

LONDON BOROUGH OF CROYDON

REPORT:	OFFICER DELEGATED KEY DECISION	
DATE OF DECISION	18th September 2024	
REPORT TITLE:	41 Malcolm Road, Coulsdon Croydon CR5 2DB – Asset Disposal PART A	
CORPORATE DIRECTOR / DIRECTOR:	Jane West - Corporate Director of Resources and Section 151 Officer	
LEAD OFFICER:	Huw Rhys-Lewis – Interim Director of Commercial Investment & Capital	
LEAD MEMBER:	Councillor Jason Cummings - Cabinet Member for Finance	
DECISION TAKER:	Jane West - Corporate Director of Resources and Section 151 Officer	
AUTHORITY TO TAKE DECISION:	Delegated Authority to the Corporate Director of Resources and S151 Officer to agree the terms and final price for each disposal included within the initial tranche of the Assets Disposal Plan	
KEY DECISION?	Yes	Key Decision (2124RES) – 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
CONTAINS EXEMPT INFORMATION?	YES	Public with exempt Part B report Grounds for the exemption: 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.
WARDS AFFECTED:	Coulsdon Town	

1 SUMMARY OF REPORT

- 1.1** This report recommends the disposal of the freehold of 41 Malcolm Road (the Property). The objectives for the disposal were to secure maximum receipts, achieve bids preferably on an unconditional basis with the lowest possible transactional risk and to target capital receipts with the preferred bidder as quickly as possible in order for the Council to reduce its outstanding debt. SHW undertook a full open market process. A transparent and clear process was provided for parties to undertake their due diligence to ensure considered bids. SHW received 4 offers.
- 1.2** Details of the offers received, and the marketing report are included within the confidential Part B report, as this is exempt information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972 (as amended), 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.

2 RECOMMENDATIONS

For the reasons set out in the report the Corporate Director of Resources and Section 151 Officer is recommended:

- 2.1** To approve the disposal of the freehold interest in the Property to the party named and for the consideration stated in the confidential Part B report.

3 REASONS FOR RECOMMENDATIONS

- 3.1** The disposal of the Property supports the requirements of the Ministry of Housing and Communities and Local Government (MHCLG formerly DLUHC) through the reduction in capital borrowing and annual revenue costs and the requirements as set out in the Improvement and Assurance Panel's Exit Strategy. Further commercial reasons for the disposals are included in the Part B report. The recommended offer for acceptance represents best consideration. 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. A business case/feasibility assessment for the disposal is included within the confidential Part B report.

4 BACKGROUND AND DETAILS

- 4.1** The Property is let to the Epsom and St Helier University Hospitals NHS Trust, which in turn is underlet to Renal Services (UK) Ltd, on a 25 year full repairing and insuring lease, expiring 11th August 2047. The Property was let with a rent commencement date of 4th January 2025. Rent reviews are CPI linked, commencing 4th January 2025 and every fifth anniversary thereafter. There are mutual break clauses on 12th August 2037 and 12th August 2042. The lease has security of tenure under the Landlord and Tenant Act 1954. The Local Authority is the London Borough of Croydon.
- 4.2** The Property comprises a single storey building which is currently used as a dialysis centre, extending to a Gross Internal Area of approximately 8,147 sq ft (757 sq m).
- 4.3** The Property extends to an approximate area of 0.76 acres (0.308 hectares).

- 4.4** SHW commenced the marketing of the Property in January 2024 and on 28 February 2024 produced a marketing report with the bids received.
- 4.5** As a result of this process, there were 49 bids of which 4 were non-qualifying as seeking to purchase the Property with the adjoining Coulsdon Centre Car Park (Chipstead Valley Road).
- 4.6** On 21st March 2022, Cabinet approved the disposal of the Property. The disposal of the Property would enable the Council to reduce its debt and overall running costs to support the requirements of the MHCLG. More detailed commercial aspects supporting the need to dispose of the Property are included in the Part B Report.
- 4.7** On 24th May 2023, a decision by the Mayor in Cabinet was taken to approve the Annual Assets Disposal Plan (AADP) and to delegate authority to the Corporate Director of Resources to agree the terms and final price for each disposal included in the AADP. This delegation allows swift decisions to be taken and enables the Council to progress disposals 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. This enables the Council to achieve the required asset disposals to help support the financial requirements in line with the Medium-Term Financial Strategy (MTFS).
- 4.8** The exercise of the delegated authority by the Corporate Director of Resources requires the following action to have been undertaken:
- 4.9** The sign off of a business case by the Corporate Management Team (CMT) including full financial assessment.
- 4.10** A formal Red Book valuation is undertaken, (if required) on property to be sold.
- 4.11** The property must be formally marketed unless there is a clear special purchaser or offer made considerably in excess of the market value.
- 4.12 **Business Case and Full Financial Assessment****
- The business case and full financial assessment is set out in the Part B report and will be considered by CMT prior to a decision. This includes a financial case for the disposal, timing, the method of disposal, the impact risks for disposal, valuation explanation and market assessment.
- 4.13 **Red Book Valuation and Market Assessment****
- 4.14** In relation to a Red Book valuation, this is not required due to the nature of the Property as the value of the Property is dictated by the interest in the market and offers made at the time of marketing. A full market exercise was undertaken which attracted significant interest and 49 final offers of which 4 were for the Property and the adjoining car park thus considered to be non-compliant. The offer recommended for approval represents best consideration.
- 4.15** The Property has been thoroughly marketed through commercial disposal agents, SHW, delivering several options from interested parties with varying offers, timescales and conditions. Attached as Appendix 1 is the property marketing brochure prepared by SHW and the SHW Marketing Report is appended to the confidential Part B report as Appendix 3. The objectives for the disposal were to secure maximum receipts, achieve offers that were on an unconditional basis with the lowest possible transactional risk and to target capital receipts with the preferred bidder as quickly as possible in order to reduce the Council's debt.

