



## London Borough of Enfield

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| <b>Title of Report:</b>     | Disposal of Claverings Industrial Estate   |
| <b>Report to:</b>           | Cllr Leaver – Cabinet Member for Finance and Procurement   |
| <b>Cabinet Member:</b>      | Cllr Leaver – Cabinet Member for Finance and Procurement   |
| <b>Directors:</b>           | Fay Hammond - Executive Director of Resources<br>Nick Denny - Director of Property   |
| <b>Report Author:</b>       | Alister Fawley <a href="mailto:Alister.fawley@enfield.gov.uk">Alister.fawley@enfield.gov.uk</a>  |
| <b>Ward(s) affected:</b>    | Lower Edmonton   |
| <b>Key Decision Number</b>  | KD 5696  |
| <b>Classification:</b>      | Part 1 & 2 (Para 3 & 4)  |
| <b>Reason for exemption</b> | <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p> |

### Purpose of Report

1. This report sets out the results of the marketing exercise and the resultant bids received from interested parties and the final sale terms with the preferred bidder (as set out in the Part II report) for the sale of Claverings Industrial Estate.
2. The paper also provides an update on the decant programme of LBE Service Occupiers and VCS tenants and how this is being managed.

## Recommendations

- I. To note that the bids were assessed in accordance with the weightings previously agreed by the Executive Director of Place, in consultation with the Executive Director of Resources and Director of Law & Governance (in compliance with the Part II report of KD 5624). See Part II for the appended Bid Matrix.
- II. To agree to the sale of Claverings Industrial Estate to Bidder 'A' in accordance with the Heads of Terms appended to the confidential Part II report.
- III. To authorise the Director of Property to finalise non-material changes to the Heads of Terms, including such variations that may be necessary to cover existing third-party rights affecting the property. Heads of Terms attached to Part II
- IV. To note that all agreements to be entered into as contemplated by this report are to be approved in advance of commencement by Legal Services on behalf of the Director of Law and Governance.
- V. To note that all agreements to be entered into as contemplated by this report are to be approved in advance of commencement by Legal Services on behalf of the Director of Law and Governance.

## Background and Options

3. Following Cabinet authority in June 2023 KD 5624 (which provided for the Director of Property in consultation with the Executive Director of Resources) to agree the final sale terms, the Council appointed Montagu Evans as their agent to market the property.
4. The report will provide an overview of the marketing undertaken and the results of the exercise, culminating in a recommendation to preferred Bidder 'A'.

## Marketing exercise and results

5. The Claverings Industrial Estate was brought to the market with the intention of achieving the highest possible capital receipt. The site has some complications insofar as there are some London Borough

of Enfield (LBE) Services that require relocation and some Voluntary and Community Sector (VCS) occupiers. The site has a partially interrupted shape (by a car parking strip requiring access). There is also a phone mast on the site which may need to be relocated prior to any development.

6. The Council made the decision to sell the site and facilitate private sector regeneration while achieving the best possible sales receipt in a reasonable time. In consideration of the impact on the Council's VCS tenants, Officers took steps to mitigate risks by inviting bids to include a strategy of how buyers intended to negotiate tenancy options for those VCS tenants.
7. This was intended to enable occupiers to have the opportunity to lease space on the regenerated land. Officers also conditioned the heads of terms of the sale contract, requiring the purchaser to provide some security to existing LBE services operating from this site with a grant of a 12-month leaseback at a peppercorn.
8. Montagu Evans were appointed to market and assist in the disposal of the site. Marketing commenced on 28<sup>th</sup> July 2023. The site was widely marketed across all major property marketing online avenues, including the Council's own website, as well as a physical marketing board on-site.
9. The result was very positive and there were 101 registered enquiries, with 76 of those signing up to and entering the legal data site which contained the full suite of background information on the site. The majority of interested parties were industrial-focused investors and developers. Other groups included a small number that intended to use the site for their own occupation, and a further group of residential-focussed developers.
10. Viewings were made available to any interested party and a number of parties comprising agents and/or developers took up the option.
11. The marketing campaign continued in earnest for 9 weeks. This is a longer period that is common. This was undertaken to ensure that a wide section of parties could be reached because the period straddled the summer holidays, which is traditionally a more challenging period to get decisions made from investors.
12. Bids were formally invited on the 28<sup>th</sup> of September 2023 and a number of offers were received. The offers were at varying levels and conditionality including on planning outcomes and continued occupancy by the Council and VCS. These offers were reviewed and critiqued by the agents in conjunction with Council Officers. Officers then reviewed and scored the final bids within the agreed bid matrix, (previously agreed by the Executive Director of Place, in consultation with the Executive Director of Resources and Director of Law & Governance).

