

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

17 DECEMBER 2021

REPORT OF THE LEADER

A.2 FREEHOLD DISPOSAL OF REDUNDANT OFFICE SITE AT WEELEY

(Report prepared by Andy White and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider whether Cabinet’s decision of 16th December 2016 to sell the Council’s office site at Weeley, once vacated, is still the best use of the site in achieving the goals of the Council, or whether the site should be used to deliver new homes including new, high quality Council Housing and hence to;

- (a) appropriate the land at the of the Council’s office site at Weeley for planning purposes, which will facilitate the carrying out of housing development; and
- (b) agree to the principle of disposing part of the site, at best consideration, for development to be secured on the whole site, including the part to be retained by the Council.

Authorising delegations to enable the Heads of Terms to be agreed, necessary consents to be obtained and legal agreements to be entered into.

EXECUTIVE SUMMARY

The disposal of the Council office site at Weeley (“the Weeley site”) is a key part of the Council’s Office Transformation programme. Disposal of the Weeley site will reduce ongoing revenue costs and will reduce the Council’s emissions.

The Cabinet agreed Basic Rationalisation as the preferred option for Office Transformation proposals on 16 December 2016, which included selling the Weeley site.

The Chief Executive signed off a business case based on the option agreed by Cabinet on 14 September 2017.

The essence of the business case proposals was to improve efficiency services and facilities by:

- Facilitating flexible working
- Making more services and information available electronically
- Extending buildings at Barnes House and refurbishing other offices at Pier Avenue and at the Town Hall
- Disposing of facilities at Westleigh House, Clay Hall and the Weeley site

The Office Transformation project is primarily aimed at service improvement and ongoing revenue savings.

At the time of writing the bulk of these measures are in place with the final phase of the project at the Town Hall is under way and the remodelling of the Council’s office building in Pier Avenue has been completed.

Work has been delayed by various factors and is now scheduled to be complete on all office phases in late autumn 2021.

In preparation for the vacation of the Weeley site, officers invited bids for the disposal of the site from two identified potential Special Purchasers.

The RICS Valuation – Global Standards of 31 January 2020 define Special Purchaser as: “*A particular buyer for whom a particular asset has a special value because of advantages arising from its ownership that would not be available to other buyers in a market.*”

The potential Special Purchasers identified were:

- a builder/developer with controlling interests in land adjoining the site on three sides (the fourth is adopted highway); and
- The housing partnership set up by the County Council with the objective of working with other public bodies to facilitate efficiency in the public estate and creation of additional housing within Essex.

In order to validate whether offers from the potential Special Purchasers represent Special Value, officers and the professional Valuer appointed, have carried out additional soft market testing. In addition one of the original bidders has made an improved offer.

In this case, the bids received include alternatives to cash consideration in the form of the retention by the Council of some homes to be constructed on the site. The consideration of any proposals will involve not taking a capital receipt for the General Fund, but to allow homes to be constructed for the benefit the Housing Revenue Account.

The RICS Valuation – Global Standards of 31 January 2020 define Special Value as: “*An amount that reflects particular attributes of an asset that are only of value to a special purchaser.*”

The soft market testing demonstrated that open marketing or disposing at auction is potentially advisable if the Council were to seek an entirely financial consideration for the site. Alternatively, the Council can appropriate land for any purpose for which the Council is authorised. Consequently, the Weeley site could be appropriated for planning purposes, which will facilitate the carrying out of development which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.

The site has been allocated for housing within Section 2 of the Local Plan, which the Planning Inspector has recently confirmed is sound and can be adopted. Delivering additional Council homes is a priority established through the Corporate Plan and Housing Strategy both approved by Full Council. The Council has been undertaking transformation and relocation of its services delivered from the Weeley site for some time, accelerated through the pandemic with many services being delivered on-line and remotely, therefore the public need within the locality for the existing use has reduced considerably with the offices being closed to the public for over 20 months. The criteria for planning purposes is clearly met.

