

Report No.
HPL2020/00

London Borough of Bromley

PART 1 – PUBLIC REPORT

Decision Maker: EXECUTIVE

Pre-decision Scrutiny by RRH PDS (2 Sept 2020)

Date: Wednesday 8 July 2020

Decision Type: Non -Urgent Executive Key

Title: **Redevelopment of Chislehurst Library and Disposal of Land at 36 Vinson Close, Orpington**

Contact Officer: Michael Watkins, Assistant Director - Strategic Property
Michael.Watkins@bromley.gov.uk 0208 313 4178

Chief Officer: Sara Bowery, Director Housing, Planning and Regeneration

Ward: Chislehurst and Orpington

1. Reason for report

- 1.1 This report seeks the Executive's approval to the disposal of the Chislehurst Library site to Prime Developments to create a new Medical Health Centre and replacement Library on the site.
- 1.2 The report also seeks the Executive's approval to dispose of a small piece of land at 36 Vinson Close, Orpington to an adjoining landowner, Acklam Developments.

2. RECOMMENDATIONS

The Executive is recommended to:

- 2.1 Note the marketing exercise undertaken by Cushman & Wakefield in respect of the disposal of Chislehurst Library site and the evaluation of bids received and to agree to the disposal of the site, subject to Planning, to Prime Developments.
- 2.2 To delegate Authority to the Director of Housing, Planning and Regeneration, with approval from the Portfolio Holder for Resources, to conclude the Heads of Terms and enter into a Development Agreement with Prime Developments for a new Medical Centre and Library, conditional upon the grant of planning permission to be approved by the Council and completion by the Tenant of the construction works for the consented scheme.

- 2.3 The Heads of Terms will include an obligation on Prime Developments to transfer the new Library, constructed to shell and core specifications, to the Council on a 999 year lease at a peppercorn rent.
- 2.3 To delegate Authority to the Director of Housing, Planning and Regeneration, with approval from the Portfolio Holder for Resources, to conclude the Heads of Term and enter into a Development Agreement with Prime Developments for the construction of a new Medical Centre and Library with the contractual provision that once the scheme is developed, Prime Developments will grant 999 year lease of the Library to the Council at a peppercorn rent.
- 2.4 To agree the future fit out of the new library at an estimated cost of £1M and to add this scheme to the Capital Programme, funded from the disposal capital receipt; in the event that costs of the library fit-out exceed the estimated £1M, a subsequent report will be submitted to the Executive.
- 2.5 To note and agree to the payment of disposal and legal fees detailed at 3.26.
- 2.6 To agree to the sale of land at 36 Vincent Close to Acklam Developments on an unconditional basis.
- 2.7 To note the independent valuation confirming that the purchase price offered by Acklam exceeds the open market valuation.
- 2.8 To note that the Council will receive the benefit of nomination rights to the Socially Rented element of the Affordable Housing provision within the consented Acklam Development Scheme.

Impact on Vulnerable Adults and Children

1. It is considered that there will be an impact on Vulnerable Adults and Children as users of the Councils Portfolio to receive services from.
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council Quality Environment A Council that Manages its Assets well
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Financial

1. See Section 6
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: Section 123 Local Government Act 1972
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: There are no Procurement implications in this Report.
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Customer Impact

1. Well managed buildings will improve customer experience.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Ward Members are supportive of these proposals.

3. COMMENTARY

BACKGROUND

- 3.1 This report seeks the Executive's approval to the disposal of the Chislehurst Library site to Prime Developments to create a new Medical Health Centre and replacement Library on the site and also approval to dispose of a small piece of land at 36 Vinson Close, Orpington to an adjoining land owner, Acklam Developments.

