

## LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>Cabinet</b>
<b>DATE OF DECISION</b>	<b>6 December 2023</b>
<b>REPORT TITLE:</b>	<b>Progress update on tranche 1 asset disposals, seeking approval for tranche 2 of asset for disposal and approval of the update of the Community Asset Transfer Policy. PART A</b>
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>JANE WEST, CORPORATE DIRECTOR OF RESOURCES AND S151 OFFICER</b>
<b>LEAD OFFICER:</b>	<b>HUW RHYS LEWIS INTERIM DIRECTOR COMMERCIAL INVESTMENT &amp; CAPITAL</b>
<b>LEAD MEMBER:</b>	<b>COUNCILLOR CUMMINGS, CABINET MEMBER FOR FINANCE</b>
<b>KEY DECISION?</b>	<b>Yes – Financial Implication Criteria - over £1m. Key Decision 7923EM – Decision incurs expenditure, or makes savings, of more than £1,000,000 or such smaller sum which the decision-taker considers is significant having regard to the Council’s budget for the service or function to which the decision relates.</b>
<b>CONTAINS EXEMPT INFORMATION?</b>	<p style="text-align: right;"><b>PART A Public</b></p> <p><b>Appendix 1 Schedule of tranche 2 of proposed properties for disposal</b></p> <p style="text-align: center;"><b>Appendix 2 Equalities Impact Assessment (EQIA)</b></p> <p><b>Appendix 3 Amended Draft Community Asset Transfer (CAT) Policy covering premises related support to the Voluntary, Community and Faith Sector</b></p> <p style="text-align: right;"><b>PART B – Exempt</b></p> <p style="text-align: center;">Public with exempt Part B report</p> <p><b>Grounds for the exemption:</b> Exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 as it relates to the financial or business affairs of any particular person (including the authority holding that information) and the public interest in withholding disclosure outweighs the public interest in disclosure.</p> <p style="text-align: center;"><b>Appendix 1 Schedule of tranche 2 of proposed properties (with current book values) for disposal</b></p>
<b>WARDS AFFECTED:</b>	<b>VARIOUS</b>

## **1 SUMMARY OF REPORT**

- 1.1** The Council's challenging financial position requires it to review its assets regularly and only hold those assets in its ownership that are vital for service provision. The Council has existing targets for asset sales of £45m in 2023-24, £50m for 2024-25 and £50m for 2025-26. By increasing or bringing forward asset sales, further financial savings can be achieved within the Council's annual budget by using the capital receipts achieved to repay the Council's outstanding borrowing which in turn reduces its annual debt charges.
- 1.2** This report provides an update on progress on asset disposals against the tranche 1 schedule of properties as listed in the approved May 2023 Cabinet report. Part B of this report sets out the financial details in relation to tranche 1.
- 1.3** The report goes on to seek approval to dispose of tranche 2 of properties as listed in this report with a target disposal value of £24.8m. Part B of this report sets out the estimates sales and book values of the sites in question.
- 1.4** The tranche 1 and tranche 2 disposals schedules replace the Annual Assets Disposals Plan approved by Cabinet in November 2022.
- 1.5** A final tranche 3 disposals list is anticipated in 2024/ 2025 which is likely to identify further sites for disposals. These further sites are likely to be identified once service-based reviews have been completed as well as the review of the potential wider use of Town Hall space, which forms part of the ongoing Croydon Campus review.
- 1.6** Finally the report sets out a draft updated Community Asset Transfer (CAT) policy for the Council and recommends that a consultation is held prior to the policy being adopted. The Executive Mayor remains committed to supporting CATs where appropriate and will develop and publish a schedule of properties which may be eligible for CATs in due course. The draft updated policy aims to streamline and clarify the process for Community Asset Transfers in the borough.

