


<b>Cabinet</b> 4 February 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Interim Disposals Programme</b>	

<b>Lead Member</b>	Cabinet Member for Resources
<b>Originating Officer(s)</b>	Service Head, Corporate Property & Capital Delivery
<b>Wards affected</b>	Spitalfields and Banglatown, Whitechapel, Stepney Green and Bow East
<b>Community Plan Theme</b>	One Tower Hamlets
<b>Key Decision?</b>	Yes

### Executive Summary

The council owns a number of assets that are either currently vacant or due to become vacant shortly. These assets are an additional burden at a time of fiscal constraint.

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

This report sets out the proposal for the disposal of some land and buildings that have remained vacant for a number of years. This recommendation, if accepted, will overturn the previous decision of Cabinet taken on 5th September 2012 for the Council to self-develop some of the sites listed.

- 11-31 Toynbee Street
- 2 Jubilee Street
- 31 Turner Street

This report further acts as a reminder to Cabinet of their decision made on 5<sup>th</sup> September 2012 (10.1) authorising the marketing and open market disposal of Tredegar Boiler House, 329 Morville Street. The property was marketed for sale in late 2012 however was withdrawn from the market in December 2013.

This report further recommends that the vacant retail unit at 296 Bethnal Green Road, E2 is declared surplus to requirements and authority granted for its marketing

and open market disposal.

**Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the contents of this report;
2. Agree that the land and buildings (as shown in the maps in Appendix A) are surplus to requirement;
3. Agree to the disposal of the sites by informal tender;
4. Agree to the sale of the sites on 199 year leases;
5. Note that following a direction given by the Secretary of State on 17 December 2014, prior written agreement will be required from appointed Commissioners before disposing of these properties.
6. Authorise the Corporate Director, Development and Renewal to appoint external agents to support the marketing of the sites;
7. Authorise the Corporate Director, Development and Renewal to accept the best tender return for the sites on conclusion of the marketing exercises; and
8. Authorise the Corporate Director, Development and Renewal, following consultation with the Service Head – Legal Services, to agree the terms and conditions of any agreements required to implement the recommendations above.
9. Agree to proceed with the decision made on 5<sup>th</sup> September 2012 to market and dispose of 329 Morville Street.

## **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 our assets to reduce revenue costs.
- 1.2 The decisions in this report will contribute to the continual review and rationalisation of council assets, and help reduce the council's operational portfolio to the minimum required.
- 1.3 The disposals will generate capital receipts for the council, which can be directed to its priorities on housing, education, and infrastructure projects. They will also reduce revenue expenditure on upkeep, maintenance and security.
- 1.4 The redevelopment of the sites will also bring empty and derelict sites back into use. Taking constructive action would fulfil the borough's strategic enabling role in promoting regeneration, bringing derelict sites back into use and increasing the supply of housing.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The council has considered developing the sites directly, but, given the small numbers of potential units and relatively high costs, it was considered that funding could be better directed towards alternative schemes in the Borough that could offer higher residential unit numbers. It is now proposed to let the market deliver the redevelopments and appropriate levels of affordable housing will be ensured through the planning process.

## **3. DETAILS OF REPORT**

- 3.1 The council has a significant operational and commercial portfolio that it manages. Council officers keep the property portfolio under review and bring forward sites for direct development and/or disposal from time to time. The direct development options depend, amongst other things, on the availability of funding, while disposing of properties reduces the revenue costs for the maintenance and security of vacant buildings, while generating a capital receipt.