Chislehurst Library

- 3.2 Cushman & Wakefield were instructed on behalf of Bromley Council to dispose of the Chislehurst Library Site, situated on Red Hill, Chislehurst, BR7.
- 3.3 The site extends to circa 0.44 acres and currently comprises a part one, part two storey library building and public car parking comprising 36 spaces. There is a 15-year lease (commencing 1st November 2017) to Greenwich Leisure Limited who currently operate the library.
- 3.4 As part of the disposal, the incoming purchaser will be required to construct a replacement library as part of their scheme with the new library facility to be leased back to the Council on a 999-year lease at a peppercorn rent. During the construction period an interim library facility will be provided by the developer to ensure continuity of services for the local community. The Council has been advised that this is permitted within the terms of the lease with Greenwich Leisure Limited.
- 3.5 In order to best ensure the Council's key objective of having new library facilities delivered for them on the original site, C&W were instructed to invite offers on a Subject to Planning basis. The selected purchaser would be obliged to build out the consented scheme under a development agreement and on completion of the purchaser's construction works and lease to the Council of the new Library.
- 3.6 The site has been the subject of an overt marketing process that drew interest via a database, electronic and print publications, resulting in a first stage 'Expressions of Interest' on 20th February 2020 and then a Second Round process on 12th June 2020 following further planning due diligence.
- 3.7 The period between shortlisting from the expressions of interest stage in February 2020, and the second-round process in June 2020 straddled the Covid-19 Pandemic and subsequent 'lockdown' for the country. The delay between these two bid dates however, was pre-agreed with the Council's planning department to allow them time to provide pre-application response and therefore the pandemic has not had any material impact to the timings of this marketing process to date.

Marketing Campaign

- 3.8 Bromley Council instructed Cushman & Wakefield to bring the site to the market in December 2019. Due to the proximity to the Christmas and New Year holidays, the site was initially marketed from 13th December 2019 to parties who had previously registered their interest in the site, alongside parties Cushman & Wakefield knew to be active in the area.
- 3.9 The formal campaign was launched on 7th January 2020, following the Christmas break, and comprised a mailout to the full Cushman & Wakefield database of over 3,000 developers alongside listing on the Cushman & Wakefield website.
- 3.10 An advert was subsequently published in the Estates Gazette on 18th January 2020, with email advertising also being sent to the Estates Gazette wide contact base of subscriber in the weeks that followed.

3.11 This four-pronged approach ensured that the site had full market exposure before expressions of interest being called for by Thursday 20th February 2020.

Expressions of Interest

3.12 C&W requested the following information was submitted with each expression of interest:

- Initial scheme proposals (use class & tenure mix, massing, initial design etc.)
- Confirmation that the requested Council facilities have been understood and accommodated
- Confirmation of due diligence undertaken to date and due diligence to be undertaken during the next stage, if shortlisted.
- Proof of financial covenant / funding
- Experience and relevant track record

3.13 C&W received a total of 16 expressions of interest, with the primary use classes being pursued by interested parties to be delivered in conjunction with the Councils library primarily being either residential accommodation, or retail (food store), whilst a single submission was received for a medical use.

Shortlist Refinement

3.14 The initial shortlist stood at eight and C&W encouraged the reduction of this shortlist to three parties. C&W advised that formulating fully worked offers for the opportunity requires parties to invest time, resources and money into advancing their schemes. To ensure the shortlisted parties undertake the level of work required to allow us to conclude on a preferred party, the advice received was to reduce the number of participants sufficiently so that shortlisted parties feel there is a high enough chance of them being selected to speculatively pursue the opportunity.

3.15 A shortlist of five or less parties was deemed suitable to achieve this, whilst also enabling the Council to engage with each party to ensure that their key objectives and requirements are being accommodated for as scheme designs advance.

Round 2 Process

3.16 Following the selection of the shortlist, eight parties were informed that they were invited to participate in the second stage process and informed of their requirements to conduct a pre-application.

3.17 A program was agreed with C&W and parties were informed they were to request a pre-application at the earliest possible convenience, with a view to submitting second round submissions by 2nd April 2020. This process was encouraged to give the shortlisted parties the opportunity to undertake significantly more due diligence, advance their scheme design and put forward a financial offer. All shortlisted parties were required to take pre-application advice from the Council, and this would provide the opportunity to make scheme amendments and advance scheme designs. The process was designed to enable the Council and C&W to make a selection based on the most deliverable partner, assessing financial receipt against the proposed scheme and likelihood of success through planning.

