



**M A Z A R S**

**London Borough of Tower Hamlets  
Final Report  
Disposal of Former Poplar Town Hall**

**July 2014**

**This report has been prepared on the basis of the limitations set out on pages 2 and 21.**

**STRICTLY CONFIDENTIAL**

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## Contents

1. Introduction.....	1
2. Limitations .....	2
3. Background .....	3
4. Findings.....	4
5. Conclusions.....	19
6. Recommendations .....	20
Statement of Responsibility.....	21

## Appendices

1. Terms of Reference Extract

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## 1. Introduction

- 1.1. This interim report summarises the fact finding work that has been undertaken in respect of a referral received by the London Borough of Tower Hamlets (the Council) and passed to Mazars Public Sector Internal Audit Limited to investigate.
- 1.2. This referral originated from Councillor Peter Golds, which following debate, an urgent motion calling for an investigation into the former Poplar Town Hall was agreed by the full Council at its meeting on 22 January 2014. The Council resolution included the following:
  - To instruct the Head of Paid Service, Monitoring Officer and Section 151 Officer, in conjunction with the District Auditor, to undertake an immediate investigation into the marketing and sale of the former Poplar Town Hall.
  - That this investigation should include details of all meetings and correspondence between officers of the council, councillors, the Mayor, bidders, and those responsible for publicising the sale; and that these details should be published.
  - The investigation should pay particular attention to any potential conflicts of interest, etc. not properly disclosed.
- 1.3. As a consequence, we were engaged by the Council to conduct a fact-finding investigation - the remit for our planned work is set out in Appendix 1. As part of our work, we were asked to examine, in so far as we are able to, the documentation relating to the:
  - Disposal of Old Poplar Town Hall, also referred to as 117 Poplar High Street and Woodstock Terrace; and
  - Subsequent permissions for its use as a hotel.
- 1.4. This report sets out the findings and conclusions arising from our investigation work.

## 2. Limitations

- 2.1. This report sets out the matters, which came to our attention from examination of the documents made available to us and the information provided to us by the Council. We have not independently audited, or otherwise tested or verified, any of the information with which we have been presented.
- 2.2. The sole purpose of this report is to assist the Council in deciding what further action it may wish to take in this matter. Save as required by law, this report should not be disclosed to any third party without our prior written permission. In the event that we give our permission, we cannot accept liability for the contents of this report to the recipient concerned. The exclusion of liability also covers any third party recipients of information that quotes, refers to, or publishes, our report under the Freedom of Information Act 2000. We would ask that the Council consults with us promptly should it receive any request for information under the Act which it considers requires disclosure of the contents of this report, whether in whole or part.
- 2.3. The findings might change in the light of further work being performed or further information becoming available.
- 2.4. The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. Implementation of our recommendations should not be taken to guarantee the Council against any future occurrence of fraud or error.

### 3. Background

- 3.1. We have been passed a copy of the Council's 'Protocol for the Disposal of Assets', approved by Cabinet in January 2008, as part of the Authority's Asset Management Strategy to realise assets by selling unused buildings and assets. The property at 117 Poplar High Street (also known as the former Poplar Town Hall), was identified as surplus to requirements by Cabinet on 5 March 2008 along with other properties, including 2 Jubilee Street and 22-28 Underwood Road. At the Cabinet meeting of 12 January 2011, it is recorded that none of these buildings had been sold and that Woodstock Terrace (also known as the former Poplar Town Hall) was temporarily being used as a decant building for the Ian Mikardo School as part of the Building Schools for the Future Programme. The minutes state that the property (the former Poplar Town Hall) will be vacated next year and will be sold.
- 3.2. The property was marketed by BNP Parabis between May and June 2011 and following the receipt of offers from ten bidders, the former Poplar Town Hall was sold by the Council to Dreamstar Limited on the 11 November 2011 for the sum of £875,000.
- 3.3. Following the purchase of the former Poplar Town Hall, Dreamstar Limited sought planning permission from the Council to undertake works to develop the site as a hotel. This required a change of use from education. Plans were submitted to the Council and planning permission was granted using delegated authority on the 3 July 2013. However, the work cannot be started until further negotiations have been undertaken with the Council - this is outlined further in the current position section of the timeline below.

