

<b>Item No.</b> 12.	<b>Classification:</b> Open	<b>Date:</b> 17 May 2011	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		161-179 Manor Place (odd), SE17 and 6 Stopford Road, SE17 - Acquisition of third party legal interests and subsequent disposal of the Council's freehold interest	
<b>Ward(s) or groups affected:</b>		Newington	
<b>Cabinet Member:</b>		Councillor Richard Livingstone, Finance, Resources and Community Safety	

## **FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE, RESOURCES AND COMMUNITY SAFETY**

This report proposes the sale of the council's offices at 6 Stopford Road and the Victorian terrace of shops and flats next to it at 161-179 Manor Place. To achieve this objective, it is necessary for the council to acquire the long leasehold on the flat at 161a Manor Place and to compensate the tenant of the newsagent/ off-licence at 161 Manor Place.

The receipt from the sale of the property would be split between the general revenue fund capital budget and the Housing Revenue Account capital fund. The sale will therefore contribute towards making every council home Warm, Dry and Safe and the works to be agreed in the new Ten-Year Capital Programme.

## **RECOMMENDATIONS**

That the Cabinet

1. Approves the terms outlined in this report for the acquisition of the long leasehold interest in 161a Manor Place, SE17 including the payment of a basic loss payment and associated disturbance payments.
2. Approves the terms for the surrender of the lease of 161 Manor Place, SE17 by the business tenant and the compensation for the extinguishment of the business together with associated disturbance payments.
3. Authorises the Head of Property, once full vacant possession has been achieved, to market for sale the council's unencumbered freehold interest in 161-179 Manor Place, SE17 and 6 Stopford Road (the "Property"). The results of this marketing exercise to be brought to Cabinet for approval and further recommendation.

## BACKGROUND INFORMATION

4. The council are the freeholders of the Property highlighted and edged in black on the attached Ordnance Survey extract at appendix 1. The Property comprises a terrace of nine Victorian shops and one post war infill retail unit with residential upper parts, together with a single storey 1990's built office and car park. The residential upper parts are all separately accessible from street level.
5. The single storey office building was originally built as the Walworth neighbourhood housing office and later became an area housing office. It is currently an operational council building occupied by the housing renewal team. This office building has already been identified as surplus to the council's requirements as part of the reorganisation arising from the council's Office accommodation strategy. This was approved by Cabinet on the 23 November 2010. Officers are actively seeking to relocate the council staff currently working there.
6. Nine of the shops are currently empty, many of them for a number of years. The council has not sought to relet these units, as leases have expired and they have become vacant, due to the deteriorating condition of the buildings and the poor tenant demand that exists in this tertiary retail locality. These empty buildings are blighting the immediate locality and the redevelopment or refurbishment of this council owned property is long overdue.
7. Some of the residential flats were let to Hyde Housing for the purposes of shortlife housing during the 1990's, these were handed back in 2003.
8. There are two remaining legal interests in the control of third parties encumbering the site. These are as follows:
  - 161 Manor Place, SE17, ("the Retail Property") is subject to a 5 year lease from 02 November 2003. These retail premises are occupied as a newsagent and off licence by the same tenant for in excess of 25 years. Although this lease has expired the tenancy benefits from continued protection afforded by the Landlord and Tenant Act 1954.
  - 161a Manor Place, SE17, ("the flat") – 125 years from 8 Nov 1999 at a ground rent of £10 per annum. This is a three bedroom maisonette arranged over two floors above the shop with its own private street level entrance.
9. The Retail Property and the Flat are highlighted and edged in red on the attached Ordnance Survey extract at appendix 2.
10. Following negotiations with the council the business tenant has agreed to surrender the lease of the Retail Property and in turn extinguish the business for an agreed sum plus an occupier's loss payment and a basic loss payment. In addition the council will pay the business tenant any allowable and justifiable costs that may arise as a result of this acquisition including reasonable professional fees and removals.

