



London Borough of Enfield

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| Report Title | Disposal of Land and Property Assets |
| Report to | Cabinet |
| Date of Meeting | 13/03/2024 |
| Cabinet Member | Cllr Tim Leaver – Portfolio Holder for Resources and Procurement |
| Executive Director / Director | Fay Hammond – Executive Director of Resources Nick Denny – Director of Property |
| Report Author | Doug Ashworth doug.ashworth@enfield.gov.uk |
| Ward(s) affected | Various |
| Key Decision Number | 5701 |
| Classification | Part 1 Public and Part 2 Appendix |
| Reason for exemption | Commercial confidentiality (para 3) (Confidential Appendix only) By virtue of paragraph(s) marked below with * of Part 1 of Schedule 12A of the Local Government Act 1972: |

Purpose of Report

1. The Council takes a commercial approach to its land and property assets and reviews performance on a continuous basis. This helps to ensure that the

portfolio is “right sized”, that the Council retains high performing investment and occupational assets, whilst simultaneously identifying outlying poor performers. The list of assets identified in the appendix are “candidates” for sale at this stage and have either been declared surplus to operational requirements by former occupying service departments, are otherwise not considered “fit for purpose” by other service departments requiring accommodation, underperforming when judged against the principles set out in the core principles of the Council’s Strategic Asset Management Plan (SAMP) 2019-2024 s.1.3 or exceptional circumstances exist. Further due diligence if formal approval in principle for sale is granted will be undertaken on each asset.

2. Strategic Property Services have therefore been commissioned to dispose of these assets and achieve “best consideration” as defined in s.123 Local Government Act 1972.
3. The land and properties will, subject to Council approval, be marketed for sale by the Council’s appointed property consultants.

Recommendations

- I. Agree that the Council proceeds with the disposal of the property assets listed in the table contained in both the appendix and confidential appendix (which includes receipt estimates) to this report at the earliest opportunity (subject to appropriate due diligence investigations).
- II. Delegate authority to the Cabinet Member for Finance and Procurement in consultation with the Executive Director of Resources and Director of Property (and otherwise in accordance with the Council’s Scheme of Delegation) to market and finalise terms of sale with successful bidders in order to achieve best consideration.

Background and Options

Reason for Proposals

4. The assets listed in the appendix (and confidential appendix) are no longer required for operational purposes or are underperforming or exceptional circumstances exist. They have therefore been identified as surplus and released for sale.

Why the need for Asset Sales

5. Through prudent and effective management of its assets , coupled with a pragmatic policy of “right-sizing” it’s portfolios in line with the resources

available , a sustainable approach to property ownership can be delivered. This approach will therefore assist in identifying assets for disposal.

In addition, other legislative changes are shaping the reviews of the Council's asset base including the Minimum Energy Efficiency Standards (MEES) legislation, aligned with the Council's declaration of a Climate Emergency (and the need to reduce carbon emissions and revenue costs in inefficient buildings) and more recently the changes to the Town & Country Planning Use Classes Order.

The Council's non-operational estate also needs to deliver an acceptable Return on Investment and therefore the recycling of capital receipts from sales of underperforming assets into the acquisition of new performing assets (where a regeneration objective is involved) also has an important place within the SAMP.

Finally, the adverse hangover impact of the Covid 19 Pandemic in 2020, recent significant increases in interest rates, inflation and the shortfall of funding from Central Government has resulted in the need to focus the Council's attention to raise capital receipts.

It should be borne in mind that asset sales take place within the context of "right sizing" the portfolio, continuous asset review and delivering asset sales at Market Value.

How do we achieve "Best Consideration"?

Each property asset is unique and will therefore require careful consideration as to how to achieve "Best Consideration". In broad terms, however, the following main factors apply:

6. Type of property: We consider whether the asset is of a specialist nature (e.g. works depot, swimming pool) or non-specialist (e.g. residential house or retail shop) . If the former, then a change of use/planning consent is likely to be required to accord with the buyers' intentions. This has an impact on the timing for the sale as most contracts will be conditional upon receipt of a satisfactory planning consent. Assets of a non-specialist nature can generally be sold more quickly as planning restrictions are less likely to apply and therefore lend themselves to unconditional (on planning) sales. Officers also consider whether the sale would benefit from local, regional, or national marketing coverage. Assets of a higher value are generally marketed nationally or regionally, whilst lower value assets are generally marketed locally. This would then impact upon the type of sales agent we would appoint for the marketing process.
7. Sale route: Consideration is also given as to whether the asset is suitable for auction, tender or private treaty sale. Typically, where there is mass market demand, auction sales ensure a quick sale, it would also generate the best price when taking into account the opportunity cost of obtaining the sale proceeds earlier, lower transaction costs (as compared with a local estate agent) and the ability to obtain a buyer's premium to offset sales costs. The