13. A second round of bids was called on 6<sup>th</sup> October. See Part II for more details
14. There was a second round of assessment of bids with the agents and Officers, by reference to the agreed bid matrix and a decision made to invite selected parties with the highest offers to interview with Council officers to explain proposals for the site and provide additional information on the bidding parties. These interviews were held 17<sup>th</sup> and 18<sup>th</sup> of October.
15. Following the interviews, a best and final bid was requested from the remaining parties to reflect the heads of terms formulated between the Council Officers, the agents and legal advisers. Final bids were received on Thursday 2<sup>nd</sup> November and subsequently on Monday 6<sup>th</sup> November, officers reviewed the best and final offers in order to decide on a preferred bidder.

### **Preferred Option/Recommendation and Rationale**

16. In keeping with the agreed recommendations of the June 2023 Cabinet Report KD5624, Officers used a Bid Matrix (appended to Part II) which uses weightings for the assessment previously agreed by the Executive Director of Place, in consultation with the Executive Director of Resources and Director of Law & Governance.
17. As described above in the marketing section, after two rounds of bids and an interviews stage, the final group of remaining parties were invited to submit their final bids on the basis of the heads of terms.
18. See Part II for details of the final parties.

### **Recommendation**

19. Officers recommendation is that LBE proceed to complete the sale of Claverings Industrial Estate to Bidder 'A'. See Part II for details.

### **Stakeholder Engagement**

20. In preparing for the sale, Officers have communicated with the occupiers with the following actions:
  - *Officers wrote to the external tenants on 13 July 2023 to inform them all of the June 2023 Cabinet Authority and intention to sell and the planned marketing. Officers wrote to them again in November 2023, once the subject property was under offer.*
  - *See Part II*
  - Officers also wrote to the LBE Services in June 2023 and indicated that there would be a leaseback where appropriate and, following the marketing another letter has been sent in November 2023 to

confirm where appropriate, that they will get a 12-month lease from the buyer.

### **Relocation plan for council tenants**

Of the LBE Services that have not already vacated, the circumstances are as follows;

See Part II for a table setting out the proposed occupier moves with cost implications See part II

### **Relevance to Council Plans and Strategies**

21. The proposals set out in this paper to sell the subject property meet the Council's responsibilities, objectives and priorities under its Build the Change (BtC) initiative.
22. The Build the Change programme is a central part of Strategic Asset Management Plan with an aspiration to deliver a modern council providing good quality services to residents. Since the March 2020 (Corporate Property Investment Programme) CPIP report, and more specifically, the BtC Programme, the goals are to support the delivery of the Council's aims as set out in the Council Plan by:
  - Creating a modern Council with fewer but better equipped buildings designed to meet the needs of services and the residents that we serve
  - Equipping our workforce with the appropriate tools and practices to deliver our ambitious customer focused outcomes
  - Improving security for our employees, customers and data
  - Consolidating staff in hubs in town centres to help drive footfall and boost local businesses in those areas. The procurement processes give the Council the opportunity to work with local businesses and partners to develop a stronger local economy
23. The disposal of Claverings will also support the Council Plan goals to: support local businesses and encourage inward investment in growing sectors which offer sustainable employment to local people, and to transform our industrial land to create modern and low carbon spaces for business. More widely, any disposal will generate a capital receipt and in doing so will support the Council's capital programme.