Once appropriated, it is recommended that, subject to planning permission being obtained, part of the land is disposed for private residential development, with part being retained and developed as council housing. Such an arrangement must ensure the Council receives best consideration, therefore detailed heads of terms will need to be negotiated and legal agreements being entered into to secure the necessary development delivers the Council's priorities. Once endorsed by Cabinet, the Leader will make the necessary decisions, in

consultation with the Portfolio Holder for Housing and Officers, within the principles established within the Report.

Prior to occupation of the Council housing, it will be necessary for Cabinet to appropriate the land for housing purposes and at that time, the relevant accounting requirements can be undertaken following the requisite decisions.

RECOMMENDATION(S)

That Cabinet:

- (a) Determines the Council’s office site at Weeley, once vacated by the Authority, is no longer required for the purposes for which it is currently held and should be used for development to deliver new homes including new, high quality Council Housing;**
- (b) appropriates the land including the Council’s office site at Weeley for planning purposes, which will facilitate the carrying out of housing development;**
- (c) agrees to the principle of disposing of part of the site, at best consideration, and subject to planning permission, for development to be secured on the whole site, including the part retained by the Council;**
- (d) acknowledges that any legal agreement for redevelopment of the land will require specified works relating to the construction of Council housing and therefore, grants an exemption under the Council’s Procurement Procedure Rules for the procurement of such construction works; and**
- (e) that subject to best consideration being demonstrated / secured and meeting the requirements set out within the Housing Acquisitions and Development Policy, delegates authority to the Leader, in consultation with the Portfolio Holder for Housing, Corporate Director Operations and Delivery, Section 151 Officer and Monitoring Officer, to enable the Heads of Terms to be agreed, necessary consents to be obtained and legal agreements to be entered into within the principles established within this report.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The potential disposal are pertinent to the following Council priorities:

<ul style="list-style-type: none"> • 24 hour a day digital services – My Tending 	<ul style="list-style-type: none"> • Modern, high quality buildings and facilities for customers and staff
<ul style="list-style-type: none"> • Building and managing our own homes 	<ul style="list-style-type: none"> • Carbon Neutral by 2030
<ul style="list-style-type: none"> • Use assets to support priorities 	<ul style="list-style-type: none"> • Joined up public services for the benefit of our residents and businesses
<ul style="list-style-type: none"> • Balanced annual budget 	<ul style="list-style-type: none"> • 10 year financial plan

Housing Strategy:

At the heart of this strategy is a commitment to deliver new council housing in the district for the first time in a generation. The Council has an excellent reputation as a landlord and we

want to be an excellent enabler and provider of new, quality, energy efficient homes in our towns and villages.

We remain committed to work with other partners to deliver new homes across the district from larger developments to smaller, community based schemes in our villages.

The Council will encourage and enable new housing schemes in the district from large scale developments such as the proposed Garden Communities settlement on the border with neighbouring Colchester to providing smaller numbers in our towns and villages such as rural exception sites.

Work in partnership with developers, land owners and registered providers to deliver quality affordable homes and cohesive vibrant communities.

Housing Strategy Action Plan – this includes the following:

Facilitate the development of at least two rural exception sites in the district - To deliver homes in villages to meet local needs

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The Office Transformation project is primarily aimed at service improvement and ongoing revenue savings. However the business case model also anticipated a substantial capital receipt but it was not directly linked to offsetting investment in sites to be retained.

Therefore, if a capital receipt was generated from the disposal of the site, it could be invested elsewhere in the budget, such as supporting the delivery of the Council's key priorities.

As set out within the Delivering Priorities section above, housing forms one of the Council's key priorities which provides a direct value for money link to support the option of accepting new Council homes in exchange for the transfer of the freehold of the remaining site instead of a capital receipt.

However in accepting houses instead of a capital receipt, it is acknowledged that the ability to investment in other council priorities is foregone, such as those within the general fund where the asset is currently held.

Demonstrating Best Consideration and Value for Money

Generally, best consideration is considered as equating to the highest cash price. However, the Council is currently active in the open market acquiring housing at full market value and it is therefore appropriate to consider whether a deal involving the provision of housing in exchange for the site provides better value for money.

