


<p>Individual Mayoral Decision</p> <p>14th November 2016</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Corporate Director, Development & Renewal</p>	<p>Classification: Unrestricted</p>
<p>Disposal of Land at Middlesex Street, London, EC3</p>	

Lead Member	Cabinet Member for Resources
Originating Officer(s)	Service Head, Corporate Property & Capital Delivery
Wards affected	Spitalfields and Banglatown
Key Decision?	Yes
Community Plan Theme	One Tower Hamlets

Executive Summary

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

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

This report sets out the proposal for the disposal of land at Middlesex Street, London, EC3. The sale is to be on a freehold basis, to the owners of the adjoining site and for the sum of £2,700,000.

Recommendations:

The Mayor is recommended to:

1. Agree that the land at Middlesex Street, London, EC3 (as shown on the plan in Appendix A) are surplus to the council's operational requirements;
2. Agree to dispose of the land to Daejan Holdings Limited for a sale price of £2,700,000 (two million and seven hundred thousand pounds);
3. Note that the sale will be on a freehold basis and to a special purchaser, via direct negotiation;

4. Authorise the Corporate Director, Development and Renewal, following consultation with the Director of Law Probity and Governance, to agree the terms and conditions of any agreements required to implement the recommendations above;
5. Note that under the Directions, issued by the Secretary of State for Communities and Local Government, the council will be required to obtain prior written agreement, of the Commissioners, to the sale.

1. REASONS FOR THE DECISIONS

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

2. ALTERNATIVE OPTIONS

- 2.1 The council could decide not to sell the land and retain it for council use as a pavement and public realm land. However it should be remembered that the purchasers are considered to be special purchasers due to them owning the adjoining site and the agreed price of £2,700,000 reflects this.
- 2.2 The council could seek to dispose of the site in the open market. However, given the site has minimal development potential in its own right, the value of the land to another party through this method will be nominal.

3. DETAILS OF REPORT

- 3.1 The council owns land located at the southern end of Middlesex Street, north of St Botolph Street and to the south east of the A10 Bishopsgate Road. It is located close to the border with the City of London.
- 3.2 The subject land comprises pavement and public realm land adjacent to the public highway. The land is bordered to the north by a vacant site, which was formerly Cromlech House a mixed use building providing residential and commercial uses. The surrounding area is predominantly commercial in nature with a number of tall office buildings located nearby.

- 3.3 The gross land area of the land owned by the council at Middlesex Street equates to 314 sq m (3,379 sq ft) and is divided into three separate plots. The disposal land equates to 244 sq m (2,626 sq ft).
- 3.4 The neighbouring land owner, Daejan Holdings Limited (the purchaser), wish to purchase part of the council's freehold interest. The council's land will increase the size of the purchaser's land holding in order to increase the potential quantum development achievable. This is considered to be a windfall sale/disposal to the Council.
- 3.5 The purchaser's adjacent land previously had the benefit of planning permission for a mixed use scheme, granted in 2008. This has now lapsed.
- 3.6 Architects were instructed by the purchaser to prepare two illustrative development schemes ("the schemes") in order for an appropriate marriage valuation to be prepared. The first scheme excludes the disposal land (the exclusive scheme) and the second scheme includes the disposal land (the inclusive scheme).
- 3.7 The council instructed Gerald Eve LLP to act on their behalf. They have assessed that the site has a market value of £5.2m and have recommended that the marriage value created, which equates to the difference between the residual value of the exclusive scheme and the residual value of the inclusive scheme should be shared 50:50 between the purchaser and the council.
- 3.8 After extensive negotiations heads of terms have been agreed at £2.7m for the freehold interest. This reflects 52% of the total market value of the site. The purchasers are considered to be special purchasers as they own the adjoining site. The value of the land to another party is likely to be nominal.
- 3.9 The council will dispose of the freehold land as shown in the attached plan (Appendix A). It is estimated that of the total 244 sq m of the land, 157 sq m will be developed by the purchaser shaded pink on the plan.
- 3.10 The land in question is highways land maintained at public expense. In order for it to be released for development the highway status must be stopped up. This can be done by way of an order made pursuant to section 247 of the Town and Country Planning Act 1990. This empowers London boroughs to authorise the stopping up of highways where it is deemed necessary to enable development authorised by a planning permission to be carried out. Whilst such an order can only be made where the relevant development has planning permission, section 253 of the same Act allows the procedure to be

initiated (by the publication of a draft order) in respect of a valid planning application not yet granted permission.

