

LONDON BOROUGH OF CROYDON

REPORT:	Cabinet
DATE OF DECISION	24th May 2023
REPORT TITLE:	Annual Asset Disposal Plan 2023/24 and Lease Renewals and Rent Review Settlements for Various Commercial Properties'
CORPORATE DIRECTOR / DIRECTOR:	JANE WEST, CORPORATE DIRECTOR OF RESOURCES AND S151 OFFICER
LEAD OFFICER:	HUW RHYS LEWIS INTERIM DIRECTOR COMMERCIAL INVESTMENT & CAPITAL
LEAD MEMBER:	COUNCILLOR CUMMINGS, CABINET MEMBER FOR FINANCE
KEY DECISION?	Yes – Financial Implication Criteria - over £1m KD Number: 3723EM
CONTAINS EXEMPT INFORMATION?	Public with exempt Appendix 2 Grounds for the exemption: Exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 and the public interest in withholding disclosure outweighs the public interest in disclosure.
WARDS AFFECTED:	VARIOUS

1 SUMMARY OF REPORT

- 1.1 To set out the recommendations and actions to be taken to approve an Annual Assets Disposal Plan (AADP) for the financial year 2023/24 with a target disposal value of a minimum £50m. The report also seeks approval to delegate the authority to approve the terms for all lettings, leases and rent review settlements to the Corporate Director Resources and S151 Officer.
- 1.2 This will provide the necessary flexibility to respond in a more commercial way to offers that are received both for freehold sales and letting of surplus space following proper

marketing of the assets over the course of the year without the need to have further approvals through the formal Cabinet process.

2 RECOMMENDATIONS

For the reasons set out in the report [and its appendices], the Executive Mayor in Cabinet is recommended:

- 2.1** To approve the Annual Assets Disposal Plan (AADP) for the financial year 2023/24, which includes lettings and re-lettings, as set out in Appendix 1 of this report together with indicative values in Appendix 2 (exempt appendix).
- 2.2** To delegate authority to the Corporate Director of Resources and s151 Officer to agree the terms and final price for each disposal included within the AADP.
- 2.3** To delegate authority to the Corporate Director of Resources and S151 Officer, in consultation with the Cabinet Member for Finance and Executive Mayor, to agree any variance to the list of proposed disposals.
- 2.4** To delegate authority to the Corporate Director of Resources and s151 Officer to agree terms for all lettings, leases and rent review settlements for all Council assets.
- 2.5** The delegations in this report shall only be exercised following:
 - i. sign off of a business case by the Corporate Management Team (CMT) including full financial assessment;
 - ii. formal Red Book valuation, if required on a property to be sold; and
 - iii. formal marketing unless there is a clear special purchaser or offer made considerably in excess of the market value.
- 2.6** To note that the target value for disposals for 2023 /2024 is a minimum of £50m.
- 2.7** To note that progress against the AADP and any variations, shall be reported to Cabinet annually.
- 2.8** To approve a re-drafting of the Financial Regulations to reflect the proposed decision-making changes relating to Assets, set out in this report (and any clarifications thereto), to be reported to the Constitution Working Group with a view to seeking recommendations from the General Purposes Committee and/ or the Cabinet Member for Finance and the Executive Mayor in Cabinet for onward recommendations to Full Council.

3 REASONS FOR RECOMMENDATIONS

- 3.1** The Asset Management Plan and Disposal Strategy Cabinet paper in November 2022 set out a rationale for dealing with the Council's assets to help reduce costs through adjusting to current service delivery requirements, ensuring the best and most economic use of assets whilst still delivering the key services for residents.
- 3.2** To ensure that the Council can achieve the required asset disposals to help support the financial requirements in line with the MTFS. Allowing the terms and price to be agreed through the delegations requested, will allow swift decisions to be taken and enable the Council to compete in a more commercial manner reducing the risk of delaying the acceptance of any offers and securing both capital and revenue receipts at the earliest opportunity.

4 BACKGROUND AND DETAILS

- 4.1** A list of potential disposals was put forward as part of the earlier November Cabinet paper. During the intervening period further assets have been added to the potential disposals list. This list has now been broken down into Property/ asset types.
- 4.2** To address the need to dispose of assets in a timely fashion to reduce borrowing requirements as part of the MTFS, it is recommended that a more commercially proactive approach is adopted for future disposals. This can be achieved through the adoption of an Annual Assets Disposals Plan (AADP) containing a list of assets with indicative values and recommendations regarding the disposal, with the decision regarding the agreed terms being delegated to the Corporate Director of Resources and s151 officer in consultation with the Executive Mayor where necessary.
- 4.3** The details contained within the AADP allows Cabinet to have sight of and approve the 2023/2024 plan and to also note the wider disposals list from which some assets may be substituted where appropriate to maintain the necessary programme in line with MTFS.
- 4.4** By adopting this approach, the Corporate Director of Resources and s151 officer will be able to respond in a more commercial way to any disposal opportunities as they would be able to respond to offers far quicker and bidders would have more confidence knowing that the broader disposal parameters had already been approved by the Cabinet member for Finance and the Executive Mayor in Cabinet.
- 4.5** It is therefore proposed that a delegated decision can be made for any disposal on the following basis:
- The sign off of a business case by the Corporate Management Team (CMT) including full financial assessment.
 - A formal Red Book valuation is undertaken if required on property to be sold.

