

Slough Borough Council

REPORT TO: Cabinet

DATE: 21 November 2022

SUBJECT: Recommendations of the Cabinet Committee for Asset Disposals:

Disposal of Council Asset – Lavender Farm

PORTFOLIO: Councillor Rob Anderson
Lead Member for Financial Oversight and Council Assets

CHIEF OFFICER: Pat Hayes, Executive Director Housing and Property
Steven Mair, Executive Director Finance and Commercial (s151)

CONTACT OFFICER: Fin Garvey, Group Manager – Place Delivery
Peter Worth, Finance Lead Technical Advisor

WARD(S): All

KEY DECISION: YES

EXEMPT: Public with exempt appendices under paragraph 3 of Schedule 12A Local Government Act 1972 – Information relating to the financial or business affairs of the Council

DECISION SUBJECT TO CALL IN: YES

APPENDICES: 1 –Avison Young Disposal Report (13 October, 2022) outlining Marketing and Bidding.
Confidential Appendices:
2 – Avison Young – Asset Disposal Recommendation, 13 October, 2022
3 –Heads of Terms for Lavender Farm
4 - Independent valuation report for Lavender Farm
5 - Financial Implications

1. Summary and Recommendations

- 1.1. This report seeks approval for the disposal of Lavender Farm.
- 1.2. The proposed asset sale has been subject to a due diligence process and reflects the best consideration reasonably obtainable for the disposal of the asset in accordance with section 123 of the Local Government Act 1972. The asset sales will

generate capital receipts which will be applied to reduce borrowing and the Council's Minimum Revenue Provision (MRP).

Recommendations:

1.3. Cabinet is recommended to:

- a) Agree to the disposal of Lavender Farm and to delegate authority to the Executive Director of Property and Housing, in consultation with the Lead Member for Financial Oversight and Council Assets and the Executive Director of Finance and Commercial, to negotiate the terms of and enter into the contract and other legal documentation in connection with the disposal subject to the terms being consistent with the Heads of Terms appended at Confidential Appendix 3 and the information provided within this report.

Reason:

1.4. The early disposal of this significant asset is a key element of the Council's new Corporate Plan, which includes a strategic priority to be "a Council that lives within its means, balances the budget and delivers best value for taxpayers and service users." Agreement to the recommendations in this report will contribute to the reduction in the Council's future financial commitments, generate disposal receipts at the earliest opportunity and reduce the Council's borrowing and MRP. The proposed asset sale has been subject to a due diligence process and reflects best consideration reasonably obtainable from the disposal of the asset in accordance with section 123 of the Local Government Act 1972.

1.5. The disposal of this asset will enable the Council to simplify the property portfolio and enable the Council to focus on its core activities and services.

Commissioners Review

"Commissioners support the recommendation."

2. Report

Introduction and Context

Context

2.1. On 21 June 2021, Cabinet approved the Asset Disposal Programme which outlined the principles and process for disposing of surplus General Fund land and property assets to reduce borrowing costs. The report highlighted that the Council would seek to dispose of surplus assets to support the following objectives:

- Provide capital receipts to contribute to the 2022/23 budget through reducing MRP and borrowing costs; and
- Provide capital receipts to meet Capitalisation Directive commitments and align with the Medium-Term Financial Strategy (MTFS) to reduce overall borrowing costs.

2.2. The Asset Disposal Programme approved in June 2021 set out the following sequential steps for disposing of assets:

- Identify assets for disposal
- HB Public Law to produce detailed Reports on Title for each asset identified for disposal

- Asset valuation – obtain up to date independent valuations to provide a benchmark for assessing best consideration,
- Methods of disposal - take advice on the most advantageous method of disposal
- Officer Delegation – authorise the Executive Director (Place), subject to proper legal/valuation of advice to dispose of assets up to £1m in value after consultation with the S151 and Monitoring Officers.