Pre-Application Process

- 3.18 As detailed above, the pre-application process took place virtually across May 2020. C&W engaged with the shortlisted parties across this period and fed the advice back to the Council for continuity of reporting across the campaign

Bidder Analysis

- 3.19 A total of three second round bids were received.
- 3.20 Following the submission of the second stage proposals C&W and Officers together with Ward Members and the Portfolio Holder for Regeneration reviewed the bids focusing on the following criteria:
- Council Requirements: Interim library and New Facility provided. Refinement of the grading from Round 1 to indicate location of library. Amber indicates compliant on space but predominantly located other upper floors.
 - Scheme Planning Risk: Further assessment is to be made of these factors. All schemes represent planning risk, particularly in light of the knock down approach. We have made assessments on use, housing tenure and scale to provide a broad assessment. The grades are relative to each other and therefore green is not representative of nil risk.
 - Financial Receipt: Given the disparity in the levels provided we have graded the highest as a green submission, the other positive financial receipts as amber and nil considerations as red. Nil considerations, particularly in light of the bulk and massing required create significant transaction risk.
 - Financial Covenant: Whilst the companies included all provide good track record in delivery and of sufficient scale, we have ranked the proposals by the ability to transact in cash or for the requirement of debt. Whilst debt would be introduced at the point of a planning permission it should still be flagged as a potential risk due to the requirement to hand back the library.
 - Track Record: All parties have a track record of delivering planning and construction for projects of this nature.
- 3.21 Consequently the consensus view arrived at the conclusion of the assessment of all the bids was that Prime was the strongest and most realistic offer with which to progress.
- 3.22 Careful consideration and Legal view was sought in light of Section 123 best consideration obligations for a disposal of the site.
- 3.23 It was decided that the Prime bid should formally be accepted, since although it was not the highest offer in financial terms, it was not conditional upon extraneous factors such as the exercise of an option to acquire additional land or on obtaining finance for the development at some unspecified time in the future and was be therefore perceived to be the best offer reasonable obtainable. In addition the Prime offer included a delivery of a Medical Centre for the benefit of the Chislehurst community.
- 3.24 The Executive are therefore recommended to accept and progress with the Prime offer.
- 3.25 The Executive are further recommended to delegate Authority to the Director of Housing, Planning and Regeneration, with approval from the Portfolio Holder for Resources, to conclude the Heads of Term and enter into a Development Agreement with Prime Developments for the new Medical Centre and Library with the contractual provision that once the scheme is

developed Prime Developments will acquire the site and they in turn will grant a 999 year lease to the Council for the Library at a peppercorn rent.

- 3.26 Disposal fees of £60K and Legal Fees of £25K are to be met by Prime, with 50% of these being paid on Exchange of Contracts together with a 10% Deposit with the remainder being paid on the grant of Planning consent. The Executive is recommended that these will then need to be paid to C&W at these points.

36 Vinson Close, Bromley, BR6 0EG

- 3.27 The Council have been approached by Acklam Developments to purchase a piece of land owned by the Council which is edged by the Red Line in the Plan below. Acklam Developments own the adjoining land edged with the Pink Line and are seeking to enlarge the site with rear access to increase the value of their proposed development.



- 3.28 Acklam Developments have also agreed to provide the LBB with nomination rights for the Social Rented Affordable element within the proposed development at 208-212 High Street, Orpington should their offer for the land purchase be accepted.
- 3.29 Cushman & Wakefield have been engaged to negotiate with Acklam Developments on the proviso any costs incurred with the review and potential disposal of the land sit with Acklam Developments.
- 3.30 The property is 'white land', outside of any specific policies within the Local Plan. The site sits outside of the Town Centre but within an area of archaeological importance. The site is not restricted protected for any specific use and residential led redevelopment looks the most appropriate use for the site given its immediate setting. Orpington Town Centre seeks to encourage mixed use development above an active frontage at ground floor level to the High Street, which we understand is broadly in keeping with the Acklam Development proposals for the neighbouring asset but as stated do not govern the subject site.
- 3.31 Therefore, a residential led approach, with or without the Acklam land looks to be the most appropriate future use for the subject land.
- 3.32 Acklam have proposed the following assessment of the LBB land (red) to derive their proposals. They have proposed an assessment based on both a housing scheme and an apartment scheme:

Option	Accommodation Type	Units	Storeys	Sq ft (NSA)
1	House	1	2.5	1,250
2	Flats	2	2.5	1,300