### **Financial Implications**

*See Part II*

24. The decision to sell will result in a capital receipt as referred to in part II.

## **Legal Implications**

Provided by John Hood, 7<sup>th</sup> Feb 24

25. The Council has power under Section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council also has a general power of competence under Section 1(1) of the Localism Act 2011 to do anything that individuals may generally do, provided it is not prohibited by legislation and subject to public law principles. The recommendations set out in this report are consistent with the Council's powers and duties.
26. Section 123 of the Local Government Act 1972 gives a power of sale or leasing to Councils. Pursuant to subsection 1 of that provision, the Council 'may dispose of land held by them in any manner they wish' and subsection 2 qualifies this by imposing a statutory duty to achieve 'best consideration' (save for tenancies of less than seven years), unless it has the benefit of an express or general consent of the Secretary of State.
27. Therefore, local authorities have broad powers to dispose of their land, including as regards process. There are however strict requirements on best consideration, alongside public law requirements, including procedural fairness which need to be observed. Public law principles will apply to the decisions made by the Council, including the Council's duty to take account of its fiduciary duty and to act prudently. The Council is also under a general duty to act reasonably and show that its decisions are made after having given due and proper consideration to all relevant factors.
28. In entering into property transactions, the Council must also comply with the provisions of its Constitution, including but not limited to its Property Procedure Rules, which set out mandatory procedures regarding (amongst other things) the acquisition, management and disposal of property assets.
29. In this case, it is noted that the Council went out to the open market using Montagu Evans as their appointed agent and a competitive process was undertaken, therefore complying with the statutory requirements and the Council's Constitution. Furthermore, that the bid from Bidder 'A' has been assessed by Montagu Evans and officers as representing best consideration, assessed on an agreed bid matrix. Therefore, in light of this, the Council has properly directed itself and its decision to proceed with Bidder 'A' is justifiable.

30. The Council is required to act in accordance with the Public Sector Equality Duty under section 149 of the Equality Act 2010 and have due regard to this when carrying out its functions. It is noted that corporate advice has been taken on this issue.
31. Any legal agreements arising from the matters described in this report must be approved by Legal Services on behalf of the Director of Law and Governance.

## **Equalities Implications**

### LBE Operational Occupiers

32. The proposal to relocate Council services that are currently based in a range of outlying buildings including Claverings Industrial Estate into hubs, including Thomas Hardy House, was previously supported by Cabinet under the BtC initiative. In this regard and as referred to in paragraph 13 above, two of the services have already moved and been collocated.
33. The strategy of collocation in a reduced number of buildings was designed to offer benefits to a wide range of service users and their families who accessed services at a number of different locations across the borough. Some of these properties are no longer fit for purpose such as Claverings Industrial Estate.
34. While some of the intended relocations of community facilities have already occurred as identified in Table 1 see Part II, others are still in progress. Where moves have already occurred or it is simply a matter of removing some items from premises at Claverings, an equalities impact assessment would not be appropriate.
35. Having regard to the nine protected characteristics of the Public Sector Equality Duty under s149 of the Equality Act 2010, there are two cases where the proposed changes to the LBE services operating at the subject site are deemed to necessitate a full EQIA.
  - 1) The re-provision of space on site for ICES – while there was a perceived risk that this could disproportionately impact disabled persons, the re-provision would in fact result in an overall improved situation / positive impact for service users with modern energy compliant premises in better repair and condition and a more sustainable future. The service has a small number of service users visiting as it is predominantly distribution/logistics of equipment delivered to a service user at their home. Accordingly, it is not anticipated that this proposal will have a disproportionate impact on any of the groups of protected characteristics identified in the Equalities Act.

2) Moving the Drug and Alcohol Service to an alternative operational building presents a potential risk to disabled or vulnerable users. Having explored the logistics of a possible alternative location, the potential move is seen on balance as a net improved result as the alternative accommodation broadly befits the size and specifications required as identified in a review by property officers and staff in 2022. It also has closer access to public transport. Accordingly, it is not anticipated that this proposal will have a disproportionate impact on any of the groups of protected characteristics identified in the Equalities Act.

36. The risks of not moving LBE services were discussed in the April 2021 Cabinet paper. In summary it remains the case that by not seeing through the agreed strategy, this would trigger contradictions to regulatory and self-imposed compliance standards (potentially forcing moves into other buildings), may fail to achieve several savings identified within MTFP, may fail to retain quality staff, or attract new staff to the council and would fail to introduce the new ways of working intended.

#### Third Party and VCS Tenants

37. A large number of third-party commercial tenants occupy Claverings Industrial Estate on development leases with flexible landlord's termination rights. Accordingly, it is clear to both landlord and tenant that these commercially based tenancies are inherently short term and that it is LBE's intention to see the estate redeveloped. These tenants have therefore made the choice of continuing their operation from the subject property on flexible terms but could have relocated instead.

38. Officers have considered whether any protected characteristic groups within the third party and VCS tenants are likely to be disproportionality affected by a redeveloped scheme. No potential equalities impacts have been identified at this stage, but further monitoring will be undertaken.