Council also maintain control over the final reserve price to ensure that we receive Best Consideration. In other circumstances a private treaty sale may be the best approach if a “Special Purchaser” is prepared to pay over the Market Value by virtue of being say an adjoining owner or otherwise in a position to pay over and above Market Value. An independent valuation report is typically used by officers to demonstrate why in exceptional circumstances this approach would yield a higher value compared with placing on the open market. A tender route, seeking either conditional, unconditional (or both) is also typically used, where asset values are high, and the extra expense incurred through using national agents and data rooms (with full due diligence investigations) to aid bidders in their decision making helps ensure that buyers do not price uncertainty into their bid and therefore adds value to the overall price achieved.

8. A full evaluation is prepared by officers prior to a final decision on the best approach to a sale is made. This is presented to the operational disposal’s delivery team for approval prior to the commencement of the marketing process and appointment of sales agents. This report is therefore seeking permission to undertake marketing of the asset following further due diligence including a Net Present Value calculation of the value of each assets future income (and expenditure) where applicable. (eg car parks).

Disposals Programming

First Wave – 2024/2025

9. This will contain assets identified from previous tranches 1-11, recent asset reviews or otherwise identified by Strategic Property Services (SPS) as surplus to operational requirements. Priority will be given to assets capable of being sold quickly whilst simultaneously undertaking full due diligence on those assets which require more in-depth attention intended for sale in the subsequent financial year. Asset sales targeted for 2024/2025 have been divided into 2 categories, “highly likely” and “opportunities”. A flexible and pragmatic approach will therefore be adopted to bring forward sales in both categories as quickly as possible, whilst acknowledging that some sales will therefore fall into the following financial year (2025/2026).

Second Wave – 2025/2026+

10. This will contain assets which SPS are aware require either enabling works to facilitate a sale, re-provision of an existing service or occupier to deliver vacant possession or other necessary measures to optimise the sale value. Completion of these sales is dependent upon resolving these matters. Marketing, advertising and possibly exchange of contracts may in some cases be delivered in 2025/26 but with completion in the following financial year (2026/2027). Within this category there may be income producing assets which are considered under-performing following a formal review taking into consideration rental versus capital value, covenant strength of occupier, non-

recoverable Council expenditure, vacancy factor, potential for income growth and longevity of the income stream.

Third Wave - Further Tranches

11. There will be further land and property asset reviews as part of a structured programme of disposals over the next 10 years.

Programming and Governance

12. The Head of Property Development will lead the delivery of the programme in conjunction with the Director of Property.

13. A programme tracker has been created with input from legal, finance and other departments as appropriate. The tracker will monitor key milestones including due diligence investigations, marketing and advertising, offers received and analysis, negotiation periods, authority, sales contract and completion.

14. Where re-provision of accommodation is required, prior to sale completion, the Head of Operational property will take responsibility for this part of the process and provide input on the tracker as required.

Timescales and Caveats

15. The delivery period is 2024 – 2026+ for the disposals identified in this paper, and forms part of the 10-year capital disposals programme. The latter includes some assets which can only be brought forward in the medium term e.g., sites and properties which require detailed investigations and the grant of planning permission to maximise value.

16. The initial programme is targeted to be delivered within the 3-year plan (2024-26) but this is subject to market conditions.

17. A further report will also be necessary for those assets which don't currently have approval for sale. Timelines for the approval process will be incorporated into a programme tracker.

Programme delivery will be put at risk if any of the following factors apply:

1. A decision is made to withdraw an asset from sale without a comparable value replacement. In these circumstances the sales target will be reduced accordingly.
2. A decision is made to withdraw, reduce, divert, or re-prioritise staffing or external resource base towards other property work.
3. A change in market conditions.
4. Subsequent due diligence investigations reveal a serious defect with the asset or title such that it cannot be resolved within the delivery period.

5. Re provision of accommodation for service groups located within assets deemed surplus cannot realistically be delivered within the plan period.
6. Additional value eg: from Marriage Value or a Special Purchaser cannot be realised within the plan period. This situation typically occurs in circumstances where Council land when combined with adjoining third party land/property yields a sum greater than market value than if the Council's land/property were sold in isolation.

