

Item No. 13.	Classification: Open	Date: 6 February 2024	Meeting Name: Cabinet
Report title:		Freehold acquisition of an operational property asset for key service provision and subsequent leasing arrangements	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Communities, Democracy and Finance	

FOREWORD - COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COMMUNITIES, DEMOCRACY AND FINANCE

Providing good quality care for our residents in nursing homes is a priority for the Council and we are the main funder for people residing in a building providing a care service to Southwark residents.

The owner of the building has confirmed they wish to sell this building, which would put some of our most vulnerable residents at risk.

Agreement has been reached with the owner for the council to purchase the freehold of the building with an interim leaseback arrangement whilst we secure a new service provider.

The details of the arrangements are contained in the closed report which will be considered at this cabinet meeting.

RECOMMENDATIONS

1. That Cabinet note the circumstances leading to the proposed acquisition of the freehold asset and actions and due diligence being undertaken by officers and their professional advisers.
2. Approve the acquisition of the freehold interest as detailed in the closed report including noting the agreed heads of terms, price and acquisition costs supported by the Valuation and Building Survey Statements.
3. Delegate to the Director of Planning and Growth, advised by and in consultation with the Strategic Director of Finance authority to:
 - A. Complete the purchase of the freehold interest and subsequent lease arrangements

B. Agree detailed transaction terms

C. Agree the financing structure to be adopted to fund the acquisition of the asset.

BACKGROUND INFORMATION

4. The owner of the building, a key service provider to the council confirmed its intention to dispose of the building in the market following a soft marketing exercise, which generated substantial unconditional offers.
5. Following appropriate due diligence and consideration officers believe that the purchase of the building not only secures the required accommodation within borough at an appropriate price, reflecting that the council is a special purchaser, but also removes the risk to existing service provision and the negative impact on council residents.
6. In agreeing the purchase the existing owner removes risk of transacting in the market but also agrees to continue service provision on an interim basis whilst a new provider is secured.

KEY ISSUES FOR CONSIDERATION

7. The purchase of the building from existing identified funds secures accommodation for a statutory service provision requirement in borough.
8. In acquiring the property, service continuity is maintained with minimum disruption to residents.
9. Additionally in owning the asset a revenue saving is generated by the service in that the rental element cost charged by a service provider falls away being a council owned asset.

Financial due diligence and the council's bid

10. The financial arrangements of the transaction are set out in the closed paper and confirm that the proposed arrangements are in line with market conditions and reflect the council's fiduciary duty.
11. Based on advice, officers have agreed a purchase price as set out in the closed paper. This reflects market value, the council's position as a special purchaser and the balance of risk attributable to the owner's aspirations given the offers received during their soft market testing.
12. The purchase price also avoids the vendor taking the asset to the open market and putting at risk the opportunity to make the acquisition and the very significant negative impact on service provision.
13. The deal is subject to contract and without obligation. The bid figure is exclusive. The transaction will be taxed (SDLT) and professional fees will

also be incurred. The building is not elected for VAT (and therefore not a Transfer of a Going Concern).

14. The purchase is supported by valuations undertaken by Montague Evans in accordance with the requirements of the Royal Institution of Chartered Surveyors Valuation Professional Standards (“the Red Book”).
15. Due diligence work including legal and additional survey reports have been commissioned.

Community impact statement

16. In formulating the recommendations of this report the potential impact on the community has been taken into account, including people identified as having protected characteristics. No specific equality implications have been identified in relation to this report.
17. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010).
18. The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
19. An Equalities Impact Assessment is not required in relation to this report, because this matter relates to a commercial investment transaction in respect of property held for income generation. There are no Human Resources or equality implications in respect of this proposal.
20. There are no particular environmental or net zero implications associated with the land transfer arrangements. The existing use will continue without significant change.

Policy implications

21. The purchase of the building secures an asset within the council’s portfolio to provide accommodation for a statutory service provision.
22. In owning the property the council removes risk and ensures the ability to provide in borough accommodation to support that need.

Financial Implications

23. The financial implications are set out in the closed report. In purchasing the asset from identified funds, savings can be achieved from service provision

costs by removing a rental element charge from the service contract create generating significant revenue savings over the long term.

Consultation

24. In view of confidentiality requirements and commercial sensitivity in relation to this as yet uncompleted transaction, external consultation has not been undertaken.
25. Internal consultation has taken place with all relevant departments, including the provision of advice from Director of Law and Democracy and Strategic Director of Finance and Governance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive, Governance and Assurance

26. The council has the power under s120 of the Local Government Act 1972 to enter into the proposed arrangements for the purposes of any of its functions, or the benefit, improvement or development of its area.
27. The proposed arrangement would satisfy these conditions. The exempt Appendix 1 confirms that the arrangements reflect the requirements of the service and in agreeing the terms of the arrangements the council has acted in accordance with its fiduciary duty.

Strategic Director of Finance (65EN202324)

28. This is a strategic investment for the council which will secure an important building for a key service provision for residents in the borough.
29. The asset will be held in the General Fund and the purchase is funded by existing monies allocated to the services budget.
30. The financial implications are set out in the closed report and demonstrate a clear and immediate revenue benefit for the council.
31. This acquisition will allow the council to efficiently utilise existing resources and available external borrowing options to secure an asset with significant and required long term service provision whilst also generating ongoing revenue savings.

REASONS FOR URGENCY

32. The opportunity to purchase the property arose in late 2023 with negotiations continuing to the Christmas break. The primary heads of terms including purchase price, transaction structure and other terms were not agreed until 22nd December 2023.

33. A condition of the transaction is that the council makes a formal decision on the 6th February 2024 and transacts shortly thereafter

REASONS FOR LATENESS

34. The structure of the transaction is complex involving a purchase, lease and contractual service provision arrangements. Significant due diligence has been undertaken and is ongoing requiring last minute adjustments to the report to accurately reflect the position to Cabinet.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None	-	-

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councilor Stephanie Cryan, Communities Democracy and Finance	
Lead Officer	Clive Palfreyman, Strategic Director of Finance	
Report Author	Mark Grant, Head of Property	
Version	Final	
Dated	25 January 2024	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Assistant Chief Executive, Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team/ Team	2 February 2024	