11. Likewise, the leaseholder of 161 Manor Place has agreed to surrender the long leasehold interest in the three bedroom maisonette for an agreed sum and additionally, the leaseholder is entitled to a basic loss payment. The council will also pay the leaseholder any allowable and justifiable costs that may arise as a result of this acquisition including reasonable professional fees and removals.
12. The rights to compensation and methods and procedures for assessing the correct amount are derived from what is commonly referred to as the "Compensation Code". This is made up of Acts of Parliament, case law and established practice. The principal Acts are the Land Compensation Acts of 1961 and 1973 and the Compulsory Purchase Act 1965. The sums agreed are in accordance with the principles established in the Compensation Code.
13. It is considered that the Property, free of any third party interests, presents an ideal development opportunity which will have a wide appeal to variety of developers, housebuilders and registered social landlords.
14. The Property will be offered for sale and placed on the open market when full vacant possession has been achieved.
15. The empty shop units have become occupied by squatters on a number of occasions. This has been dealt, on each occasion, but the empty buildings remain vulnerable to further illegal occupiers and as magnet for anti social behaviour. Despite robust actions to deter squatting, such as removal of the staircases, disconnection of services and the deteriorating nature of the buildings this has not prevented further illegal entry of unwanted occupiers. The risks associated with this Property will further increase when the Stopford Road office is finally vacated. There is therefore a pressing need to bring this Property to the marketplace and for onward redevelopment or refurbishment.
16. Authority to acquire property is delegated to the Head of Property in individual cases where the acquisition price is below £100,000 or less under 3P of the council's constitution. The cost of acquiring the long leasehold interest of the Flat will exceed this limit and Cabinet approval is therefore required.
17. Authority to sell is delegated to the Head of Property in individual cases where the sale price is below £500,000 or less under Part3P of the council's constitution. The sale price of this property will exceed this limit and Cabinet approval is therefore required.
18. The Property has been declared surplus to the council's requirements by the Strategic Director of Regeneration and Neighbourhoods.

#### **KEY ISSUES FOR CONSIDERATION**

19. Agreement to purchase the Retail Property has been reached with the leaseholder on the basis of compensation set out in the Land Compensation Act (as amended) which requires the local authority to purchase the property at a price based on market value.

20. The Head of Property considers that the proposed purchase price for the Flat is equal to current market value and that the compensation payments are fair and reasonable and in accordance with current legislation.
21. The Head of Property considers that the proposed costs of the lease surrender of the Flat and extinguishment of the business of the Retail Property are fair and reasonable and in accordance with current legislation.
22. It is considered that the Property, free of any third party interests, presents an ideal development opportunity which will have a wide appeal to variety of developers, housebuilders and registered social landlords.
23. In accordance with the principles and policy of good asset management laid down by government, together with local authority regulations, councils are required to dispose of surplus property assets subject to best consideration requirements. The proposed sale of the Property, once full vacant possession has been achieved, will comply with these requirements.
24. Depending on the level of interest shown in the Property informal tender may be used to identify the highest bidder. However, if the Head of Property considers that another method of sale will yield a higher capital receipt, then he may revert to an alternative means of sale.
25. The sale of the Property to a housebuilder, developer or a registered social landlord should ensure that it is quickly brought back into beneficial use.
26. The empty deteriorating buildings are having a negative effect on the immediate neighbourhood. The redevelopment of the Property will have significant regenerative benefits for the local community including the likely provision of new housing across a range of tenures.
27. Acquiring authorities are always required, in the first instance, to seek to acquire land by agreement. Failure to reach agreement with the remaining tenant of the Retail Property and leaseholder of the Flat would require the council to seek the use of Compulsory Purchase Powers if it is to gain full vacant possession of the Property. This would be time consuming, costly and expose the council to further risk.

### **Policy implications**

28. Cabinet approved the Asset Management Plan 2010 (AMP 2010), on the 14 December 2010, underpinning its aim of planning for a smaller sustainable operational estate. At the same meeting it also approved the objective of reducing the council's property estate by approximately 30% of its present size (excl. dwellings and schools). The eventual disposal of the Property, once full vacant possession has been achieved, will go some way to meeting these objectives.

