

# COMMISSIONERS' INDIVIDUAL DECISION MAKING

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Tuesday, 11 August 2015

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Commissioners' Decision Log No. 23


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1. **23 - 296 BETHNAL GREEN ROAD - SALE BY AUCTION (Pages 1 - 10)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Democratic Services  
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# Agenda Item 1

<b>Individual Commissioner Decision</b>  Decision Log No: 023	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>296 Bethnal Green Road – Sale by Auction</b>	

<b>Is this a Key Decision?</b>	No
<b>Decision Notice Publication Date:</b>	Not required
<b>General Exception or Urgency Notice published?</b>	Not required
<b>Restrictions:</b>	Unrestricted

## EXECUTIVE SUMMARY

The Council is proposing to sell 296 Bethnal Green Road by auction on a 199 year lease. By entering the property into the auction, the council will be entering into a commitment to dispose of the property on the fall of the hammer. In line with the Directions to the Council of the London Borough of Tower Hamlets, issued by the Secretary of State for Communities & Local Government, this report seeks the Commissioners' prior agreement to do so.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; and other relevant matters are set out in the attached report.

## DECISION

The Commissioners are recommended to:

1. Agree to Council's proposal to sell 296 Bethnal Green Road, as shown on the plan attached as Appendix 1, by auction on a 199 year lease.

**APPROVALS**

**1. (If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Commissioners.

Signed  Date 7/8/2015

**2. Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 7/8/15

**3. Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only - delete as applicable)~~

~~I confirm that this decision:-~~

~~(a) has been published in advance on the Council's Forward Plan OR~~

~~(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed  Date 11/08/15

**4. Commissioner**

I agree the decision proposed in paragraph above for the reasons set out in paragraph 1 in the attached report.

Name MAX CAWEN Signed 

Date 11/6/15

Name ..... Signed .....


Date .....

Name ..... Signed .....

Date .....

Name ..... Signed .....

Date .....

<b>Commissioner Decision Report</b> 5 August 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>296 Bethnal Green Road – Sale by Auction</b>	

<b>Lead Member</b>	N/A
<b>Originating Officer(s)</b>	Service Head, Corporate Property & Capital Delivery
<b>Wards affected</b>	Weavers
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	Great Place to Live

### Executive Summary

The Council is proposing to sell 296 Bethnal Green Road by auction on a 199 year lease. By entering the property into the auction, the council will be entering into a commitment to dispose of the property on the fall of the hammer. In line with the Directions to the Council of the London Borough of Tower Hamlets, issued by the Secretary of State for Communities & Local Government, this report seeks the Commissioners' prior agreement to do so.

### Recommendations

The Commissioners are recommended to:

1. Agree to Council's proposal to sell 296 Bethnal Green Road, as shown on the plan attached as Appendix 1, by auction on a 199 year lease.

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

- 1.1 To ensure that the optimum method of sale is adopted for this property in order to achieve the best consideration requirements of s123 of the Local Government Act 1972.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The alternative options available to the Council are set out in this report.

## **3. DETAILS OF REPORT**

- 3.1 The Council owns 296 Bethnal Green Road which is a vacant retail unit.
- 3.2 The Cabinet took a decision on 4th February 2015 to declare the property surplus to requirements and authority was granted for its open market disposal by informal tender.
- 3.3 The Mayor agreed by way of a Mayor's Executive decision on 27<sup>th</sup> April 2015 that the property should be sold by auction, as this was a more appropriate disposal methodology in the context of the nature of the property. This agreement was subsequently confirmed by the Mayor on 27<sup>th</sup> July 2015.
- 3.4 Sale by auction is usually a quick process with the sale becoming legally binding on the fall of the hammer. The buyer must pay a deposit, normally 10% of the purchase price, on the day of the auction and is contracted to pay the outstanding amount usually within 28 days after the auction. There can be no price renegotiation.
- 3.5 Auctions are ideal methods of sale for relatively straightforward transactions where purchasers often carry out minimal pre-sale due diligence. A reserve price will be set, based on the advice of the auction house.
- 3.6 Due to its small lot size and straightforward use, 296 Bethnal Green Road will benefit from being sold at auction rather than by informal tender.
- 3.7 A quick sale will be particularly advantageous as the property has suffered from squatters in the past and there is currently a full time security guard on the premises which is costing the Council £250 per day. The building is also in very poor condition.
- 3.8 The alternative method of sale for 296 Bethnal Green Road would be informal tender.
- 3.9 Informal tender is better suited for development sites or properties that have potential for substantial refurbishment or conversion. However, informal

tender also carries the risk that the buyer can withdraw or renegotiate and can be a lengthier process overall.

