

<b>Cabinet</b> 31 October 2017	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Ann Sutcliffe, Acting Corporate Director, Place	<b>Classification:</b> Part Exempt
<b>Disposal of 2 Trinity Green, Mile End Road, E1 4TS</b>	

<b>Lead Member</b>	Councillor David Edgar, Cabinet Member for Resources
<b>Originating Officer(s)</b>	Divisional Director, Property & Major Programmes
<b>Wards affected</b>	Bethnal Green
<b>Community Plan Theme</b>	One Tower Hamlets
<b>Key Decision?</b>	Yes

### **Executive Summary**

This report sets out a proposal to declare a dwelling that forms part of the Trinity Green Almshouses as surplus to the Council's operational requirements and to dispose of it on the open market. This is due to the substantial cost of bringing the property back up to a habitable standard, dealing with its current configuration and its Grade 1 listed status.

Disposing of it would allow the purchaser to bring the dwelling back up to a habitable standard through a restoration programme and return the site to housing use. This would place the expense and risk on them and allow the Council to invest the receipt in the provision of replacement affordable housing. The receipt is likely to support the acquisition of two flats, which could be held within the Housing Revenue Account.

This report sets out the proposal for the disposal of 2 Trinity Green, Mile End Road, E1 4TS.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the contents of this report;
2. Agree that 2 Trinity Green, Mile End Road, E1 4TS is surplus to the Council's operational requirements;

3. Agree to the disposal of the site and to note that the Corporate Director, Place will decide, under delegated authority, on the most appropriate disposal method in accordance with Council's procedure for disposals and lettings, adopted at Cabinet on 8<sup>th</sup> April 2015 ;
4. Agree to the disposal of the site on a freehold basis;
5. Agree that the capital receipt is used for the provision of affordable housing,
6. Authorise the Corporate Director, Place, to progress the sale of the site; and
7. Authorise the Corporate Director, Place, following consultation with the Corporate Director, Governance, to agree the terms and conditions of any agreements required to implement the recommendations above.
8. Authorise the Corporate Director, Governance to execute all agreements required to implement the recommendations above.

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

- 1.1 2 Trinity Green is currently vacant and in poor condition. Its condition and the Grade I listing mean returning the dwelling back to a habitable state will be at a significant cost. That cost would be to the Council's Housing Revenue Account.
- 1.2 In disposing of it the Council will require the purchaser to bring the dwelling back up to a habitable standard and return the site to housing use. This would place the expense and risk on them and allow the Council to invest the receipt in the provision of affordable housing. Based on the allocation of the estimated receipt to purchase replacement affordable housing, along with the use of Right to Buy receipts as supplementary funding, the Council could reasonably expect to secure two flats in replacement.
- 1.3 The development of the property will bring a vacant and disused dwelling back into use. By taking constructive action in this way the Council is meeting its enabling role in increasing the housing supply in the borough while also protecting a significant heritage asset.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Council has considered restoring the dwelling directly and letting it for housing use. However, this would be at a significant cost due to the poor condition of the dwelling (as confirmed by a recent condition survey) and due

to the Grade 1 listed status of the building, which would require specialist – and therefore more expensive – contractors than standard residential schemes of a similar nature. The costs of ongoing maintenance would also be significantly higher than for a comparable dwelling not subject to Grade 1 listing. It is now proposed to let the market deliver the restoration instead.

- 2.2 The Council has also considered the transfer of the property to its wholly-owned housing company. However, a high-level financial appraisal has determined that this would not offer value for money given the level of investment the wholly-owned company would still need to make.

### **3. DETAILS OF REPORT**

- 3.1 The Trinity Green Almshouses (formerly Trinity Hospital) are a series of Grade I listed almshouses on Mile End Road. They were originally built in 1695 to provide housing for retired sailors, and are the oldest almshouses in Central London.
- 3.2 Listing, which refers to the addition of a property to the National Heritage List for England (the statutory list of buildings of special architectural or historic interest in England), is used to recognise a building's special architectural and historic interest. It has the effect of protecting the building for future generations by requiring specific considerations as part of the planning process.
- 3.3 Grade I listing is the highest category of listing and means the building/site is of exceptional interest; only 2.5% of listed buildings/sites in England are designated as Grade I.
- 3.4 Believed to have been designed by Sir William Ogbourne (although some claim it was designed by Sir Christopher Wren), the houses are organised in two rows with a central green and chapel.
- 3.5 Following the destruction of some of the almshouses in the Second World War, Trinity Green was Grade I listed in 1950. The London County Council then purchased and restored the remaining almshouses and the chapel. These were subsequently transferred to Stepney Borough Council, one of the predecessors to the Tower Hamlets London Borough Council. The current use of the almshouses is as HRA dwellings.
- 3.6 The chapel forms part of the Council's community buildings portfolio and is occupied by Deaf Plus under a 5-year lease that commenced in 2015.

