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| <b>Individual Mayoral Decision</b><br><br>14 <sup>th</sup> June 2023   | <br><b>TOWER HAMLETS</b> |
| <b>Report of:</b> Stephen Halsey, Interim Chief Executive  | <b>Classification:</b><br>Unrestricted with exempt appendix   |
| <b>Cancellation of Cabinet Approval to Dispose 3-11 Vallance Road and Proposal to Enter a Joint Venture with Adjacent Landowners</b> |   |

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| <b>Lead Member</b>                       | <b>Cllr Saied Ahmed, Lead Member Resources and the Cost of Living</b>   |
| <b>Originating Officer(s)</b>            | Stephen Shapiro – Acting Director, Property and Major Programmes<br>Thomas Parsonage  |
| <b>Wards affected</b>                    | Spitalfields and Banglatown   |
| <b>Key Decision?</b>                     | Yes   |
| <b>Reason for Key Decision</b>           | Financial threshold   |
| <b>Forward Plan Notice Published</b>     | N/A   |
| <b>Exempt information</b>                | <p>This report and/or its appendices include information that has been exempted from publication as the Monitoring Officer:</p> <ul style="list-style-type: none"> <li>• has deemed that the information meets the definition of a category of exempt information as set out in the Council's Access to Information Rules; and</li> <li>• has deemed that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ul> <p>The exempt information is contained in Appendix 2</p> <p>The exempt information falls into this category:</p> <p>3. Information relating to the financial or business affairs of any particular person (including the authority handling the information)</p> |
| <b>Strategic Plan Priority / Outcome</b> | <ol style="list-style-type: none"> <li>1. Tackling the cost of living crisis</li> <li>2. Homes for the future .</li> <li>3. Boost culture, business, jobs and leisure</li> </ol>  |

## **Executive Summary**

Delegations were granted by the Mayor in Cabinet on the 8 September 2021 for the disposal of 3-11 Vallance Road.

Terms were agreed but the disposal was placed on hold with the change of administration, and alternatives are now being considered and therefore a formal Decision is required to remove the previous delegations

The Executive Mayor has proposed that the Council should look at developing the site with at least one of the adjoining landowners, and investigations as to the nature of these works are being progressed. As a result the proposed disposal is no longer being pursued with the resultant lack of capital receipt

Transport for London are one of the adjacent site owners and have proposed entering into a collaboration agreement on this site which brings forward comprehensive residential-led development over Tower Hamlets and Transport for London's land, potentially with the adjacent landowner, who was also the prospective purchaser, which is one of the alternative options.

## **Recommendations:**

The Mayor is recommended to:

1. Declare that the land is no longer surplus to requirements.
2. Agree to the removal of the delegations to the Corporate Director Place and the Director of Legal Services and Monitoring Officer granted under recommendations 2 and 3 of the original report.
3. Authorise the Interim Chief Executive in consultation with the Mayor to enter into discussions with TfL and the adjacent landowners about developing joint venture options for the site
4. To note the Equalities Impact Assessment as set out in Paragraph 4.

## **1 REASONS FOR THE DECISIONS**

- 1.1 Upon taking office, Mayor Rahman requested that all disposals be paused whilst he considered each matter on a case-by-case basis. The sale of the above was agreed in September 2021 but had not completed.
- 1.2 There are ongoing liabilities for retaining the site due to the historic issues of disrepair and hire of scaffolding required. There is also the resulting Anti-Social Behaviour that is affecting both this site and the adjacent land owned by TfL.
- 1.3 Despite previous issues of creating a Joint Venture for the site, TfL have indicated a willingness to explore further options for the wider area.

- 1.4 This may then be expanded to enter into discussions with the other adjoining land owner.

