

<b>Report to:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	25 October 2023
<b>Executive Member:</b>	Councillor Jacqueline North, First Deputy – Finance Resources & Transformation.
<b>Reporting Officer:</b>	Ben Middleton, Assistant Director of Strategic Property
<b>Subject:</b>	<b>LAND AT GRAFTON STREET, HYDE – DISPOSAL</b>
<b>Report Summary:</b>	<p>The above land is not required for operational or investment purposes and can be considered surplus to the requirements of the Council. Consequently, the land would be available for sale to generate a capital receipt for the Council. An enquiry has been received from an interested party seeking to acquire the freehold interest in the four plots of land identified on the plan in <b>Appendix 1</b> and provisionally agreed Heads of terms are reported in confidential <b>Appendix 2</b>.</p> <p>This report is seeking Executive Cabinet’s approval to declare the sites surplus to Council’s requirements and to approve the provisionally agreed terms of disposal.</p>
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1. To declare the four plots of land outlined on the plan attached (<b>Appendix 1</b>) surplus to the requirements of the Council and available for disposal.</li> <li>2. To approve the disposal of the four plots of land detailed in <b>Appendix 1</b>, on the terms provisionally agreed subject to them being in line with the independent Red Book valuation.</li> </ol>
<b>Corporate Plan:</b>	The sale of the sites covered in this report, would help contribute to delivering corporate priorities around economic growth and employment.
<b>Policy Implications:</b>	The Council are seeking to comply with the Disposal Policy approved by Executive Cabinet in September 2020, by acting in a fair and transparent manner.
<b>Financial Implications: (Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	<p>The report sets out details for the Council’s proposal to dispose of land at Grafton Street, Hyde. The land is currently surplus to the requirements of the Council. A capital receipt, including professional fees, as detailed in <b>appendix 2</b> would be received by the Council on completing the disposal. The disposal price will be supported by an independent external RICS “red book” valuation as required by valuation protocols.</p> <p>The value of a capital receipt received in any financial year if less than £10,000 per asset will be allocated to the Council’s revenue budget. Any capital receipt that exceeds this de-minimus value will be a corporate receipt to support the funding of the Council’s capital programme. If this site is sold at or above the minimum reserve price, this will be a capital receipt to support the capital programme.</p> <p>A critical source of funding required to finance the Council’s Capital Programme is capital receipts from the sale or disposal of Council owned land and buildings. Other sources of finance</p>

available include Government grants, borrowing (that requires repayment via existing revenue budgets), capital reserves and revenue financing (although due to increasing pressures on revenue budgets, this is no longer viable in many cases).

The current capital programme includes £22million of schemes which will need to be funded from Capital Receipts and existing Capital Reserves. The anticipated level of capital receipts is based on the disposal of surplus assets.

**Legal Implications:  
(Authorised by the  
Borough Solicitor)**

The report seeks approval to declare the sites surplus and approve terms for the disposal in order to receive a 'windfall' capital receipt. The Council will not advertise the plots for sale on the open market, given that the third party are a 'special purchaser', seeking to deliver a comprehensive development on the combined plots of land. The disposal price will be underpinned by an independent RICS Red Book compliant valuation in order to demonstrate Best Consideration, and compliance with s123 of the Local Government Act 1972.

**Risk Management:**

If a sale does not proceed the Council would retain the sites' maintenance and management liabilities, the proposed sale minimises this risk.

**Access to Information:**

**CONFIDENTIAL**

**APPENDIX 2:** Contains exempt information relating to paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) in that it relates to information relating to the financial or business affairs of a particular person (including the authority holding that information).

**Background Information:**

The background papers relating to this report can be inspected by contacting Ben Middleton, Assistant Director, Strategic Property, Place.

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## **1. INTRODUCTION**

- 1.1 The Council owns four plots of land that previously formed part of a larger area used to support a series of highway schemes. Following completion of the schemes, the Council has retained the surplus plots, shown edged red on the attached plan (**Appendix 1**). These areas are now maintenance liabilities with potential costs but do not generate any revenue.
- 1.2 Plot 1, measures approximately 45 square metres, and has in the last few years, been landscaped by the owners of the adjoining site to form an attractive area of hard landscaping. More recently, signage has been introduced onto the land, which represents an encroachment which will be resolved by the proposed disposal.
- 1.3 Plots 2 and 3 are two areas of naturalised land, which wrap around the former residential properties known as 54-58 Clarendon Street that were acquired and demolished by a third party (possibly the Highways Agency) approximately 20 years ago. The Council land is largely indistinguishable from the third party owned land and the two plots measure 28 square metres and 102 square metres respectively.
- 1.4 Plot 4 is also an area of landscaped land that is largely naturalised, with several unmaintained trees covering the site. The land appears to have been in this state, for a number of years although, judging from a wall that wraps around part of the property, the land was previously developed as a building or yard area, perhaps prior to the construction of the nearby M67. This site is approximately 450 square metres.

