Slough Borough Council

Report To:	**Cabinet Committee / Cabinet**
Date:	11th & 15th July 2024
Subject:	Disposal of Upton Lodge, 2a Yew Tree Road, Slough
Lead Member:	Cllr Chahal – Deputy Leader and Cabinet Member for Finance, Council Assets and Transformation
Chief Officer:	Pat Hayes – Executive Director (Regeneration, Housing and Environment)
Contact Officer:	Mark Halligan – Programme Director (Property Transformation)
Ward(s):	Central
Key Decision:	YES
Exempt:	NO - 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:	Appendix A – Confidential – Avison Young Asset Disposal Recommendation report Appendix B – Confidential – Asset Appraisal and Disposal Framework calculations Appendix C – Confidential – Red Book Valuation Appendix D – Confidential – EY Asset Appraisal and Disposal Framework

1. Summary and Recommendations

1.1 This report sets out a recommendation for the disposal of Upton Lodge, 2a Yew Tree Road, Slough which has been marketed and seeks approval for disposal under the Council's Asset Disposal Strategy.

1.2 The proposed asset sale has been subject to a 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.

Recommendations:

1.3 Cabinet Committee is recommended to recommend the following to Cabinet:

a) Agree to the Council sale of the asset referred to in Appendix A and known as Upton Lodge, 2a Yew Tree Road, Slough to the bidder named in Appendix A.

b) Delegate authority to the Executive Director of Regeneration, Housing & 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 A.

c) Cabinet Committee are asked to note the methodology to be adopted (Appendix D) for assessing assets in the Asset Disposal Programme, prior to launching to the market, to determine minimum sales values. This framework provides an objective methodology for evidencing Best Value.

Reason:

1.4 The disposal of Upton Lodge, 2a Yew Tree Road Slough is in accordance with the Council's Asset Disposals Strategy, in that it has previously been agreed as 'surplus', by Cabinet Committee on 12th January 2023, and identified for disposal. 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 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.

1.5 The disposal of such assets supports the corporate priority for "a Council that lives within its means, balances the budget and delivers best value for taxpayers and service users."

1.6 The disposal of such assets will enable the Council to simplify the property portfolio and enable the Council to focus on its core activities and services.

Commissioner Review

"The asset disposal programme is of significant importance to the Council's financial recovery, and an integral part of the approved financial strategy and 'minded to' Capitalisation Direction. By generating capital receipts, borrowing to support the Capitalisation Direction can be avoided and thus prevent pressures on revenue budgets.

Disposals should be on commercial terms, subject to legal and financial due diligence and include appropriate risk mitigations . Formal Red Book valuations play a part in enabling the estimated values to be measured against their agreed values so that best consideration reasonably obtainable can be demonstrably evidenced in disposal of properties in the current economic climate and prevailing market conditions.

Each site will be unique and any decision to dispose of an income generating asset should be supported by a financial assessment that enables a comparison of whether it is better to dispose of an income generating asset and realise the capital receipt now or continue to hold the asset and receive the income over the life of the building with the residual value of the building.

The commissioners are content with this report recognising that overall, this leaves the Council with a further deficit due to the impairment of the asset to be addressed in the 2023/24 accounts."

2. Report

Introduction

2.2 On 18 September 2023, Cabinet approved the Asset Disposal Programme Update outlining the principles and process for disposal of non-essential Council Assets i.e., assets not required for the delivery of Council services.

2.3 A thorough open market exercise (described in the Appendix A) provides some assurance that the recommended bid represents Best Consideration.. 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. A Red Book valuation is shown in confidential Appendix C, which provides further demonstration of Best Consideration.

Options considered

2.4 Option A – To retain Upton Lodge, 2a Yew Tree Road, Slough. Whilst this would retain an income stream, the costs of servicing the Council debt outweigh the income generated. This is not recommended.

2.5 Option B – To dispose of Upton Lodge, 2a Yew Tree Road, Slough by of freehold disposal to an investment purchaser. This option provides the greatest financial benefit to the Council, as explained in section 3.1 below. **Recommended.**

2.6 Option C – To defer the sale of Upton Lodge, 2a Yew Tree Road, Slough in the hope that market conditions will significantly improve. Market forecasts together with a reducing lease term suggest that this is unlikely with continued uncertainty in the market. This is not recommended.