29. The disposal of the property will generate a substantial capital receipt, which will be used to provide capital funding in support of the council's key priorities. This includes the provision, refurbishment and redevelopment of affordable housing. This assists the council in meeting its commitment to regeneration and sustainability in housing as demonstrated through the 2009-2016 Southwark Housing Strategy.
30. The environmental improvements arising from the redevelopment or refurbishment of the buildings on this site will assist the council in meeting its cleaner, greener and safer agenda.

#### **Effect of proposed changes on those affected**

31. The sale of properties within the HRA stock will have a negative impact on the number of council properties available to let. However, this will be offset by gains through the investment to retained stock, especially where decent homes have not yet been delivered.
32. The likely regeneration that will follow, as a result of this disposal, will benefit the wider community in this part of Walworth.
33. Increased investment into Southwark's stock to provide warm, dry and safe homes will have a positive impact on disadvantaged and minority communities, who are statistically more likely to be council tenants than the general population as a whole.

#### **Community impact statement**

34. Consultation around the acquisition of these third party interests and the decision to offer the Property for sale, once full vacant possession has been achieved, is thought not to be appropriate in this instance.
35. Any planning application to redevelop or change the use of any part of the Property will have to conform to the requirements of the Local development framework and will be subject to the statutory consultation process.
36. The acquisition of third party interests and subsequent disposal of the Property will not negate the council's Diversity and Equal opportunities policies.

#### **Resource implications**

37. Full details are set out in the closed report.
38. The acquisition and subsequent disposal will be dealt with by the council's Property Division. This will be resourced from existing budgets.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

39. Cabinet is recommended to approve the acquisition of the Retail Property and the Flat for the consideration set out in the closed report and payment of associated disturbance costs.
40. Cabinet is further recommended to authorise the Head of Property to market the Property for disposal once vacant possession is obtained, and the results of this exercise and recommendations for disposal of the Property being referred back to Cabinet for approval. The Surplus Declaration in relation to the Flat must be obtained before a report to dispose of the Property is referred to Cabinet.
41. Cabinet is advised that the council has power under Section 120 of the Local Government Act 1972 ("the 1972 Act") to acquire by agreement any land, whether situated inside or outside their area for the purposes of (a) any of their functions under the 1972 Act or any other act or (b) the benefit, improvement or development of their area. Further, the council may acquire land that is not immediately required for the purpose of the acquisition, and until it is required, the land may be used for the purpose of any of the council's functions.
42. Dispossessed owners are entitled to receive compensation payments for the loss of their properties and this is set out in the Compensation Code referred to in this report.
43. The council have the power to acquire the Retail Property and the Flat. Acquisition of land and property, outside any scheme already agreed by members, where the market value is more than £100,000 is reserved to Cabinet for collective decision making under Part 3C, paragraph 14 of Southwark's Constitution.

### **Finance Director (NR/R&N/13-4-2011)**

44. This report recommends the acquisition of the long leasehold interest at 161a Manor Place, SE17, compensation for the extinguishment of the business at 161 Manor Place, SE17, and the subsequent disposal of properties at 161-179 Manor Place, SE17 and 6 Stopford Road SE17.
45. The disposal will be undertaken for best consideration, and a budget for the net costs of lease acquisition and subsequent disposal has been identified. The disposal of the freehold interest in the properties will support the key regeneration priorities of the council, as well as producing a substantial capital receipt for the council.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
161-179 Manor Place and 6 Stopford Road, SE17	Development Team, Property Division, 160 Tooley Street, SE1 2QH	Paul Davies on 0207 525 5529

## APPENDICES

No.	Title
Appendix 1	OS plans, indicating the property
Appendix 2	OS plans, indicating 161 Manor Place

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Richard Livingstone, Cabinet Member for Finance, Resources and Community Safety	
<b>Lead Officer</b>	Eleanor Kelly, Deputy Chief Executive	
<b>Report Author</b>	Paul Davies, Principal Surveyor	
<b>Version</b>	Final	
<b>Dated</b>	5 May 2011	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director – Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		5 May 2011