## 4. Findings

- 4.1. In order to show the process from the decision to sell the Former Town Hall, 117 Poplar High Street to the granting of planning permission we have created a timeline using data that has been provided to us by Council officers during the course of this work. The time line runs from March 2008 to July 2013 and gives details of our findings at each step:

Date	Event	Detail
5 March 2008	<p>Cabinet resolves that '117 Poplar High Street is declared as surplus to the Authority's operational requirements and the Corporate Director, Development and Renewal be authorised to market the property by informal tender in accordance with the Authority's protocol for the disposal of assets as approved by Cabinet in January 2008 as part of the Authority's Asset Management Strategy seeking appropriate terms for the best price reasonably attainable in the context of the planning statement attached.'</p>	<p>The Council has a 'Protocol for the Disposal of Assets' as approved by Cabinet in January 2008 as part of the Council's Asset Management Strategy. The Strategy defines the term informal tender as '...leading eventually to a best and final offer,(a two stage process)... Informal tenders allow an initial submission of bids from which a shortlist of bidders who are evaluated to ensure they meet the Council's requirements, the short list are then invited to submit a Best and Final Offer (BAFO) from which decisions are made...'</p> <p>'In the case of informal or formal tenders, confidentiality in the Council's procurement procedures relating to the opening, selection and acceptance of tenders, or best and final offers must be strictly adhered to. In the cases where an external property adviser is engaged to market property on the Council's behalf, s/he shall conduct the marketing exercise in accordance with the Council's procurement procedures, with the sealed bids being returned to the Head of Procurement for opening and recording, then forwarding back to the external property practice for its evaluation and recommendation.'</p> <p>The planning statement referred to by the Cabinet outlines the current and past uses of the property (offices and education). The planning statement notes that the nature of the spaces in the building and the particular features of interest mean that redevelopment for residential use is unlikely to be supported. The planning statement does however mention that 'A small scale hotel use is potentially acceptable as the site does have high access to public transport'</p>

Date	Event	Detail
12 January 2011	<p>Cabinet Meeting Agenda Item 10.6 - proposed disposals of surplus properties. An update is given to the Cabinet with regard to previously declared surplus properties at Underwood Road, Woodstock Terrace (the Former Poplar Town Hall) and 2 Jubilee Street. The Cabinet resolves that the Corporate Director, Development and Renewal be instructed to develop proposals for accelerated sale of the properties at Woodstock Terrace (also known as the former Poplar Town Hall) and Jubilee Street and report back before the end of the financial year.</p>	<p>During the period between 2008 and 2011, we were told by the Service Head Corporate Property and Capital Delivery, Development and Renewal (the Service Head) that the Council's records showed that the property had not been marketed and that it had been used as temporary accommodation for the Ian Mikardo School. The Corporate Director, Development and Renewal told us at a meeting on the 28 February 2014 that Members had been kept informed of the changes to the timings of the disposal programme.</p> <p>As an Appendix to the Cabinet reports and marked 'Exempt' was a report from the Director of Development and Renewal and prepared by the Service Head titled: 'Proposed disposals of surplus properties - estimated site values' - this report estimates the value of the former Poplar Town Hall in 2011/12 at £1.5m. We have been told that this estimate was made by a member of Council staff and that the estimate made with regard to Underwood Road was also significantly higher than the actual sale price achieved. However, we have not verified the valuation, but note that the offers received by the Council fall broadly between the BNP Paribas, valuation of £750k-£950k - see table at 17 June 2011 for detail.</p>
29 March 2011	<p>BNP Paribas issue, to the Council; a Risk v Reward report for both the former Poplar Town Hall and Limehouse Library. We were told by the Council that BNP Paribas were appointed as agents for the sale of both the former Poplar Town Hall and Limehouse Library following a competitive tendering exercise.</p>	<p>We have not reviewed the appointment of BNP Paribas as agents, but have been provided with documents that state that the appointment was made following a competitive tendering exercise.</p> <p>BNP Paribas considered that there were three disposal routes available to the Council:</p> <ul style="list-style-type: none"> <li>• Early marketing - with an estimated receipt of £750-950k;</li> <li>• Auction sale; and</li> <li>• Hold property (wait for market recovery).</li> </ul> <p>The Council agreed that they would proceed with the early marketing method of disposal.</p>