Independent valuers commissioned by the Council to provide professional advice on the disposal have assisted with the seeking and evaluation of best and final offers from two potential special purchasers. Seeking to address issues behind changes in anticipated price the bids were invited to be expressed either as a cash sum or a number of dwellings. If the open market value of the houses proposed is equal to or exceeds the open market value of the site, then best consideration can be demonstrated.

In terms of wider value for money considerations along with managing key financial risks, a number of issues will be reviewed. The intention of which will be to maximise any additional

opportunities from the disposal of the site or to limit financial risk wherever possible and will include:

- Structuring the transactions to maximise GF revenue savings from the disposal of the site such as those that would be associated with changes to the minimum revenue provision contributions when land / property is appropriated between the GF and HRA.
- Structuring the transactions to ensure that any Stamp Duty Land Tax payable is minimised.
- Ensuring the timing of any transactions are designed to limit risk to the Council such as avoiding the title to the site being transferred to a purchaser before houses have been delivered.

In addition to the above, the necessary activities will need to be undertaken in-line with the Council's Housing Acquisitions and Development Policy to ensure that any 'acquisition' of new homes meets the associated requirements. The same review will also include the impact from potential future right to buy sales, which also forms part of the Housing Acquisitions and Development and Policy.

In respect of the above, these activities will be need to be undertaken to support the delegated authority set out within recommendation e) above.

It is also worth highlighting the current operational costs of the Weeley site. The site incurs running costs in the order of £90,000 per year, a proportion of which will be ongoing during any disposal process. Officers will take steps to minimise costs but it will remain a priority to reach the earliest conclusion possible.

Risk	Control/Mitigation
General fund not receiving the Capital Receipt	Any Development Agreement will secure delivery of additional Council housing for the benefit of the area.
The purchaser of the site delays in progressing the development	Development agreements would be entered into with the disposal being completed upon construction of the council housing, as this would be the consideration for the site.
Significant downturn in the property market.	At the time of writing the local property market is relatively strong with wider economic trends including the Covid pandemic supporting local demand rather than depressing it.
Failure to obtain planning permission	The site is identified for potential residential development in Section 2 of the Local Plan, which the Planning Inspector has recently confirmed as sound for adoption.
Failure to achieve vacant possession	Services' work to clear the buildings is ongoing. The position with regard to the informal tenant at the rear of the site will be the subject of future decisions.
Conclusion of legal agreements by way of option or conditional contract may take significant time.	Costs would be incurred in maintaining safety and security of the site during this period. Rates management and other temporary occupancy arrangements could be used to

	limit the exposure of the Council to costs in this period. External solicitors will be instructed to act on the Council's behalf due to limited in-house resources.
Risk of further marketing	
Risk	Control/Mitigation
One or both of the current bidders withdraws interest.	The Council would rely upon the open market, potentially including auction if the site is not sold by other means.
Significant downturn in the property market.	At the time of writing the local property market is relatively strong with wider economic trends including the Covid pandemic supporting local demand rather than depressing it. An additional period involved in marketing could expose the council to market movement in either direction.
Marketing of the site does not lead to any real increase in the price offered or to an increase that does not offset the agents, marketing, and vacant property costs incurred in the process.	The council can work to limit vacant property costs as above.

LEGAL
<p>In coming to decisions in relation to management of General Fund assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.</p> <p>In this case, bids received include alternatives to cash consideration in the form of the retention by the Council of some homes to be constructed on the site. In considering such an offer Members must ensure they are making an informed decision and in particular what General Fund capital receipt the Council is foregoing, even though the Housing Revenue Account will benefit.</p> <p>The general appropriation power is contained within section 122(1) of the Local Government Act 1972 and states councils <i>"may appropriate for any purpose for which council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation..."</i></p> <p>The Council is permitted pursuant to Sections 226 and 227 of the Town and Country Planning Act 1990 (as amended) to appropriate land for planning purposes which will facilitate the carrying out of development, re-development or improvement which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.</p> <p>Appropriation for planning purposes must consider the public need within the locality for the existing use, but it is for the local authority to determine, taking into account the relevant considerations.</p>

Section 233 Town and Country Planning Act 1990 (as amended) provides the power to dispose of land held for planning purposes to such person, in such manner and subject to such conditions as appear to them to be expedient in order:

- (a) to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or
- (b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

Secretary of State consent is required for disposal for a consideration less than the best that can reasonably be obtained, therefore it is important that best consideration is obtained through any future disposal, accepting that this can be demonstrated in many ways with professional advice from an Independent Valuers. The Council's Property Dealing Procedure (within Part 5 of the Constitution) sets out various decision making requirements for the disposal of freehold interests in land and at this level two independent valuations are required prior to any decisions being made. This information will be contained within future decisions.