## **2 RECOMMENDATIONS**

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

- 2.1** To note the progress made on tranche 1 disposals.
- 2.2** To approve tranche 2 of sites for disposals as set out in Appendix 1 of this report together with indicative values in Appendix 1 (exempt appendix) of the Part B report.

- 2.3 To delegate authority to the Corporate Director of Resources and s151 Officer to agree, in consultation with the Executive Mayor and Cabinet Member for Finance, the terms and final price for each disposal included within tranche 2.
- 2.4 The delegations in this report shall only be exercised following:
- i. sign off of a business case/ financial assessment by the Corporate Management Team (CMT)
  - 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.
- 2.5 To note that the target value for disposals for tranche 2 is £24.8m and that disposals of tranche 2 assets will commence immediately alongside tranche 1 disposals.
- 2.7 To seek approval to commence consultation with the Voluntary Community and Faith Sector (VCFS) on the proposed amendments to the Community Asset Transfer (CAT) Policy set out in paragraphs 4.15 to 4.21 and to delegate authority to the Corporate Director of Resources and S151 Officer, in consultation with the Executive Mayor and Cabinet Member for Communities and Culture, to approve a final amended CAT Policy (Draft in Part A Appendix 3) having considered the feedback provided through the consultation with VCFS organisations.

### **3 REASONS FOR RECOMMENDATIONS**

- 3.1 The tranche 2 disposal list supports the requirements of the Department for Levelling Up, Housing and Communities (DLUHC) and the Improvement and Assurance Panel through the generation of capital receipts to facilitate a reduction in capital borrowing and associated annual revenue borrowing costs in line with the requirements of the Exit Strategy, recently published by the Improvement and Assurance Panel.
- 3.2 The disposal of assets in a timely fashion will reduce borrowing requirements as required by the Council's MTFs. The more commercially proactive approach for future disposals recommended in this report will assist the delivery of the required asset sales by delegating authority to officers to agree final terms so that sales are not held up with a need to return to Cabinet.
- 3.3 The decision in the 2021/22 Budget to end the Rent Subsidy and Discretionary Rate Relief (DRR) schemes, as well as the requirement for an increased number of asset disposals, have led to the Community Asset Transfers (CAT) policy needing to be amended. As a result, it is recommended that the Council consult on the draft amended policy which reflects the new circumstances of the Council and provides increased clarity to Voluntary, Community and Faith Sector partners on the process.

## 4 BACKGROUND AND DETAILS

- 4.1 The Council has an underlying General Fund debt of £1.4billion. One of the key focus areas for Council is to reduce this debt by seeking to dispose of non-essential assets and property held by the Council.
- 4.2 A list of potential disposals was put forward as part of the Medium-Term Financial Strategy 2023/24 to 2025/26 Update report to Cabinet in November 2022. Subsequently further assets were added to the potential disposals list culminating in the tranche 1 list of disposals which was approved by Cabinet in May 2023. Further work has been undertaken over the summer to review all assets held by the Council which has resulted in the tranche 2 disposals list which is recommended for approval in Appendix 1 Part A (and Appendix 1 of the Exempt Part B report which includes indicative values).
- 4.3 Tranche 1 has been recently reviewed and on the basis of progress to date the total value of the tranche is estimated to be £91m.
- 4.4 Tranche 2 is estimated to total £24.6m.
- 4.5 Tranche 3 will be developed over the coming months by reviewing remaining surplus operational properties that are identified through service reviews. It is anticipated this tranche will be submitted for Cabinet approval in summer 2024.
- 4.6 For all properties that have a current lease in place, the sale will be subject to the terms of that lease continuing in order to provide the existing tenants with certainty for the remaining period of the lease. All existing tenants will be contacted prior to the formal marketing of any property to ensure that they understand the process and give to them an early 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.
- 4.7 In order to determine what additional assets the Council could potentially dispose of, the Council established an Asset Disposal and Property Transformation Board. This Board has oversight on all property and asset matters across the Council including;
- Disposals
  - Community hubs
  - Libraries service review
  - Community and Family Hubs
  - CAT opportunities
  - Operational Properties (Corporate Landlord Function)

This was to ensure that all disposal opportunities were captured across the Council.