Date	Event	Detail
9 May 2011	The former Poplar Town Hall is marketed by BNP Paribas for a six week period.	<p>We were provided with a letter from BNP Paribas dated 22 June 2011 which stated that the property was marketed online and in the Estates Gazette and East London Advertiser and had 'For Sale' boards erected on two sides of the building.</p> <p>The sales particulars state that the lawful use of the former Poplar Town Hall is as a school and that 'it is considered that the site has the potential for a range of possible alternative uses; these would include educational, offices, residential and community and social facilities (subject to planning)'. The document goes on to state that 'Purchasers should make their own enquiries of the London Borough of Tower Hamlets planning department...'. The particulars state that Offers are to be received no later than 12 noon on Friday 17 June 2011 and addressed to:</p> <p>Head of Estates and Valuation  Tower Hamlets Council  Town Hall  Mulberry Place  5 Clove Crescent  London E14 2BG</p> <p>The particulars also state 'the vendor does not undertake to accept the highest nor any offer'.</p> <p>BNP Paribas reported to the Council that seventy property particulars were issued; nineteen information packs and eleven viewings were undertaken.</p>



Date	Event	Detail		
17 June 2011	Closing date for tenders, bids were opened by Head of Corporate Property Service, two other officers of the Council and a representative of BNP Paribas.	Bids were received as follows:		
		Bidder	Price	Conditions
		The Limehouse Project	£1.2m Estimated at £526k in real terms	£60k p.a. for 20 years (index linked) Value of bid calculated as £526k by BNP Paribas
		[REDACTED]	£876k	Subject to survey
		Hussain Associates*	£857k	None
		Qatar Property	£855k	Subject to survey
		Dreamstar	£850k	None
		Criterion Capital	£800k	None
		Ebony Limited	£775k	None
		iPro	a) £480k b) £920k	a) None b) Subject to planning
		Quantum Securities Limited	£350k	None
22 June 2011	BNP Paribas write to the Head of Valuation and Estates with details of offers and suggested next steps, including writing to bidders requesting their Best and Final Offers.	[REDACTED]		
1 July 2011	Bidders were written to by BNP Paribas requesting them to provide Best and Final Offers, to be returned by close of business on 8 July 2011.	[REDACTED]		
8 July 2011	Closing date for Best and Final Offers.	[REDACTED]		

Date	Event	Detail
11 July 2011	Best and Final Offers opened.	<p>We were told by the Council that those present at the bid opening on 11 July 2011 were three officers from the Council: the Head of Valuation and Estates, the Asset Manager (Strategy) and one officer from the Council's Legal Team, and two representatives of BNP Paribas.</p> <p>We asked the Council to provide us with the original recording sheet of the bid opening on 11 July 2011, but have been told that this could not be found. We met with BNP Paribas, who also told us that they do not have a copy of the bid opening recording.</p>
11 July 2011	<p>Best and Final Offer received from Dreamstar dated 8 July 2011 and date stamp received by Asset Management on 11 July 2011. The offer was addressed to:</p> <p>Head of Estates and Valuation  Tower Hamlets Council  Town Hall Mulberry Place  5 Clove Crescent  London E14 2BG</p>	<p>The Best and Final Offer received stated that Dreamstar will use the building as office space and that their best and final offer is £875k (offer increased from £850k).</p> <p>The Council's Financial Instructions regarding the disposal of assets state that where an asset is disposed by a competitive offer '... the procedure is as follows:</p> <ul style="list-style-type: none"> <li>• the offer must be advertised;</li> <li>• offers must be returned to the Council in a plain sealed envelope marked 'OFFER' and identifying the property but not who is making the offer;</li> <li>• the envelopes are to be date and time stamped on receipt and held in a secure place;</li> <li>• all envelopes are to be opened at the same time by an independent senior manager, assisted by at least one other officer;</li> <li>• the senior officer must initial each offer;</li> <li>• each offer must be recorded in a Register maintained for this purpose by the Chief Executive and the Register must be signed by all present when all the offers have been recorded; and</li> <li>• the highest offer must be accepted unless the prior agreement of the Cabinet (and the Secretary of State where necessary) has been obtained to accept other than</li> </ul>