2.7 **Option B is recommended** to Cabinet for approval for the reasons given in the confidential Appendix A. Sale to an investment purchaser should allow the Council to receive a capital receipt by August 2024, which will allow it to reduce its borrowing and contribute to its capital receipts target.

Background

2.8 The Council acquired Upton Lodge 2a Yew Tree Road, Slough in 2018 as part of the then Council strategy to acquire assets; primarily; within the Council's boundaries. The asset was acquired for £5.95m (excluding SDLT).

The Asset

2.9 The site is located on the junction of High Street and Yew Tree Road in Slough Town Centre. The property fronts directly onto the High Street and Yew Tree Road. The property totals 27,600 sq ft over ground, first, second and third floor with a connected 7 storey office block and additional on-site car parking for 48 vehicles and is currently let to the Department for Work and Pensions (DWP). The lease has an unexpired term of approx. 4 years. Notwithstanding this, the site was identified for disposal, and declared surplus in January 2023, as it is not required for service delivery, subject to ensuring that the best consideration requirements were met.

Valuation

2.10 The site was purchased in 2018 as an investment asset in accordance with the Council's strategic acquisitions strategy. The purchase price was £5.950m and to date has provided £1.9m in rental income.

2.11 The asset is held 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). The recommended offer is in excess of the Net Book Value currently recorded in the balance sheet.

2.12 Avison Young (AY) have provided professional advice on the market conditions and recommended disposal to the bidder named in Appendix A for the reasons contained in that appendix.

Marketing

2.13 The asset was marketed with the benefit of a legal pack that included existing tenancy information, title information, EPC, and planning documentation. The Property was formally launched to the market on Wednesday 13th March.

2.14 AY also sent out a marketing mailshot detailing the opportunity to approximately 1000 investor contacts. The mailshot included a link to a bespoke marketing brochure.

2.15 AY arranged for a number of parties to conduct an internal inspection of the property. However, most of the parties inspected the property externally, and briefly internally by walking into the Job Centre.

Bids Received

2.16 10 bids during the first round of bids given the number of bids received from reliable parties and 6 parties being at quote or above AY's quoting price. As expected, offers were received from a range of bidding parties comprising property companies, private individuals, and family offices, demonstrating a strong level of interest in the asset.

2.17 During the best and final round of bids, 6 parties raised their initial bids.

2.18 The preferred bidder is buying the property with the benefit of the current lease.

Summary of Proposed Terms

2.19 **Agreed Heads of Terms**
Heads of Terms have been agreed as set out in the Confidential Appendix A . The Heads of Terms anticipate exchange within 2 weeks of receipt of the legal pack and completion tbc after exchange of contracts.

Lessons Learnt

2.20 There are no accessible records of a robust evidence based approach having been taken on the decision to acquire this asset. Whilst a pre-acquisition survey report was produced, which focused on the construction and condition of the property, there is no evidence of independent financial appraisals.

2.21 Decisions on property acquisitions and disposals over £1m are now reserved to Cabinet. A Cabinet Committee has been established to allow for further Member engagement and oversight on such decisions, ahead of being presented to Cabinet.

2.22 Further improvements to governance relating to the management of property assets are likely to be recommended as part of the emerging Estate Strategy.

2.23 Property management capability has been significantly increased over the past two years.

3. Implications of the Recommendation

3.1 Financial implications

3.1.1 Cabinet is asked to agree to the disposal of Upton Lodge and delegate to appropriate officers the terms and contract arrangements for its sale.

3.1.2 The asset was acquired during financial year 2018/19 for £5.95m, excluding taxes. In addition there were SDLT and other costs which mean total expenditure for the asset was £6.3m. There is no VAT liability arising from the disposal. It is not clear from the information provided what professional advice was taken to support the acquisition nor how that decision was taken. However, as outlined in the body of the report, it was purchased as an investment asset, with an annual rental income of some £347k. It was financed from prudential borrowing.