- 4.8 This Board, supported by the in-house property team, undertook asset reviews in order to identify all possible disposal opportunities.
- 4.9 The sites in tranche 2 are more complex than those in tranche 1 as the Council moves on from 'easy wins' to the more challenging disposals, which in some case require decants and relocation of some tenants and council staff. The complexity and therefore the level of risk is likely to increase yet further as the Council moves into tranche 3 in 2024.
- 4.10 The financial summary of progress is set out below by financial year.
- **2021-22**,  
Sales completed = **£47.5m**  
Including Croydon Park Hotel (£24.9m) and College Green (£22m).
  - **2022-23**  
Sales completed = **£22.26m**  
The Council agreed the sale of Taberner House site which is opposite Bernard Weatherill House (BWH) for the sum of **£20.26m** with a deferred payment received in December 2022.
  - **2023-24 (Forecast)**  
Sales completed to date = **£0.82m** (from tranche 1)  
Under offer = **£51.66m**  
Forecast for the year - **£52.48m minimum**
- 4.11 In addition, further assets from tranche 1 valued at £21.67m are currently being marketed.
- 4.12 The total value of disposals completed to date since the date of government intervention in 2021 is £72.9m. Other capital receipts are available to the Council e.g., from the sale of investments and from loan repayments from Brick by Brick. The Council over-achieved its £50m target for 2022-23 capital receipts and is similarly expecting to exceed the target of £45m for 2023-24. It has further targets of £50m for 2024-25 and £50m for 2025-26. Good progress is being made to achieving these future targets and a further update will be provided as part of the Council Tax Setting papers in February and March 2024.
- 4.13 By bringing forward the commencement of tranche 2 disposals – which would start immediately after Cabinet approval (subject to due diligence and any required consultation) and run in parallel with tranche 1 proposals – the Council is accelerating its delivery of asset sales. This change of approach aims to achieve the completion of tranche 1 and tranche 2 disposals by the end of March 2025. This approach increases the opportunity for the Council to reduce its borrowing costs, increasing its delivery of savings in 2024/25 and 2025/26.

- 4.14 Professional agents, auctioneers and RICS Registered Valuers are already engaged and providing advice on tranche 1 disposals and this involvement will continue into tranche 2 disposals, to ensure that the most appropriate marketing and values can be achieved for the disposal of any asset in the open market.

### **UPDATED COMMUNITY ASSET TRANSFER (CAT) POLICY**

- 4.15 The Council has a Community Asset Transfer Policy (CAT) which sets out the process for the transfer of land or buildings from the Council to Voluntary Community and Faith Sector (VCFS) organisations. The existing CAT policy was adopted in 2020 at a point where the Council's governance and financial challenges were less well understood. The policy included significant focus on the now expired 2019-2023 VCS Strategy and the Rent Subsidy and Discretionary Rate Relief (DRR) schemes, both of which were ended as part of the 2021-22 Budget.
- 4.16 The Council undertook considerable engagement with the Voluntary, Community and Faith Sector prior to the natural end of the three-year Community Fund grant funding, which ran from March 2020 to March 2023.
- 4.17 As part of these discussions VCFS organisations raised points about the impact of the withdrawal of the Rent Subsidy and Discretionary Rate Relief (DRR) schemes and the corresponding impact on CATs.
- 4.18 Since 2013 the Council has completed 7 CATs to local VCFS organisations including Harlow Hall and Croydon Youth Theatre Organisation. Currently there is one application (Play Place Wayside) in the process of being legally transferred and a further application on Shirley Community Centre under consideration. Officers are also in early negotiations on possible lease arrangements with VCFS organisations on Coulsdon Community Centre and Rowdown playing field pavilion.
- 4.19 The Executive Mayor remains committed to supporting CATs where appropriate and will develop and publish a schedule of properties which may be eligible for CATs in due course. For now, it is imperative that the CAT policy is amended to enable the Council to meet its asset disposal target in line with DLUHC's and the Improvement and Assurance Panel's expectations as set out in the published Exit Strategy. The Council's medium term financial strategy requires asset disposals to generate the capital receipts that will reduce the Council's borrowing requirement.
- 4.20 The draft amended CAT policy also includes an updated CAT application process which has been strengthened to ensure that applicants are able to demonstrate a clear business plan. This must include funding proposals covering a 3 -5 year period and set out the viability, sustainability and deliverability of the proposal without

