

Item No.	Classification: Open	Date: 05 February 2019	Meeting Name: Strategic Director of Place and Wellbeing
Report title:		Southwark Regeneration in Partnership Programme Lot A4– Former Cherry Garden School, SE16 – Disposal of Lease and Acquisition of Sub lease	
Ward(s) or groups affected:		South Bermondsey	
From:		Director of Regeneration	

RECOMMENDATION(S)

That the Strategic Director of Place and Wellbeing authorises

1. The Head of Property and the Director of Law and Democracy to grant, on practical completion of the proposed scheme, a 250 year lease at a peppercorn rent, in the former Cherry Garden School, Macks Road SE16 to Higgins Homes Plc to deliver 56 new homes of which there are 18 social rented council homes and a residual land offer to the council of £1,200,000.
2. The Head of Property and the Director of Law and Democracy to grant a building lease to the developer at contract award stage.
3. The Head of Property to enter in to a 250 year less one day sub lease in the social rent units, to be granted on practical completion of the development. The sub lease to be at a peppercorn rent.
4. Notes that the council will receive a total benefit of £6,726,000 consisting of 18 social rented units, reimbursement of preparation costs of £126,196, and a land offer of £1,200,000, which, in total, is approximately £1,726,000 greater than if the land was sold on the open market with an estimated value of £5,000,000. (see paragraph 22-table 3)

BACKGROUND INFORMATION

5. Cabinet agreed on the 27 January 2015 to the creation of the Southwark Regeneration in Partnership Programme (SRPP). This programme will now be consolidated into the council's New Homes Programme. The aim of the programme was to identify a number of council owned sites of varying size and development potential, which could be packaged into individual lots presenting viable opportunities for development and regeneration. These sites could be developed for a range of mixed use schemes, including housing, which would maximise the utility and value of these assets by leveraging the investment and expertise of established developers through a joint partnership.
6. In March 2016 the council ran a tender for Lot A and Lot B of the SRPP using the GLA Framework. The Gateway 2 approved by Cabinet in September 2016 recommended a developer for Lot B it also reported that no development partner had been identified for Lot A. This was due to developers believing that the sites

needed further risk reduction, perceived market risks related to Brexit and an unwillingness to bid for lots containing larger sites.

7. Following further viability assessment and market intelligence, Lot A was divided into 6 sub lots (A1, A2, A3, A4, A5 and A6 as shown in Table 1) and on 21 March 2017, Cabinet approved the procurement strategy (Gateway 1) to secure developers for a repackaged Lot A through the OJEU Competitive Procedure with Negotiation Route with an estimated total Gross Development Value of £278,300,000. It was agreed that successful bidders would enter in to a development agreement with the Council committing to the delivery of the proposed scheme, subject to planning. In accordance with the development agreement, and on receipt of planning consent, the development partner is to be given licence to deliver the consented scheme. On practical completion the proposed 250 year lease will be granted to the developer with a sub lease of 250 years less one day being granted back to the Council for the social rent units. Table 1: Sites in Lot A

Lot A	Site Name
Lot A1	Braganza Workshops, 42 Braganza Street, SE17 Former council offices & retail premises, Manor Place/Stopford Road, SE17
Lot A2	Former Albion Civic Centre, Albion Street, SE16 Land at Albion Primary School, Albion Street SE16
Lot A3	345 Southwark Park Road, SE16
Lot A4	Land at Cherry Gardens School, Macks Road SE16
Lot A5	Beormund School site at Long Lane (95 Units) and New Beormund School to be developed at the Former Bellenden School site on Reedham Street
Lot A6	South Dock Marina, Boatyard, Plough Way SE16 (201 units). This lot was later removed from this procurement programme and will now be considered in the next programme as part of Lot C or another procurement or development route.

8. In March 2017 Cabinet approved the delegation of the award decision in the Gateway 2 reports for lots A1-A4 inclusive to the Chief Executive in consultation with the cabinet member for regeneration and new homes.
9. In September 2018, the regeneration department was no longer part of the Chief Executive Department and became part of the Place and Wellbeing Department that was created.
10. The disposal of this site has been authorised by the Leader who has given notice of the variation to the executive scheme of delegation allowing the decision for the disposal of the site to be taken by the Director for Place and Wellbeing rather than the requirement that this would need to be confirmed by Cabinet.
11. On 15 January 2019, following a competitive tender process, the contract award of Lot A4 to Higgins Homes Plc was approved by the Strategic Director of Place and Wellbeing (Gateway 2).