Pursuant to the Local Authorities (Land) Act 1963, the Council has the power to develop land for the benefit or improvement of their area.

Once the Council homes are constructed and prior to occupation, the land on which they are situated would need to be appropriated for housing purposes, to be held within the Housing Revenue Account.

Case law around the application of the duty to obtain Best Consideration Reasonably Obtainable indicates that marketing of land is not necessarily a requirement, but it is a requirement to take account of reasonable professional advice. In this case external valuers and agents have advised on and been involved in the disposal process including the invitation and evaluation of bids and soft market testing. The site has not at this stage been advertised on the open market because of the potential existence of Special Purchasers. The soft market testing has indicated that the potential Special Purchasers may have offered Special Value in particular in relation to the potential provision of Council Housing. Prior to the disposal being agreed, the Council must be satisfied that best consideration has been obtained, further information will be contained in subsequent decisions.

The Council's Property Dealing Procedure sets out various decision making requirements to and at this level any disposal would be approved by Cabinet, however Cabinet are approving the disposal subject to the principles established within the report, with the detail to be agreed by the Leader. The Leader is able to undertake decisions delegated to Cabinet.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of:

Equality and Diversity:	A detailed Equalities Impact Assessment has been completed and design of works at the Council's retained office sites include a range of measures aimed at inclusivity.
Health Inequalities:	It is unlikely that proposals will have a direct effect, but the wider Office Transformation programme is intended to enhance service delivery. Many aspects of council services are targeted at health and crime and disorder issues.
Crime and Disorder:	

Consultation and Public Engagement:	Planning applications within the transformation project have been/ will be subject to statutory and standard public consultation
Wards:	Weeley and Tendring. Ward member comments are included within the comments made by Members of the Resources and Service Delivery Overview and Scrutiny Committee at their informal meeting are set out in the Current Position section of this report.
Net Zero Emissions:	The disposal of the Weeley site will involve the closure of an oil fired heating system and an overall reduction in the amount of office accommodation and therefore energy consumption. Within the wider project new accommodation is built to high insulation standards with air source heating/cooling. Roof insulation built in at Pier Avenue and LED lighting and controls fitted throughout.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The disposal of the Weeley site is a key part of the Council’s Office Transformation programme. Disposal of the Weeley site will reduce ongoing revenue costs and will reduce the Council’s emissions.

The Cabinet agreed transformation proposals on 16 December 2016

The Chief Executive signed off a business case based on the option agreed by Cabinet on 14 September 2017.

At the time of writing the penultimate phase of the project at the Town Hall is under way and the remodelling of the Council’s office building in Pier Avenue has been completed.

Work has been delayed by various factors and is now scheduled to be complete on all office phases late in autumn 2021.

CURRENT POSITION

In preparation for the vacation of the Weeley site, officers have invited bids for the disposal of the site from two identified potential Special Purchasers.

The RICS Valuation – Global Standards of 31 January 2020 defines Special Purchaser as: “A particular buyer for whom a particular asset has a special value because of advantages arising from its ownership that would not be available to other buyers in a market.”

The potential Special Purchasers identified were:

- a builder/developer with controlling interests in land adjoining the site on three sides (the fourth is adopted highway), where that developer might benefit from design options facilitated by wider ownership, economies of scale, shared accesses and service options giving advantage that could arise from ownership not available to other buyers in the market, and;
- The housing Partnership set up by the County Council with the objective of working with other public bodies to facilitate efficiency in the public estate and creation of additional housing within Essex In this case it was considered that the joint working between the organisations and the wider social objectives behind the establishment of the Partnership could lead to advantages arising from its ownership that would not be available to other buyers in a market.