Date	Event	Detail
11 July 2011	Email from Head of Valuation and Estates to Director of Development and Renewal, Service Head Asset Management and Service Head Corporate Property and Capital Delivery at 11:28am	<p><i>the highest offer.</i></p> <p>The offer from Dreamstar was received late and therefore does not comply with the Council's procedures.</p> <p>Email states: 'We have just finished opening the bids with the agents. To summarise, the preferred bidder for Poplar Town Hall will be [redacted] followed by Hussain Associates. We are still awaiting a best and final offer from Dreamstar who advised the agents that they posted their revised offer on Thursday. An electronic copy has been requested.'</p>
		<p>It is the Council's normal practice to exclude late bids.</p> <p>We have asked for details of the reason why Dreamstar's offer was included in the process and were told that: 'Officers [have a duty] to secure best consideration for the Council, in accordance with the Local Government Act. Given officers had been made aware that Dreamstar would be making a best and final offer... it would have been 'remiss' of the Council to have discounted it, considering it was one working day late'.</p> <p>In addition to accepting the late bid from Dreamstar, we would note that the offer from Dreamstar was not the highest offer received and therefore; the Council, by not noting the reason for its decision not to accept the highest offer, has not followed its own policy in regard to accepting the highest offer either.</p>
12 July 2011	Email received from BNP Paribas by the Council - Subject: LBTH Recommendations, Attachments: Tower Hamlets - bid review.	<p>The BNP Paribas email states 'Please find attached a schedule of bids and information relating to nest [sic] and final offers received for Poplar Town Hall and the additional information received on Limehouse Library. This includes the information received from Dreamstar this afternoon.'</p>

Date		Event		Detail	
Attached to the e-mail was a table showing Best and Final Offers for Poplar Town Hall, this table is shown below:					
Name of Bidder	Price	Comments	Payment Structure		
The Limehouse Project	£1,200,000	This offer equates to £526k in present net value terms and will not be recommended for acceptance	£60,000 pa for 20 years, index linked		
[REDACTED]	£876,000	No change	CASH		
[REDACTED]	£860,000	Offer increased from £857k	Appears to be CASH		
Hussain Associates*	£865,000	Offer increased from £855k	CASH		
Qatar Prop	£850,000	No change.	CASH		
Dreamstar	£850,000	Best and Final offer posted last Thursday but not yet received. Requesting electronic copy	CASH		
Criterion Capital	£825,000	Offer increased from £800k	CASH		
Ebony Ltd	£775,000		CASH		
iPro	a) £480,000 b) £920,000		CASH		
Quantum Securities Ltd	£350,000		CASH		
* Hussain Associates are a firm of accountants who submitted their own bid and acted for their client. [REDACTED]					
See table at 17 June 2011 on page 7 above for offer Conditions.					
			<p>The BNP Paribas email further states 'We recommend that we go back to Mr [REDACTED], and inform him he is currently the preferred purchaser for the site. However, in light of the unsatisfactory proof of finance to date, we need to impose extremely strict timescales for him to identify a prove [sic] he has the 50% capital and identify funding for the remaining 50%. If these are not be [sic] met then we may need to turn to the under bidders.</p> <p>In terms of the other bidders, are [sic] recommended</p>		

Date	Event	Detail
		<p>approach is as follows:</p> <ul style="list-style-type: none"> <li>• Dreamstar - tell them they have been unsuccessful on Poplar Town Hall, in order to focus their attention on Limehouse Library.</li> <li>• Hussain Associates - let them know that they are the underbidders on the site, however, no further offers will be considered from them at this stage.</li> <li>• Mr [REDACTED] (£860,000 bid) and Qatar Prop (£860,000 bid) - tell them that they are underbidders for the site.</li> </ul> <p>Given the various complexities and weaknesses of the top three bids, it will be important to keep these parties warm in case we are required to go back to them at a later stage.'</p>
15 July 2011	Email from Service Head Corporate Property and Capital Delivery to Director of Development and Renewal at 9:37 pm, forwarding the Head of Valuation and Estates email of the 11 July 2011	Email states: 'E-mail below from [Head of Valuation and Estates] earlier this week. I hope [REDACTED] did not pull out of Poplar Town Hall.'
2 August 2011	Email from BNP Paribas to Head of Valuation and Estates	The BNP Paribas email highlights the risk that the Council may lose the bidders if the Council does not proceed quickly with the sale of 117 Poplar High Street.
3 August 2011	Email from Head of Valuation and Estates to BNP Paribas in response to email of 2 August 2011	Email states: 'In regard to Poplar High Street, I am afraid this needs to stay on hold for the moment regardless as I am not in a position to instruct you to proceed until it is cleared at this end.'
23 August 2011	Email from Service Head Corporate Property and Capital Delivery to Director of Development and Renewal at 9.15pm	Email states: 'Below for your information. My understanding is that custom and practice is to accept the top bid regardless. My concern is that we also need to be able to balance that against the ability to close contracts quickly and also to offer some added value for the Authority as part of the assessment. This is relevant particularly in the context of very close bids.'

