

<b>Item No.</b> 20.	<b>Classification</b> Open	<b>Date:</b> 26 June 2013	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Disposal of The Grange (Sites C2 and C4) Bermondsey Spa, London SE1	
<b>Ward or groups affected:</b>		Grange Ward	
<b>Cabinet Member:</b>		Councillor Richard Livingstone, Finance, Resources and Community Safety	

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

In 2007, the council decided that its premises along the Grange - Mabel Goldwin House, Evelyn Coyle House and Gibson House - would be surplus to requirements when the previous executive agreed to take on the lease for 160 Tooley Street. The council has therefore been seeking potential purchasers for these sites.

This report recommends the sale of this land to the bidders who have offered the highest price for a viable scheme. In the unlikely event that these bidders cannot complete within three months of the decision, the site will be sold to the next highest bidder.

The council has now vacated Mabel Goldwin House. We are working with the Irish Pensioners Project, who currently use Evelyn Coyle House, to find suitable alternative accommodation for them.

### **RECOMMENDATIONS**

That cabinet agrees:

1. To the disposal of The Grange ('The Property') to the preferred bidder on the principal terms set out in the closed version of this report.
2. The head of property is authorised to agree any variations to these terms that may be necessary to achieve the disposal in the light of further negotiations and securing full planning consent.
3. That in the unlikely event the sale to the preferred bidder does not proceed to exchange, cabinet authorises the head of property to agree the terms of a sale with any one of the under bidders set out in this report or any other third party, provided that the terms conform with the council's legal obligation to achieve the best consideration reasonably obtainable.

### **BACKGROUND INFORMATION**

4. At its meeting on 2 May 2007 the then executive approved the office accommodation programme. This identified several council owned buildings, including Mabel Goldwin House, that would become surplus and should be sold.

5. The Grange site is identified in the Bermondsey Spa Master plan as part of Site C. The subject site is also referred to as C2 and C4 and extends to a total of 1.36 acres (0.55hectares) and whose absolute freehold is held by Southwark Council in its General Fund.
6. The site is located within Bermondsey to the north of Bermondsey Spa gardens. The site is positioned at the junction of Grange Walk and the Grange to the northwest and Grange Yard and the Grange to the southeast. A site and location plan is attached at Appendix One.
7. The site comprises of three substantial buildings namely Mabel Goldwin House, Evelyn Coyle House and Gibson House. All these buildings are currently occupied on short term lease arrangements.
8. The site was declared surplus to requirements by the director of regeneration on 7 May 2013. The tenants have been notified of the council's intention to dispose of the site and are being supported in finding alternative accommodation.
9. For planning purposes the existing uses on site fall within classes B1, D1-non residential institutions and C2 residential as defined under the Town and Country Planning Use Classes Order 1987.
10. For development sites such as this there is a relationship between the price paid for the land and a developer's ability to fund planning gain; that is, affordable housing, CIL and s106 obligations. All planning gain agreements are subject to a viability test, which means there is scope for purchasers to recoup overpayment for land by negotiating a reduced planning gain obligation.
11. In its dual role as landowner and planning authority the council has a legitimate interest in understanding and maximising the full package of benefits from a sale, including planning gain. To help achieve this, and in order to allow a like for like comparison, bidders were instructed to make their offers on a fully planning policy compliant basis.
12. However, to properly assess compliance would require full details of bidder's schemes and information on the use and occupation of the site at the time of planning consent. Some of this information is simply not available and it is not considered practical or realistic to require bidders to supply a fully worked up design proposal as part of the marketing. As a result, there is a risk that the value of the total benefits package generated by a development (land price plus planning gain) may vary as the scheme design is refined, and that the balance between land price and planning gain may change.
13. To help manage this risk the marketing was undertaken in two stages. The first stage invited expressions of interest that included:
  - The price offered
  - A financial reference confirming the bidder has access to funds to purchase the site.
  - An outline of the scheme including general information on uses, layout, height and massing.
  - Evidence of the bidder's track record in line with their proposal.

