



City of Westminster

Meeting or Decision Maker:

Cabinet Member Report

Cllr David Boothroyd

Cabinet Member for Finance & Council Reform

Date:

25 July 2022

Classification:

For General Release except for Appendix 1 which is exempt.

Title:

Disposal - 1, St Mary's Terrace, W2 1SU

Wards Affected:

Little Venice

Policy Context:

This decision supports securing a capital receipt that can be used to help deliver the Council's priorities.

Key Decision:

Yes

An entry has been included for 28 days on the list of forthcoming decisions

Financial Summary:

The sale of the property will generate a capital receipt for the general fund which can contribute towards delivery of the Council's priorities.

Report of:

Gerald Almeroth, Executive Director of Finance & Resources

1. Executive Summary

- 1.1** 1 St Mary's Terrace in Little Venice is one of a number of properties identified as surplus to the Council's service needs. The Council owns the freehold of the property. It is a vacant property; it was last occupied from early 2020 to January 2022 by NSL. NSL is contracted to provide parking enforcement services in the borough. NSL used 1 St Mary's Terrace for its local offices and staff administration until they vacated in January 2022. Various options for the future of the building have been considered and it was determined that the sale of the property represents the best option for the Council. A proposal to sell the property by way of inviting 'Best and Final Offers' (BAFO) was made in June 2022. If it proceeds the sale will generate a capital receipt which was not foreseen in the Council Capital Strategy at the time of the March 2022 Full Council report.
- 1.2** The marketing exercise undertaken by the Council's surveyors, Knight Frank LLP, demonstrated significant interest in the property, with initial bids of up to £3.575 million. The BAFO exercise resulted in 11 (out of 12) increased offers with the highest improving on the initial round of bids. The property sits within the general fund and therefore the capital receipt will be a general fund receipt. It will be used to benefit the whole of the capital programme (both in terms of financial and strategic benefits) in line with the Council's priorities.
- 1.3** This report sets out the offers received and provides a recommendation to proceed to disposal based on the most advantageous bid to the Council.

2. Recommendations

- 2.1** Appendix 1 is declared as exempt from publication as it involves the disclosure of information as prescribed by paragraph 2 and paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended), in that it contains information which is likely to reveal the identity of an individual, information relating to the financial or business affairs of any particular person (including the authority holding that information) and in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.2** The Cabinet Member is recommended to:
- (a) approve the disposal of 1, St Mary's Terrace to Mouskos LLP, for the sum not less than £3,600,000 (three million, six hundred thousand pounds) to the preferred bidder as set out in Appendix 1 and
- (b) delegate authority to the Director of Property and Strategic Asset Management to approve the heads of terms, legal documents and other documents required to put this disposal into effect.

3. Reasons for Decision

- 3.1** Following recommendation by Strategic Property Board in July 2021 and a Cabinet Member briefing on 21 March 2022, the Council's Head of Capital Programmes appointed an agent (Knight Frank LLP) to promote a disposal on the open market.

- 3.2** A guide price of offers above £3million was stipulated with initial offers received on the 1 June 2022. Following further review and briefing to the Cabinet Member on the 29 June 2022, BAFOs were received on the 4 July 2022.
- 3.3** The approval requested in this report is to progress the sale of 1 St Mary's Terrace to the preferred bidder as set out in Appendix 1; the report author confirms this will generate a capital receipt which was not foreseen in the Council Capital Strategy at the time of the March 2022 Full Council report.