- 3.7 The majority of the dwellings around the green are privately owned, having been purchased under Right to Buy legislation. However, four of them remain in the Council's ownership and are occupied by council tenants although the dwelling that is the subject of this report is currently vacant and has been so for at least two years.
- 3.8 The vacant dwelling, no. 2, is in poor condition. It forms part of a larger terrace of properties and consists of a single bedroom, 1 reception room / kitchenette and small bathroom. Its condition and the Grade I listing mean returning the dwelling back to a habitable state will be at a significant cost. That cost would be to the Housing Revenue Account capital programme.
- 3.9 The remainder of the site also requires some work in order to ensure that a significant heritage asset does not fall into disrepair. The Council's Asset Management, Strategic Housing and Planning departments will be working together to draw up a local conservation plan. This plan will address the need for a costed programme of repairs and maintenance to the communal areas, which the Council will set aside appropriate budget provision. The purchaser of the property and subsequent owners will be required to contribute a fair proportion of the costs of repairs and maintenance to the communal parts of the site, the use of which benefits the property.
- 3.10 The Council appointed Hutton + Rostron, a firm who specialise in building pathology and heritage conservation, to undertake a detailed condition survey of the dwelling.
- 3.11 Their report confirmed the initial view of officers that the dwelling was in poor condition. The report identified chronic water penetration, mould growth, rising and penetrating damp, residual moisture and salt in the walls, surface condensation problems, blocked chimney flues, windows in poor state of repair (such as to impede operation), inadequate passive vents for moisture-laden air and a lack of any meaningful insulation.
- 3.12 The approximate cost of works has been estimated as at least £35,000 for repairs and a further £50,000 for adaptations and improvements, excluding fees and any further work found to be necessary once invasive work on the structure is commenced. Given the conditions found in the building, this report proposes that the dwelling be disposed of on the open market.
- 3.13 In disposing of the dwelling a private developer or occupier will be required to bring the property back up to a habitable standard. Subsequently the property may be occupied by the purchaser, let or resold, in any case without incurring expenditure on the Council's part. This will also generate a capital receipt for

the Council, which could be applied towards the provision of affordable housing.

- 3.14 The Friends of Trinity Green and Spitalfields Trust were informally consulted and are supportive of the Council's proposal to dispose of 2 Trinity Green.
- 3.15 The disposal could be made subject to actions set out in the local conservation plan, once drawn up. This would be used to commit the purchaser to carry out the required works within a reasonable period of time. The exact mechanics of this would need careful consideration to ensure the disposal does not fall foul of the Public Contract Regulations 2015.
- 3.16 The Council's Property Procedures for Disposals and Lettings identifies a number of different disposal methods that may be used and states that the most appropriate method is to be determined by the Divisional Director, Property & Major Programmes.
- 3.17 In this case, the most suitable form of disposal is likely to be auction or informal tender. Assuming a reserve (if one is set) is met, an auction allows a disposal to take place quickly and guarantees a sale and arrives at a demonstrably open market value and can be cheaper than other methods of sale..
- 3.18 An alternative would be for sale by informal tender. This is when the site is marketed for a fixed period and sealed bids sought. These are then assessed by the Council (or its agents) to consider the value of the bid and the seriousness of the bidder before determining who the preferred bidder is..
- 3.19 It is proposed that the sale will be on a freehold basis. While the Council's procedures state a general preference for long leasehold disposals (usually of 199-years), in this case, a freehold disposal is being proposed. This is because the other privately-owned houses in Trinity Green – those sold via Right to Buy – are owned on a freehold basis. Introducing a range of different arrangements on the estate (i.e. social rented, freehold and long leasehold) would complicate the management arrangements for the estate, making it inefficient. The benefit the Council might get in 199 years' is off-set by being able to manage the estate more efficiently and the marginal increase in the disposal value. The purchaser of the property and subsequent owners will be required to contribute a fair proportion of the costs of repairs and maintenance to the communal parts of the site, the use of which benefits the property.
- 3.20 An estimated value of the capital receipt is contained in the exempt report.