Date	Event	Detail
24 August 2011	Email from Service Head Corporate Property and Capital Delivery to Director of Development and Renewal	<p>Email states: '...Please see update from [Head of Valuation and Estates] on the valuation of the bids. Firstly, the range of returns is very narrow, which looks a bit odd to be honest. My personal preference is to proceed with [Head of Valuation and Estates], and go back to Mr [REDACTED], and ask that contracts with a 'deposit' (if we do that) is achieved within 3 weeks with a final close the following week. This will flush out his commitment to proceeding with his price.'</p>
25 August 2011	Capital and Asset Management Board Meeting (Corporate Director, Development and Renewal was not present)	<p>'With regard to disposals, it is stated in the minutes that '117 Poplar High Street [also known as the former Poplar Town Hall] also been marked with offers received, there will be progress on this after [Corporate Director, Development and Renewal] has met with the Mayor today'.</p> <p>We spoke to the Corporate Director, Development and Renewal who said he was not sure what this reference was made to, and reiterated that he was not present at the meeting when this point was minuted and that he had no recollection of speaking to the Mayor in regard to this matter.</p>
8 September 2011	Email from Service Head Corporate Property and Capital Delivery to Director of Development and Renewal	<p>Email states: '...we also need to progress Poplar High Street (Town Hall) and revert to the agents with a decision. I would suggest, though it is at odds with the valuation report, that due to the closeness of the 2 top bids and the financial profile of both companies who have lodged tenders, that we now put them into a race to complete the quickest. This is a significant capital sum, and it is important we bring it to a closure. Are you happy with this approach?'</p>
14 September 2011	Dreamstar Limited incorporated at Companies House	
15 September 2011	Email from Director of Developments and Renewal to Service Head Corporate Property and Capital Delivery in response to email of 8 September 2011	<p>Email states: 'You recommended a way of dealing with the above but I have been so busy flitting between Anchorage and Mulberry that I forgot to answer. Given the nature of the two bids, I think your course of action is eminently sensible please go ahead.'</p>

Date	Event	Detail
15 September 2011	Above email from Director of Developments and Renewal to Service Head Corporate Property and Capital Delivery forwarded to Head of Asset Management and Valuation	Email states: 'Can you proceed on the basis that we discussed, and that is due to the closeness of the top 2 bids, and the different issues on their funding streams, that we put them into a competition to see who gets to close first. I would also appreciate an indication of the likely timescales.'
15 September 2011	Note on legal file regarding contracts race	Council Solicitor notes 'I said 'My heart sinks'. How can we possibly have a race for a property of this type which we are selling off on a long lease? It's bound to end in dispute and litigation, all that needs to happen is for one of the buyers to say that [Council Solicitor] in your Legal Department sent something out to the other side 24 hours before he sent it to us. However, [Asset Manager] is only doing what he is told, this has come from the Mayor. [Head of Asset Management and Valuation] was listening in and obviously volunteered to take over, so I spoke to him and expressed my doubts, which he didn't really share, saying he had done contract races before when he was at Lewisham. He said he had made it clear in his report that £876 beats £875, and [Director of Development and Renewal] agrees, but it has come from the very top. If it's of any comfort, BNP Paribas Estate Agents will have to go back to both the Buyers to make sure they are still interested as their bids were a long time ago and when they hear that there's going to be a race one of them might drop out.'
16 September 2011	Email from Head of Valuation and Estates to Service Head Corporate Property and Capital Delivery, in response to email of 15 September 2011	Email states: 'It could very well be that one of them decides that they are not happy or willing to enter into a contractual race. Should the highest bidder state that they are still willing to proceed but unhappy about a contract race, I think this presents us with a problem around being able to demonstrate that we have obtained best consideration. I am also thinking of the upcoming audit exercise, and this is something that will be challenged.'
19 September 2011	Email from BNP Paribas to Asset Manager	Email confirms that they (BNP) will contact the two top bidders at Poplar Town Hall to ask them if they are willing to enter a contracts race.

