

## Slough Borough Council

<b>Report To:</b>	Cabinet
<b>Date:</b>	20 November 2023
<b>Subject:</b>	Disposal of Site of Former Merry Makers PH, Langley
<b>Lead Member:</b>	Cllr Wal Chahal – Deputy Leader and Cabinet Member for Financial Oversight, Council Assets, Procurement, Revenue & Benefits
<b>Chief Officer:</b>	Pat Hayes - Executive Director Property, Planning & Housing
<b>Contact Officer:</b>	Mark Halligan – Property Director
<b>Ward(s):</b>	Langley Kedermister
<b>Key Decision:</b>	YES
<b>Exempt:</b>	Public with exempt appendix under paragraph 3 of Schedule 12A Local Government Act 1972 – Information relating to the financial or business affairs of the Council
<b>Decision Subject To Call In:</b>	Yes
<b>Appendices:</b>	1 – Avison Young – Asset Disposal Recommendation Report (exempt)

### 1. Summary and Recommendations

- 1.1 This report relates to a vacant site which has been marketed and seeks approval for disposal. There is some urgency to complete this sale, given the condition of the market and the nature of the asset, being an open land site, which is at significant risk of fly tipping and squatters and so call in provisions need to be waived.
- 1.2 The proposed Asset sale has been subject to an open competitive disposal process and reflects best consideration reasonably obtainable for the disposal of the assets in accordance with section 123 of the Local Government Act 1972. The asset sale falls under The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985 – 2013. The sale will generate capital receipts which will; as the asset sits within the Housing Revenue Account (HRA); benefit the HRA.

#### Recommendations:

Cabinet is recommended to:

- a) Agree to the Council sale of the site of Former Merry Makers PH, Langley with the bidder named in Appendix 1.

- b) Delegate authority to the Executive Director of Regeneration, Housing and Environment, 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 any associated documentation in connection with the disposal consistent with the disposal report and Heads of Terms appended at Confidential Appendix 1.

### **Reason for recommendation**

1.3 The disposal of the site of Former Merry Makers PH, Langley will contribute to the Council's Housing stock by generating capital receipts which will benefit the HRA and provide much needed funds to enable the delivery of maintenance and other works to the housing stock. The proposed asset sale has been subject to due diligence process and reflects best consideration reasonably obtainable for the disposal of the assets in accordance with section 123 of the Local Government Act 1972.

1.4 The disposal of such assets supports the priorities of the HRA to be able to provide suitable standards of housing within the Borough and to bring forward better quality housing stock by investing in older, less energy efficient, housing stock.

1.5 The disposal of such assets will enable the Council to simplify the property portfolio, enable the Council to focus on its core activities and services and ensure that it is not incurring unnecessary costs on securing vacant sites or incurring costs for clearing sites as a result of fly tipping.

1.6 This site was originally acquired by the Council with the intention of it being developed to provide housing. This proposal enables that objective to be met as it will be developed by the purchaser, who has already commenced the Planning process.

1.7 As part of the due diligence process the NHS were consulted; as previous development proposals has contained an element of healthcare service provision. It has been confirmed that there is no requirement for any part of the site to provide any healthcare service provision.

### **Commissioner Review**

The commissioners are content with the recommendations in this report.

## **2. Report**

### **Introduction**

2.1 The disposal of such assets supports the priority of the HRA to be able to provide suitable standards of housing within the Borough and to bring forward better quality housing stock by investing in older, less energy efficient, housing stock currently within the portfolio.

2.2 Given the thorough open marketing exercise (described in the appendix) an independent valuation was not deemed necessary. A number of bids were received, including conditional and unconditional bids and this provides evidence of a thorough testing of the market. Officers are satisfied that the bid recommended for acceptance represents the best consideration reasonably obtainable.

## Options considered

2.3 Option A – To retain the site of Former Merry Makers PH, Langley, to enable redevelopment at some stage in the future. Whilst this would give the Council the opportunity to progress a redevelopment scheme at some point, the risk of incurring costs as a result of fly tipping/squatters/vandalism, outweigh any future potential redevelopment. **This is not recommended.**

2.4 Option B – To dispose of the asset by way of freehold disposal to a developer purchaser. **Recommended.**

2.5 Option C – To defer the sale in the hope that the market will significantly improve. Market forecast assessment suggests that this is unlikely, with continued uncertainty and increasing costs of borrowing. **This is not recommended.**

2.6 Option B is recommended for approval for the reasons given in the confidential Appendix 1. Sale to a developer purchaser should allow the Council to receive a capital receipt in November/December 2023, which will enable HRA to invest in its housing stock.

## Background

2.7 The Council has owned the site from inception of the Borough Council and had proposed to redevelop the site for housing following the demolition of the Merry Maker's Public House and adjoining residential properties.

## The Asset

2.8 The site is located on the junction of Trelawney Avenue and Meadow Road in Langley, comprising the Former Merry Makers PH and footprint of 313-323 Trelawney Avenue. The was cleared and all buildings were demolished a number of years ago and the site has lain vacant since.

2.9 The site extends to 1.3 acres and benefitted from a resolution to grant consent for 20 sheltered housing units, a community hub, council offices, library and 4 private residential flats. A second application was submitted to convert the sheltered housing units to 21 affordable residential units. The application has not been progressed and has since been withdrawn.

