

Part 1 Operational Key Decision Report

London Borough of Enfield

Operational Key Decision Report

Report of: Mark Bradbury

Subject: Disposal of Former Ridge Avenue Clinic, Bush Hill Park, N9 9JT

Cabinet Member: Cllr Mary Maguire

Executive Director: Sarah Cary

Ward: Bush Hill Park

Key Decision: 5282

Purpose of Report

1. The former Ridge Avenue Clinic has been declared surplus to the operational requirements of the former occupying service.
2. Following Cabinet Approval on 14th October 2020, (KD5189) Strategic Property Services were commissioned to dispose of the asset and achieve “best value”.
3. The property has been marketed for sale by the Council’s property consultants, Avison Young.
4. This report provides details of the marketing process, bids received on a conditional and unconditional basis, matrix of offers, and analysis of bids received, together with summary and recommendations, (some of which is confidential and only disclosed in Part 2 Report, Appendix 1).

Proposals

5. It is recommended that the Council proceeds with an unconditional offer from Bidder A in accordance with the Heads of Terms appended in Part 2 (Confidential Report).
6. That the Head of Strategic Property Services has delegated authority to authorise non-material changes to the Heads of Terms and/or the Contract for Sale and otherwise in accordance with achieving “Best Consideration” within the meaning defined in S.123 Local Government Act 1972.

Reason for Proposal(s)

7. The former Ridge Avenue Clinic was no longer required for operational purposes and therefore has been identified as surplus and released for sale to reduce the Council's borrowing requirements and/or contribute towards the Council's Capital Programme. The property asset is subject to some overage provisions which benefit the previous owner, (the NHS), which when taken into account reduces net financial difference between the highest offer and the lower offers.
8. We are selling to Bidder A, the underbidder, as they achieved the highest evaluation score and have been selected as the preferred bidder on this basis. Bidder A is continuing to use the property as a Community Hub for ethnic minority community groups, which will provide a greater social added benefit compared to other higher offers received for residential redevelopment. Bidder A has agreed to a restriction on use as a community hub that will be registered on the Title.

Relevance to the Council's Corporate Plan

9. The sale of the property will deliver a much-needed significant capital receipt to the Council and thereby helping generally to fund Council services and the proposed use by Bidder A will contribute to a strong and healthy community.

Background

10. Avison Young (AY) were instructed to market the former Ridge Avenue Clinic ("the property") for sale by way of an informal tender process, seeking conditional and unconditional offers for the freehold interest. Both due diligence and technical information were made available to interested parties via the AY website, (see Appendix 1). The property was launched with a quarter page colour advert in the Estates Gazette in November 2020.
11. AY also undertook an e-marketing campaign targeting active developers, investors and agents in London and the South East. This included all AY contacts acquired from previous marketing campaigns for LB Enfield, as well as the marketing campaign for Southgate House and William Prey Centre. A 'For Sale' Board was also erected outside the property.
12. During the marketing campaign AY received interest from a range of parties considering a variety of land uses, such as child care, medical, community and residential. Most interest was from a mixture of D1 users (community) seeking to benefit from the building's existing planning use, or from the residential development sector.
13. A three-stage bidding process was implemented with initial bids sought on a conditional and unconditional basis, and a subsequent "Best and Final Offer" stage. This was to enable bidders to clarify the terms of their offer and potentially increase their initial offer and to include the provision of additional non-financial information in support of their bid.

14. A third round of bids were conducted in early March, inviting the top bids to re-consider their bids following updated legal advice from our lawyers, informing bidders how we would evaluate and score their bids taking into account some social value criteria that align with our Corporate Plan objectives as well as financial criteria and deliverability. This gave bidders a further opportunity to re-consider their bids with any additional documentation or statement that they feel may have been relevant to help support your bid in light of this scoring criteria.

Main Considerations for the Council

15. The summary of offers is confidential. A summary table illustrating the results of the best and final stage together with further information received is referred to in the confidential appendices (Part 2 Report). Details of the initial bids and analysis are available in the report from AY (Confidential). Details of the evaluation scoring matrix including scoring of social value is also provided in the confidential appendices (Part 2 Report).