Date	Event	Detail
20 September 2011	As per the Council's instruction, Dreamstar Limited and Mr [redacted] are asked by BNP Paribas if they are willing to enter a 'contracts race'	The race is described to the bidders as one where the seller agrees that they will proceed with whichever of the two prospective buyers who is in position to proceed first. Both parties respond on the same day confirming that they were happy to participate in the contracts race.
29 September 2011	Email exchange between Dreamstar's solicitor and Council Solicitor	Email from Council Solicitor states: 'We need to know what Dreamstar UK is constitutionally...because Dreamstar is not registered at Companies House.' Dreamstar's solicitor confirms that Dreamstar Limited's company number is 7773327. Companies House check confirms date of incorporation as 14 September 2011.
29 September 2011	Contracts exchanged	Dreamstar Limited is the first in a position to exchange. Dreamstar Limited pays its deposit and contracts are exchanged.
29 September 2011	Email from Council Legal Services to Mr [redacted] solicitors	Email states that they have been unsuccessful in the contracts race.
21 October 2011	Note on legal file regarding contracts race	Council Solicitor notes: 'We don't know how the other bidder [Mr [redacted]] reacted to the news that he had lost the contract race, there has been no feedback.'
11 November 2011	Sale is completed to Dreamstar Limited.	
6 December 2011	Formal pre-application request received by the Council from Dreamstar Limited in respect of the former Poplar Town Hall, 117 Poplar High Street (Ref:PF/11/2003) together with plans and planning statement.	The pre-planning process allows the planning applicant to meet with the Council and talk through their ideas for development. Dreamstar Limited made a formal pre-planning request to discuss their plans to develop the former Poplar Town Hall as a 'boutique hotel'.
18 January 2012	Pre-application meeting held.	Those present were: Principal Planning Officer, Team Leader, Design and Conservation, Planning Officer, representatives of Quay Consultants and Lambert Smith Hampton (planning consultants and the applicant's architect).



Date	Event	Detail
28 March 2012	Pre-application response sent.	The response states that the Council is broadly supportive of the application and that the area is not identified as a particular location for housing, but does note <i>'that small scale hotel use is potentially acceptable'</i> .
9 May 2012	Email from Asset Manager (Strategy) to Head of Asset Strategy in response to a Member's enquiry prior to the full Council AGM on 16 May 2012	<p>Question 8.14 from Councillor Tim Archer: Will the Mayor give details to the Council on the Sale of Poplar Town Hall situated on Poplar High Street?</p> <p>Email as part of the response included two tables: the first outlined the first bids made by each bidder with regard to Poplar Town Hall and stated that the bids were all received by the bid deadline. The second table is entitled 'Bids upon best and final offers' and this also shows all bids received by bid deadline.</p> <p>However, this is not correct as the Dreamstar best and final offer was not received by the bid deadline. It is not clear if this response was forwarded to the Councillor or used as an internal document only.</p>
25 August 2012 to 11 September 2012	<p>Change of use and listed building consent applications received and registered.</p> <p>Application allocated to case officer.</p> <p>Application validated by the case officer - this included identifying constraints, consultations and neighbour notification.</p>	<p>Dreamstar Limited followed the Council's procedures in order to obtain listed building consent to undertake their proposed development.</p> <p>Dreamstar Limited submitted plans which had been revised following the pre-application meeting.</p>

Date	Event	Detail
18 September 2012	Internal consultations carried out.	<p>The following internal officers were contacted:</p> <ul style="list-style-type: none"> <li>• Environmental Health;</li> <li>• Development, Design and Conservation;</li> <li>• Building Control;</li> <li>• Planning Policy;</li> <li>• Sustainability Officer;</li> <li>• Transportation and Highways; and</li> <li>• Biodiversity Officer.</li> </ul> <p>No internal objections were raised.</p>
18 September 2012	Letters sent to local residents.	<p>One hundred and three addresses were written to in:</p> <ul style="list-style-type: none"> <li>• Cottage Street;</li> <li>• Woodstock Terrace;</li> <li>• Poplar High Street;</li> <li>• Simpsons Road; and</li> <li>• Castor Lane.</li> </ul>
9 October 2012 to 15 November 2012	Acknowledgements letters sent to those ten respondents who have objected to the plans.	<p>We have been shown the objection letters and they are broadly concerned with the risk of noise nuisance, traffic and that the property is less likely to be a boutique hotel and more likely to be a house of multiple occupation, an assumption based on the fact that there is no restaurant facilities included in the plans.</p> <p>In addition to the objections, there was some support for the development from people welcoming business and job opportunities to the area.</p>

Date	Event	Detail
3 June 2013 to 3 July 2013	<p>Draft decision notice and delegated report produced;</p> <p>Final decision notice granting planning permission produced and issued, letters sent to neighbours advising them of the decision.</p>	<p>We have been told by the Applications Team Leader that the report for the application was drafted by a Planning Officer and signed by the Deputy Team Leader on 18 June 2013.</p> <p>The draft decision notice which authorises the issue of the final notice was signed by the Deputy Team Leader on 3 July 2013 - we have been informed that this is in line delegated authorities as per the Council's Constitution.</p> <p>It was explained to us that the application was determined under delegated authority as it did not require a referral to the Council's Development Planning Committee, this because:</p> <ul style="list-style-type: none"> <li>• The application did not trigger 20 or more objections;</li> <li>• The application did not provide more than 35 residential units;</li> <li>• The gross floor space did not exceed 10,000sqm;</li> <li>• There is no retail development; and</li> <li>• The building is under long term 199 year lease and therefore not in the ownership of the council for the purposes of this part of the constitution.</li> </ul>