- The property must be formally marketed unless there is a clear special purchaser or offer made considerably in excess of the market value.
- An annual update on the AADP to be brought to Cabinet detailing all disposals and lettings and the achieved price.

- 4.6 In line with the adopted Disposal strategy, ward councillors (as well as the Executive Mayor and Cabinet Member for Finance) will be informed of any changes to the approved AADP.
- 4.7 Under the current Constitution, any lettings or rent reviews where the total rent over the life of the lease is in excess of £500k, this needs to be approved at Cabinet. Given the additional level of delay, and risk of not being able to secure a letting, it is requested that the terms for any letting of surplus space and any rent review settlements are also delegated to the Corporate Director of Resources and s151 officer. The principle of releasing surplus space in buildings such as Bernard Weatherill House and maximising income from assets has already been established through the adoption of the Asset Management Plan.
- 4.8 The delegation of such approval will permit more certainty and allow the benefits of any increased revenue to be secured as quickly as possible. This is essential given the very challenging market at present where undue delay could lead to the failure to secure a letting.
- 4.9 For all properties that have a current lease in place, the sale will be subject to that lease to provide the existing tenants with certainty for the remaining period of the lease. They will also be contact prior to the formal marketing of any property to ensure that they understand the process and give them an earlier opportunity to consider whether they would like to bid for the property. Any sale will, however, follow a process to ensure best consideration is achieved. Where there is an outstanding lease renewal this will be completed prior to any marketing where this is considered appropriate.
- 4.10 In respect of the Coulsdon (CALAT car park) and New Addington sites were we have been in discussion with the NHS for the provision of new health facilities, we will continue to work with them as preferred partners. The sites will only be offered to the wider market once they have confirmed that they no longer want to acquire the sites for new healthcare provisions.

5. CONSULTATION

The Scrutiny and Overview Committee have been consulted prior to the submission of this report by the issue of the draft disposals programme.

Professional agents, auctioneers and RICS Registered Valuers to be consulted to ensure that the most appropriate marketing and values can be achieved for the disposal of any asset in the open market.

Prior to any disposal, consultation with appropriate Improvement and Assurance Panel members, service leads and Directors where necessary as well as CMT and ward councillors will have taken place.

Where appropriate, consultation with planning officers will be undertaken to provide additional information when marketing properties with any substantial development opportunities.

Any required statutory consultation for particular disposals will be undertaken, where relevant.

6. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 6.1 The disposals are required to support the requirements of the MTFs through the reduction in capital borrowing and annual revenue costs. The cost of holding and running assets is second only to staffing costs and therefore it is important to ensure that they are used in the most cost-effective manner. By adopting a more flexible disposal process, assets will be able to be sold in a more commercial and timely fashion. With continued uncertainty within the wider macro-economic climate this is becoming increasingly important to allow the Council to compete within the wider commercial disposals market. It has been demonstrated from some of the earlier disposals, that any delays can lead to purchasers trying to reduce initial offer prices and, in some cases, withdraw from the sale.

7. OPTIONS CONSIDERED AND REJECTED

- 7.1 Do nothing – this was rejected since it would not deliver benefits and savings to the Council's MTFs and wider requirements of the Improvement and Assurance Panel.
- 7.2 The approval of an annual asset disposal programme through Cabinet with likely price ranges and summary details will ensure transparency and offer the opportunity to consider individual asset disposals. The detailed terms around each sale or letting and the final price will only be agreed as part of the subsequent negotiations and the requested delegations will provide the necessary commercial flexibility to secure the best possible outcome, which is becoming increasingly necessary to secure purchasers and tenants in the current market.

8. CONTRIBUTION TO COUNCIL PRIORITIES

- 8.1 The disposal of assets will help deliver a key objective within the Mayors Business Plan:

Balancing the Books: One of the main priorities is to get a grip on the finances and make the Council financially sustainable. With the Council still reliant on Government support to stay afloat, getting a grip on the finances is a top priority. This will mean difficult but necessary decisions to make the Council financially sustainable for the future.

To do this we will:

- Deliver the savings in the Medium-Term Financial Strategy and increase our income.

- Reduce council debt by selling or letting more council assets and repaying capital loans.

The Sale and letting of assets will help deliver increased income through the rental received and wider cost savings in addition to the capital receipts.