39. Outside of the LBE services operating from the subject site and in addition to those protected characteristics, officers have considered the crosscutting elements of the proposed disposal and redevelopment in terms of the social, economic, and environmental impact. Overall, the scheme has the potential to achieve the following positive equality effects:

- a. Potential positive equality effect on improved personal safety and security in operation
- b. Potential positive equality effect due to an improved public realm environment



- c. Potential positive equality effect due to the delivery of additional jobs and local employment
- d. opportunities in both construction and operation.

In principle the scheme also has the potential to result in the following residual adverse equality effects:

- a. Potential adverse equality effect due to the potential loss of business
- b. Potential adverse equality effect due to financial implications associated with relocation
- c. Potential adverse equality effect due to the possible redundancy of employees associated with business loss or relocation
- d. Potential adverse effect due to the impact of redundancy on health and wellbeing
- e. Potential adverse equality effects on both businesses losing their local customer base and impacts on local customers themselves

40. Most of the potential adverse equality effects that could occur through disposal and redevelopment of the subject property would be equally as likely to occur if the site were retained without refurbishment in any case due to the deterioration of the subject industrial estate and its lack of regulatory compliance, negating its sustained ongoing use as employment land.

41. In consideration of the equalities impact on our VCS tenants, officers have taken steps to mitigate risks by indicating that bids (from parties looking to acquire the site) should include a strategy of how the buyer intends to negotiate tenancy options for those VCS tenants. This means that such occupiers would have the opportunity to lease space on the regenerated land. See part II recommendations.

42. Given that the existing scheme has an increasing level of obsolescence in its sustainable functionality as employment land, and any redevelopment will be subject to planning and building regulation, it is considered that the overall equalities impact of regenerated employment land will be positive.

## **HR and Workforce Implications**

43. This report informs and supports proposed actions agreed in principle previously under the BtC initiative. The implementation of build the change programme introduces new ways of working across the entire workforce. The changes will impact on where and how officers currently working out of premises on the subject site, will in future discharge their duties from alternative premises and LBE will help facilitate this by providing a range of different working arrangements

to ensure officer resources are deployed to achieve enhanced efficiency and effectiveness.

44. In addition to helping fund the BtC programme through the sale of Claverings, there will be a need to support the LBE workforce that move into alternative premises in adjusting to the new ways of working

### **Environmental and Climate Change Implications**

45. The property is to be redeveloped, any redevelopment would be subject to the prevailing building regulations and energy efficiency standards. As such it is anticipated that this will increase the energy efficiency of the site.
46. The site generally has an EPC of E (with some parts having been rated lower), demonstrating the site would benefit from energy and decarbonisation upgrades, it is unknown if the future bidders will propose to make energy or decarbonisation improvements to the site of their own volition, but they will be required to construct to minimum standards which are better than they current buildings on site. Alternative options, such as a change of use, may have had a better or worse energy cost impact for but it is important to note that this site represents key employment land for the Borough and as such its planning use should continue which also represents the best land value.
47. This proposal emanates from The Build the Change Programme which will support the Council's aim to become carbon neutral by 2030, as set out in the Climate Action Plan. By moving services out of old non energy efficient buildings the Council will be able to reduce its direct carbon emissions by disposing of buildings and making improvements to the energy consumption in the buildings that staff occupy. A separate report details the Building Sector Decarbonisation Fund which will assist in reducing the carbon emissions from the Civic and other Council buildings.

### **Property Implications**

48. Property implications are within the main body of this report.
49. The freehold interest is being sold with Vacant Possession of council services tenants.

### **Other Implications**

50. The sale of Claverings Industrial Estate was envisaged as part of the working style strategy and the funding strategy of the Build the Change programme, which is a central part of the SAMP and the delivery of a modern council providing good quality services to residents.
51. Since the March 2020 CPIP report, the programme has progressed with works to facilitate new LBE occupation at the Housing Hub at Edmonton and the Children & Families Hub in the Thomas Hardy Hub.
52. Property officers have worked to identify any constraints to achieving best consideration and where possible optimise the site before its marketing for sale.
53. Having undertaken initiatives to better understand and improve the industrial estate's readiness pending future sale, a disposal is now recommended as per the recommendations in the first section.
54. This report has set out the business case and the proposed disposal route for the sale of The Claverings Industrial Estate and provided an update on the initiatives undertaken to date and set out a timeline to complete the sale.

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