



## London Borough of Enfield

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<b>Title of Report:</b>	<i>Strategic Property Disposal - The Claverings Industrial Estate</i>
<b>Report to:</b>	Cabinet
<b>Date of Meeting:</b>	7 June 2023
<b>Cabinet Member:</b>	Cllr Leaver, Cabinet Member for Finance & Procurement
<b>Directors:</b>	Sarah Cary – Executive Director Place James Wheeler – Director of Development (Property)
<b>Report Author:</b>	Alister Fawley alister.fawley@enfield.gov.uk
<b>Ward(s) affected:</b>	Lower Edmonton
<b>Key Decision Number</b>	KD 5624
<b>Implementation date, if not called in:</b>	
<b>Classification:</b>	Part I Public
<b>Reason for exemption</b>	NA

### Purpose of Report

1. This report sets out the business case and the proposed disposal route for the sale of The Claverings Industrial Estate, Enfield, and provides an update on the initiatives undertaken to date and set out a timeline to complete the sale.

## Recommendations

- I. To agree the open marketing for sale of The Claverings Industrial Estate.
- II. To agree that the decision on the weightings for the assessment of bids be delegated to the Executive Director Place, in consultation with the Executive Director of Resources and Director of Law & Governance, as per part II.
- III. To authorise the Director of Property to take necessary action to deal with existing third-party rights affecting the site, including terminating leases and licenses, or surrender or variation of leases and licences and other land interests, to facilitate site optimisation, in accordance with the Council's Property Procedure Rules.
- IV. To authorise the Director of Property to agree the final sale terms in consultation with the Executive Director of Resources.
- V. To note that all agreements to be entered into as contemplated by this report are to be approved by Legal Services on behalf of the Director of Law and Governance.

## Background and Options

2. This paper updates Members on the proposed disposal of The Claverings Industrial Estate following the previous Cabinet report of April 2021 (Key Decision 5280 which discussed the Build the Change Programme (BtC). The aims and objectives of that programme were to create a modern Council with fewer but better equipped buildings and the creation of Hubs. An update was provided on the positive progress made in respect of the first phase of the Programme.
3. The report also discussed the next planned phase of the BtC Programme including the reconfiguration and refurbishment of the Civic Centre, the Children and family hub at Thomas Hardy House, and the creation of a Mental Health and Wellbeing hub.
4. For the purposes of the business case, it was assumed that sites released through the works to establish Hubs would be disposed of for a capital receipt and that these receipts would be applied to fund the BtC programme.
5. The April 2021 Cabinet report approved the principles of a disposal of the Claverings site to facilitate its redevelopment. The report noted that the proposed disposal route would be the subject of a future Cabinet report in terms of either development or straightforward sale. For the business case purposes and projected impact on borrowing, the capital receipt for the sale of Claverings was applied to finance the programme.

6. The Claverings Estate is aged and in need of significant investment to meet building regulations, as well as to be compliant with the Councils Strategic Asset Management Plan or Climate Change Action Plan from 2023. The governments Minimum Energy Efficiency Standards (MEES regulations) mean that parts of the industrial estate are struggling to meet compliance regulations. Going forwards with planned increasingly stringent energy performance requirements, it will become uncompliant for a landlord to grant a new tenancy and later to extend or renew an existing tenancy of many units on the estate in their current condition.
7. The refurbishment of the accommodation to reach the required energy efficiency standards was estimated to have a significant capital cost implication (see part II). Renting suitable alternative accommodation for the Council operations at market rents was also known to incur significant revenue cost (see part II). These costs have increased with the passage of time.
8. In parallel to the compliance aspects, the aged nature of the Industrial estate itself has seen it fall further out of step with the external market private occupier demand in terms of modern industrial space. This creates economic under performance of the Council's property asset and without redevelopment, the commercial space will fail to attract and maintain good levels of occupation and market rents. These obsolescence factors will lead to current income levels falling away over time.
9. In optimising the provision of good quality industrial space and sustaining the provision of employment land in this area, a full redevelopment is required. In commercial property market terms, the industrial and logistics sector is currently among the strongest and most attractive to property investors and developers. Notwithstanding wider economic conditions, this is a relatively good time to sell and capitalise on the buoyancy of this property sector.
10. Since the April 2021 cabinet report, market conditions have improved and a recent external appraisal has indicated that a disposal with full vacant possession, at this time could achieve a capital receipt greater than previously estimated. (See part II).
11. In achieving best consideration, it is important to remove any barriers to redevelopment. There are notable site constraints which are being managed, but if left unresolved could adversely impact the capital receipt that could be achieved, including:
  - Current occupation by the Council's own services
  - Current occupation by Voluntary & Community Sector tenants
  - A less than optimal planning policy designation
  - Protected, Long leasehold interests and telecoms mast tenancy
  - Partially compromised developable area/site assembly

