

# LONDON BOROUGH OF NEWHAM

## CABINET

<b>Report title</b>	<b>Property Disposals (Asset Realisation) Plan</b>	
<b>Date of Meeting</b>	<b>February 2024</b>	
<b>Lead Officer</b>	<b>Giles Clarke Director of Property Sam Faulding Programme Director</b>	
<b>Corporate Director</b>	<b>Conrad Hall, Corporate Director of Resources</b>	
<b>Lead Member</b>	<b>Cllr Zulfiqar Ali Cabinet Lead for Finance and Resources</b>	
<b>Key Decision?</b>	Yes	Reasons: Investment decisions in excess of £1m
<b>Exempt Information &amp; Grounds</b>	Yes / No	Grounds: The appendix 1 to this report is exempt within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of the Council and other persons and in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information
<b>Wards Affected</b>	All	
<b>Appendices</b>	1.Schedule of assets – Exempt 2.Sales Methodology	

### Lead Member Introduction

This government has failed our nation and our local residents. Austerities since 2010, high inflation, high interest rates and the cost of living crisis , are all reflection of the failure of the present government's economic policies and incompetence. Local government is facing major funding crisis. The government has failed to undertake its much promised social care reforms. It has failed to review fair funding arrangements. The government Housing policy has led to a homelessness crisis in the country.

Local Government Association has called the current financial crisis faced by the Councils as "unthinkable". Our funding from government has been reduced by 17% during the last 13 years, equating to around £60m. This is when our population has increased resulting in increased demand on our services as well as causing a major Housing crisis. Newham has the largest temporary accommodation pressure in country. The shortage in housing supply market has resulted in over 6000 residents accommodated in temporary nightly accommodation. Despite this level of

unprecedented pressure, this government has failed to recognise this in its funding apportionment which resulted in no real increase in our share of the Homelessness Prevention Grant.

In order to produce a balance budget for 2024/25, this administration has worked hard to look at maximising opportunities for savings as well as considering growth in essential policy areas to service our residents and community. We have also assessed our existing asset base to identify appropriate assets which can be considered for disposal to support the budgetary needs for the coming financial year.

This report asks Cabinet to approve disposal of a number of Council owned assets. As report indicates these are assets which are not bringing sufficient income and are assessed as having no strategic value in terms of the administration's corporate priorities. Necessary due diligence has been undertaken by officers and it is considered appropriate and feasible to dispose these sites to raise additional funds to support the budget next year. It needs to be noted that this is the first phase of asset reviews and further reports will be presented to the Cabinet in due course as due diligence is completed.

I ask the Mayor and the Cabinet to approve recommendations contained in section 2 of the report.

## **1. Executive Summary**

- 1.1. The Council is considering the budget report and is on the same agenda. That report sets out the financial pressures that the Council faces and, amongst other things, recommends a disposal programme in order to provide funds to balance the budget.
- 1.2. The Council owns a large portfolio of land and property assets held for operational purposes or as investments often generating significant income.
- 1.3. In some instances, elements of the portfolio may be best sold if they do not provide the Council with a good financial return based on their current income or do not fit within the Council's corporate and strategic needs. The capital receipts generated from disposals can subsequently be used for other priorities.
- 1.4. Following a review of assets by Officers, this report provides an overview of the Council's investment portfolio and seeks approval on a disposals programme to support the Council's financial position.
- 1.5. This report specifically covers the proposed disposals and various operational matters associated with them. The wider financial implications are included within the budget report and not repeated here.

## **2. Recommendations**

For the reasons set out in the report and its appendices Cabinet is recommended to:

- 2.1. Agree that the assets listed in Exempt Appendix 1 should be disposed of, provided a suitable price can be obtained.
- 2.2. Delegate authority to Corporate Director of Resources, in consultation with the Lead Member for Finance and Corporate Services and the Director of Property to finalise the terms of the disposals set out in Exempt Appendix 1 in accordance with the terms set out Appendix 2.
- 2.3. Delegate to the Corporate Director of Resources, in consultation with the Lead Member for Finance and Corporate Services and the Director of Property authority to agree any non-material amendments as may be necessary to achieve suitable sales, including delegation to agree the price in accordance with paragraph 4.7 and to take all necessary actions to complete the freehold transfers, together with any necessary ancillary agreements.
- 2.4. Note that further due diligence will be carried out on other assets within the Council's portfolio, with a subsequent report to be presented to Cabinet ahead of any potential sales.
- 2.5. Approve the setting of a disposals budget as set out at Paragraph 4.8.
- 2.6. Delegate authority to the Corporate Director of Resources, in consultation with the Lead Member for Finance and Corporate Services, to approve any necessary procurement processes and to award of contract or contracts for legal and professional services to progress the relevant sales and as set out in paragraph 4.8.
- 2.7. Note the methodology to be taken on disposals as set in Exempt Appendix 2.