Summary and Recommendation

16. Following best bid submissions, and an evaluation of bids taking into account financial and social value implications, an offer has been selected as the preferred bidder.
17. The highest unconditional offer submitted by Bidders B in the first round did not complete the bid pro-forma, nor did they submit an offer in the second best and final bids. Their bid was therefore rejected.
18. Following 3rd round best and final bids, only 2 parties (Bidders C and D) submitted different bids and a third party (Bidder A) re-confirmed their earlier 2nd round bid, but as a new buying entity to help with their funding arrangements. The highest gross offer overall was now from Bidder C and D (at the same monetary value) but after allowing for all forecasted overage payment deductions to the NHS, this amounted to the same net sale receipt between Bidder A and Bidder D and a marginal higher net receipt from Bidder C, (due to different anticipated overage charges based on their proposed future uses). The net amounts from Bidders A and C remained unchanged from the first overage payment because it is anticipated that no additional overage payments would be due after this transaction takes place due to their intended proposed uses. (LBE is liable to pay successive overages on any subsequent planning permissions granted before December 2026, where there is an uplift in land value on the new planning consent, compared to the price paid for the property). In this case, the proposed community use is unlikely to have any significant uplift in land value on receipt of any new planning consent for that proposed use. Bidder A has also agreed to a restriction on use (as a community hub) that further reduces the risk of any successive overage payment becoming payable.
19. A bid evaluation scoring matrix has also been completed, as presented in Part 2 Report Appendix 2 (as confidential). The top scoring bid is Bidder A.

20. This matrix evaluates both financial and social value metrics in order to arrive at the best overall result for the Council, taking into account the Council's Corporate Plan objectives 2018-2022. This option supports the Corporate plan more by helping to contribute to a strong and healthy community and building a thriving local economy. Bidder A scored the most points on social value criteria which led them to achieving the highest scoring points overall.
21. Bidder A provided a Business Plan showing what community services were to be carried out at the property and identified significant cost savings to the Council (as presented in the Part 2 Report, as confidential) which made a big impact on the Social Value scoring criteria.
22. To ensure the proposed use is retained, Bidder A has agreed to a restriction on use on the registered Title as a Community Hub. The scoring evaluation of social value is therefore not eroded by any subsequent change of use.
23. In conclusion, the offer from Bidder A for a Community hub for ethnic minority community groups scores the highest evaluation score and has therefore been selected as the preferred bidder on this basis and is considered to be the "best Value" option.

Safeguarding Implications

24. The proposed use is safeguarded by a restriction of use (as a community centre) on the registered title.

Public Health Implications

25. The removal of the former Ridge Avenue Health clinic is unlikely to have major public health implications as the site has been identified as 'surplus to requirements'.
26. Bidder A's purchase of the property will contribute to a strong and healthy community in providing an opportunity for those associated to integrate.
27. Bidder A's mission statement is to improve the livelihoods, life chances and opportunities of certain local ethnic minority groups.
28. Bidder A have stated one of their key objectives is to 'Facilitate access to mainstream provision including healthcare, employment, advice and information'.
29. An association focussing on linking minority groups in the area with mainstream services including health care will have positive implications for public health.
30. The decision to accept the Bidder A offer, has been made with public health implications in mind as their ownership of the site offers the most social value added compared to the higher offers received.

Equalities Impact of the Proposal

31. A Stage 1 Equalities Impact Assessment (EqIA) has been undertaken which identified no issues such that a Full EqIA or Action Plan is NOT required. An EqIA is therefore neither relevant nor proportionate for the approval of this report.

Environmental and Climate Change Considerations

32. The proposal will lead to the sale of an asset which currently uses energy from the Council's corporate supply. However, the utility supplies to the property are currently disconnected. They will be transferred to the new owner who intends to retain the existing use, which potentially minimises any increase in energy consumption compared to a partial redevelopment offered by other bids.

33.