## **2 ALTERNATIVE OPTIONS**

- 2.1 Agree to the continuation of the disposal of the site at 3-11 Vallance Road on the basis of the terms within exempt appendix 2.
- 2.2 Leave the site vacant and derelict which will continue to attract anti-social behaviour and represent a health a safety liability to the Council.
- 2.3 Re-develop 3-11 Vallance Road independently. This will require a large number of resources in order to re-develop the site independently and the result will be to only improve 1/3 of the overall area considering the adjacent landowners may leave their sites undeveloped.
- 2.4 To enter into a joint venture or development agreement incorporating the LBTH land along with that of either or both of the neighbouring sites.

## **3 DETAILS OF THE REPORT**

- 3.1 3 -11 Vallance Road (Brochure in Appendix 1) is a terrace of derelict retail shops with office and residential upper floors located within close proximity to Whitechapel Overground Station. The site is held within the HRA and has been derelict since 1968 when the council was first served with a Dangerous Structures Notice by the Building Control department. Various attempts have been made to redevelop in the intervening 50 years and several feasibility studies have been completed including the most recent feasibility study prior to the decision to sell involving neighbouring owners Transport for London (TfL) and Longwood Properties Limited.
- 3.2 Scaffolding inspections are currently carried out monthly to ensure the safety of the building and to flag any health and safety issues. The cost of managing and maintaining the scaffolding is draining resources as the building continues to deteriorate and become more of a health and safety concern.
- 3.3 At Cabinet on 8 September 2021 an update on the marketing by Gerald Eve was provided, demonstrating offers in excess of £3m, and authority was received to conclude the disposal after going back to the two highest bidders for the 'best and final' offers. By taking this to the open market and then seeking best and final offers the proposed terms meet the Councils obligations under S.123 of the Local Government Act.
- 3.4 The legal documentation did not conclude under the previous administration and the current administration have placed a pause on all disposals without explicit agreement. This was formally conveyed to the prospective purchasers on 12 July 2022.
- 3.5 During wider discussions with TfL they expressed a willingness to attempt to enter into a further Joint Venture with the Council over this site.

- 3.6 There are a number of risks associated with foregoing the sale and exploring the redevelopment due to the complexities of the site. Whilst plans and proposals are being prepared the site remains vacant and at risk of further squatting or resultant ASB. Furthermore, the site is in poor condition and the continuous scaffolding needs to be monitored, which has a continuous revenue cost, which for 22-23 was c £58k including empty Business Rates, which the Council is responsible for. With the time taken to progress matters of an agreement and planning, this will realistically take approximately 2 years to agree terms for a joint venture as well as prepare plans for the site and secure planning permission.
- 3.7 The site itself is challenging, due to the District Line running under part of it, which affects the design of the site due to the limitations on foundations. It is also close to a number of residential dwellings which will result in Rights of Light issues needing to be considered as part of the massing and location of any tower. These issues demonstrate the complexity of the site and will also have the impact of increasing costs of any development.
- 3.8 Central Government are currently consulting on changing Building Regulations so that all buildings, whereby there is residential accommodation at or above 30m (approx. 10 storeys) will need a second staircase as part of the construction.
- 3.9 This height is also a threshold set by the Mayor of London for a referable application. As a result this 30m height is being adopted by the Council, and will require the second stairwell for any schemes that meet this height. This will affect the planning requirements and the nature of the scheme.
- 3.10 These Planning requirements will have an impact not only on construction costs, which themselves are in a state of flux, but also the potential viability of the scheme.
- 3.11 Whilst the Council and TfL are the principal land owners there is also the adjacent Longwood Properties site, who were the prospective purchasers of the Council land. Should the decision be made to overturn the existing Cabinet Decision to sell and explore alternative options for the site including self-development alongside one or both of the adjoining land-owners, it would be expected they would seek to include their land with any new proposals. By including a third party into the mix, it will make agreement harder, and could affect the viability.
- 3.12 The current disposal meets the requirements for the Council under S.123 of the Local Government Act 1972, due to a full marketing campaign and taking this to Best and Final offers. When considering any other alternative option for the site S.123 Considerations will need to be taken into account with the viability of the site being challenging due to the issues detailed above and the affordability of any potential scheme.