- 4.16** SHW undertook a full open market process with a transparent and clear process for parties to undertake their due diligence to ensure considered bids. The details of the marketing strategy are set out in SHW Marketing report. The marketing process involved full and final offers. There were 4 potential purchasers, and an analysis of the offers has been undertaken by SHW, as set out in their Marketing Report, which has resulted in the proposed buyer being secured.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1** No disposal of the Property – the business case for disposal is set out in the Part B report. As set out above, the overall aim of the approved Corporate Asset Management Plan and the AADP is to reduce costs of retained corporate assets used for the delivery of services and to maximise revenue generation. This disposal is required to meet those aims and enable the Council to achieve the required asset disposals to help support the financial requirements in line with the MTFs.
- 5.2** No disposal of the Property at this time – the Council’s current financial pressures and need to deliver savings means that not selling the Property at this time would impact on the opportunity to reduce its debt balance. Reducing the Council’s debt balance is a requirement from the MHCLG and the government appointed Improvement and Assurance Panel as part of the ongoing discussion on options for securing ongoing financial sustainability for the Council.
- 5.3** No disposal of the Property to the recommended bidder - an assessment of bids is included within the SHW Marketing Report and further explained in the Part B report. The recommended offer for approval represents best consideration.

6 CONSULTATION

- 6.1** Consultation has taken place with the Mayor and the Cabinet Member for Finance in respect of the proposed disposal. CMT are due to consider the business case for disposal before a decision is made.

7 CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1** The disposal of assets will help deliver a key objective within the 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 MTFs and increase our income.
- Reduce council debt by selling or letting more council assets and repaying capital loans.

- 7.2** The disposal of assets will help deliver increased income through capital receipts and wider cost savings from estate voids.

8 IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

See Part B report.

8.1.1 Comments approved by James Huggett Finance team on 31st July 2024

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 the legal framework, including established public law principles, in relation to disposal of land and property. Under Section 123 of the Local Government Act 1972, the Council has the power to dispose of land and 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.

8.2.2 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. The Executive Mayor in Cabinet approved the Annual Asset Disposal Plan on 24th May 2023 (item no. 12). The Executive Mayor delegated authority to the Corporate Director of Resources and s151 Officer to agree the terms and final price for each disposal included within the Annual Asset Disposals Plan, subject to approval of a business case by CMT.

8.2.3 Comments approved by Kiri Bailey Head of Commercial, Housing & Litigation and Deputy Monitoring Officer, on behalf of the Director of Legal Services & Monitoring Officer on 19 August 2024.

8.3 EQUALITIES IMPLICATIONS

8.3.1 Under the Public Sector Equality Duty of the Equality Act 2010, decision makers must evidence consideration of any potential impacts of proposals on groups who share the protected characteristics, before decisions are taken. This includes any decisions relating to how authorities act as employers; how they develop, evaluate and review policies; how they design, deliver and evaluate services, and also how they commission and procure services from others.

8.3.2 Section 149 of the Act requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.

8.3.3 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.

8.3.4 An Equalities Impact Assessment (EQIA) is not necessary for this sale and therefore there is no direct impact on those protected characteristics.

8.3.5 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.

8.3.6 Comments approved by Ken Orlukwu, Senior Equalities Officer, on behalf of Helen Reeves, Head of Strategy & Policy on 07/08/2024.

8.4 OTHER IMPLICATIONS

8.4.1 There are no Personnel, Human Resources, Customer Impact, Equalities, Environment and Design, Risk Assessment, Human Rights, considerations arising from this report.

9 APPENDICES

9.1 Part A Appendix 1 – 41 Malcolm Road, Coulsdon Croydon CR5 2DB – SHW Brochure

10 BACKGROUND DOCUMENTS

10.1 Cabinet report of 21st March 2022 - Cabinet approved the disposal of 41 Malcolm Road, Coulsdon Croydon CR5 2DB.

10.2 Cabinet report of 24th May 2023 – Tranche 1 Asset Disposal Plan 2023/24 and Lease Renewals and Rent Review Settlements for Various Commercial Properties'

11 URGENCY

11.1 The decision is time sensitive as draft terms have been agreed by both parties working towards a position to exchange contracts imminently, with a completion set for 20 working days thereafter. If the decision is delayed, we are at risk of the buyer trying to renegotiate the purchase price, or potentially withdrawing from the transaction.