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

- 4.1 This report seeks the agreement of the Mayor in Cabinet to declare the property at 2 Trinity Green as being surplus to requirements and to agree its disposal on the open market.
- 4.2 The listed property is held under Housing Revenue Account powers for use as tenanted accommodation but has been empty for several years and requires significant capital investment in order to bring it to lettable standard. In light of this it is considered better value for the Council to avoid the necessary capital renovation costs and to dispose of the property in order to generate a capital receipt which can be used to finance capital priorities in accordance with both the Capital Strategy and the Medium Term Financial Strategy. Although the Council is currently undertaking large programmes to acquire properties within both the HRA and the General Fund for use as temporary accommodation, the costs associated with the refurbishment of this property make disposal and reinvestment of the receipt the preferable option.
- 4.3 The report proposes that the receipt is earmarked to finance the future provision of affordable housing (recommendation 5). The site is held under Housing Revenue Account (HRA) powers, and as such, any receipts from disposal will be 100% usable within the HRA as these receipts are no longer subject to the pooling regime. They are also fully usable within the General Fund if applied for the provision of affordable housing or to fund regeneration projects.
- 4.4 Disposal will mean that the Council will avoid any on-going revenue costs necessary to keep the empty property secure. Any expenditure that the Council incurs in marketing the site will be met from the 4% 'top-slice' that can be offset from capital receipts to cover the cost of sale.
- 4.5 In order that the Council can make best use of the capital receipt, it is essential that any necessary legal approvals for the disposal of an HRA dwelling are obtained in advance of selling the property.

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

The report seeks approval for the disposal of the Council's freehold interest in the property at market value owing to the property being vacant and surplus to requirements. Furthermore, the report seeks approval for the capital receipt to be used for the provision of affordable housing.

##### **5.1 Disposal Powers**

- 5.2 Whenever a local authority disposes of land held by it for housing purposes it has to have regard to section 32 of the Housing Act 1985. Section 32 states that a local authority may not dispose of any land held by them without the

consent of the Secretary of State. In order to facilitate the disposal of land held for housing purposes the Secretary of State has issued a series of general consents, which permit the disposal of land held for housing purposes without the need to obtain express consent. The consents are collectively known as The General Housing Consents 2013.

- 5.3 In accordance with paragraph A.2.2 of the General Housing Consents a disposal includes a conveyance of a freehold interest. Paragraph A3.1.1 permit local authorities to dispose of land or dwelling at market value. Specific consent of the Secretary of State should therefore not be required to effect the proposed disposal which will be at market value.

5.4 **Provision of affordable housing**

- 5.5 Use of receipts arising from the disposal of housing assets (i.e. assets held under Part II of the Housing Act 1985 and for which account is made in the Housing Revenue Account (HRA)) is governed by the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended)

The 2003 regulations require that:

- (i) receipts arising from Right to Buy (and similar) sales may be retained to cover the cost of transacting the sales and to cover the debt on the properties sold, but a proportion of the remainder must be surrendered to central Government;
- (ii) receipts arising from all other disposals may be retained in full provided they are spent on affordable housing, regeneration or the paying down of housing debt.

- 5.6 Section 11(6) of the Local Government Act 2003 (as inserted by section 174 of the Localism Act 2011) permits the Secretary of State to enter into agreements with local authorities with the effect that any requirement imposed by the 2003 regulations does not apply, or is modified in its application.

5.7 **The Council's procedure for disposals and lettings**

- 5.8 The Council's procedure for disposals and lettings, adopted at Cabinet on 8<sup>th</sup> 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 Divisional Director, Property and Major Programmes 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, it is recommended that the decision as to the appropriate procedure be determined by the Corporate Director, Place under delegated authority.

## 5.9 **Best Value Obligation**

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’. It is considered that obtaining best consideration by market value contributes towards this duty and the fulfilment of this duty is further addressed in paragraph 7 below.

## 5.10 **Equality Duty**

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. There are no direct equality implications arising from the proposed transactions.

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

- 6.1 The public sector equality duty under section 149 Equality Act 2010 arises where the Council exercises its functions. The Council proposes to use the capital receipt generated by the sale for affordable housing or regeneration projects. Such schemes primarily benefit persons who are the intended beneficiaries of the equality duty.

## 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.
- 7.2 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.
- 7.3 In this case, the property is in poor condition and can only be restored at significant cost to the Housing Revenue Account.
- 7.4 By disposing of the site, the Council will receive a capital receipt from the sale while also safeguarding the listed building and bringing it back into use.

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

8.1 There are no immediate 'sustainable action for a greener environment' implications arising from this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

9.1 **Timing and marketing strategy** – the maximum capital receipt may not be realised if the disposal and marketing strategy are not managed well, or insufficient information exists at the time of marketing the property. This may lead to the value being suppressed.

9.2 Mitigation – The Asset Management team will ensure that full and complete property information is compiled and supplied to the auctioneer or agent for informal tender.

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

10.1 There are no immediate crime and disorder implications arising from this report. While vacant sites attract anti-social behaviour, including vandalism and squatting, this property – due to its location as part of Trinity Green – does not appear to have attracted such behaviour.

## **11. SAFEGUARDING IMPLICATIONS**

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

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

#### **Linked Report**

- None

#### **Appendices**

- Appendix A – Site plan.
- Appendix B – Valuation advice (exempt appendix)

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

- None