2.3. In the context of the Lavender Farm disposal in this report:

- Avison Young (AY) have been appointed as external property advisors to assist with the identification of assets for disposal, marketing and advice on disposal methods;
- HB Public Law have produced a detailed Report on Title for the asset;
- An up to date independent valuation has been provided by the RICS registered valuers Wilks, Head and Eve LLP (WHE);
- AY have advised on the most advantageous method of disposal – in this case informal treaty;
- As the values are over £1million for each site, approval is being sought from Cabinet to dispose of the asset.

2.4. As part of the Council's budget setting process for 2022/23, the Council approved a Treasury Management Strategy (TMS) for the period 2022/23 to 2026/27 on 10 March 2022. A key element of the TMS is the need to reduce borrowing to bring the Council back onto a more sustainable financial footing.

2.5. The TMS includes a target to generate capital receipts from asset disposals of £50m in 2022/23 with an aspiration to realise £100m of receipts by 31st March 2023.

Asset Review

2.6. Following a detailed procurement exercise, Avison Young (AY) were appointed to support the delivery of the Asset Disposal Programme in March 2022. The appointment included advising on an asset disposal strategy and marketing of assets for disposal in a way that would secure the best consideration reasonably obtainable.

2.7. As the site is non-income producing, was not used for operational or service delivery, but could yield a high capital receipt it was agreed this should be brought to market as a priority to help alleviate Slough Borough Council's ("the Council") current financial burden.

The Asset

2.8. Lavender Farm was purchased in May 1966 using powers under the Local Government Act 1957. The purchase included Kalkingcroft Wood, what is now Bloom Park and the Goodman Park Housing Estate.

2.9. Heads of Terms have been agreed with a preferred bidder and will be ready to complete subject to approval of Cabinet.

Marketing

2.10. The site was marketed with a technical pack that included tenancy information, title information and an environmental report. The site was formally launched to

market on 16 July 2022 with a half page advert in the Estates Gazette. A marketing mailshot was sent out on 28 July 2022 to 1,795 developers, investors, and agents across the South-East. 953 unique parties viewed and interacted with the mailshot. A bespoke marketing brochure was produced and circulated to all parties on request. 152 expressions of interest were received.

- 2.11. Three inspection days were arranged on 9, 16 and 30 August 2022, and a number of parties viewed the site externally.
- 2.12. The site was well received by the market with many credible parties contacting AY and requesting more information concerning the sale. Interest was predominantly for residential, industrial and storage use.
- 2.13. In response to an initial bid deadline of 12 noon 13 September, 11 bids were received.
- 2.14. Appendix 1 provides AY's detailed report on the marketing process for the asset.

Valuation

- 2.15. The asset is held as an investment property in the Council's balance sheet and is revalued annually at fair value in line with accounting standards. Fair value measures the "highest and best" value in the most advantageous market for an asset (i.e. this method of valuation includes considering alternative uses for the asset as well as its current use).
- 2.16. The asset was valued at 31 March 2022 and the valuation was updated at 26 October 2022 to reflect current market conditions by WHE. The current valuation report is at Confidential Appendix 4.
- 2.17. This site is identified within the overall strategic review of Council assets and included within the Disposal Strategy approved by Cabinet on the 17th October, 2022. Advice from AY that informed the Disposal Strategy recommended the current timeframe for disposal to secure the current favourable has provided professional advice on the market conditions. and has recommended disposal of the asset.

Options considered

- 2.18. Option A - To retain the asset for future development. The site is a non-income producing site and the Council has no plan to develop this site, the current capital receipt is linked to the current market and given current economic pressures may lead to a fall in value. Whilst there is no borrowing associated with the asset, given that it is not generating an income or delivering services, it is a wasting asset.
- 2.19.
- 2.20. Option B - To dispose of the asset on the basis of the agreed Heads of Terms and subject to legal and valuation advice. This option produces a capital receipt which will support the Council's corporate priorities.
- 2.21. **Option B is recommended** to Cabinet for approval.

3. Implications of the Recommendation

Financial implications

- 3.1. As the property was acquired in 1966 it is fully funded, and there no borrowing outstanding in respect of the original purchase. The capital receipt generated will

be applied to reduce Council borrowing, thus reducing interest charges and minimum revenue provision on the Council's overall capital financing requirement. The detailed financial implications from disposing of this asset are reported in Confidential Appendix 5.