### **3. Background**

- 3.1. The Council, like many other local authorities are facing major financial challenges due to a combination of external economic conditions and the level of Central Government funding to support service delivery.
- 3.2. These financial challenges are seen most acutely with increased demand across services, particularly Adult Social Care, Children and Young Peoples Service and Temporary Accommodation.
- 3.3. Inflationary pressures alongside raising interest rates are also having a direct impact on the Council's ability to deliver capital programmes, such as housing delivery.
- 3.4. The Council is taking several measures to mitigate against budget pressures including revising capital spend across various programmes in the Council.

- 3.5. The Council owns commercial property and land assets within and outside of the borough. The proposed disposal programme outlined within this report and Appendixes will generate capital receipts that in turn can be used to relieve budget pressures, as outlined in paragraph 9.

#### **4. Proposals**

- 4.1. Officers have looked at all Council property investments and land holdings to identify assets that may be suitable for disposal, with those assets presented in this report being the first phase. These assets are identified based on their current income compared with the potential capital receipt if sold and the sale receipts likely to be achieved in the coming financial year.
- 4.2. Consideration has also been given to their strategic fit within the Council's wider portfolio. The sites identified are deemed as 'non strategic property' based on:
- It not adjoining other Council-owned land or property where there is potential for redevelopment.
  - A sale would have no impact on regeneration plans or the implementation of other Council policies and priorities e.g. the Stratford Vision and the Council has little or no short/medium term control of the use or occupation of the property. This would normally be where a tenant has a lease (or security of tenure) for more than 10 years.
- 4.3. This work aligns with a wider Property Strategy being prepared by the Director of Property which will be approved by Cabinet in due course.
- 4.4. The assets proposed for disposal in Exempt Appendix 1 are in priority order based on the capital receipt to be received and those where the sales are likely to be more straightforward.
- 4.5. Concentrating on smaller sites in the short term is likely to be the most productive as they are likely to have a higher demand from local investors, are generally less complex and therefore can be sold most quickly. They will also have the least impact on the Council's wider portfolio and so will not prejudice the forthcoming property strategy.
- 4.6. In conjunction to those sites outlined in Exempt Appendix 1, due diligence and provisional negotiations with relevant parties on the more complex sites will be worked on to ensure they are ready to market at the appropriate time and following the necessary approvals.
- 4.7. Officers will ensure the method of sale, such as private treaty or auction, best suits the asset in question and maximises the capital receipt for the Council. All sales values will be either supported by an independent valuation or a method of sale that meets the Council's statutory requirements under Section 123 of the Local Government Act 1972.

- 4.8. The Council is allowed to use up to 4% of a capital receipt to fund revenue disposal costs such as valuation, marketing, agency, and legal fees needed to bring about the sale of the asset. There will however sometimes be timing differences where disposal costs are incurred prior to the receipt being received in. In order to overcome this issue, a revenue budget will be required to fund these costs until such time as the receipt is received in, at which point the budget will be replenished from the receipt. This budget will be funded from an existing transformation reserve. These services will be procured in line with the Council's procurement guidelines, ensuring suppliers have the necessary experience and specialist skills needed for each asset disposal, whilst also ensuring best value for the Council.
- 4.9. This budget will ensure the Council generate the best capital returns and meet all governance requirements. The receipts generated from the proposed disposals will in turn fund this initial budget outlay.
- 4.10. The time to secure a best consideration capital receipt will vary dependent on the circumstances of different investment types and market conditions. Despite confidence in the assets chosen for disposal, it is important to note the current weak property market and the complexity of some of the potential transactions (notwithstanding para. 4.5 above), and that a reasonable period will be required to ensure the Council receives the best consideration reasonably obtainable rather than a lower price which would result from a forced-sale approach there is always risk assets identified for disposal may not sell due to market appetite or transactional difficulties. As the disposal programme progresses updates will be provided to Cabinet and approval sought for future phases.

## **5. Receipt projections**

- 5.1. The Appendix 1 lists potential assets to sell with estimated receipts. The receipts are valued assuming a willing seller exists and there is a market appetite to compete for new opportunities. The values assume sales will be unrestricted and should the Council wish to apply conditions this may impact significantly on sales returns.
- 5.2. If any of the assets listed in Exempt Appendix 1 cannot be sold in FY24/25 they will be substituted with similar assets to ensure the disposals target is achieved.
- 5.3. Caution must be exercised in relying on disposal receipt timings given the general economic uncertainties and the inherent uncertainty of the property market.