KEY ISSUES FOR CONSIDERATION

12. This report relates to the land at Cherry Gardens Site SE16, Lot A4, (site map attached as Appendix 1) which has an estimated total Gross Development Value of £20,815,815 and will deliver:

- 56 new homes of which 36.2% will be council owned (all social rent) and an additional 14.7% will be intermediate based on habitable rooms (Table 2 breaks this down by tenure and bed size and notes that the split by units equates to 32.2% council owned units and 16.1 % intermediate units); Intermediate units consist of 80% of market rent, London Living Rent or Shared Ownership units.
 - a land receipt of £1,200,000
 - Council's preparatory costs of £126,196
 - A potential for overage payment at 50.1% of sales above the agreed projected sales at bid stage, less projected sales costs and indexed build cost; no overage is payable if the expected sales receipt at bid stage is not realised.
 - The council's preparatory cost of £126,196 will be paid by the developer on completion of the lease.
 - Fourteen apprenticeships. All apprentices will be on a recognised course and work to an apprenticeship framework.
13. In addition to the above, the scheme will also deliver private sale homes which will be marketed to Southwark residents in the first instance and this scheme will benefit from plots which fall into the government Help To Buy Scheme which will assist the sales rate.

Table 2: Lot A4 Accommodation Schedule- Cherry Garden Land

	Council Retained units	Intermediate	Private Developer's units	Total
1 Bedroom	4	5	11	20
2 Bedroom	7	2	14	23
3 Bedroom	5	2	4	11
4 Bedroom	2	0	0	2
Total Units	18	9	29	56
Percent (%) by habitable Units	32.2%	16.1	51.7	100
Total Habitable Rooms	59	24	80	163
Percent (%) by habitable room	36.2%	14.7	49.1	100

14. Planning permission has not yet been obtained, and the developer will be responsible for submitting the planning application with the council's approval. The bid is based on the developer providing the minimum social and intermediate housing units, as stated in recommendation 1 and the land offer of £1,200,000. The Development Agreement states that a satisfactory planning application is an application agreed between the developer and the council to deliver the tenure mix agreed at bid stage. No Planning Application (including without limitation any resubmission substitute or additional application) amendment drawings or any other document or thing shall be submitted to the Local Planning Authority without the prior approval of the Council such approval not to be unreasonably withheld or delayed.
15. The DA prevents the developer from selling the site to a third party because they would only have received a building lease from the council to build to a "satisfactory" planning application agreed between the council (regeneration department) and the developer. The building lease will be granted at contract

award stage and the Development Lease will be granted on completion of the construction of the development.

Key/Non Key decisions

16. This report deals with a key decision.

Policy implications

17. The programme has been shaped by the promises and commitments made in the Council Plan, such as building more quality affordable homes of every kind and revitalising our neighbourhoods making them places in which we can all be proud to live and work.

Community impact statement

18. Under the Equality Act 2010's Public Sector Equality Duty (PSED) as a public body we must have due regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation
- b. Advance equality of opportunity between different groups
- c. Foster Good relations between different groups

19. Preliminary consultation to capture the needs and priority of displaced or impacted groups as a result of the development proposal has been undertaken. Groups engaged under the council's statutory consultative procedures so far have focused on two distinct communities (geographical communities and community of identity) consultees have been internal stakeholders and residents that lived or accessed services at Cherry Garden. The feedback from the consultation will now form part of the design and stakeholder input in the delivery of the project.

20. The next stage of engagement to fully meet obligations under the Equalities Act 2010 are as follows:

- Provide an in-depth equality data collection and analysis
- Data collection processes will incorporate households and businesses in the vicinity of the site.

20. Residents were consulted as part of the planning application as follows:

- As part of the SRPP consultation strategy the following consultations events were conducted for Cherry Gardens Primary School.
- First consultation held 22 July 2015
- Second consultation 15 February 2016 – Online consultation
- Additionally statutory consultation was undertaken under the section 77 process, as such
- 6 April 2016 Section 77 notices issued (Southwark Newspaper)
- 25 April 2017 – Section 77 Statutory consultation letters to head teachers issued (for the disposal areas within 0.5 - 1 mile radius).

21. It should be noted that the proposed lease and sub lease will not be granted until practical completion of the scheme. Therefore at the time of grant the lease any PSED issues would have been satisfactorily resolved

Financial implications

22. Section 123 of the Local Government Act 1972 permits the council to dispose of (most types of non-housing) land without the Secretary of State's consent providing that this is done for not less than the best consideration that could reasonably be obtained. If the land was sold on the open market, the estimated value is £5,000,000. The contract has been awarded under a competitive tendering process and the net benefits, which are estimated to be £6,726,000, exceed the estimated open market land value. The overriding aim of this disposal is to develop new council homes for social rent, which will be achieved. The table below provides a breakdown of the net benefits to the council.

