

Item No. 18.	Classification: Open	Date: 18 November 2014	Meeting Name: Cabinet
Report title:		Disposal of Site Land at 1 Potters Fields	
Wards affected:		Riverside	
From:		Councillor Fiona Colley, Finance, Strategy and Performance	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, STRATEGY AND PERFORMANCE

I'm pleased to recommend to cabinet the disposal of this small site at 1 Potters Fields. Not only will the sale of this small piece of land generate a substantial receipt to help finance our capital investment programme, the proposed development of the site and the neighbouring plot of land has the potential to substantially improve what is currently quite an eye-sore next to Potters Field Park and provide new office and compound space which could be used by the Potters Fields Management Trust to replace the poor quality accommodation they currently operate from.

RECOMMENDATIONS

That the cabinet authorises:

1. The disposal of part of the freehold land shown edged black on the plan at Appendix 1 known at the Land Registry as St Johns Girls School House, Tooley Street and 1 Potters Fields ("the Site") to Mr John Curran & Ms Kristen Frederickson (or to an entity controlled by one or both of them) on the terms set out in the closed report.
2. The granting of a 999 year lease at a peppercorn ground rent of any permitted oversail of the LBS freehold in the area hatched on the plan at appendix 1. The oversail will be at or above a minimum height of 5.1m from the ground level and extend no farther than 1m from the boundary. The consideration for the grant of a lease is set out in the closed report.
3. The acquisition by the council of a lease of the commercial space created by the development for the consideration set out in the closed version of this report.
4. The delegation of authority to the Head of Property to agree the detailed terms of the transaction and negotiate any other items considered necessary.

BACKGROUND INFORMATION

5. The council is the freeholder of the Site. The Site extends to approximately 220 m² and has boundaries with Potters Fields (both the street and the park) and Tooley Street.
6. The Site is held in the council's general fund.

7. The Site comprises open storage land currently let to the Potters Fields Park Management Trust (PFPMT) and has been hoarded for a number of years. Previously the site was occupied by a three storey building used as a library which is believed to have closed and been demolished in the 1980's.
8. The council was approached in January 2013 by the adjoining owner Mr John Curran to explore the possibility of purchasing the Site to enable a comprehensive development scheme across both sites.
9. Mr Curran's intention is to develop both sites to provide a residential led scheme, together with an office unit / compound which can be used (but is not restricted to use by) by the Potters Fields Park Management Trust (PFPMT) in connection with their management of the adjoining park. This will allow the removal of the compound currently used by PFPMT to the North of the Site with the potential to add this area to the park.
10. A long lease of the office / compound unit has been offered to the council in lieu of a portion of the site cost. It is intended that this will then be let to the PFPMT. This will be an income producing unit and therefore an asset to the council. If the PFPMT do not use the unit it is envisaged that it will be designed to convert to another use to create income for the council such as an office.
11. Mr Curran's design intent includes a permanent oversail of a maximum 1m except at the point marked X on the plan where the oversail may extend to a maximum of 2m at a minimum height of 5.1m above ground over the park and Potters Fields (the street) areas of which are freehold owned by the council. The area is hatched black on the plan at appendix 1. There has been little detailed design work undertaken at the present time and any formal proposals will be subject to consultation with the public, with the PFPMT (leaseholder of Potters Fields Park) and other stakeholders as part of the design and planning process.
12. Due to the nature of the transaction and as both sites are adjacent no marketing was undertaken. The council commissioned BNP Paribas Real Estate (BNPPRE) to undertake a formal valuation of the land to confirm that the council is receiving the best consideration that could reasonably be achieved from the sale and therefore satisfying s.123 of the Local Government Act 1972. The BNPPRE report gives this confirmation.
13. The BNPPRE report also confirms that the consideration for the office space being leased back is equal to its market value.
14. The closed agenda report carries details of the offer received and for reasons of commercial confidentiality it is not possible to report this on the open agenda.
15. The transaction being recommended is subject to planning for a minimum scheme. Mr Curran has indicated his intention to submit a planning application of the highest architectural standards. The resultant development would allow a previously dormant site to be brought into use benefitting the adjacent park and generating a significant capital receipt, together with future business rates and council tax income.

KEY ISSUES FOR CONSIDERATION

16. Councils are required to dispose of surplus property assets subject to best consideration requirements. Specifically, the council has a duty under Section

123 of the Local Government Act 1972 to dispose of land for the best consideration that could be reasonably obtained. The head of property confirms that the sale of the Site as recommended will comply with these requirements and the price achieved is the best that could be reasonably obtained at this time.