3.1.3 Capital Financing Costs, made up of Minimum Revenue Provision (MRP) and interest charges, for evaluation purposes, are some £330k per annum. The MRP charge has been based on the maximum useful life of 50 years for its calculation. This indicates an assumed annual surplus on the property, before taking account of any operational costs, of £20k as set out in the table below.

	£000
Rental Income	347
Less:	
Minimum Revenue Provision	119
Interest	208
Net Profit	20

3.1.4 MRP charged, to 31st March 2024, on Upton Lodge since acquisition is some £335k, and there was an additional impairment of £200k charged to Income and Expenditure in 2020/21. The value of the asset has fallen significantly since its purchase, with a decline in the office investment market and with the remaining term of the lease having reduced The realisation of its disposal will require significant further impairment in the accounts. Indeed, taking account of the MRP and impairment charged to date, the additional charge to revenue will be some £2m. The impairment will have to be funded from available useable reserves and represents a significant one-off cost to the Council and considered in the context of its current financial position. A separate report on this agenda sets out the current estimated level of useable reserves as at the end of March 2024, with a required £15m draw on the budget smoothing reserve. That report does not take account of the adjustment that would be required for this transaction. In impairing the asset as a one off charge the outstanding debt is written down from future income and expenditure statements.

3.1.5 The sale will generate a capital receipt, as set out in exempt Appendix A. The cash generated will mean less debt will need to be refinanced. The net revenue impact, based on offsetting the capital receipt against Capitalisation Direction will be as follows.

	£000
Rental Income foregone	347
Less:	
Minimum Revenue Provision	225
Interest on refinancing	204
Net Saving	82

3.1.6 The lease now has less than 4 years, and it is considered highly unlikely by officers in the Regeneration, Housing and Environment that the current tenants would look to renew. Significant capital investment is likely to be required to put the building in a suitable state for new tenancy, and this could be as high as £4m. An alternative could be to hold the property until the end of the current lease and then look to dispose as a development site. Any sale price would need to take account of costs of demolition and remediation of the site, as well as costs of planning, so there is no guarantee that it would generate a significantly higher sale price.

3.1.7 For a longer-term view, net present value modelling of the site, based on benchmark costs for a building of this type indicates a value in line with that provided by Avison Young, and so the proposal set out in exempt Appendix 1 is in excess of that assessment.

3.1.8 TOGC (Transfer of a going concern) would apply in respect of VAT as the property is being sold with the benefit of the existing lease. It is standard practice on commercial transactions of this nature that the purchaser is accountable for any future liabilities should any retrospective changes be made to tax laws. This is also covered within the sales contract.

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.

3.2.2. When considering the duty under section 123 LGA 1972, what is reasonable in any particular case depends entirely on the facts of the transaction.

3.2.3. 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.

3.2.4 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.

3.2.5 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.

3.2.6. Following a marketing exercise on the open market reported by Avison Young in Appendix 1, the agreed offer prices for the asset exceeds the latest valuation. Avison Young have confirmed that the best and final offer sale price for the asset received following a competitive disposal process and represents best consideration reasonably obtainable in the current market.

3.2.7 In addition to meeting its best consideration duty, the Council must comply with its best value duty. This requires consideration as to the income generated from the asset compared to the capital receipt to be achieved upon sale. The financial implications contain an assessment of these two options.

3.3 Risk management implications

3.3.1 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 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 the assets will delay the Council's financial recovery.	Cabinet to approve officers to proceed with the sale.
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. Failure to establish that the buyer is a reputable business and that the buyer's funds are from acceptable sources.	Legal report on title prepared. Review of all legal documents and preparation of CPSE's. Regular meetings between officers. Due diligence on buyer to assess their business, funding, including anti-money laundering checks and ability to transact.
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/programme management and decision making operate effectively to deliver asset disposals on time 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 This asset is not used for operational or service delivery purposes. There are no identified equality implications with the disposal of this site.

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, this will be a positive impact in reducing property holdings to enable the Council to streamline its portfolio to focus on assets required for the operational and service delivery.

4. Background Papers

None