissioners **before** [emphasis added] entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.*”

5.9 This report involves the disposal of land through the sale of a lease and accordingly written consent will be required before any commitment to dispose takes place.

#### 5.10 **Best Value Obligation**

5.11 The Council is obliged as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness’. It is considered that obtaining best consideration by market value contributes towards this duty and the fulfilment of this duty is further addressed in paragraph 7 below.

#### 5.12 **Equality Duty**

5.13 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. There are no direct equality implications arising from the proposed transactions.

### 6. **ONE TOWER HAMLETS CONSIDERATIONS**

6.1 The public sector equality duty under section 149 Equality Act 2010 arises where the Council exercises its functions. The Council proposes to use the capital receipt generated by the sale for affordable housing or regeneration projects. Such schemes primarily benefit persons who are the intended beneficiaries of the equality duty.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 The arrangement proposed in this report supports the council's best value duty. The proposal represents an efficient and effective use of the Council's estate.
- 7.2 Where an asset has been identified as surplus to requirements, the Council has the option to retain the asset for future use (and in the meantime to pay any costs associated with maintaining and securing the asset) or to sell the asset for a capital receipt.
- 7.3 In this case, the property is in poor condition and has a history of squatting and vandalism, it is guarded 24/7 at a cost to the Council and currently generates some income for the Council from filming.
- 7.4 Despite the income from filming, it is more appropriate that the council dispose of the site. The Council will receive a capital receipt from the sale.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no immediate 'sustainable action for a greener environment' implications arising from this report. It is likely that any redevelopment or refurbishment will be of a substantially higher standard of energy efficiency than the current arrangements and built to higher environmental standards.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 The key risks are as follows:
- 9.2 **Timing and marketing strategy** – the maximum capital receipt may not be realised if the disposal and marketing strategy are not managed well, or insufficient information exists at the time of marketing the property This may lead to the value being suppressed.
- 9.3 *Mitigation* – Asset Management will ensure that full and complete property information is compiled and supplied to bidders at bidding stage. A Planning Advice Note will also be prepared. The Council's Property Procedures will be followed and professional marketing will be undertaken with clear details, processes and a timeline for submitting bids.
- 9.4 **Market saturation** - the marketing of the site simultaneously with others already declared surplus. This could lead to the market being saturated, which could drive down or suppress the values and/or level of interest.

- 9.5 *Mitigation* – at present no other site is scheduled to be sold at the same time.
- 9.6 **Squatting** – the disposal is delayed leading to squatting.
- 9.7 *Mitigation* – Asset Management will ensure that the site is continuously secured until completion.
- 9.8 **Affordable housing** - inability for the market to deliver policy compliant affordable housing.
- 9.9 *Mitigation* – the Council as Local Planning Authority will ensure that the Council’s planning policy relating to the provision of affordable housing is adhered to for any redevelopment.
- 9.10 **Vacant possession** – The Film Office has a lease expiring in December 2016.
- 9.11 *Mitigation* - Officers in Asset Management will work closely with the occupier to ensure that vacant possession is delivered prior to completion of the sale.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 Vacant sites attract anti-social behaviour, including vandalism and squatting. The Council expends funds ensuring that the buildings are secure however there are still attempts to enter the buildings in order to squat and/or vandalise.
- 10.2 The subsequent redevelopment of the site will remove this problem and also help to remove unsightly empty buildings within the borough.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no immediate safeguarding implications arising from this report.

---

### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- None

**Appendices**

- Appendix A – Site plan.
- Appendix B – Valuation advice – (Exempt Appendix)

**Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None

**Officer contact details for documents:**

- Ann Sutcliffe, Service Head, Corporate Property & Capital Delivery (020 7364 4077)