

London Borough of Enfield

Operational Report

Report of **Peter George**

Subject: **Disposal of Surplus or Underperforming assets:**

 1 Grovelands Cottage, 273 The Ridgeway and 31 Cecil Road

Executive Director: **Sarah Cary**

Ward : **Various**

Key Decision : **3432**

Purpose

1. The list of assets identified in the Confidential Appendix 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 or otherwise underperforming when judged against the principles set out in the core principles of the Council’s Strategic Management Plan 2019-2024 s.1.3.
2. Strategic Property Services have therefore been commissioned to dispose of these assets for “Best Consideration” within the meaning ascribed in s.123 Local Government Act 1972.

Proposals

3. It is recommended that the Council proceeds with the disposal of the vacant assets shown in the Confidential Appendix below at the earliest opportunity.
4. The properties will, subject to formal approval, be marketed for sale by auction in March 2023 which represents the most efficient and lowest cost sale option in order to deliver the capital receipt within the current financial year 2022/23. It is likely that the property at 273 The Ridgeway will be sold at a subsequent auction as it is subject to a “Green Belt Act (1938) consent “from the Department for Levelling Up which may not be available in good time for the March auction.
5. That the Director of Property and Meridian Water has delegated authority to authorise:

- I. Both material and non-material changes to the terms including price and/or the contract in line with the Scheme of Delegation financial limits and otherwise in accordance with achieving “Best Consideration”.
- II. Agree the final reserve price following discussion with the auctioneer taking into consideration the level of interest shown, offers made prior to sale (if any) and the valuation assessment prepared by the auctioneer.
- III. Negotiate with any under bidder in the event that the sale does not proceed to completion subject to (i) above.

Reason for Proposals

6. The assets listed in the Confidential Appendix are no longer required for operational purposes or are underperforming and therefore identified as surplus and released for sale to reduce the Council’s borrowing requirements/contribute towards the Council’s Capital Programme.

Relevance to the Council’s Corporate Plan

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

8. Background

9. Why the need for Asset Sales

Central Government have cut funding to Enfield Council by 60% in real terms since 2010. The Council has already delivered £161m savings and need to make further savings in current and future financial years. As funding from Central Government is cut, Enfield has 3 main avenues for alternative income production – Council Tax, Business Rates and owned Property Assets. Property Assets are an essential source of income for Enfield, which must be optimised to reduce reliance on other funding sources and to support essential service delivery.

In addition, other legislative changes are forcing the need for urgent reviews of the Council’s asset base including the 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).

The Council has an ambitious transformation agenda through the “Build the Change” programme, it needs capital receipts to fund capital programmes and requires “fit for purpose” accommodation within the operational programme to deliver first class services.

The Councils 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 also has an important place within the SAMP.

Finally, the adverse impact following the Covid Pandemic and the shortfall of funding from Central Government has resulted in an urgent need to focus the Council's attention on the need to raise capital receipts.

10. Social Value

Recent experience has demonstrated that there is currently a healthy demand from groups within the Enfield Community which require accommodation for socially based activities. These groups can, in many cases, offer wider social benefits which aren't traditionally reflected in bid scoring which is more heavily weighted towards short term financial outcomes.

The sale of the residential properties in this report are not considered suitable for community use or the delivery of socially based activities although the auction particulars will be made available to all interest groups known to Strategic Property Services who are currently seeking accommodation.

11. Disposals Process

The properties will be sold by auction which is the most cost-effective way of delivering "Best Consideration" of these surplus vacant assets.

12. Timescales

The properties will be sold in the next available Savills auction in March 2023 or thereafter as appropriate.

13. Summary and Recommendation

. It is recommended that the Council agree to the immediate disposal of the assets shown in the Confidential Appendix below

14. Safeguarding Implications

None

15. Public Health Implications

. None

16. Equalities Impact of the Proposal

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

17. Environmental and Climate Change Considerations

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

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

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 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.

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

There is a risk that sales will not complete due to buyers failing to proceed with the purchase. This risk is managed by the formal nature of the auction process and the non-refundable deposit taken by the auction house in the event that the purchaser fails to complete the transaction. If this were to occur the property can then be offered to either the under-bidder or re-marketed and sold in the next available auction.

20. Financial Implications

Approval is required for disposal of the above assets held in the General Fund.

The property balance sheet carrying value on 31st March 2022 (pre-audit) shows that estimated sale proceeds will be above the carrying value therefore there is no anticipated under value.

Investment income

In accordance with the Council's Financial Regulations (Part 4 Rules of Procedure, para 23) surplus property may be repurposed for investment income if this is more advantageous to the Council.

Capital receipts

In accordance with the CIPFA Code of Practice costs of disposal can be netted off against the capital receipt up to 4% of the gross disposal proceeds. Capital receipts generated will be held in the Council's General Fund capital resources and used in accordance with the approved Treasury Management Strategy Statement.

Appropriation to HRA

In some circumstances it is advantageous for the Authority to transfer land and buildings to the HRA to increase housing supply. This approach is not considered suitable for these properties.

Taxation

Sale or rental of land and buildings is normally exempt from VAT which could ordinarily result in the Council being unable to recover VAT paid on preparing and marketing the assets for sale if the exempt input tax threshold for the Authority is exceeded.

As the exempt input tax limit has not been exceeded, an Option To Tax will not be required for the sale of these assets.

21. Legal Implications

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.

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.

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.

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.

Pursuant to the Green Belt (London and Home Counties) Act 1938 it is necessary to obtain consent from the Department for Levelling to dispose of properties situated within the green belt.

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

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.

Legal documentation for the sale of properties mentioned in this report will be in
a
form approved by the Director of Law and Governance

The recommendations contained within this report are within the Council's powers and duties

22. Workforce Implications

There are no workforce implications

23. Property Implications

These are contained in the report.

24. Other Implications

None.

25 Options Considered

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 and outgoings and opportunity cost.

Disposal. This will generate a much-needed capital receipt and reduce borrowings/contribute towards reserves and/or the Council's Capital Programme.

26. Conclusions

It is in the Council's best interests for financial, property and legal reasons, and for the wider community, to benefit from these buildings being brought back into beneficial use.

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Date of report: 16/01/2023

Background Papers

Contain exempt Information

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