4. Legal implications

- 4.1. Pursuant to section 123 of the Local Government Act 1972 ("Section 123 LGA 1972"), the Council has the power to dispose of land in any manner it wishes, subject to certain provisions. The Council has a statutory duty to obtain the best price reasonably obtainable, subject to certain exemptions. Section 123(2) permits a disposal at less than the best price reasonably obtainable with the consent of the Secretary of State.
- 4.2. When considering the duty under section 123 LGA 1972, what is reasonable in any particular case depends entirely on the facts of the transaction.
- 4.3. Case law has determined that whilst there is no absolute requirement to market the land or obtain an independent valuation, if valuation evidence is obtained, it should be up to date and that there should not have been any material and significant changes in circumstances since it was obtained. In addition, obtaining proper professional advice throughout the process on how to maximise its receipts is a material consideration and the Council should limit itself to taking account of those elements of a transaction which are of commercial or monetary value and should disregard irrelevant factors such as "job creation" when assessing whether it is obtaining the best consideration reasonably obtainable. The deliverability or credibility of a bid are commercial factors which are relevant to an assessment.
- 4.4. The Council has employed Avison Young ("AY") as specialist property advisors to advise on an asset disposal strategy and to market and dispose of the asset identified for disposal.
- 4.5. Following a marketing exercise on the open market reported by AY in Appendix 1, the agreed offer price for Lavender Farm exceeds the latest valuation as at 26 October 2022 carried out WHE. AY have confirmed that the best and final offer sale price for the asset received by AY following a competitive disposal process exceeds both the valuation carried out on 26 October 2022 and this reflects best consideration reasonably obtainable in accordance with Section 123 LGA 1972.

5. Risk management implications

- 5.1. The recommendation required from Cabinet, as outlined in this report, is intended to improve the Council's financial position, by realising capital receipts which can then be used to repay Council borrowing from the existing high level and reduce debt servicing charges in the form of interest and minimum revenue provision (MRP) If the recommendations are not approved this will delay the Council being able to return to a financially sustainable position. – specific risks are summarised below:

Risk	Summary	Mitigations
Financial	Delay in realising capital receipts from assets sales will delay the Council's financial recovery	Cabinet to approve officers to proceed with the sales

Governance	Failure to obtain best consideration from the disposals could expose the Council to risk of legal challenge	The Council has employed external property advisors to manage and competitively market the properties, having access to wider markets than officers locally and has obtained up to date valuations for the sites for comparison purposes.
Legal	Failure to ensure legal title/deeds etc which could delay or halt sale Delay to contract negotiations	Legal title report obtained for this site. Bi-weekly monitoring of asset disposals by commissioners and officers
Governance	Failure to establish robust governance arrangements could expose the Council to risk of impropriety and legal challenge	The Council has established sound governance arrangements for asset disposals to ensure that the Council achieves best consideration from asset disposals
Reputational	Unable to agree a way forward causing delay to asset disposals and failure to deliver capital receipts within the timescales set out in the Debt Reduction/Asset Disposal Strategy	Governance, project management and decision-making operate effectively to deliver asset disposals on time and best consideration for the Council.

6. Environmental implications

6.1. No environmental implications have been identified as a direct result of this report.

7. Equality implications

7.1. The assets is not used for operational or service delivery. There are no identified equality implications with the disposal of these sites. By reducing the level of Council borrowing, the Council will reduce its MRP, which will reduce the level of savings required from services, albeit significant savings will continue to be needed. This is likely to have a positive impact on protected groups who are more likely to utilise the services of the Council.

8. Procurement implications

8.1. The appointment of Avison Young as the Council's external property advisors was secured in compliance with:

- The Public Contracts Regulations 2015
- Council Contract Procedure Rules, and
- Expenditure Control Panel requirements.

9. Workforce implications

9.1. No workforce implications have been identified as a direct result of this report.

10. Property implications

10.1. This report will directly impact on the Council's property holdings. Full details will be provided via progress reports to Cabinet.

11. Background Papers

11.1. None