

PART 1 - PUBLIC

Decision Maker: **EXECUTIVE**

Date: **Wednesday 20 September 2023**

Decision Type: Non-Urgent Executive Key

Title: **COMMUNITY HOUSE, SOUTH STREET, BROMLEY BR1 1RH & BECKENHAM PUBLIC HALLS, BROMLEY ROAD, BECKENHAM BR3 5JE - FREEHOLD DISPOSALS**

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Chief Officer: Sara Bowrey
Director of Housing, Planning, Property and Regeneration

Ward: Bromley Town, Beckenham Town & Copers Cope

1. REASON FOR THE REPORT

- 1.1 The report seeks authorisation to select a preferred purchaser following marketing of the below properties:
 - Community House, South Street, Bromley BR1 1RH
 - Beckenham Public Halls, Bromley Road, Beckenham BR3 5JE
- 1.2 The two properties are freehold interests held by the Council that have been identified as surplus to requirement to be included in the Disposal Programme as authorised by the Executive Committee in November 2022.
- 1.3 Capital receipts generated through the Disposal Programme are to be used to part fund the capital investment being undertaken across the Council's operational estate as set out within the Operational Property Review.

2. RECOMMENDATION(S)

For Members of the ERC PDS to note the contents of this report and recommendations for the Executive, and for Members of the Executive Committee to note and approve the following the recommendations:

Community House, South Street, Bromley BR1 1RH

- 2.1 Authorise acceptance of Offer A received for the Council's freehold interest known as Community House, South Street, Bromley BR1 1RH and to proceed to completion with the transaction.
- 2.2 To delegate authority to Director of Housing, Planning and Regeneration to finalise terms of sale in order to proceed with the transaction and conclude the disposal.
- 2.3 To delegate authority to the Director of Housing, Planning and Regeneration to accept Offer C, formalise the terms and complete the transaction, should Offer A fail to complete.
- 2.4 The legal and professional costs associated with completing the transaction are to be funded from the capital receipt received.
- 2.5 Details of the commercial terms of the offer being recommended for freehold disposal are commercially sensitive and therefore included within Part 2 of this report.

Beckenham Public Halls, Bromley Road, Beckenham BR3 5JE

- 2.6 Authorise acceptance of Offer A received for the Council's freehold interest known as Beckenham Public Halls, Bromley Road, Beckenham, BR3 5JE and to proceed to completion with the transaction.
- 2.7 To delegate authority to Director of Housing, Planning and Regeneration to finalise terms of sale in order to proceed with the transaction and conclude the disposal.
- 2.8 To delegate authority to the Director of Housing, Planning and Regeneration to accept Offer B, formalise the terms and complete the transaction, should Offer A fail to complete.
- 2.9 The legal and professional costs associated with completing the transaction are to be funded from the capital receipt received.
- 2.10 Details of the commercial terms of the offer being recommended for freehold disposal are commercially sensitive and therefore included within Part 2 of this report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal:
 2. Ongoing costs: n/a
 3. Budget head/performance centre: n/a
 4. Total current budget for this head: n/a
 5. Source of funding: n/a
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Personnel

1. Number of staff (current and additional): Not applicable
 2. If from existing staff resources, number of staff hours: Not applicable
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: Not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 Community House, South Street, Bromley BR1 1RH

- 3.1.1 The Council seeks to dispose of the freehold interest in 'the Property' known as 'Community House, South Street, Bromley BR1 1RH'. The property comprises locally listed offices extending to approximately 13,000 sq ft and no.13 surface car parking spaces. The building has a main frontage to South Street and is situated on an 0.15 hectares (0.36 acres) corner plot. The Property is currently let by the Council in its entirety to a single tenant for use as a resource centre who in turn sub-lets to a number of charity and community organisations. The Property has been marketed as 'a going concern' and is therefore to be sold with the existing tenant in-situ under their existed Landlord & Tenant 1954 Act protected tenancy.
- 3.1.2 The property was successfully nominated as an Asset of Community Value (ACV) in January 2023. ACV legislation essentially gives community bidders the right to bid (not the right to buy), and the Localism Act 2011 sets out the statutory process that the Council must follow when seeking to dispose of an ACV which includes extended marketing timescales to enable community groups additional time to put forward a proposal and take the necessary legal and financial advice that would be required should any community bidders trigger the moratorium period by registering as a potential bidder.
- 3.1.3 The Council confirms that two groups registered as potential community bidders under the ACV Listing, and the Council has therefore followed the statutory process with regards to the marketing campaign and timescales to advertise the property's freehold interest for sale as set out within the Localism Act 2011. Marketing agents, SHW were instructed to act on behalf of the Council, and a marketing campaign undertaken inviting offers from both community groups and the wider market.
- 3.1.4 Following the advertised bid deadline of 31st July 2023, offers were received and Part 2 of this report provides further details of the offers received and the recommended preferred party for the Council to enter into Heads of Terms with. However, the Council can confirm that although two parties registered as potential community bidders thereby triggering the moratorium period, no community offers have been received.
- 3.1.5 Further details of the marketing campaign, professional advice received, and commercial terms recommended for the freehold disposal are commercially sensitive and therefore included within Part 2 of this report.