- 3.2 This report focuses on five council sites that are currently vacant. The buildings on the site have stood empty for a number of years, whilst still placing a demand on a limited revenue budget to ensure the buildings remain secure and safe.
- 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 sites, at a minimum, will be sold with a planning brief/statement.
- 3.4 31 Turner Street, 2 Jubilee Street and 329 Morville Street were declared surplus as a package of properties by a Cabinet Decision on 3rd August 2011. They were prepared for market in late 2012 but subsequently withdrawn pending a decision of Cabinet taken on 5th September 2012 for the Council to investigate the merits of self-developing its surplus sites.
- 3.5 In considering whether to develop directly, given the small numbers of potential units and relatively high costs, it was considered that funding could be better directed towards alternative schemes in the Borough that could offer higher residential unit numbers. It is now proposed to let the market deliver the redevelopments and appropriate levels of affordable housing will be ensured through the planning process.
- 3.6 In addition a Cabinet Report entitled "Asset Efficiency Review (New Civic Centre)" was considered at Cabinet on 5th February 2014. This report identified the opportunity to consolidate satellite offices and to dispose of surplus buildings releasing capital receipts to offset any procurement or construction costs of a new Civic Centre in either Whitechapel or Commercial Road.
- 3.7 As part of the assessment of the merits of packaging up potential disposal sites as part of the new Civic Centre development, it was agreed that smaller, less valuable sites such as those identified in this report, would not be considered attractive to potential developers given their size. Instead it was proposed to focus on packaging up larger sites offering a minimum development potential of 100 residential units.
- 3.8 Consequently, it is considered that these four sites should be re-offered to the market and disposed of separately rather than as a package connected to the new Civic Centre.
- 3.9 296 Bethnal Green Road, E2 is a retail unit in need of extensive refurbishment. The property had been trading as the Rights Shop since 1990 until becoming vacant in February 2013 when The Rights Shop vacated. Since becoming vacant the unit has been squatted on two separate

occasions with the most recent group of squatters being evicted in November 2014. Since the last squatters were evicted a full time security guard has been placed on-site at a cost to the Council of £240 per day.

- 3.10 Immediate costs required to bring the property into a usable condition have been estimated at £40,000. Because of these costs and that the shop does not sit within a parade of other Council owned and managed shops officers are of the opinion that there is no justification in maintaining ownership of the unit.
- 3.11 Over the past few years, costs have been incurred in relation to these properties. This is expenditure that has not provided any direct benefit to the residents of Tower Hamlets. Reduction of this revenue spend by disposing of the site allows the council to focus revenue expenditure on the services that our most vulnerable residents rely on.
- 3.12 The success of the disposals will be determined on the basis of being able to undertake the pre-sale work, carrying out targeted marketing, along with the provision of draft leases, and Heads of Terms issued with the marketing details. This will help expedite the process of concluding exchange of contracts with the successful bidders.
- 3.13 It is anticipated that up to 4% of the capital receipt value will be used to ensure the successful marketing of the sites. This will cover the appointment of an external marketing team, legal and property team support, and where necessary architectural / planning input.
- 3.14 Officers will commission independent valuations of the sites prior to marketing.

### **11-31 Toynbee Street**

- 3.15 The site is located within the Spitalfields and Banglatown ward. It is largely vacant and some of the units have been vacant for many years. As a result of their poor condition, the Council is incurring consequential management costs to ensure they remain secure and safe.
- 3.16 Only one of the twelve shop units is currently occupied and agreement has been reached with the tenant to terminate this lease prior to disposal.
- 3.17 In order to achieve the maximum capital receipt that can be realised through the disposal, the site will be sold with the benefit of planning consent.

- 3.18 Conservation Area consent was granted on 13th January 2014 and Planning Consent was granted on 5<sup>th</sup> June 2014 for the demolition of the existing buildings and redevelopment to provide a four storey building. The scheme will comprise 6 commercial units at ground floor and 19 residential units. The scheme will provide 5 affordable units equating to 37% affordable housing on a habitable room basis.

## **2 Jubilee Street**

- 3.19 2 Jubilee Street is located in Stepney Green close to Commercial Road. The property was previously used by the council as offices and meeting rooms and is currently squatted.
- 3.20 The office accommodation extends to circa 10,000 square feet gross internal area. The site extends to approximately 0.1 hectares and comprises a three storey L-shaped building of 1960/70s construction with rear yard and car parking area.
- 3.21 At a Cabinet meeting dated 5th September 2012 the decision was made for the Council to investigate the merits of self-developing the site.

## **329 Morville Street**

- 3.22 329 Morville Street is located within 200m of Roman Road in the North east area of the borough within Bow East. The site comprises a two storey rectangular shaped industrial building constructed in the 1960s/70s. There is a large concrete chimney located to the rear of the site which is a very distinctive feature in the surrounding area. The site has two vehicular accesses and contains an area of open land which was previously used for parking vehicles.
- 3.23 The site is currently vacant. Its most recent use was as a depot for a building contractor. The total site area is 0.14 hectares.
- 3.24 On 5<sup>th</sup> September 2012 Cabinet declared 329 Morville Street surplus and authorised its disposal. Following a marketing exercise the property was withdrawn from the market.