- 3.33 Cushman & Wakefield have reviewed the LBB ownership and measured the land to extend to 0.1 acres. The site sits in a row of low-rise housing, with a step up in height witnessed on the western side (the Royal Mail facility), albeit set back from the road frontage. The land to the east comprises two semi-detached single storey dwellings, whilst much of the road are two storey residential dwellings.
- 3.34 Cushman & Wakefield are satisfied the assessment of development potential is in line or indeed in advance of the approach adopted for valuation or in the open market.
- 3.35 The Acklam proposals and offer for the subject land seem well reasoned, fair and in the opinion of Cushman & Wakefield provide a fair level of financial upside on the subject property in isolation.
- 3.36 It is considered unlikely the Acklam proposals are to receive a major upside through the inclusion of the Council land, nor does a ransom position exist. Cushman & Wakefield are supportive of the Acklam opinion of OMV for the site.
- 3.37 Therefore, as specialist advice has been sought and a valuations appraisal has been undertaken demonstrating that the Acklam offer is considerably in excess of the Council's advisors view to OMV, the Executive is therefore recommended to dispose of this site to Acklam Developments.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 It is considered that there will be not be an impact on Vulnerable Adults and Children as users of the Councils Portfolio to receive services from these recommendations.

5 POLICY IMPLICATIONS

- 5.1 The Council's aims include being an authority which manages its assets well.

6 FINANCIAL IMPLICATIONS

- 6.1 The recommended financial offer from Prime Developments for the Chislehurst Library site will result in a capital receipt. The Council's estimated disposal costs of £85k will be reimbursed by the developer. Completion of the development is anticipated by March 2023, subject to Planning.
- 6.2 The development includes the delivery of a new library to shell and core finish, with fit out costs estimated to be up to £1m. This scheme, which is expected to commence in post completion and have a duration of circa 3-4 months will need adding to the Capital Programme in and Members are requested to agree to fund the cost from the capital receipt. In the event that the estimated fit out costs exceed £1m as project details are refined, then a further report to the Executive will be submitted.
- 6.3 The library is currently operated by GLL as part of the Library Service contract. The future running costs of the new library are expected to be less than the current facility and are therefore not anticipated to impact on the contract price.
- 6.4 Completion is anticipated to be in the next 3-4 months.

7. PERSONNEL IMPLICATIONS

7.1 There are no Personnel implications contained within this report.

8. LEGAL IMPLICATIONS

8.1 Under section 123 of the Local Government Act 1972, a local authority has the power to dispose of land. The main caveat to this power is that the council must not do so for “a consideration less than the best that can be reasonably obtained”. This is interpreted as being the best price achievable in the open market.

8.2 The focus of the duty is on the outcome rather than any particular process being followed. That said, if a disposal were to be challenged, the Courts are likely to find the duty to obtain best consideration has not been complied with where:

- there is a failure to take proper advice;
- proper advice has been obtained but there has been a failure to follow it for reasons that cannot be justified; or
- advice has been obtained and followed, but the advice is so plainly wrong that the Council either knew or ought to have known it was acting unreasonably

8.3 In respect of the Chislehurst Library disposal the Council has retained the services of suitable disposal agents to act on its behalf and consequently the risk to the Council would be mitigated in respect of 8.2 above.

8.4 There is a current General Consent (the General Disposal Consent (England) 2003), which gives consent to the disposal of any interest in land at less than best consideration where the council considers it will help it to secure the promotion or improvement of the economic social or environmental well-being of its area, subject to the condition that the undervalue (i.e. the difference between the consideration obtained and the best consideration that can reasonably be obtained) does not exceed £2million

8.5 The Chislehurst Library disposal would fall within this consent as the provision of a new Medical Centre will promote or improve the economic and social well-being of the Chislehurst area.

8.6 In respect of the Vincent Close disposal, again the Council has employed a firm of Chartered Surveyors to provide valuation advice and expertise as to the Acklam development offer.

9. PROCUREMENT IMPLICATIONS

9.1 There are no Procurement implications within this report

Non-Applicable Sections:	Personnel and Procurement
Background Documents: (Access via Contact Officer)	