<p>Current Position</p>	<p>The current position with regards to the change of use of the former Poplar Town Hall is that Planning Permission and Listed Building Consent has been granted. The Service Head Planning and Building Control explained to us that there are three pre-commencement conditions on the Listed Building Consent planning permission, and that it is illegal for Dreamstar Limited to make any alterations to the property without the completion of the pre-commencement conditions regarding Highways.</p> <p>The Service Head explained to us that there are clauses in Dreamstar Limited's lease which require them to seek the Councils consent for alteration works, although this consent cannot be unreasonably withheld.</p> <p>Dreamstar Limited does however require the Council's explicit consent for a change of use which the Council are under no obligation to agree.</p> <p>We have been told by the Service Head Corporate Property and Capital Delivery that it is in the Council's interest to have the building brought back into use. In addition, the requirement for the Council's consent on the change of use will generate a 'charge' that can be made to Dreamstar Limited dependant on the value of the development, once the costs of the works have been off-set.</p> <p>We have been told that Dreamstar Limited has been reminded of these conditions by the Council and that at the time of writing this report, the Leaseholders lawyers have written to the Council seeking the necessary consent and request for the change of use in line with the lease. It should be noted however, that at this stage, no negotiations have begun.</p>
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- 4.2. We have checked the minutes of Council meetings and found that no declarations of interests were found with regard to the sale of the former Poplar Town Hall. However, in accordance with the Council's own policy, there would have been no declaration required since the members present at the Council meeting solely agreed the recommendation to sell an asset belonging to the Council, not to whom that asset should be sold.
- 4.3. During the sale of the property, no declarations of interests have been made by potential buyers, and nor were any required of them. No members of the bid panels made declarations of interest and we have not identified any interests that should have been declared.
- 4.4. There is guidance on the Council's website with regard to completing applications for planning permission that states the applicant must declare whether the applicant or agent is a member of the Council's staff or elected member of the Council. In regard to the questions about being related to Council members, the guidance on the Council's website states that '...for the purpose of the question 'related to' means by birth or otherwise, closely enough that a fair minded and informed observer, having considered the facts would conclude that there was a real possibility of bias on the part of the decision maker in the local planning authority'.

## 5. Conclusions

- 5.1. Following the decision in March 2008 and the update to the Cabinet Meeting in January 2011 to develop proposals for the accelerated sale of the former Poplar Town Hall, the process for marketing until June 2011 when the first set of tenders were received and reviewed, is transparent and follows the Council's procedures.
- 5.2. We have been told that the manual record of the bid opening completed at the Best and Final Offer stage cannot be found by the Council or BNP Paribas (we would expect the Council to hold a copy).
- 5.3. We note the explanation provided by the Director of Developments and Renewal as to why Dreamstar's bid was accepted late was in relation to achieving 'best consideration'. However, this is in contravention of the Council's Financial Instructions regarding the disposal of assets.
- 5.4. The Council has provided us with information with regard to the contracts race and we note:
- a. There is not a clear record of the decision making process to embark on the contracts race, nor the reason for the delay between 12 July 2011 and 15 September 2011 when the decision to undertake a contracts race was taken. The Council's Financial Instructions regarding the disposal of assets also states *'In all cases, a written record of all actions taken and offers obtained must be made and retained for a minimum of three years. If, for good reason, these instructions have not been followed, the written record should include an explanation for this'*. This element of the Council's own policy has not been followed.
  - b. The Council's Financial Instructions state *'the highest offer must be accepted unless the prior agreement of the Cabinet (and the Secretary of State where necessary) has been obtained to accept other than the highest offer'*. Furthermore, the Council's custom and practice is noted in an email as proceeding with the highest bid. This practice appears not to have been followed in this case as the Council did not note, at that time, the reason for its decision not to accept the highest offer. It is recognised that the bid from Mr [REDACTED] was subject to survey and there were considerations around the highest bidders finances; however, it was established that Mr [REDACTED] had net assets sufficient to complete the purchase. The bid from the underbidder was unconditional. It is further recognised that Mr [REDACTED] as accountant also submitted a bid; however, concerns around this were not articulated with regard to the entering into a contract race. We noted that Dreamstar Limited was incorporated on 14 September 2011.
- 5.5. We have seen evidence that the correct process for planning permission has been followed and we have noted that the report for the application was drafted by a Planning Officer and signed by the Deputy Team Leader on 18 June 2013. In addition, the draft decision notice, which authorises the issue of the final notice, was signed by the Deputy Team Leader on 3 July 2013 - we have been informed that this is in line delegated authorities as per the Council's Constitution.