recourse to reliance on Council grant funding or business or rent relief allowances. The draft policy for consultation also removes the presumption of a peppercorn rent for CAT properties, with rents for each CAT individually assessed taking into account:

- the geographical location of the property;
- the current and proposed use of the property and its ability to support the Council's core policies;
- the physical condition of the property;
- the scale of obligations on the tenant to be fully responsible for all property repair and maintenance;
- and, the business case submission and funding proposal from successful applicants.

4.21 Given the impact on the VCFS, consultation will be undertaken with the sector on the proposed changes to the CAT Policy. This paper seeks approval to commence consultation with the VCFS to these proposed changes.

## **5. CONSULTATION**

5.1 The Improvement and Assurance Panel and DLUHC have been consulted on the approach being taken by the Council in managing the asset disposal programme and approach.

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

5.3 The report was taken to Scrutiny on November 21<sup>st</sup>, the notes below set out points discussed.

### **Actions**

The Scrutiny & Overview Committee agreed the following actions arising from their discussion of this item: -

1. The Committee agreed that any future reviews of the asset disposal process would look to test that the engagement process with tenants had improved.
2. That a meeting with officers is arranged for the Deputy-Chair, Cllr Ben Hassel to receive an update on the lease length of tenants and discuss how the disposal of golf courses was treated.
3. The Committee requests to be provided with a summary of the outcome from discussions with existing tenants about their lease options.

### **Conclusions**

Following its discussion of the report on Asset Disposals and the Community Asset Transfer Policy the Committee reached the following conclusions:-

1. The Committee concluded that the Council's financial position meant that reducing its debt was essential and as such recognised that the disposal of the assets identified in tranche 2 would contribute towards this priority.

2. The Committee acknowledged that the timeline for notifying tenants of those properties listed for disposal in tranche 2 had been shortened to allow Scrutiny the opportunity to review the report before its consideration by the Mayor at Cabinet on 6 December and welcomed the apology given by the Mayor to those tenants it had not been possible to contact before the report was published.
3. The Committee welcomed confirmation that there would be forthcoming conversations with the tenants in properties listed for disposal, about their lease options.
4. The Committee welcomed confirmation that it was likely the list of properties available for Community Asset Transfer would be available before the end of the year.
5. The Committee welcomed confirmation that additional capacity had been brought into the team managing the asset disposal process to speed up the pace of disposal.

### **Recommendations**

Following its discussion of the report on Asset Disposals and the Community Asset Transfer Policy, the Committee agreed to submit the following recommendations for the consideration of the Mayor: -

1. The Scrutiny & Overview Committee recommends that existing tenants should be made aware of an asset being identified for potential disposal before any report identifying assets is published.
- 5.4 Consultation with the VCFS will be undertaken ahead of a final decision being taken on the draft CAT policy as set out at recommendation 2.6.

## **6. OPTIONS CONSIDERED AND REJECTED**

- 6.1 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 and DLUHC to deliver debt reduction by the Council. The CAT policy would still require amendments due to the removal of peppercorn rent and the need for business cases as part of the submission process.

## **7. CONTRIBUTION TO THE EXECUTIVE MAYOR'S BUSINESS PLAN**

- 7.1 The disposal of assets will help deliver a key objective within the Executive Mayor's 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.