- 3.11 While the local planning authority has delegated authority to determine these matters in practice it does so in consultation with the local highway authority. The local highways authority has been consulted on the in principle stopping up of the area of highway in question and has raised no objection.
- 3.12 The remaining 87 sq m of land highlighted blue on the attached plan will be re-dedicated as highways land at ground floor level and any disturbance on, under or above the land must first be agreed with the relevant department at the London Borough of Tower Hamlets.
- 3.13 It is anticipated that the sale will complete by the end of the 2016/17 financial year.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 Following an approach by Daejan Holdings Limited, the owner of a neighbouring property, this report seeks Mayoral approval to declare land at Middlesex Street (shown in Appendix A) as surplus to requirements, and requests agreement to dispose of it in order to facilitate the redevelopment of the full site.
- 4.2 The council has appointed Gerald Eve LLP to act on its behalf in the valuation assessment and subsequent negotiations with the developer. The costs of this commission are estimated at £10,000.
- 4.3 Acquisition of the council's land to create a larger development site will significantly increase the value of the total asset to Daejan Holdings – this increase has been assessed at £5.2 million. It is proposed that the increase in value is split between the council and developer, with the sum due to the council representing the sale price. The sum due to the council has been negotiated by Gerald Eve at £2.7 million, representing a ratio of 52:48 in the council's favour (paragraphs 3.8 and 3.9).
- 4.4 The site generates no income for the authority, and disposal will mean the authority is no longer liable for any upkeep of the land.
- 4.5 Any costs that the council incurs in relation to the sale can be met through the 'top-slicing' of up to 4% of the receipt value. These costs will initially 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 will need to be met from within existing budgets.

- 4.6 The eventual redevelopment of the full site will generate resources through Section 106 or Community Infrastructure Levy obligations, or affordable housing liabilities. These will be controlled by the council. If the property development contains housing units it will also increase the council's tax base and its entitlement to New Homes Bonus (NHB); NHB is currently assessed at approximately £1,900 per annum per additional housing unit, paid for a six year period although there are currently proposals that might amend the NHB arrangements one element of which would reduce the time for which it is payable to four years.
- 4.7 As set out in the report, in view of the fact that the Council owned land has only a nominal value to any other purchaser, officers are of the view that the transaction is a disposal to a 'special purchaser' i.e. a sale to a purchaser for whom the land has a higher value than for anyone else.
- 4.8 The capital receipt will be fully useable by the Council for any purpose, either within the General Fund or Housing Revenue Account capital programmes. As a 'windfall' disposal, no receipt from this asset sale has been incorporated into the council's Medium Term Financial Strategy.
- 4.9 Any disposal by the Council must be progressed 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.

5. LEGAL COMMENTS

- 5.1 The report seeks Mayoral approval for the proposed freehold disposal of the property to the adjoining landowner Daejan Holdings Limited for £2.7m. Prior consent of the Commissioners will also be required to achieve disposal.
- 5.2 The Council's disposal powers is pursuant to section 123 of the Local Government Act 1972 which states that the Council may dispose of its land in any manner that it may wish. However, except in the case of a short tenancy (i.e. leases of less than seven (7) years), the consideration for such disposal must be the best that can reasonably be obtained. Otherwise the Council requires consent of the Secretary of State for the disposal. The report states the proposed sale price is the best that can reasonably be obtained and is supported by independent valuation.