12. Since the KD 5280 of April 2021, officers have undertaken work to identify, quantify and where possible undertake solutions to address the above constraints.
13. Work has been undertaken with existing London Borough of Enfield (LBE) operation occupiers to understand their spatial and specification requirement in anticipation of any re-provision. Of the eight operational entities in situ at the time of the 2021 Cabinet:
  - i. two have already moved out to alternative accommodation as anticipated
  - ii. two are no longer active leaving only unused equipment to be removed
  - iii. two have alternative LBE accommodation available within the operational portfolio and,
  - iv. another occupies in the knowledge that it is a temporary arrangement (see part II for more detail)
14. At this time, the Council is unable to find viable alternative accommodation for the Integrated Community Equipment Service, wheelchair, and Enablement Service (known generally as ICES). Accordingly, officers have incorporated a potential re-provision plan for them in a newly constructed building on a redeveloped Claverings site to be built by the site's purchaser, if needed. This is considered a worst-case option, but it still is predicted to have a strong business case. More detail as to these potential solutions is provided in part II.
15. The council will be placing an obligation on a buyer to bid on the basis of both; 1) vacant possession, and 2) To account for the delivery of an LBE service re-provision of space for ICES within the existing Claverings Estate. It is estimated that the second basis will reduce the net capital receipt due to the loss of developable and lettable space and the cost of constructing new facilities. This is considered a worst-case scenario and officers will continue to explore less costly options for service provision.
16. In consideration of the existing LBE operational services currently in occupation, officers have accounted for re-provision solutions. See part II
17. Officers have worked with the Voluntary & Community Sector tenants (hereafter VCS), and 3rd party commercial tenants to adapt their tenures onto more flexible terms which minimise the time and legal processes that would be required to achieve vacant possession.
18. In parallel officers have also maintained relatively good levels of occupation in sustaining income and minimising void costs and risks.
19. Going forwards those external and VCS tenants could negotiate their respective tenures with any incoming developer/site purchaser. The

Council will also offer advisory support to assist the tenants in moving to an alternative location. LBE will consider bidders for the site partly based on their evidencing of strategy in working with the VCS tenants.

20. Specialist advice and positive 3<sup>rd</sup> party engagement has commenced in respect of the Telecommunications tenancy on site and a small car parking lease, respectively. It should be noted that the regulations concerning telecommunication tenancies result in notice only being able to be served upon redevelopment. In effect, given that LBE will not be developing the site, this means that the site will be sold subject to the telecoms tenancy, where the purchaser who will lead the development, will then serve notice. This is not expected to impact the value of the site.
21. Having undertaken the above initiatives to better understand and improve the industrial estate's readiness for future sale, a disposal is now recommended.
22. Officers have sought external independent consultants' advice in the form of a Viability and Delivery Option Appraisal via Montagu Evans. This work has commenced and will help ensure that the model and format of sale are reflective of the current commercial property market and that the subject property is well prepared for sale to achieve the best outcome.
23. The disposal process will use a sales agent to professionally market the site. Bids received would then be analysed and subject to acceptability, an officer's report would be produced with a recommendation to proceed with a preferred bidder.
24. The timeline for completion of the sale will be somewhat dependent on the conditionality of the sale agreement but would be broadly anticipated as follows:
 

a) Consultants appointed in a Viability and Delivery Option Appraisal	<b>May to August 23</b>
b) Legal instructed; report on title and sales pack <b>completion</b>	<b>April 23-</b>
c) Telecoms & Stats agreements strategy in place	<b>Autumn 23</b>
d) Relocation strategy of LBE operational occupiers	<b>Summer 23</b>
e) Asset placed on open market	<b>Summer 23</b>
f) Bids reported with recommendation	<b>Late 23</b>
g) Under offer and sale contracts exchanged	<b>Early 24</b>
h) Relocation Plans implemented (from)	<b>Ongoing/early 24</b>
i) Capital receipt if conditional on planning	<b>From 25</b>
j) Phased redevelopment begins, Sub. to Planning	<b>25</b>
k) Scheme completed with re-provision	<b>26</b>