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

- 4.1 On 4 February 2015, the Mayor in Cabinet confirmed that various Council owned sites were surplus to requirements and approved their disposal by informal tender.
- 4.2 Following that decision, officers concluded that one of the sites, 296 Bethnal Green Road, was likely to secure more interest if it is disposed of at auction, and that a higher capital receipt would be likely. This revised method of disposal was subsequently approved under the Mayor's Executive Decision process on 27 April 2015, and was subsequently reconfirmed on 27 July 2015.
- 4.3 This report now seeks Commissioner approval for the disposal in accordance with the direction issued by the Secretary of State on the 17th December 2014 – specifically that the Council must obtain the prior written agreement of the Commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties, any property other than dwellings.
- 4.4 The site is currently unused and generates no income for the Authority, but the Council is incurring revenue costs of £250 per day to secure the property – see paragraph 3.7. Assuming that the property is sold, disposal at auction will be a quicker method of both generating a capital receipt and ending the need for these security costs to be incurred.
- 4.5 296 Bethnal Green Road is held under General Fund powers, and as such, any receipt will be 100% usable. Any costs incurred in relation to the sale could be met through the 'top-slicing' of up to 4% of the receipt value. If the sale does not progress, any costs will be abortive and would need to be met from existing revenue budgets.
- 4.6 Any capital receipt accruing from the sale of the property will be fully usable to support capital expenditure incurred by the Council.

#### **5. LEGAL COMMENTS**

- 5.1 Under section 123 of the Local Government Act 1972, the Council may dispose of its land in any manner that it may wish. However, except in the case of a short tenancy, the consideration for such disposal must be the best that can reasonably be obtained. Otherwise, the Council requires the Secretary of State's consent for the disposal.
- 5.2 The Council's procedures for disposals and lettings, adopted at Cabinet on 8 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 sale, 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, auction is recommended for reasons set out in the report. Provided that it is properly marketed and conducted, auction should be capable of yielding best consideration for the Council.

- 5.3 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". The disposal of property in accordance with the Council's duty under section 123 of the Local Government Act 1972 and its adopted disposal procedures ensures compliance with the best value duty.
- 5.4 A contract for sale of land by auction usually consists of the following: (a) the particulars describing the land to be sold; (b) the conditions, stating the terms of the sale; and (c) the memorandum of sale, which will be signed by or on behalf of the buyer at the auction itself. In this case it will be necessary to attach the draft lease, since it is proposed to sell a 199 year lease. The conditions of sale will be prepared by the Council's solicitors in conjunction with the auctioneer, who will prepare the particulars of sale. It is usual for the contract to provide that a full 10% deposit is to be paid at auction.
- 5.5 The title to the property must be investigated by the Council's solicitor prior to the preparation of the auction contract and official copy entries of the registered title, a local authority search, replies to standard pre-contract enquiries and any other relevant searches must be available to prospective buyers both before the auction and at the auction itself. The Council's solicitor should attend the auction in order to answer any queries which may arise.
- 5.6 A bid made at auction is an offer and is accepted by the fall of the auctioneer's hammer. By virtue of section 5 of the Sale of Land by Auction Act 1867, the contract must state whether or not the property is subject to a reserve price. As long as the reserve price is met, the auctioneer will be bound to sell to the highest bidder. The risk for insurance purposes of damage to the property passes to the successful bidder at the conclusion of bidding. Completion of the contract is usually 20 working days after the date of auction.
- 5.7 On 17 December 2014, the Secretary of State appointed Commissioners pursuant to powers under section 15(5) and (6) of the Local Government Act 1999 whose prior written agreement is required for the disposal of property other than existing single dwellings for residential occupation. This is a disposal which falls within the terms of this Direction.
- 5.8 In carrying out its functions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance

equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). In this instance the Council is acting as land owner. The proceeds of sale will be used to achieve the Council's objectives having regard to its duties under the Equality Act 2010.

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

- 6.1. There are no immediate One Tower Hamlets considerations arising from this report. The disposal will deliver a capital receipt, the proceeds of which will be used to achieve the Council's objectives.

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

- 7.1 The arrangement proposed in this report supports the council's best value duty. The proposed transaction represents an efficient and effective use of the council's estate.
- 7.2 The property was declared surplus to the council's operational requirements in February 2015. The property is in poor condition and generating no income for the council, while requiring a full time security guard on the premises at a cost of £250/day. Disposal of the property by auction will secure a quick sale, discharging the council's responsibilities as landlord.

## **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 refurbished retail unit will be of a substantially higher standard of energy efficiency than the current arrangement.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 There is the risk that the auction is poorly attended on the day or that the bidding is weak.
- 9.2 The use of a major property auction house will ensure good market coverage and their marketing will target those parties typically interested in this type of property. A reserve price will be set to ensure that a minimum price is achieved.