- 5.3 The Direction issued by the Minister on 17th December 2014 requires the Council, until 31st March 2017, to “..... *obtain the prior written agreement of the Commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.*” This report involves the disposal of land through the sale of a lease and accordingly consent is required.
- 5.4 The land is designated as public highway and will need to be stopped up. This report contemplates this being undertaken in reliance upon statutory powers in the Town and Country Planning Act 1990.
- 5.5 As stated in paragraph 3.10 above, section 247 of that Act permits the making of an order for the stopping up of a highway necessary to enable development to be carried out in accordance with a valid planning permission. And section 253 allows the process to be started in respect of a planning application for such development before the permission has been granted.
- 5.6 The procedure to be followed when making an order under section 247 is set out in section 252 and referred to below:
- Before making the order the Council must publish in at least one local paper circulating in the relevant area and in the London Gazette a notice stating the effect of the order, specifying a place in the relevant area where a copy of the draft order and any relevant plan may be inspected at all reasonable hours during a period of 28 days from the date of the publication;
 - No later than the publication date the Council must serve a copy of the notice and a copy of the draft order and map on any water, sewage, hydraulic power or electricity undertaker or public gas transporter having any cables, mains, sewers, pipes or wires laid under or over the land which is proposed to be stopped up;
 - No later than the publication date the Council needs to display a copy of the notice in a prominent position at the ends of the highway to be stopped up;
 - If before the end of the 28 days notification period an objection is received from an undertaker or from any other person appearing to be affected by the order and the objection is not withdrawn, then the

Council needs to notify the Mayor of London and cause a local inquiry to be held, unless the objections have not been made by an undertaker or transporter then the Mayor can decide whether in the special circumstances of the case the holding of such an inquiry is unnecessary;

If there are no objections - and where the application for the stopping up order has been made pursuant to a planning application under section 253, planning permission has been granted - the Council can proceed to make the order and then publish a notice in the local paper and gazette stating that the order has been made and naming a place where a copy of it can be seen during all reasonable hours.

- 5.7 In terms of the proposed re-dedication of the relevant land as highway referred to in paragraph 3.10, there are various powers under the Highways Act 1980 which can be relied upon to achieve this aim.
- 5.8 Such proposals in respect of the highway land are those which the Council in its various capacities, as the local planning and highway authorities for the area, has the necessary powers to invoke in due course.
- 5.9 The Council's procedure for disposals and lettings, adopted at Cabinet on 8th April 2015, specify that disposals may be by one of the following means: (a) informal tender; (b) formal tender; (c) auction; and (d) sale by negotiation. The procedures provide that the Service Head, Corporate Property and Capital Delivery will determine the most appropriate method of disposal, based on the type and location of the property and the prevailing property market and subject to the Council meeting its legal requirements. In this case, the disposal has been by negotiation with a special purchaser.
- 5.10 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 report details suggest the proposed disposal will secure the objectives set out in the 1999 Act.
- 5.11 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic

and those who do not. The report details suggest the proposed disposal will help to secure these objectives.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 There are no immediate One Tower Hamlets implications arising from this report. The capital receipt from the sale will be applied to the council's priorities as articulated in the Strategic Plan.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The arrangement proposed in this report supports the council's best value duty. The proposal represents an efficient and effective use of the council's estate.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no immediate sustainability implications arising from this report. The comprehensive redevelopment of the site should result in a scheme that is much more energy efficient than the buildings that currently occupy the site.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 As with any sale to a special purchaser, via direct negotiation, there is a risk that the council is not securing the best consideration reasonably obtainable, as required under section 123 of the Local Government Act 1972. However, this risk has been managed by getting specialist advice from Gerald Eve LLP. Gerald Eve LLP has provided a report to the council in which they state that the proposed sale price of £2.7m is, in their professional opinion, the best consideration that the council can reasonably expect to obtain for the site.
- 9.2 In order to manage a number of other risks, including the risk of price chipping, spoiler bids, or the purchaser withdrawing their bid, the council will move to exchange and complete as soon as possible.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no immediate crime and disorder implications arising from this report. The comprehensive redevelopment of the site will result in an

improved streetscape, increasing passive surveillance and making it a less attractive location for antisocial behaviour.

11. SAFEGUARDING IMPLICATIONS

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

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix A – Site Plan.

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

- None.

Officer contact details for documents:

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