## 6. Recommendations

6.1. Following the work which we have undertaken we have made the following recommendations for management consideration.

	Recommendation	Management Response	Responsible Officer and Deadline
1	The Council should seek to locate the original bid opening sheet in order to examine comments made by officers at the time of the opening and identify what consideration was given to the bid from Dreamstar.	Officers will endeavour to locate the best and final offer summary sheet.	
2	The Council should review any files held by the legal services department in order to determine if these contain information as to whether any advice was sought regarding the acceptance of a late bid, to identify why a contract race was entered, or to account for the delay between the receipt of offers and the decision to proceed with a contracts race.	Agreed.	
3	The Council should consider whether further interviews with staff and/or members are required in order to further investigate in this matter - it is however noted that many key personnel have since left the Council.	Noted.	
4	The Head of Internal Audit, Risk and Fraud should consider whether an audit of processes within the Asset Management Team should be undertaken - our work has examined one sale undertaken over two years ago and we are aware that the asset disposal policy has changed in the intervening period.	This is in hand. The disposal policy is being revised and updated, in conjunction with Audit recommendations. Cabinet target date September 2014.	
5	The Council should consider whether potential buyers of Council assets should be provided the opportunity to make a declaration with regard to their relationship with Council members and/or officers.	Noted. Will be included within the revised document.	
6	Whilst we have been told that the correct process for planning permission has been followed, the Council should review the delegated authority powers as stated in the Council's constitution.	The Service Head Planning and Building Control would be happy to review the delegated authority powers of the Council's Constitution as relating to the functions of the development and strategic development committee and make recommendations to the Council for consideration.	

# Statement of Responsibility

We take responsibility for this report which is prepared on the basis of the limitations set out below.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by us should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. Our procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our work and to ensure the authenticity of such material. Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

**Mazars Public Sector Internal Audit Limited**

London

July 20<sup>th</sup> 4

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## Appendix 1 - Terms of Reference Extract

### 2. Description of Planned Work

2.1. We will examine, in so far as we are able to, the documentation relating to:

- the disposal of Old Poplar Town Hall; and
- the subsequent permissions for its use as a hotel.

2.2. We will seek to examine any documentation supporting the:

#### Marketing and Valuation

- procedures followed by Council staff / the appointed agent to value the property and market it 'openly and widely';

#### Receipt, Opening and Control of Offers

- procedures followed by Council staff / the appointed agent to manage and control the receipt of written offers from the bidders; Evaluation of Offers

- procedures followed by Council staff / the appointed agent to manage and control the process of evaluating the various offers received from the bidders and to recommend the best offer for the Council;

#### Acceptance and Approval

- procedures followed in the oversight and scrutiny of the offer recommended by the appointed agent and the circumstances leading to the final decision and approval of the offer;

#### Change of Use and Exercise of Delegated Authority

- process followed in managing the 'change of use application' and the final decision to grant the change; and

#### Conflicts of Interests

- arrangements for the disclosure and control of conflicts of interests from bidders, those involved in the sale and the change of use process.

2.3. In so far as records and staff are available to us, we will analyse documentary records and any policy or procedural guidance which we consider to be relevant to the matters set out in paragraph 2.2 above.

2.4. If we identify any system weaknesses in the course of our work, our report will include recommendations for strengthening the control environment.

2.5. Following completion of the work set out at 2.1 to 2.4 above, we will discuss the steps taken and the associated findings with Head of Risk Management & Audit. This will determine whether or not there is a need to interview staff and to seek clarification on the basis on which such interviews will be undertaken if required.



- 2.6. This will include preparing a written report to the Head of Paid Service, Monitoring Officer and Section 151 Officer highlighting findings and actions to take forward.
- 2.7. Should we identify a requirement to perform any additional procedures to those set out in 2.1 to 2.6 above, we will agree these with the Head of Risk Management & Audit prior to undertaking further work.