Consideration	Impact of Proposals
Adaptation and resilience	This proposal does not deal with matters which directly impact on climate change adaptation and resilience.
Energy consumption	The proposal will lead to the sale of an asset which currently uses energy from the Council's corporate supply. This means there will be a reduction in direct emissions but energy use will shift to borough wide emissions. However, the intention is to retain the existing use, which potentially minimises any increase in energy consumption compared to a partial redevelopment offered by other bids.
Carbon emissions and offsets	Delivery of the proposal should not in itself lead to any increase in emissions and no offsets are proposed. There could be impacts if the adjoining site is subsequently redeveloped although these would be dealt with through the planning and building control processes.
Environmental	Delivery of the proposal has no identified direct environmental impacts.
Procurement	No additional procurement of goods or services is proposed.

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

34. If the Council do not undertake regular reviews of its property holdings and dispose of surplus property then there are ongoing risks in relation to security, and increased revenue costs from reactive and planned maintenance associated with void 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. This carries a risk of increased borrowing.

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

35. There is a risk that the sale will not complete due to the buyer 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.

Financial Implications

36. The disposal of this property to the preferred bidder will generate a net capital receipt. 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. Up to 4% of the capital receipt can be applied to costs of sale and the figure quoted in this report is prior to the deduction of these costs. The Council have also not opted to tax this asset so no VAT will be applicable to the sale price.

Legal Implications

37. 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.
38. 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.
39. 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,
40. 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 including consideration of subsidy control (replacing the formerly known State Aid principles) as it is noted the land is to be sold to an underbidder.

41. The Council must be mindful of the new subsidy control regime (which replaces the formerly known State Aid rules) and should assess the grant of any 'subsidy' after 1 January 2021 against the new subsidy control regime. An award will be a subsidy under the UK-EU Trade and Cooperation Agreement (TCA) where there is financial assistance which:
 - a. arises from resources of the state, including:...the forgoing of revenue that is otherwise due...;
 - b. confers an economic advantage on one or more economic actors;
 - c. is specific insofar as it benefits certain economic actors over others in relation to the production of certain goods or services; and
 - d. has or could have an effect on trade or investment between the UK and the EU.
42. The subsidy control regime will apply to a 'subsidy' that is above the de-minimis threshold under the TCA of 325,000 Special Drawing Rights (circa £345,000) per beneficiary over any period of three fiscal years. The de-minimis threshold under the old state aid rules is 200,000 Euros per beneficiary over a rolling three year period. As guidance is yet to be issued on the commencement of the three year period for the new de-minimis threshold for subsidy control or whether the old de-minimis threshold is expected to be treated cumulatively with the new subsidy control de-minimis threshold, it would be prudent for the Council to ask the potential recipient questions about both types of de-minimis threshold.
43. It is noted that the property was marketed by way of an informal tender process seeking offers for the freehold interest and Avison Young also undertook an e-marketing campaign. Furthermore, that Bidder A achieved the highest evaluation score and has been selected as the preferred bidder, representing best consideration reasonably obtainable. The bid is supported by a business case showing significant cost savings to the Council in the future operations of this proposed use.
44. 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
45. 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.
46. The proposals contained within this report are within the Council's powers and duties.

Workforce Implications

47. There are no workforce implications

Property Implications

48. These are contained throughout this report.

Other Implications

49. None.

Options Considered

50. Do Nothing. The property is vacant and the fabric and exterior of the building is deteriorating. In addition, the Council are incurring significant “holding costs” in terms of security and outgoings. Do nothing is therefore not deemed a good option.
51. Disposal. This will generate a much-needed capital receipt and reduce borrowings/contribute towards reserves and/or the Council’s Capital Programme.

Conclusions

52. It is in the Council’s best interests for financial, property and legal reasons, and for the wider community, to benefit from this building being sold and brought back into beneficial use.

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Appendices

Appendix 1: Particulars of Sale and Plan

Appendix 2: Part 2 Report incl. Bids and Evaluation Scores (Confidential)

Background Papers

Avison Young full recommendation and analysis report. (Confidential)