## **Preferred Option and Reasons for Preferred Option**

25. Having regard to the background, the principal options for the future of The Claverings Industrial Estate are as follows:

- A) Do nothing and retain ownership with no major investment – Not viable, as income stream will fall away, value will diminish and the estates' utility as employment land will fade due to compliance and obsolescence.
- B) Refurbish buildings to medium term compliant state – Not viable due to prohibitive cost (see part II).
- C) Sell (with re-provision for ICES by Buyer) to raise capital and facilitate regeneration by private enterprise.
- D) Re-provision of ICES facility either through outright sale and commercial leaseback by the Council or relocation of ICES to alternative facility either purchased or leased.

26. Following on from those on-site principal considerations set out in KD 5280 of April 2021, and updated in this report see part II, namely the costs and practical difficulties in solving compliance and obsolescence, it is recommended that options C and D are pursued and that the Industrial Estate is sold for Industrial redevelopment.

27. Given the further work undertaken by officers since 2021 to identify, quantify and where possible undertake solutions to site constraints, this report seeks to formalise the disposal option.

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

28. The proposals set out in this paper to sell the subject property meet the Council's responsibilities, objectives, and priorities under its BtC initiative.

29. 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

30. 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**

31. Options A Do Nothing and B Refurbish not considered viable.

Financial implications and assumptions for Option C Sell with ICES re-provision from Buyer are set out below.

**Those for Option D Sell with re-provision by Council leasing or acquiring alternative facility are under construction pending receipt of income and cost estimates.**

32. As at the date of this report, the decision to sell would be expected to result in a capital receipt as referred to in part II, if sold with full vacant possession, or proportionately less if any land is withheld and new buildings built on site for LBE retention. The preparation and sale is expected to incur costs as set out in part II to achieve this optimal consideration, mostly due to external consultants, surveys, legal and sales agents' costs. These will be funded from the capital receipt.

### **Legal Implications**

33. 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 reasonably obtainable (save for grants of tenancies of less than seven years), unless it has the benefit of an express or general consent of the Secretary of State. 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.
34. The Council is also required 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. In this case, it is noted that the intention is for an open marketing exercise to be undertaken for the sale of the Claverings Industrial Estate and it is considered that this duty is fulfilled, to ensure that the Council obtains best consideration reasonably obtainable and market value.
35. A desktop due diligence check has been carried out by Legal Services on the registered titles covering the whole of the Claverings Industrial Estate and a report has been prepared and shared with Strategic Property Services, which raises a number of issues to be worked through prior to sale, to cover occupation arrangements, rights, and other matters. There

are also various unregistered occupational arrangements affecting the Claverings Industrial Estate. Further due diligence is necessary, so as to conclusively assess rights and agree action needed, including serving break notices and agreeing surrenders pursuant to the Landlord and Tenant Act 1954 - see part II.

36. 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. Furthermore, the Council is required 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.
37. 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.
38. 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

39. 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.
40. 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.
41. 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.
42. 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 reprovision of space on site for ICES – while there was a perceived risk that this could disproportionately impact disabled persons, the reprovision 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. 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 presented a potential risk to disabled users. Having explored the logistics of the new alternative location, the 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.

43. 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

44. 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.

45. 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.

46. Outside of the LBE services operating from the subject site and in addition to those protected characteristics, officers have considered the cross-cutting 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:

- Potential positive equality effect on improved personal safety and security in operation

- Potential positive equality effect due to an improved public realm environment
- Potential positive equality effect due to the delivery of additional jobs and local employment
- opportunities in both construction and operation.

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

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

47. 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.

48. 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.

49. 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**

50. 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.

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**

51. 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.
52. 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.
53. 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**

54. Property implications are within the main body of this report.
55. The freehold interest is being sold either with Vacant Possession or subject to some retained LBE operational service on site, and a build back requirement to accommodate them.

### **Conclusions**

56. 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
57. 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.

58. Property officers have worked to identify any constraints to achieving best consideration and where possible optimise the site before its marketing for sale.
59. 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.
60. 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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## **Appendices**

*Part II Report - Confidential*

## **Background Papers**

*EQIA's for: Drug and Alcohol move to Rose Taylor and ICES re-provision on site.*

*April 2021 Cabinet*

**#Departmental reference number, if relevant:**