4. Background, including Policy Context

- 4.1** 1 St Mary's Terrace is a three storey, end-terrace period building, situated in a residential neighbourhood, within Paddington Green conservation area. The property is not Listed but has been identified as an "...unlisted building of merit..", in a conservation area audit carried out by Alan Baxter & Associates, published in April 2003.
- 4.2** A number of options for the property have been assessed, uses considered and evaluated comprise:
- i. Retain & reuse. Discounted due to lack of defined future use and ongoing maintenance costs. There is no service demand for the property.
 - ii. Conversion to a commercial scheme/adaptation for alternative commercial uses. Discounted as sub-optimal financial return compared to a conversion of the building back into its original residential use.
 - iii. Adult Social Care. The site constraints, both size and design mean that it does not provide a strong option when compared to other sites which are currently being progressed to meet demand e.g., Lisson Arches.
 - iv. Residential development for private sale completed by the Council. Discounted due to the small nature of the scheme with only 6 units created. Significant risk due to exposure to build cost inflation and higher local authority costs.
 - v. Conversion for social or intermediate rent. Discounted due to the small nature of the scheme with only 6 units and exposure to build cost inflation risking the viability of the scheme. St Mary's Terrace is located near to the Church Street regeneration area which is better placed to meet the needs in the area.
 - vi. Temporary accommodation. Discounted due to the small nature of the scheme with only 4 units and exposure to build cost inflation risking the viability of the scheme.
- 4.3** Disposal on the open market achieves optimal financial return for reinvestment in Council priorities such as affordable housing whilst mitigating development risk and lack of financial return.
- 4.4** External solicitors acting for the Council, Trowers & Hamblins LLP, have been instructed to coordinate the Council's sale pack to include Heads of Terms and a Sale Contract. It is recommended that the sale pack requires contracts to be exchanged within two months of issue to the selected bidder, with completion thereafter.
- 4.5** Professional advisers Knight Frank LLP, recommended a guide price of £3,000,000 for the property in their marketing report of March 2022. The report author confirms to the Cabinet Member that the recommendation for a disposal on the terms set out in Exempt Appendix 1 of this report is for a value which is the best consideration reasonably obtainable.

5. Financial Implications

- 5.1** Details of the BAFOs received and preferred bidder are set out within Exempt Appendix 1.
- 5.2** Costs associated with the sale and marketing of the property will be deducted from the receipt. These are estimated as £75,000.
- 5.3** A full options appraisal has been undertaken on this property which has informed the decision to dispose. The receipt has not been budgeted for as part of the capital programme approved in March 2022, so will result in additional resource which can be targeted toward delivery of the Council's priorities.
- 5.4** The property is currently empty, so there will be no loss of rental income, however, expenditure is incurred annually for on maintenance and overheads. Once the property is sold, these costs will cease, leading to revenue savings of £30,000 per annum.

6. Legal Implications

- 6.1** The Council has a general power of competence under section 1 of the Localism Act 2011; this is the power to do anything an individual can do provided it is not prohibited by other legislation.
- 6.2** The Council has the power to dispose of property under section 123 of Local Government Act 1972 ("1972 Act"). The only constraint is that a disposal must be for the best consideration reasonably obtainable, except in the case of short tenancies. It is generally expected that land should be sold for the best consideration reasonably obtainable. Anything less than best value will require Secretary of State consent, unless the general consent applies.
- 6.3** At section 4.5 of this report the author confirms to the Cabinet Member that the value of the proposed sale represents best consideration reasonably obtainable. The Council is strongly advised to ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer. This will provide evidence, should the need arise, that the Council has acted reasonably and with due regard to its fiduciary duty.
- 6.4** Furthermore, under section 3 of the Local Government Act 1999 as a "best value" authority the Council has a 'best value' duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The sale of a property asset is an exercise of the Council's functions.
- 6.5** If the Cabinet Member approves the recommendations in this report, the Council may then proceed with the conveyancing transition required to sell the property. The onus will be on the successful bidder to undertake their own due diligence as part of this process; this is the standard position. In turn the Council shall rely on its own legal advice to ensure that the process and the documentation are appropriately drafted and seek to reduce risk for the Council.

7. Carbon Impact

7.1 As the property is unused and not in operation, there is currently considered no carbon impact and nor would the proposed sale affect the Council's commitment to becoming a carbon neutral council by 2030 and a carbon neutral City by 2040.

8. Consultation

8.1 A briefing note explaining the reasons and details relating to the sale of the property was circulated to Ward Councillors on the 13 July 2022. Councillors Caplan and Dean confirmed agreement by way of email response with no other feedback received.

9. Equalities

9.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination and advance equality of opportunity. The Council must further take into account its wider public sector equality duty under section 149 of the Equality Act 2010 when making decisions.

9.2 There are no direct equalities implications on this asset sale, and the report author confirms that due consideration has been given in progressing the proposals.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Beth McNeil bmcneil@westminster.gov.uk

For completion by the **Cabinet Member for Finance & Council Reform**

Declaration of Interest


I have no interest to declare in respect of this report

Signed:  Date: 25 July 2022
NAME: **Cllr David Boothroyd**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled 'Disposal - 1, St Mary's Terrace, W2 1SU' and reject any alternative options which are referred to but not recommended.

Signed: 
Cabinet Member for Finance & Council Reform
25 July 2022
Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.