14. Officers from Development Management were involved in assessing the offers and the six top bidders were invited to take part in a second stage of marketing. At this point bidders were asked to clarify scheme details and to estimate their CIL and s106 liabilities. Some bidders were not able to provide full details.
15. Bidders were also encouraged to confirm the treatment of overage:
  - Disposal Overage - to manage the risk from someone making a speculative or opportunistic bid prospective purchasers were asked to confirm they would share any uplift in value if during the next five years the site is sold on.
  - Sales, commercial and planning overage – for bids to redevelop the Property for residential or commercial uses the bidder was asked for their proposal to share additional value if their development should outperform certain key value indicators.
16. The marketing was undertaken on behalf of the council by BNP Paribas who also valued the site.
17. Following the marketing 21 expressions of interest were received from 18 bidders. A full list of these is attached at Appendix Two of the closed version of this report.
18. The six top bidders were invited to the second stage. All of their offers were subject to receipt of planning consent and the council delivering vacant possession of the site. Their offers are summarised in the closed version of this report.
19. The bidders' estimates of their planning gain liability are discussed below in the Key Issues section of the report. However, it must be emphasised there is a risk that as scheme designs are refined through the planning process the value of the planning gain package may change. It is also possible bidders may try to use this process to justify a reduced land price.

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

20. 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.
21. All the three buildings on site are currently occupied by tenants on short term leases and would require to be vacated in order to provide vacant possession as elaborated in the closed version of this report.

#### **Conclusions and Recommendations**

22. All final bids are conditional on the grant of a satisfactory planning consent and provision by the council of vacant possession.
23. All final bidders have provided commitment to S.106 and Community Infrastructure Levy (CIL) obligations as part of their bids as indicated in the closed version of this report.

24. The preferred bidder would have to enter into overage as well as S.106 agreements in respect of their proposed scheme and make contributions based on the standard Southwark tariff in addition to the affordable housing and CIL requirements.
25. The head of property confirms that the offer represents best consideration that can be reasonably obtained from the sale of this site, based on the conditions set out in the closed version of this report.
26. It is also recommended that the head of property be authorised to agree the final terms for any sale provided that they represent the best consideration reasonably obtainable.

### **Financial implications**

27. The proposal should generate a substantial capital receipt in support of the council's office accommodation strategy and also free up the site for the ongoing regeneration of Bermondsey Spa.
28. The purchaser will also contribute towards the council's administrative fees as indicated in the closed version of this report.
29. To provide vacant possession, the council will meet reasonable related costs as referred to in the closed version of this report.
30. The purchase price is net of costs referred to in the closed version of this report.

### **Legal implications**

31. When disposing of assets the council is under a duty not to sell for less than the best consideration that can reasonably be obtained.
32. This recommendation is based on the professional judgment of the head of property.

### **Consultation**

33. The property is included within the Bermondsey Spa Masterplan as mentioned in paragraph 5. In preparing the Masterplan, Glenn Howells Architects worked closely with council officers from property, planning policy, development control, building control, housing, social services, conservation and transport to develop a Masterplan that fully met the objectives and policies of the Southwark Plan and Southwark 2016. In addition it had to be commercially viable and therefore deliverable. The input of stakeholders played a fundamental role in the creation of this Masterplan. Local residents and community organisations also helped shape proposals through specific events.
34. The Bermondsey Spa Masterplan, the Site C Masterplan and the Southwark Plan (Unitary Development Plan) have been subject to extensive public and community consultation. Exhibitions and public meetings have been held and observations received and considered.

## **Community impact statement**

35. Following the successful regeneration of Bermondsey Spa, Site C stands as one of the last phases of council owned sites within the Masterplan that are undergoing transformation for the socio-economic benefit of the area.
36. The tenants in occupation of at the site provide key community services. In order to ensure that there is minimal disruption to their services, the council has advised tenants of its envisaged timescales for the disposal of the properties on site and continues to work with them with a view to identifying alternative accommodation.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