## **8. IMPLICATIONS**

### **8.1 FINANCIAL IMPLICATIONS**

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 servicing debt represented 16% of the Council's 2021-22 core spending power (and is estimated at 19% for 2023-24) when the median figure for English Councils was 8%. General Fund debt at April 2023 was £1.4bn 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.

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

Approved: Andrew Lord on behalf of the Corporate Director of Resources and S151 Officer

### **8.2. LEGAL IMPLICATIONS**

- 8.2.1 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.
- 8.2.2 Where land includes open space, the Council must place an advertised notice in a newspaper circulating in the area for two consecutive weeks and must consider any objections received, pursuant to Section 123 (2A) of the Local Government Act 1972.
- 8.2.3 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.
- 8.2.4 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.
- 8.2.5 The report proposes to consult the Voluntary Community and Faith Sector (VCFS) organisations on proposals to amend the Community Asset Transfer (CAT) policy. The law has recognised that there are four main circumstances where a duty to consult may

arise. First, where there is a statutory duty to consult. Second, where there has been a promise to consult. Third, where there has been an established practice of consultation. Fourth, where, in exceptional cases, a failure to consult would lead to conspicuous unfairness. In the circumstances, the Council has previously undertaken consultation with the VCFS regarding the current CAT policy and has therefore established a practice of consultation.

- 8.2.6 The key features of a lawful consultation process, commonly referred to as the “Gunning” requirements are set out in R v Brent LBC ex part Gunning (1985) 84 LGR 168 QBD. These principles require that consultation should:
- a) be undertaken at a time when the relevant proposal is still at a formative stage;
  - b) give sufficient reasons for particular proposals to permit for intelligent consideration and an intelligent response;
  - c) give consultees adequate time for consideration and response; and
  - d) the product of consultation must be conscientiously taken into account when finalising any proposals.
- 8.2.7 In carrying out any consultation pursuant to recommendations in this report and prior to any final decision, the Council should follow the Gunning principles set out above.
- 8.2.8 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 Executive Mayor’s Scheme of Delegation and the Financial Regulations will require updating in order to reflect the recommended delegations in this report, if approved.
- 8.2.5 Approved by Kiri Bailey, Head of Commercial & Property and Law on behalf of the Director of Legal Services & Monitoring Officer 27/10/2023

### **8.3. HUMAN RESOURCES IMPLICATION**

- 8.3.1 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 and Assistant Chief Executives Directorates on behalf of the Chief People Officer) 16.10.2023.

### **8.4 EQUALITIES IMPLICATION**

- 8.4.1 An Equalities Impact Assessment (EQulA) has been undertaken and is included as an appendix in the Cabinet papers. The EQulA 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.

8.4.2 On the CAT programme Equalities Impact Assessments will be undertaken on a case-by-case basis subject to applications being approved.

Approved by Naseer Ahmad for the Equalities Manager. (17/10/2023)

## 8.5 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: Huw Rhys Lewis Interim Director of Commercial Investment and Capital)"

## 8.6 PROCUREMENT IMPLICATIONS

8.6.1 There are no implications or risks to be considered at this stage. The procurement of the any selling/ marketing agents or advisors used by the Council has been done using public procurement compliant frameworks.

Approved by Scott Funnell Head of Procurement (27/10/2023)

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

## APPENDICES

**Appendix 1 Schedule of tranche 2 of proposed properties for disposal (Part A)**

**Appendix 2 Equalities Impact Assessment (EQulA) (Part A)**

**Appendix 3 Amended Draft Community Asset Transfer (CAT) Policy covering premises related support to the Voluntary, Community and Faith Sector (Part A)**

**Appendix 1 Schedule of tranche 2 of proposed properties (with current book values) for disposal (Part B)**

## **BACKGROUND DOCUMENTS**

**None**