17. The BNPPRE report also confirms that the consideration offer for the office space being leased back is equal to the market value.
18. The contract will contain overage clauses triggering further payments to the council should either the minimum scheme be exceeded at planning or certain sales thresholds be exceeded.
19. When it is completed, the redevelopment of the Site should have benefits for the local community including tidying up the current PFPMT compound and a small area of new parkland. The sale of the Site will also ensure that it is brought back into beneficial use.
20. The Site will be offered with full vacant possession prior to completion of the sale.
21. The council does not have any connection with or interest in Mr. Curran or Ms Frederickson.
22. The substantial capital receipt that will be generated as a result of the sale of the Site will make a significant contribution to the council's Capital Programme.
23. The Site is too small to be considered for the council's direct delivery program and is also held in the General Fund.
24. When complete the development will generate business rates and council tax receipts for the council.
25. The area occupied by the Gas Infrastructure cross hatched on the plan at Appendix 1 is to be transferred to Mr Curran in order for him to control the unauthorised parking of motorcycles which currently occurs. By controlling the parking it will benefit the development, local area, and access to the infrastructure which is currently blocked by the parked motorcycles. This land is considered largely undevelopable. A restrictive covenant preventing the development on this part of the land will be placed on the title in favour of the council should re-development be possible in the future.

Policy implications

26. The disposal of the Site will generate a substantial capital receipt which will be used to provide capital funding in support of the council's key priorities.
27. The environmental improvements arising from the redevelopment of the Site will assist the council in meeting its cleaner, greener and safer agenda. Any new dwellings arising from the redevelopment will be designed to meet latest energy efficiency building regulations.

Community impact statement

28. The capital receipt to be realised as a result of the transaction will assist with delivery of the council's corporate objectives, achieving its stated budget principles and working together with communities towards a 'fairer future for all'.
29. It is not considered that the sale will have any adverse effect on any of the protected characteristics of age, disability, gender reassignment, pregnancy & maternity, race, religion or beliefs, sex or sexual orientation. The Site is let temporarily to PFPMT but has been vacant for many years with the services previously supplied at the Site demolished many years ago.
30. The buyer will be required to consult local residents, businesses and further talks with the PFPMT as part of the planning application process.
31. Redevelopment of this Site is likely to have a positive effect on the local environment and streetscape.

Resource implications

32. This proposal will generate a capital receipt, expected in the financial year 2015/16.
33. There will be no loss of income from the Site arising from the disposal. Disposal will remove the need for expenditure on void management and running costs.
34. The costs of obtaining the planning consent and any s.106 / Southwark Community Infrastructure Levy or Mayoral Community Infrastructure Levy will be paid by the buyer.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

35. Section 1 of the Localism Act 2011 grants councils a general power of competence whereby a local authority has power to do anything that individuals generally may do. However, that power does not enable a local authority to do anything which it is unable to do by virtue of a pre-commencement limitation. Section 123 of the Local Government Act 1972 is a pre-commencement statute which imposes limitations on the council's power of disposal.
36. Section 123 of the Local Government Act 1972 states that except with the consent of the Secretary of State, a council shall not dispose of land under that section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
37. The report indicates in paragraph 12 that the consideration is the best that can reasonably be obtained.
38. Cabinet may proceed with the approval of the recommendation.

Strategic Director of Finance and Corporate Services (FC14/024)

39. The strategic director of finance and corporate services notes the recommendations in this report regarding land matters at 1 Potters Field park, including the sale of the freehold land by the council without public advertising,

the council granting a long lease of the oversail rights, and construction by the purchaser of the commercial / office space for use by the council. After construction, the council will lease out the commercial space to a third party for a rental stream, and will use its best endeavours to restore the space to park standard.

40. The overall deal is subject to planning and if the minimum space is not granted planning permission the deal will not complete. The deal is subject to overage and so if planning permission is granted for a larger area the council will be paid additional funds. If the commercial space is not constructed within 5 years then the purchaser will pay an amount equivalent to the original value plus inflation to the council. The restoration of the land will have a cost but this is not known, although it is not considered to be significant.
41. It is anticipated that the capital receipt (purchase price less the value of the commercial space) will be available to the council in the year 2015/16.

BACKGROUND DOCUMENTS

No.	Title
None	

APPENDICES

No.	Title
Appendix 1	OS plans, indicating the Property – edged black

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Finance, Strategy and Performance	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Tim Surry, Surveyor	
Version	Final	
Dated	5 November 2014	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	6 November 2014	