In order to validate whether offers from the potential Special Purchasers represent Special Value officers and the Valuer appointed have carried out an additional soft market testing.

The RICS Valuation – Global Standards of 31 January 2020 define Special Value as: “An amount that reflects particular attributes of an asset that are only of value to a special purchaser.”

The result of the exercise was mixed, with one contact indicating that they could not meet the Council’s price expectations and another giving a view that they may be able (subject to detailed investigations etc.) to offer a price around 5% higher involving proposals that retain the existing main building. That developer’s housing based offer was not as advantageous as the higher of the existing ones.

One of the identified potential special purchasers has made an improved housing offer for the site.

During the course of the project discussions with other parties with regard to the disposal of the site were carried out and varying factors caused the anticipated return to vary over time.

Independent valuers commissioned by the Council to advise on the disposal have assisted with the seeking and evaluation of best and final offers and have assisted with a soft market testing aimed at evaluating whether bids made by the potential special purchasers represent special value.

Seeking to address issues behind changes in anticipated price the bids were invited to be expressed either as a cash sum or a number of dwellings. Bids were received from bidders for both options.

Higher bids received are contingent on achieving planning permission for redevelopment. Bidders were also able to put forward offers for a simple direct purchase of the site without conditions. One offer only was received, at a substantially lower level.

Initial assessment of bids received indicates that an exchange for housing is likely to be more efficient than the gaining of a capital receipt and the subsequent acquisition of housing on the open market. Details of terms arrangements and successful bidder will be subject to further decision.

The Assistant Director for Building and Public Realm met informally with members of the Resources and Service Delivery Committee. The members had four principal points:

- a) Generally supportive of acquiring dwellings rather than money.
- b) Gain as many properties for local needs as possible.
- c) Dwellings should be of the same type and standard as market housing on the development.
- d) Consideration should be given to securing one bedroom homes in line with the highest demand for homes identified in the housing Strategy.

Members are correct that the largest number of families on the housing register are seeking 1 bedroom accommodation in the Clacton area. However, if Cabinet were minded to accept one of the housing based offers, there are some factors that steer officers towards recommending the acceptance of 2/3 bedroom houses in this case:

- a) Fitting into the character of the development(s)
- b) Facilitating families in inadequately sized Council accommodation to move up
- c) Rebalancing the local social housing mix where 37 of 56 houses have been sold under right to buy legislation.
- d) Potential developments being proposed in Clacton town centre being best suited to the delivery of significant numbers of flats.
- e) Outline planning permission on adjoining land includes the provision of 84 affordable homes, 59 should be for rent and 25 for low cost home ownership representing a

further opportunity that may include smaller units which the Council could consider acquisition of or influence over through nomination rights.

The soft market testing demonstrated that open marketing or disposing at auction is potentially advisable if the Council were to seek an entirely financial consideration for the site. Alternatively, the Council can appropriate land for any purpose for which the Council is authorised. Consequently, the Weeley site could be appropriated for planning purposes, which will facilitate the carrying out of development which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.

The site has been allocated for housing within Section 2 of the Local Plan, which the Planning Inspector has recently confirmed is sound and can be adopted. Delivering additional Council homes is a priority established through the Corporate Plan and Housing Strategy both approved by Full Council. The Council has been undertaking transformation and relocation of its services delivered from the Weeley site for some time, accelerated through the pandemic with many services being delivered on-line and remotely, therefore the public need within the locality for the existing use has reduced considerably with the offices being closed to the public for over 20 months. The criteria for planning purposes is clearly met.

Once appropriated, it is recommended that, subject to planning permission being obtained, part of the land is disposed for private residential development, with part being retained and developed as council housing. Such an arrangement must ensure the Council receives best consideration, therefore detailed heads of terms will need to be negotiated and legal agreements being entered into to secure the necessary development delivers the Council's priorities. Once endorsed by Cabinet, the Leader will make the necessary decisions, in consultation with the Portfolio Holder for Housing and Officers, within the principles established within the Report.

APPENDICES

Appendix A – Location Plan

BACKGROUND PAPERS

Office Transformation Business Case.