Summary and Recommendation

18. It is recommended that the Council agree to the disposal of the assets shown on the attached list in the appendix (and confidential appendix) with year of delivery 2024/2025, (Wave 1). In addition, agree to the continuation of work on property assets shown as year of delivery 2025/2026+ (Wave 2) and agree to the systematic review work to be undertaken in Wave 3.

Risks that may arise if the proposed decision and related work is not taken

19. If the Council do not undertake regular reviews of its property holdings and dispose of surplus or underperforming property then there are ongoing risks in relation to security, and increased revenue costs from reactive and planned maintenance associated with empty property. In addition, there is the risk of a loss of interest on the capital receipt and less funding available for the Council's Capital Programme for other projects, whilst the capital receipt remains outstanding.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

20. There is a risk that sales will not complete due to buyers failing to proceed with the purchase. This risk is managed by undertaking due diligence on the buyer prior to seeking authority to dispose and ensuring that provisional Heads of Terms are agreed.

Options Considered

21. Do Nothing. This is not an option as property which is vacant will deteriorate. In addition, the Council is incurring significant "holding costs" in terms of security, empty rates and other outgoings .
22. Disposal. This will generate a capital receipt and reduce borrowings/contribute towards reserves and/or the Council's Capital Programme.

Conclusions

23. It is in the Council's best interests for financial, property and legal reasons, and for the wider community, to benefit from the sale of these assets.

Preferred Option and Reasons For Preferred Option

24. The preferred option is to dispose of the assets listed in the appendix and commercial appendix at the earliest opportunity subject to detailed and thorough due diligence investigations.

Relevance to Council Plans and Strategies

25. The proceeds obtained from these sales will deliver capital receipts for the Council thereby helping generally to fund Council services which contribute to a strong and healthy community.

Financial Implications

26. The disposal of property to the preferred bidder will generate a capital receipt and/or deliver social benefits. By regulation, this receipt will be available for investment in the Council's Capital Programme, funding of transformation projects, or for the repayment of external debt.

The 10-year capital strategy was approved by Full Council in October 2023 for capital receipts expected by 2033/2034 which will be achieved primarily through a combination of asset rationalisation of the operational estate, sales of under-performing commercial assets and assets being prepared for longer term value enhancement (and therefore not guaranteed).

The planned disposal list for 2024-2026+ with a range of values is shown in the Confidential Appendix 1.

Where property sales are achieved earlier than expected, the surplus will be put against the receipt target for the following year.

Detailed financial implications will be carried out for each property prior to disposal which will detail the revenue impact, borrowing impact as well as any tax implications.

Legal Implications

27. Section 123 of the Local Government Act 1972 gives a power of sale or leasing to Councils. Pursuant to this section, the Council has a statutory duty to achieve best consideration (save for tenancies of less than seven years). Flexibility is afforded by virtue of the General Disposal Consent 2003, which permits the Council to dispose of land at less than its market value, without the need to seek specific permission from the Secretary of State, provided that (i) the purpose for which the land is to be transferred is likely to contribute to the 'promotion or improvement' of the economic, social, or environmental well-being of the area; and (2) the difference between the market value of the land and the actual price paid for the disposal (if any), is not more than £2,000,000.

Legal due diligence is required on all the proposed disposals, so as to understand the specific issues applying to each site, with further legal advice to be provided. It should be noted that restrictions apply for certain types of land (including housing, open space and playing fields) and the Council must have regards to applicable statutory requirements, in the event that there is a proposed disposal of any such land.

Any disposal of property must also comply with the Council's Constitution, including its Property Procedure Rules which set out mandatory procedures regarding (amongst other things) the acquisition, management, and disposal of property assets.

Section 111 of the Local Government Act 1972 gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive to 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 do, provided it is not prohibited by legislation. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others. This power encompasses the power for the Council to enter into contracts,

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 with public monies entrusted to it. 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 including consideration of State Aid principles in the event that any land is to be sold at an under-value.

Under Section 14 (3) of the Local Government Act 2000, the executive may arrange for any of its functions to be discharged by an officer of the authority.

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

28. Corporate advice has been sought regarding equalities and an equalities impact assessment is neither relevant nor proportionate for the approval of this report.

HR and Workforce Implications

29. There are no workforce implications.

Environmental and Climate Change Implications

30. The sale of these assets will result in a decrease in the Council's overall energy consumption and therefore CO₂ emissions will reduce.

Property Implications

31. These are contained in the report

Other Implications

None

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Appendices

Appendix 1– Tranche 12 – Land and Property Assets - Listing
Appendix 2 – Location Plans

Confidential Appendix – Tranche 12 – Land and Property Assets - Listing
(including estimated receipts)

Background Papers

Contain Exempt Information