## **6. Delivering Council Policy and Corporate Priorities**

- 6.1. The sales receipts generated through this disposals programme will look to improve the Council's budget position and subsequently enable the Council to continue to invest in its core eight priorities, including Homes for Residents.

## **7. Alternatives Considered**

- 7.1. The proposed prioritisation of sales is based primarily on financial considerations, i.e. the income that would be lost compared with the capital receipt likely to be generated. An alternative approach would be to prioritise sales based on alternative criteria. This may include prioritising assets located outside of the borough or assets of a certain type e.g. retail or industrial premises. Such approaches would result in a lower financial benefit but would be more aligned to retaining a degree of influence over local economic activities.
- 7.2. Another approach would be to prioritise the sale of freehold interests where the Council has previously sold a long lease. In such cases, the Council has little influence of the use of a property and is unable to actively promote its redevelopment or improvement until the lease ends. This is typically at least 30 years away and often much longer. Similarly, the leaseholder has little incentive to invest in the property as it does not have long-term ownership. Selling its freehold interest would normally remove such barriers to development.
- 7.3. Both alternatives are realistic and very reasonable alternatives to the approach in this report and should be given consideration in reaching a decision. However, as stated in paragraph 4.5, the scale of sales proposed is insignificant compared to the Council's total property holdings and any future, more substantial, transactions will only be considered after the wider property strategy has been agreed.

## **8. Consultation**

- 8.1. Cllr Zulfiqar Ali, Lead Member for Finance and Resources- January 20224

## **9. Implications**

### **9.1. Financial Implications**

Asset Disposals generate Capital Receipts, which can be utilised in a number of ways to support the Council's financial position and form a key component of the Council's Capital Strategy as part of the overarching Medium Term Financial Strategy including to reduce or minimise borrowing and thereby minimise the resulting impact of debt repayment on the revenue position. In this instance the Council are looking to dispose of up to £25m of assets, as shown in Appendix 1.

The primary permitted use of Capital Receipts is to fund capital expenditure either which takes the form of:

- A source of funding of new capital expenditure such as the enhancement of existing assets or acquisition of new assets which

serves to minimise the amount of borrowing required to fund such expenditure

- paying down existing debt for prior capital expenditure to reduce the burden of debt financing on the revenue account.

The most financially advantageous mix of financing to fund the capital programme is determined by officers in line with the Capital and Treasury Management Strategies within the Budget which prioritises external funding sources such as grants, internal funding sources such as capital receipts, and then borrowing.

In addition, in 2016 Government temporarily introduced Flexible use of Capital Receipts to enable Local Authorities to fund revenue transformation projects, which has continued to be extended to this day. In 2022 the rules were amended to restrict the scope of this determination but the principle remains that receipts can only be utilised to fund one off revenue expenditure on transformational activity that will enable the realisation of recurrent revenue savings, plans for which must now be agreed in advance with the Secretary of State.

Government is currently consulting on enabling Local Authorities to utilise Capital Receipts much more flexibly and without seeking permission including the use of Capital Receipts to fund general revenue pressures such as those experienced in year and affecting future year's budget planning in Newham particularly in Social Care and Housing/Temporary Accommodation. As stated these proposals are subject to consultation but could significantly broaden the options to consider when seeking to generate and utilise Capital Receipts and support the Council's budget position – although clearly utilising capital receipts in this way is a short term solution as receipts are one-off whereas budget pressures are potentially recurrent.

When considering disposal of assets and subsequently the use of receipts from those sales, due consideration is given to the varying financial (capital and revenue) consequences to ensure decisions are informed to enable delivery of best value for the Council at that time for example:

- On disposal - weighing the value of the one off receipt from sale of the asset against the loss of long term revenue potential from the asset net of revenue expense of maintaining/operating the asset
- On utilising the receipt - testing the short and long term financial benefit of applying the capital receipt across available options

Marketing services to enable sale of assets will be procured following due process to ensure best value for the Council with due consideration of cost and quality of service.

Given the financial position of the Council a Clear Asset Disposal Strategy forms a core component in enabling the Council to deliver a balanced budget and fulfil its revenue and capital expenditure plans.

## **9.2. Legal Implications**

The Council has the power, pursuant to Section 123 of the Local Government 1972, to dispose of land subject to it being at best consideration. An independent valuation in respect of each disposal will have to be obtained to ensure compliance with the s123 duty.

The Council also has a wide “general power of competence” under Part 1, Chapter 1 of the Localism Act 2011, which gives it the same power to act as that of an individual subject to other statutory provisions limiting or restricting its use.

Further legal due diligence will also need to be carried out in respect of each disposal to ensure full compliance with all legal and statutory requirements.