## **31 Turner Street**

- 3.25 31 Turner Street is located to the west of the borough within the ward of Whitechapel and is within the Myrdle Street Conservation Area. The site is situated between Varden Street and Turner Street. The existing building is 3 storeys in height and is currently vacant. The previous use of the building was for the manufacture of clothes.

- 3.26 The property is a 4 storey industrial property in need of significant need of repair. In August 2011 the cost of the repairs required to the building were estimated to be in the region of £90,000. On 3<sup>rd</sup> August 2011 Cabinet declared 31 Turner Street surplus to requirements and the sale of the site was authorised. Subsequently at a Cabinet meeting dated 5<sup>th</sup> September 2012 the decision was made for the Council to investigate the merits of self-developing the site.

### **296 Bethnal Green Road, E2 0AG**

- 3.27 296 Bethnal Green Road is located within the Weavers Ward on the south side of Bethnal Green Road within a parade of independently owned shops between Valance Road and Buckfast Street.
- 3.28 The property is a terraced two storey shop with basement comprising offices to the first floor and retail unit at street level. The property has been vacant since Feb 2013 and has planning consent for A2 use (Financial and Professional services). The total net internal area is 869 sq ft.
- 3.29 Since the property became vacant it has been squatted on two separate occasions with the most recent squatters being evicted in November 2014. There is currently 24 hour security on site to prevent further squatting.
- 3.30 The property is in a state of disrepair and requires an estimated £40,000 to be brought back into usable condition and be made Health and Safety compliant. This estimate of costs does not include other major non-urgent works which have been previously identified including replacement of the roof which is likely to be required within the next 5 to 10 years
- 3.31 296 Bethnal Green Road is unusual in that it is one of very few shops that the Council owns that is not within a parade of other Council owned and managed retail units. The property is not lettable without major refurbishment which has been estimated at around £40,000. Furthermore other non-urgent works will be required within the next 5 to 10 years. The rental value of the property, when refurbished, is expected to be in the region of £15,000 per annum.
- 3.32 The immediate area supports a good number of independently owned shops that provide the usual shopping needs of a community and there is no strategic advantage to the Council in maintaining control of this property. Officers therefore recommend that 296 Bethnal Green Road is placed on the market for disposal on a long leasehold basis as soon as possible to reduce ongoing costs and the risk of further squatting.

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

- 4.1 Following previous reports to Cabinet, this report seeks reaffirmation that the sites at 31 Turner Street, 11-31 Toynbee Street, 329 Morville Street and 2 Jubilee Street are surplus to requirements, and seeks approval to dispose of them by informal tender rather than the previously proposed option of the Council developing the sites itself. This report also recommends that 296 Bethnal Green Road be declared surplus to requirements, and that it be marketed and disposed of on the open market. Any such disposal must be progressed in accordance with the direction issued by the Secretary of State on the 17<sup>th</sup> December 2014 – whereby the Council must obtain 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.
- 4.2 Approval is also sought to authorise officers to appoint external agents to support the marketing of the sites, and to authorise the Corporate Director, Development and Renewal to accept the best tender returns for the sites on conclusion of the marketing exercise.
- 4.3 Capital receipts accruing from the sale of these properties will be fully usable to support capital expenditure incurred by the Council, other than the “top sliced” element of the receipt for 11-31 Toynbee Street – see paragraph 4.7 below. All properties – except 296 Bethnal Green Road - are held under Housing Revenue Account (HRA) powers and as such are 100% usable within the HRA as such receipts are no longer subject to the pooling regime. If these receipts were to be used within the General Fund for purposes other than the provision of affordable housing or regeneration, then an adjustment would be made to the HRA’s Capital Financing Requirement (CFR). This would have the effect of reducing the capital financing charges allocated to the HRA and increasing those allocated to the General Fund.
- 4.4 Records show that 296 Bethnal Green Road is held under General Fund powers, and as such, any receipt would be 100% usable. Any cost incurred in relation to this sale 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 they would need to be met from General Reserves.
- 4.5 As indicated above (paragraph 3.3) 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. The cost of these and other marketing costs could be met through the 'top-slicing' 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 Reserves.

