

17 September 2014

Asset & Enterprise Committee

Warley Training Centre – update on disposal of a surplus asset

Report of: John R Parling

Wards Affected: Warley

This report is: Public

1. Executive Summary

- 1.1 The Asset & Enterprise Committee on 15 July 2014 resolved “That conditional contracts for the sale of the property are exchanged with the highest and most compliant bidder (Bid B), with the Council then negotiating to retain 5 units for revenue purpose.”
- 1.2 The Council’s solicitors have been instructed regarding the sale and negotiations have been undertaken to retain 5 units at a discount to current values.
- 1.3 The proposed acquisition of the 5 units will be reported to Council on 22 October 2014 and approval sought to proceed.

2. Recommendation (s)

- 2.1 **Members are asked to note the progress with the negotiations ahead of a full report to Council on 22 October 2014 for approval to proceed. Note that the sale itself does not require Council approval rather the acquisition of the five residential units.**

3. Introduction and Background

- 3.1 In June 2014 the Council’s selling agents were instructed to seek bids from the original parties that submitted bids and also any additional active new entrants into the local market. Offers were requested to be submitted on or before the 11th July 2014.
- 3.2 The potential bidders were advised to submit two bids on the following basis:-

1. A bid on the previous advised basis including the provision of a small community facility, and
 2. A bid to include the price that the developer would transfer different unit types to the Council
- 3.3 Several offers were received and the bidders that submitted the highest and compliant bids were interviewed and the party that submitted the highest original bid (Bid B) has also offered the most attractive proposal relating to the acquisition of the 5 units.
- 3.4 The Heads of Terms with (Bid B) provides for the sale to be conditional on the purchaser obtaining planning permission for 38 residential units plus a community hall of 60sq m (shell but with wc/kitchen) and also a commitment by the Council to acquire 5 units at a pre agreed discounted price. The sale proceeds will be reduced by the aggregate prices of the 5 units and the net proceeds will be paid at the completion date for the sale of the land. The contract will require the purchaser to complete the construction of the development within an agreed period of time.

4. Issue, Options and Analysis of Options

- 4.1 The Asset & Enterprise Committee has resolved to exchange contracts with the highest compliant and deliverable bid that also provides the Council with the opportunity to acquire units at the best price.
- 4.2 Terms have been negotiated and agreed with the party that provides not only the highest bid but also the best overall financial outcome in terms of acquiring the 5 units.
- 4.3 An independent valuation will be sought to ensure that the sale and acquisitions offers best value to the Council to comply with s123 of the Local Government Act 1972.
- 4.4 A report will be presented to Council on 22 October which sets out the options for the management of the residential units.

5. Reasons for Recommendation

- 5.1 To enable Members of the Asset & Enterprise Committee to be updated with the latest information pertaining to the acquisition of 5 units at Warley. Due to the value and implications of such an acquisition the final approval to proceed is reserved to full Council.

6. Consultation

6.1 None at this stage

7. References to Corporate Plan

7.1 The key criteria for the disposal of the freehold of the freehold interest in this site are linked directly to the Corporate Plan 2013 –16, specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services (s151 Officer)

Tel & Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk

8.1 The acquisition of 5 units will reduce the original capital receipt anticipated for this asset sale. This in itself may impact on the Council's ability to fund a 3 year Capital Programme and will need to be considered as part of the Half Year Budget Review reported to Finance and Resources 29 October 2014.

Any financial implications arising from the management of the properties and the operation of a commercial company will be considered in a separate report to Council on 22 October 2014.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer & Head of Support Services

Tel & Email 01277 312860 / christopher.potter@brentwood.gov.uk

8.2 When the Council itself decides whether to proceed, the Council will be required to consider its disposal powers contained in section 123 of the Local Government Act 1972. Whilst under section 123(1) of that Act the Council has power to dispose of land in any manner they wish, such

discretion is not absolute but is, in law, qualified. The Council, as a local authority subject to public law constraints, does not have the same freedom of action that a private landowner has as regards land. Under section 123(2) of that Act there can be no disposal 'for a consideration less than the best that can reasonably be obtained' except with the prior written consent of the Secretary of State (unless a lease of seven years or less is to be granted). In assessing whether the best consideration reasonably obtainable is to be achieved by the disposal, only those parts of the transaction which are of commercial or monetary value to the Council can amount to such consideration. No discount can be given for any perceived social value in the absence of the Secretary of State's consent.

- 8.3 **Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

- 9.1 Relevant Past Reports

15 July 2014 – Asset & Enterprise Committee

4 July 2012 - Asset, Infrastructure & Localism Panel

28 February 2012 - Asset, Infrastructure & Localism Panel

10. **Appendices to this Report**

None

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager
Telephone: 01277 312690
E-mail: john.parling@brentwood.gov.uk