9. IMPLICATIONS

9.1 FINANCIAL IMPLICATIONS

- 9.1.1 Historic decisions regarding the capital programme mean that the Council's outstanding General Fund debt is disproportionately high compared to most councils. The revenue cost of financing that debt represented 14% of the Council's original 2022/23 net budget when most councils are in the range of 5-10%. General Fund debt in April 2022 was £1.3bn and with interest rates rising when debt is scheduled for re-financing, the development of a disposal and lettings strategy and the subsequent sale of assets is essential to mitigate rising cost pressures and reduce the overall cost to the Council.
- 9.1.2 As part of each disposal plan the financial assessment will include the impact of the disposal on any loss of rental income alongside the impact on borrowing costs and MRP provision against each disposal site.
- 9.1.3 Approved: Alan Layton, Interim Head of Service, Finance on behalf of the Corporate Director of Resources and S151 Officer

9.2. LEGAL IMPLICATIONS

- 9.2.1 The Head of Commercial Property and Law comments on behalf of the Director of Legal Services & Monitoring Officer that:
- 9.2.2 There are various powers the Council may rely upon to dispose of its assets and the Council must comply with legal framework, including established public law principles, in relation to disposal of land and property. Under Section 123 of the Local Government Act 1972, it has a statutory duty to sell land at the best price reasonably obtainable ("best consideration"), unless it has the consent of the Secretary of State and subject to exceptions set out in the General Disposal Consent (England) 2003. Each individual disposal decision will require an analysis of the Council's legal powers to dispose of the relevant piece of land and any other legal requirements prior to disposal, such as any consultation requirements or other restrictions relevant to the particular asset.
- 9.2.3 Where land or property is used to deliver services, the Council must take a decision on changing or maintaining its existing service provision before disposing of assets that are used to provide these services. This could engage the public law duty to consult service users and other affected stakeholders.
- 9.2.4 It is government policy that local authorities should dispose of surplus and under-used land and property wherever possible. Under the Local Government Transparency Code 2015, the Council is required to publish details of land/property which it has declared surplus to requirements or deems to be under-used.

- 9.2.5 The Executive Mayor has the power to exercise executive functions pursuant to s9E of the Local Government Act 2000 and has the power to delegate those functions. This report seeks relevant delegations to exercise executive functions. At present the delegations in the Financial Regulations have been superseded by the Executive Mayor's Scheme of Delegation following the introduction of the Mayoral Model. As such, both the Mayor's Scheme of Delegation and the Financial Regulations will require updating in order to reflect the recommended delegations in this report, if approved.
- 9.2.6 The Council's Financial Regulations are contained within the Council's Constitution. As such, any amendments to these Regulations will need to be approved by Full Council in accordance with Article 15 of the Constitution: *"changes to this Constitution shall only be approved by the Full Council after consideration of written proposals made by the Mayor, Cabinet, General Purposes Committee or Monitoring Officer and the submission of a recommendation to a meeting of the Council. Changes approved by the Council shall take effect from the conclusion of the meeting at which those changes are agreed unless the recommendation specifies otherwise"*.
- 9.2.7 The General Purposes Committee approved the setting up of a Constitution Working Group (meeting of 29th September 2022, item number 4) and the scope of their review includes the following specific changes: Part 4.H – Financial Regulations 2022 - General review and update in light of recent governance reviews and reports. As such, any amendments to the Financial Regulations should be considered by the Constitution Working Group in the first instance, for onward recommendations to Full Council.

Approved by Kiri Bailey, Head of Commercial & Property and Law on behalf of the Director of Legal Services & Monitoring Officer

9.3. HUMAN RESOURCES IMPLICATION

- 9.3.1 There are no immediate Human Resources implications arising from the content of this report. Should matters arise in respect of individual disposals these will be managed under the Council's HR policies and procedures and as part of the decision process for each recommended disposal.

(Approved by Gillian Bevan Head of HR Resources on behalf of the Director of Human Resources)

9.4 EQUALITIES IMPLICATION

- 9.4.1 An Equalities Impact Assessment (EQuIA) has been undertaken and is included as an appendix in the cabinet papers. The EQuIA reveals that there is no direct negative impact on those protected groups. The council remains committed to tackling inequality, recognising that there can be no fair society if some groups remain disadvantaged because of their protected characteristic. This principle also applies to how we procure services. The council expects its service providers to adhere to the

same principles of complying with the Public Sector Equality Duty ensuring that the services we procure are both fit for purpose and represent value for money.

Approved by Barbara Grant on behalf of Denise McCausland, Equality Manager.

9.5 ENVIRONMENTAL IMPACT

9.5.1 There are no significant implications or risks to be considered. It is likely that, following disposal, properties will be redeveloped or refurbished which will enhance their building performance.

9.6 CRIME AND DISORDER REDUCTION IMPACT

9.6.1 There are no significant implications or risks to be considered at this stage. The impact of individual disposals will be considered at the time and included within separate reports.

9.7 DATA PROTECTION IMPLICATIONS

WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'? - NO

HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED? - NO

(Approved by: Steve Wingrave on behalf of the Interim Director of Commercial Investment and Capital)"

10 APPENDICES

Appendix 1 Annual Asset Disposal Plan (Part A)

Appendix 2 PART B Annual Assets Disposal Plan with indicative values

Appendix 3 Equalities Impact Assessment (EQulA)

11 BACKGROUND DOCUMENTS

Asset Management Plan and Disposal Strategy

CONTACT OFFICER: Huw Rhys Lewis **Interim Director Commercial Investment and Capital**