- 4.6 The sites are unused and generate no income for the Authority, but the Authority is currently incurring revenue costs in order to ensure that the buildings are secure and safe. Disposing of the sites will avoid the need for these costs to be incurred in future.
- 4.7 In relation to the site at 11-31 Toynbee Street, in order to obtain vacant possession of the site to ensure that the capital receipt generated will be significantly in excess of that received if the site was occupied, the HRA has incurred costs of approximately £80,000. Agreement has previously been made under delegated officer authority to earmark an element of any subsequent capital receipt to finance the costs incurred in securing vacant possession of the site, with this sum being top sliced from any capital receipt accruing.
- 4.8 The proposed property disposals would generate capital resources if ultimately realised. Although the properties have previously been earmarked for disposal, no potential receipts have been assumed as resources available to finance the capital programme. The Authority adopts a prudent approach to the use of capital receipts and will only allocate them to schemes once they have been received and all contractual commitments met.
- 4.9 As highlighted in previous reports to Members, funding for capital investment is severely restricted over the next few years, while the Borough's population will continue to increase. Government capital grants to local authorities have reduced significantly, and investment in local priorities will be increasingly dependent upon the sale of surplus assets.

## **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 be reasonably be obtained. Otherwise, the Council requires the consent of the Secretary of State for such a disposal.

- 5.2 It is understood that at least some of the land proposed for disposal is housing land. The general power of disposal outlined in paragraph 5.1 does not apply to disposal of housing land, which is instead covered by section 32 of the Housing Act 1985. Pursuant to that section the Council may dispose of land held for housing purposes with the consent of the Secretary of State.
- 5.3 The Secretary of State has given general consent for specified categories of disposal of housing land in the General Housing Consents 2013. Pursuant to paragraph A3.1.1 of the General Housing Consent, the Council may dispose of housing land at market value.
- 5.4 The Council is a best value authority within the meaning of section 3 of the Local Government Act 1999 and is obliged 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”.
- 5.5 The report proposes that the disposals will be the subject of a competitive process in the form of informal tendering. Such a process may be sufficient to demonstrate best consideration, market value or best value for the purposes of the disposal powers identified in paragraphs 5.1 to 5.3 above. Officers will nevertheless keep under consideration whether the processes are delivering the best consideration or market value (as the case may be) to ensure that the Council complies with the statutory requirements.
- 5.6 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 will be required to the disposal of property other than existing single dwellings for residential occupation.
- 5.7 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 don't (the public sector equality duty). There is information in section 6 of the report relevant to these considerations.

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

- 6.1. The sale of the sites identified in this report will raise capital receipts which will be available to support the council's overall capital programme which supports all service areas to deliver on the Community Plan objectives, as reflected in the Strategic Plan as well as achieve Mayoral priorities.

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

- 7.1 Any new developments will be to higher environmental standards. The sale of these properties will reduce the council's CO2 emissions.

## 8. **RISK MANAGEMENT IMPLICATIONS**

- 8.1. The key risks are as follows:
- 8.2. **Timing and marketing strategy** – the maximum capital receipt may not be realised if the disposals and marketing strategies are not managed well, or insufficient information exists at the time of marketing the properties. This may lead to values being suppressed.
- 8.3. *Mitigation* – ensure that full and complete property information is compiled. Ensure that a planning brief available on the sites. Professional marketing is undertaken with clear details, processes and timeline for submitting bids.
- 8.4. **Market saturation** - the marketing of the sites and any others already declared surplus for disposal all happen at the same time. This could lead to the market being saturated, which could drive down or suppress the values and/or level of interest.
- 8.5. *Mitigation* – ensure that the marketing of the sites is undertaken in such a way to ensure that market interest is maintained.
- 8.6. **Squatting** – the disposal is delayed leading to re-squatting of the properties after vacant possession is secured.
- 8.7. *Mitigation* – ensure the sites are secured after the council regains vacant possession and the disposal is carried out expeditiously.

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

- 9.1 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.
- 9.2 The subsequent redevelopment of those sites will also remove the unsightly empty buildings within the borough.

## **10. EFFICIENCY STATEMENT**

- 10.1 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.
- 10.2 In this case, it is more appropriate that the council dispose of the sites. The council will receive a capital receipt from the sale of the sites.
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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- None.

#### **Appendices**

- Appendix A – Site plans

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

- None

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

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