Table 3: Benefits Summary

Recoverable cost	£126,196
Financial land offer	£1,200,000
18 social units at £300,000 *per unit based on recent comparative costs from developers on the SRPP Lot A programme, and the cost to deliver a social unit by the council's Direct Delivery Team	£5,400,000
Total Benefit	£6,726,196

23. In addition, the council may receive additional payments by way of overage based on the values achieved on the sales of the private units. The agreed sales overage payment to the council will be 50% of sales revenue received above the developer's projected total sales of the private units and the valuation of the unsold units, less projected sales cost not exceeding 5%. This will be calculated 12 months after practical completion of the development or upon early termination/expiry of the Development Agreement and paid within 20 working days. In the event that the sales revenue does not exceed the agreed sales revenue at bid stage no overage will be payable to the council.

24. The net capital returns from the appraisals have not taken into account any grant input or planning and sales overage. GLA and Housing Zone Grant may be available to subsidise the scheme costs. The estimated grant for the 18 social rental units is £720,000 which will be payable to the council from the GLA to subsidise the council's scheme cost. The council will be responsible for applying for the social housing grant and the developer will be responsible for the intermediate housing grant.

25. The financial offer for the land of £1,200,000 will be paid no later than the sale of the first private unit is achieved. The residual land offer of £1.2 is a condition of the contract and if the developer decides to rent the private units or is unable to sell the private units, the £1.2m still has to be paid within 12 months of the completion of the private units. There is also provision in the Development Agreement that overage will still be payable if the developer decides to rent the private units based

on an independent valuation of the properties. The council's preparatory costs of £126,196 will be paid by the developer upon the date of completion of the building lease at contract award stage.

Investment implications

26. The scheme has been competitively tendered on the open market via the OJEU and the council undertook a series of detailed negotiations and clarifications during the procurement process to ensure that the scheme is de-risked and reduce the development risks significantly. The residual land offer to the council is also a fixed sum of £1,200,000 as well as the payment to the council a significant amount of the council's preparatory costs of £126,196 and 50.9% affordable habitable rooms which includes 18 social rented units.
27. The final submission from Higgins Homes Plc that now forms part of this report meets with the council's requirements in terms of the number of 1, 2 and 3 bed units which is in compliance with Southwark's Planning Guidance and also ensures that the proposed development mix was based on habitable room basis and not just by unit numbers as shown in Table 2 above.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M18/095)

28. This report recommends the disposal of land at the former Cherry Garden school site to Higgins Homes Plc through a 250 year lease. In exchange for the land, the council will receive 18 new council homes for social rent with an estimated value of £5.4m together with a land receipt of £1.2m and reimbursement of its preparation costs. The benefits the council is due to obtain from the disposal exceed the open market value of the land, which is estimated to be £5m, and the financial implications section sets out how best consideration has been achieved. Further benefits may accrue from GLA grant towards the cost of the development and the possibility of overage from the sale of private homes. The delivery of new homes will contribute towards the council's ambitious plan to deliver 11,000 new homes by 2043.

Director of Law and Democracy

29. The proposal is for the Head of Property to authorise the grant of a 250 year lease to Higgins Homes in respect of the former Cherry Garden School, Macks Road. The proposal is outlined at paragraph 7 of the report and the intention is to deliver 56 new homes of which 18 will be social rented unit.
30. Higgins Homes have been selected after a procurement exercise. The disposal of this site has been authorised by the Leader who has given notice of the variation to the executive scheme of delegation allowing the decision for the disposal of the site to be taken by the Director for Place and Wellbeing rather than the requirement that this would need to be confirmed by Cabinet.

31. The Council has the power to dispose of land which is not held for housing purposes in accordance with section 123, Local Government Act 1972 provided that the consideration is the best that can be reasonably obtained. This is effectively confirmed by paragraph 22 of the report.

32. The report also refers to the Public sector Equality Duty and paragraphs 18 to 21 outline the steps which have been taken in order to discharge this.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature  Date...19/02/2019.

Designation .Prof..Kevin.Fenton..Strategic.Director.of Place and Wellbeing

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
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2. REASONS FOR DECISION
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3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
None

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
Not applicable

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

Not applicable

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Title of document(s) Gateway 1 Procurement Strategy Approval Southwark Regeneration In Partnership Programme	Regeneration/ Place and Wellbeing	Prince Kamanda 0207-525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\Reports\Report Gateway 1 - Procurement Strategy Approval Southwark Regeneration in Partnership Programme Pr.pdf		
Title of document(s) Gateway 2 SRPP Procurement Approval Cabinet Report	Regeneration/Place and Wellbeing	Prince Kamanda 0207-525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\LOT A\A4 Contract Award\GW2OPEN Southwark Regeneration in Partnership Programme Lot A4.pdf		

APPENDICES

No	Title
Appendix 1	Cherry Gardens School OS Map.pdf

AUDIT TRAIL

Lead Officer	Kevin Fenton
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Report Author	Prince Kamanda	
Version	FINAL	
Dated	05 February 2019	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Director of Law and Democracy	Yes	Yes
Cabinet	NA	NA
Date final report sent to Constitutional/Community Council/Scrutiny Team		