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

- 10.1 There are no immediate crime and disorder implications arising from this report. A quick sale will be particularly advantageous as the property has

suffered from squatters in the past and there is currently a full time security guard on the premises which is costing the Council £250 per day.

## **11. SAFEGUARDING IMPLICATIONS**

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

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

#### **Linked Report**

- None

#### **Appendices**

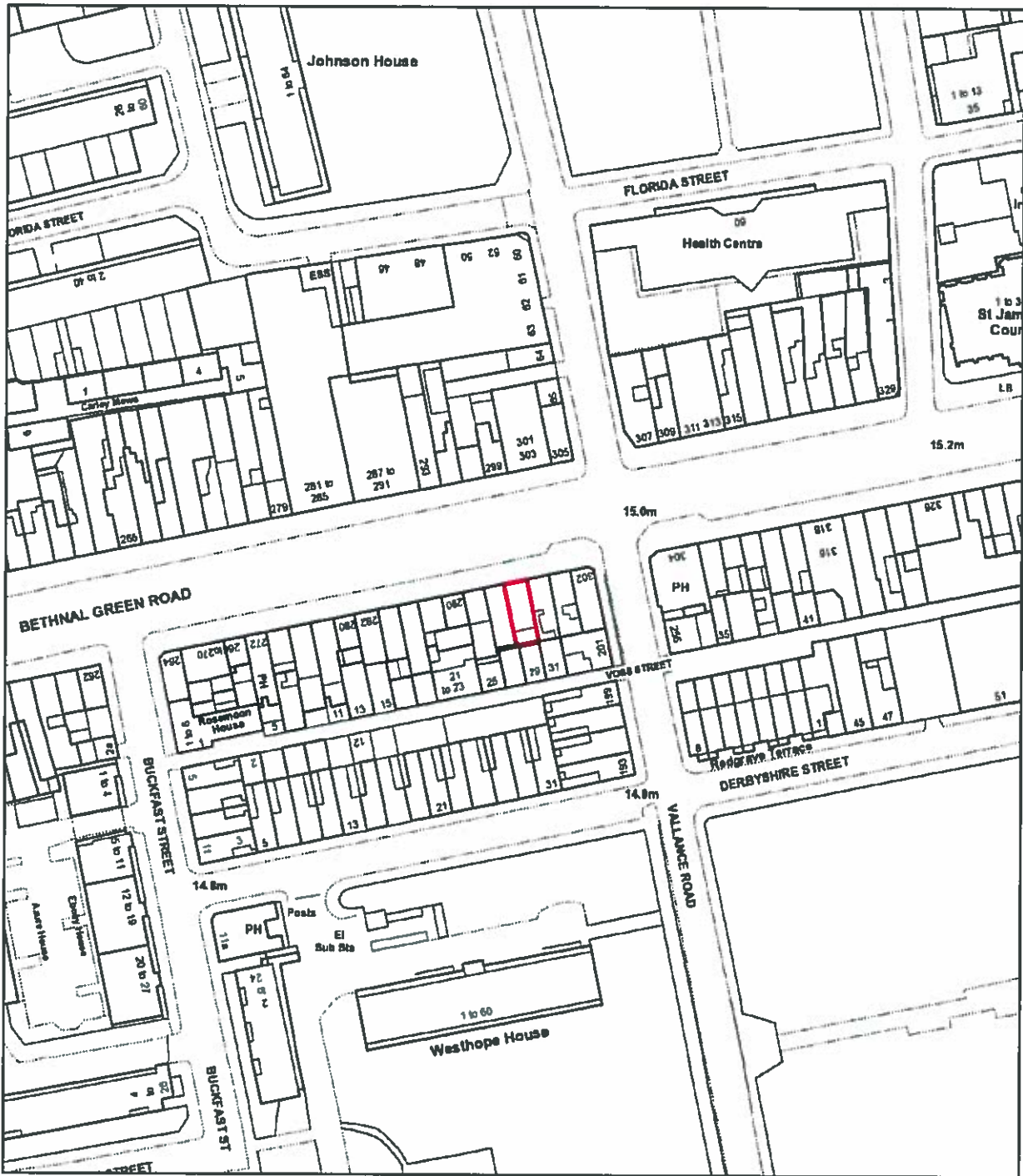
- Appendix 1 – Site Plan, 296 Bethnal Green Road, E2.

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

- None.

#### **Officer contact details for documents:**

- Howard Lock, Principal Asset Manager, x1375



# 296 Bethnal Green Road

## Site Plan



Scale 1:1250



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