## **2. CURRENT POSITION**

- 2.1 The Council have been approached by an agent acting on behalf of a fast food restaurant and take away provider, who have agreed terms to acquire the freehold and leasehold interests from the freehold owner of the adjacent site who was seeking to sell the site as a redevelopment opportunity. The Council's Grafton St plots are of interest to a fast food restaurant and take away provider, who are ideally seeking to develop a 'Drive Thru' restaurant on the combined sites have advised that they require the the adjoining plots owned by the Council in order to develop a 'Drive Thru' restaurant.
- 2.2 Following this initial approach, and given the fact that, in isolation and in the absence of any comprehensive redevelopment proposals for the Council land, this report is seeking approval to declare the four plots owned by the Council surplus to requirements and seeking approval to a disposal of the freehold interests to the fast food restaurant and take away provider, which will be conditional upon planning permission being granted to construct a 'Drive Thru'.
- 2.3 The fast food restaurant and take away provider have agreed terms to purchase the four plots of land, for the council's interests. The offer is subject to contract, council approval, planning permission and the purchase of the freehold and leasehold interests of the adjacent site. The fast food restaurant and take away provider will require 18 months from exchange of contracts to obtain planning permission for the 'Drive Thru', with a 'long stop' date of 36 months from exchange of contracts if the planning application is subject to a Planning Appeal.
- 2.4 This approach would maximise the potential for the Council to generate a capital receipt for the Council to support the Capital Programme.
- 2.5 If the Council do not agree to sell the subject sites, the fast food restaurant and take away provider have confirmed that they will progress with a smaller, less ambitious scheme to develop a 'Drive To' restaurant, which would not require the Council's land. The fast food restaurant and take away provider's preference is to deliver a 'Drive Thru' facility on the combined sites.

- 2.6 It is recommended that the Council's freehold interest in the 4 plots shown edged red on the plan are declared surplus, as detailed on the plan in **Appendix 1**, and approval is granted to sell the freeholds of the four plots on the terms detailed in **Appendix 2** to a fast food restaurant and take away provider, thus generating a valuable capital receipt, for this underutilised asset. The completed development will also create new employment opportunities in the Borough. The disposal price will be supported by an independent external RICS "red book" valuation as required by valuation protocols. In accordance with the Council's disposal policy dated September 2020 consultation with local ward members will be undertaken as part of the process of declaring assets surplus to the Council's requirements.
- 2.7 Upon exchange of contracts, the fast food restaurant and take away provider will have 18 months in which to obtain planning permission for their scheme with a "long stop" period of 36 months if the planning application is subject to an Appeal. At expiry of the 36 month 'long stop' date, if planning permission has not been obtained the contract would terminate and the Council would retain the sites.

### **3. OPTIONS**

- 3.1 There would be limited options for the Council, with the alternative being for the Authority not to declare the subject areas of land surplus at this time and retain the land, which will have limited redevelopment opportunities in isolation. If the Council decides to retain the land, it would retain the maintenance liability for the sites with no income to sustain it.

### **4. FINANCIAL SUMMARY**

- 4.1 The report is seeking approval to declare the subject area of land surplus to requirements and approve terms for a disposal to a fast food restaurant and take away provider, on the Heads of Terms agreed in **Appendix 2**, in order to support a comprehensive redevelopment of the site. A capital receipt including the Council's professional fees would be received.

### **5. RISKS AND MITIGATION**

- 5.1 The report seeks approval to declare the sites surplus and approve terms for the disposal in order to receive a capital receipt. The Council will not advertise the plots for sale on the open market, given that the fast food restaurant and take away provider are a 'special purchaser', seeking to deliver a comprehensive development on the combined plots of land. The disposal price will be underpinned by an independent RICS Red Book compliant valuation in order to demonstrate Best Consideration, and compliance with s123 of the Local Government Act 1972.
- 5.2 In addition, if a sale does not proceed the Council would retain the sites' maintenance and management liabilities, the proposed sale minimises this risk.

### **6. RECOMMENDATIONS**

- 6.1 As set out at the front of the report.