37. 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 that imposes limitations on the council's power to dispose of non-housing property.
38. Cabinet is advised that as the Property is held in the General Fund the relevant statutory authority for the proposed disposal is Section 123 of the Local Government Act 1972. This provides that except with the consent of the Secretary of State, a council shall not dispose of non housing land, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained. It is noted at paragraph 24 of this report that the head of property considers that the proposed sale represents the best consideration that can reasonably be obtained.
39. Accordingly if the cabinet is satisfied the disposal is for the best consideration reasonably obtainable and represents good value for money it may approve the recommendation for the sale of the property on the terms set out in this report.
40. It is also noted that offer made by the preferred bidder whilst the highest by some considerable margin has some risks as discussed in the closed version of this report. Accordingly there may be some risk in accepting their offer and protection of a time limit for exchange has been put in place to ameliorate this risk as indicated in the closed report. Case law supports the notion that the requirement to obtain the best consideration that can be reasonably obtained is not confined to the highest offer made, but the highest deliverable offer. Accordingly if the cabinet is satisfied that the disposal to the under bidders in the order listed in the report is for the best consideration reasonably obtainable and represents good value for money in the circumstances where the preferred bidder is not able to deliver it may also approve the recommendation for the offers from the under bidders to be accepted in the circumstances envisaged by the report
41. The cabinet is also advised that the council also has wide general powers under Section 2 of the Local Government Act 2000 which allows a local authority to do anything it considers is likely to achieve the promotion or improvement of the economic, social or environmental well being of its area or the residents of that area. This would allow the council to enter into the overage agreement with the

preferred bidder referred to in paragraph 25 of the report

### **Strategic Director of Finance and Corporate Services**

42. This report proposes that cabinet approve the disposal of the council's freehold interest in The Grange (Sites C2 and C4) Bermondsey Spa SE1, with the capital receipt supporting the council's accommodation strategy.
43. The strategic director for finance and corporate services understands that the council will endeavour to obtain best market value for these properties. Minimal rental income is currently received for these properties and, due to the short term nature of the leases this has not formed part of the council permanent revenue budget.
44. Reasonable costs associated with the disposal will be met from receipts and officer time to implement this decision will be contained within current resources.

### **Director of Planning**

45. The proposed site layout is acceptable in principle, however there are outstanding concerns regarding the height and massing of the scheme. It is considered that these issues are resolvable by reducing the height, although this would result in the loss of residential units based on the current floor plan. In general, the scheme would need to be reduced in height overcome the current concerns. If the height and massing is adequately amended, based on the current site layout the scheme in principle could be supported.
46. Based on the information provided, the proposed housing mix and tenure would be acceptable in principle, in accordance with planning policy. The internal space standards and private amenity space provision for each residential could not be assessed due to the level of information provided in the bid. The proposal should accord with Southwark's Residential Design Standards SPD 2011. The bid proposes 35% affordable housing on site, which is acceptable in accordance with Strategic Policy 6 of the Southwark Core Strategy. In accordance with policy, the amount of affordable housing should be calculated by habitable room. The bid proposes a tenure split of 70:30 between the social rented: intermediate tenures, which is acceptable in accordance with saved policy 4.4 in the Southwark Plan 2007. The bid confirms the overall housing mix would be policy compliant with 24% of units with 3 bedrooms or more, and 77% of units with 2 bedrooms or more in accordance with Strategic Policy 7 of the Southwark Core Strategy. The bid confirms that 10% of the total units would be wheelchair accessible and each have a dedicated on site wheelchair accessible car parking space. This is acceptable in accordance with saved policy 4.3 of the Southwark Plan 2007, providing the units are designed to the South East London Housing Partnership guidelines.

47. Based on the submitted housing mix, the bid has allocated S.106 contributions as referred to in the closed version of this report, which are likely to be sufficient in accordance with Southwark's S.106 contributions toolkit.
48. The bidder has included a calculation for the proposed Southwark CIL (based on the draft consultation Feb 2013).
49. If the Southwark CIL has been adopted at the point of determining an application and is charged, only site specific S.106 toolkit contributions would be required in addition (e.g. employment during construction (*can be provided in lieu*), transport site specific, public realm, archaeology), which would amount to the approximated costs indicated in the closed version of this report. The allowance made by the bidder is therefore likely to be sufficient based on the current proposed scheme.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

## APPENDICES

No.	Title
Appendix 1	Site and Location Plan

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Richard Livingstone, Finance and Resources and Community Safety	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Fahad Nakendo, Surveyor- Bermondsey Spa Regeneration	
<b>Version</b>	Final	
<b>Dated</b>	13 June 2013	
<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>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Director of Planning	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	13 June 2013	