2.10 The site was identified for disposal as it is not required for service delivery, subject to ensuring that the best consideration requirements were met and given the current uncertainty in the market and issues with fly tipping and squatters disposal is deemed to be the best option.

## Valuation

2.11 Avison Young have provided professional advice on the market conditions and recommended disposal to the bidder named in Appendix 1 for the reasons contained in that appendix.

## Marketing

2.12 The asset was marketed, as a development opportunity, with the benefit of a legal pack that included title information. The Asset was formally launched to the market on Thursday 2nd February 2023 with a half page, colour advert in the online version of the

Estates Gazette (EG) and the physical magazine on Saturday 4<sup>th</sup> February 2023. The EG is an industry trusted source of real estate intelligence with 16,500 paying subscribers and a readership of approximately 120,000 people.

2.13 Also on the 7<sup>th</sup> February 2023 Avison Young (AY) sent out a marketing mailshot detailing the opportunity to over 1,500 developers and investors active in Berkshire, Greater London and South East London with over 796 parties viewing and interacting with the mailshot.

2.14 A marketing brochure was produced and circulated to all parties upon request, as well as individuals and organisations who had previously indicated an interest in properties of a similar nature.

2.15 AY arranged a viewing day on 23<sup>rd</sup> February 2023 which was well attended, albeit the majority of parties indicated that they had been able to view the site from the roadside.

### **Bids Received**

2.16 The appendix sets out the bids received.

2.17 Bids were received on both a conditional; subject to planning; and unconditional basis, and whilst a conditional offer was, marginally, higher than that of the preferred bidder they were unable to provide sufficient proof of funding to demonstrate they would be able to proceed.

2.18 The preferred bidder is buying the property as a development led opportunity with the benefit of the existing planning consent, however they will be seeking to explore other; residential scheme; options for the site.

### **Summary of Proposed Terms**

2.19 Heads of Terms have been agreed as set out in Confidential Appendix 1. The Heads of Terms anticipated exchange within 4-6 weeks of receipt of the legal pack and completion will take place 28 days from exchange. However as a significant amount of time has elapsed it is now proposed that exchange and completion will take place simultaneously at the purchaser's request.

## **3. Implications of the Recommendation**

### **3.1 Financial implications**

3.1.1 This site is owned by the HRA so care will need to be taken on the treatment of the capital receipt. HRA Capital Receipts are generally set aside to reduce the HRA's underlying need to borrow for new capital expenditure (the capital financing requirement).

3.1.2 The site is at risk of incurring additional costs from being vacant. Failure to sell the property will increase the risk of vandalism, fly tipping and other such costs that have already proven to be an issue, removal of which is an additional cost to the Council.

### **3.2 *Legal implications***

3.2.1 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. When considering the duty under section 123 LGA 1972, what is reasonable in any particular case depends entirely on the facts of the transaction. Under s.32 of the Housing Act 1985, the Council requires Secretary of State consent for disposal of housing land, as defined by this Act. This includes land consisting of estate facilities and not just dwellinghouses. The Secretary of State has provided general consents, including consent to dispose of land for a consideration equal to its market value and disposal of vacant land.

3.2.2 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.

3.2.3 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. It has advised that the bid represents the best consideration, based on it being a development opportunity, reasonably obtainable based on the timescale in which the receipt will be received and risks with other bids in relation to timescale and changing market conditions.

3.2.4 A report on title was commissioned with there being no known impediments to the disposal of the asset.

### 3.3 Risk management implications

3.3.1 The recommendation required from Cabinet, as outlined in this report, is intended to provide much needed capital receipts for the HRA which can then be used to invest into the Council’s housing stock. If the recommendations are not approved this will leave the Council being exposed to ongoing costs as a result of fly tipping and/or squatters – specific risks have been summarised below:

<b>Risk</b>	<b>Summary</b>	<b>Mitigations</b>
Financial	<p>Delay in realising capital receipts from the assets will prevent the Council from investing in its Housing.</p> <p>Continued market uncertainty and increasing cost of borrowing will further depress values</p>	<p>Secure approval for officers to proceed with the sale.</p> <p>Seek to progress the proposed disposal with the bidder named in Appendix 1.</p>

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	<p>Failure to ensure legal title/deeds etc which could delay or halt sale.</p> <p>Delay to contract negotiations.</p> <p>Failure to establish that the buyer is a reputable business and that the buyer's funds are from acceptable sources.</p>	<p>Legal title reports obtained for this site.</p> <p>Regular meetings between officers.</p> <p>Due diligence on buyer to assess their business and funding, including anti-money laundering checks.</p>
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 damage the Council's reputation within the wider market, impacting on future disposals.	Effective Governance, project/programme management and decision making to deliver asset disposals and best consideration for the Council.

### 3.4 Environmental implications

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

### 3.5 Equality implications

3.5.1 The asset is not used for operational or service delivery. There are no identified equality implications with the disposal of this site. By providing much needed capital funds to the HRA will likely have a positive impact on protected groups who are more likely to utilise the services of the Council.

### 3.6 Procurement implications

3.6.1 There are no procurement implications.

### 3.7 Workforce implications

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

### 3.8 Property implications

3.8.1 This report will directly impact on the Council's property holdings however the capital receipt will benefit the HRA..

## **4. Background Papers**

None