3.2 Beckenham Public Halls, Bromley Road, Beckenham BR3 5JE

- 3.2.1 The Executive Committee resolved to dispose of the freehold interest in 'the Property' known as 'Beckenham Public Halls, Bromley Road, Beckenham BR3 5JE' in November 2022. The property comprises a Grade II listed building with an approximate total floor area of 9,315 sq ft.
- 3.2.2 The majority of the Property is currently let to MyTime Active paying a peppercorn rent who operate the building and offer spaces for hire for a variety of uses such as conferences, performances and private functions. Part of the ground floor and basement is let separately for use as a private members club on a commercial lease. Both tenancies are let on an internal repairing basis with the vast majority of external works being the Council's responsibility, which for a listed property of its type and age presents ongoing and increasing maintenance liability.
- 3.2.3 Given the public access to the part of the building currently occupied by Mytime Active, two previous marketing campaigns have been undertaken seeking a long-term tenant for the site

,able to undertake the backlog and ongoing maintenance required at the site, whilst continuing to deliver community uses from the site. Unfortunately, neither marketing campaign was able to secure such a tenant, with feedback from potentially interested parties confirming that such organisations could not find a viable solution to deliver on all these objectives.

- 3.2.4 Therefore, marketing agents SHW were instructed April of this year, with the marketing campaign inviting offers for the freehold interest in the site on an unconditional basis going live in May 2023. Although all offers have been invited, the marketing message has stated clearly that bidders seeking to deliver continued community uses for the property would be favourable.
- 3.2.5 Bids were received following a bid deadline being set for 17th August 2023 for the freehold interest in the site.
- 3.2.6 Details of the marketing campaign, professional advice received, and commercial terms recommended for the freehold disposal are commercially sensitive and therefore included within Part 2 of this report. However, the Council can confirm that all offers received are seeking to continue to deliver community uses from the property.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 There is not considered to be an impact on Vulnerable Adults and Children as a consequence of this decision.

5. FINANCIAL IMPLICATIONS

- 5.1 The proposed disposals of the Council's freehold interests would result in capital receipts payable to the Council. Further details are set out in Part 2.

6. LEGAL IMPLICATIONS

Property Disposals - Local Authority Powers

The following provisions should be considered in respect of the proposed disposals of the Community House and Beckenham Halls Disposals

- 6.1 s.111 Local Government Act 1972
 - 6.1.1 The Council has power to do anything calculated to facilitate or is conducive or incidental to the discharge of any of its functions.
 - 6.1.2 The intended proposal to dispose in this report would be affected pursuant to that statutory power as well as pursuant to the Localism Act 2011, the General Power of Competence.
- 6.2 Section 123 of The Local Government Act 1972
 - 6.2.1 If the intended proposal to dispose were to proceed, Local authorities have the power under s.123 of the Local Government Act 1972 to dispose of land for the best consideration that can reasonably be obtained (usually based on open market value).
 - 6.2.2 s.123 of the Local Government Act 1972 confers power to the Secretary of State to give general consent for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act.
 - 6.2.3 The Local Government Act 1972, General Disposal Consent 2003 removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land

where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the well-being criteria in the Local Government Act 2000:

- a) the promotion or improvement of economic well-being;
- b) the promotion or improvement of social well-being;
- c) the promotion or improvement of environmental well-being; and the “undervalue” (i.e. the difference between the unrestricted value of the interest to be disposed of and the consideration accepted) is £2,000,000 or less.

6.2.4 Applications for specific consent should be sent to the Secretary of State and include the following information:

- a) Written description of the land and buildings, the location;
- b) Written description of how the land is currently held by the Council;
- c) Details of any leases, encumbrances such as easements;
- d) Summary of the proposed disposal/transaction.

6.3 Disposal of Land considered as Open Space

If there is any open space within the demise of any proposed disposal Section 123 (2A) will come into play and this states that any disposal of land considered as open space (any land, enclosed or not, on which there are no buildings, and the whole of the remainder of which is laid out as a garden or is used for recreation purposes or lies waste and unoccupied) requires the local authority to give notice of its intention to dispose of the land for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and they must consider any objections to the proposed disposal which may be made to them.

7. PROCUREMENT IMPLICATIONS

- 7.1 The Public Contracts Regulations 2015 set out several exemptions to the relevant procurement regulations. In this case, Clause 10 (1) (a) applies in which the regulations do not apply to ‘acquisition...of land, existing buildings...or which concern interests in or rights over any of them’.
- 7.2 Therefore, it is presumed that there are no procurement implications relevant to this report, subject to legal advice that the process for marketing and disposal is in compliance with the exemptions within the Regulations.

8. PROPERTY SURVEYORS COMMENTS

8.1 Detailed in Part 2 report.

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