- 3.13 Part of the consideration will also be the foregoing of the capital return from the sale of the site as well as the ongoing liabilities whilst matters are being resolved.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 There are no specific equalities implications arising from the decision to cancel the disposal of the site. Any subsequent mixed-use development will result in the provision of new residential accommodation, including affordable units. This accommodation will therefore help to meet the demand in the borough from people on the housing waiting list in recognised housing priority need. Any development will also realistically include commercial space including retail on the ground floor which will create employment space in the borough.

#### **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.
- 5.2 Any disposal of the site will need to ensure Best Consideration under S.123 of the Local Government Act 1972. This will occur for a straight sale or entering into any funding or development agreement.
- 5.3 No other Statutory Implications have been identified.

#### **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report is seeking approval to overturn the Cabinet Decision of 8<sup>th</sup> September 2021 agreeing the disposal of 3-11 Vallance Road and entering into discussions with TfL and potentially the adjacent landowners about potentially redeveloping the site as a Joint Venture
- 6.2 The Council would receive a capital receipt of over £3m if the sale were to continue which would be foregone should the site not be disposed of.
- 6.3 3-11 Vallance Road is a HRA asset comprising derelict shops and residential units. As a result, the Council is incurring vacant property costs and is having to inspect scaffolding erected on the building on a monthly basis. These costs will continue to be incurred until the site is either disposed of or redeveloped.

- 6.4 The report is proposing entering into a joint venture agreement with TFL and Longwood Properties, the adjacent land owners. Joint venture agreements can vary in nature, with the levels of risk and reward to the Council being dependent on the specific agreement. Finance would need to assess the level of financial risk that the Council is being exposed to before entering into any agreement.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 Under administration law the maker of a delegation may at any time remove such delegation. Therefore, recommendation 2 of this report is within the executive Mayor's legal remit.
- 7.2 The legal comments set out in the earlier report are still applicable and are set out below. There may be a need for further consideration on the detailed legal arrangements of any joint venture initiative were this to be an avenue Councillors wish to pursue,
- 7.3 The Council is a local housing authority under section 1 of the Housing Act 1985 (HA 85) and is proposing to dispose of the site. The site sits within the Housing Revenue Account (HRA). The Council has the power to dispose of properties held in the HRA under section 32(1), HA 85 provided that Secretary of State consent is obtained (s32(2), HA 85). The Council can apply to the Secretary of State for specific consent or can rely on one of the general consents if it can meet the required conditions. Under A.3.1.1 of The General Housing Consents 2013 a local authority may (subject to restrictions that do not apply in this case) dispose of land for a consideration equal to its market value.
- 7.4 It should be noted that if the Council decides to dispose of the site for less than market value then a different consent regime is in place, and this would need to be complied with as a failure to do so will render a disposal void.
- 7.5 Section 1 of the Localism Act 2011 grants councils a general power of competence whereby a local authority has the power to do anything that individuals generally may. However, that power does not enable a local authority to do anything which it is unable to do by virtue of a pre[1]commencement limitation.
- 7.6 Section 123 of the Local Government Act 1972 is a pre-commencement statute that imposes limitations on the council's power to dispose of property. Section 123 of the Local Government Act 1972 provides that a council shall not (save where the consent of the Secretary of State has been obtained) dispose land for anything less than the best consideration that can reasonably be obtained. It is noted in this report that professional advice has been sought from Gerald Eve and that they are managing the bidding process. The report details that the competitive bidding process will ensure the Council receives best consideration and it is recommended at Gerald Eve endorse that the successful bid does represent best value for s123 purposes.

- 7.7 The Council also has an obligation under section 3 of the Local Government Act 1999 to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness (the best value duty). The report details that disposal of the site will provide the Council with a saving as it will no longer required to provide scaffolding or security at the site.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- Cabinet Paper 8 September 2021 [LONDON BOROUGH OF TOWER HAMLETS](#)

### **Appendices**

- Appendix 1 – Gerald Eve Marketing Brochure
- Appendix 2 – Heads of Terms (Exempt)

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

- NONE.

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

N/A