

## CABINET

17 March 2020

<b>Title:</b> Proposed Disposal of Pondfield House Depot, Wantz Road, Dagenham	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report with Exempt Appendix 2</b> (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 as amended)	<b>For Decision</b>
<b>Wards Affected:</b> Alibon	<b>Key Decision:</b> Yes
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<b>Accountable Strategic Leadership Director:</b> Claire Symonds, Chief Operating Officer	
<b>Summary</b>  This report proposes the disposal of the Pondfield House Depot located in Wantz Road, Dagenham, which has been declared surplus to requirements, by means of a freehold sale in order to allow the site to be redeveloped as a Special School for pupils with Severe Learning Difficulties and Autism.  The sale provides an opportunity to generate a capital receipt for the Council and provide a much-needed facility to the community, in line with the Council's own priorities.	
<b>Recommendation(s)</b>  The Cabinet is recommended to:  (i) Approve the disposal of Pondfield House Depot, Wantz Road, Dagenham, as shown edged red in the plan at Appendix 1 to the report, to LocatED Property Limited (the Government-owned property company responsible for acquiring sites for new schools) for the sum set out in Appendix 2 to the report, in order for the site to be developed as a Special School for pupils with Severe Learning Difficulties and Autism underpinning the Council's School Place Planning Strategy;  (ii) Approve the entering into of a short-term peppercorn lease agreement (without security of tenure) co-terminus with the period that the site becomes vacant and the disposal is completed with LocatED, which minimises the Council risk to the site whilst vacant;  (iii) Delegate authority to the Chief Operating Officer, in consultation with the Director of Law and Governance and the Cabinet Member for Finance, Performance and Core Services, to agree the final terms and contract documentation to fully implement and effect the short-term lease and sale of the site; and	

- (iv) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council.

### **Reason(s)**

To assist the Council in achieving its corporate priorities of 'encouraging civic pride' and 'growing the borough' by disposing of surplus Council owned land to facilitate development.

The decision will support the Council in fulfilling its statutory obligations to provide a school place for every child who lives in the Borough and support the Council's vision and priorities, the Borough Manifesto and the ambition for excellence in education set out in the LBBB Education Strategy.

## **1. Introduction**

- 1.1 The Council owns the freehold of the Pondfield House Depot, located in Wantz Road, Dagenham, which is currently used by Barking & Dagenham Trading Partnership (BDTP) as a base for its operations, vehicle fleet and back office staff. The site also accommodates the Print Shop.
- 1.2 As part of the BDTP Business Planning process, the staff based at this site will be relocating to an alternative location (The Cube) which is located on the LE(UK) site in Dagenham East which has been acquired by the Council.
- 1.3 As a result of this move, the Pondfield House site has been declared surplus to requirements and options on the future of this site have been considered by the Council's Assets & Capital Board, including leasing as an industrial unit and redevelopment. These options also included an approach by the Central Government's property company 'LocatED' (which has the responsibility for buying sites in England on behalf of the Department for Education (DfE)) to build new schools. Given the overall planning consideration and the historic use of the site, the option to secure a capital receipt and secure a much-needed local facility was considered to be the preferred option to pursue.
- 1.4 The approach by 'LocatED' has been developed through collaboration with Council Officers and the DfE where it has been previously agreed that the borough requires additional school places for pupils with Special Educational Needs and Disabilities (SEND).
- 1.5 The scale of additional SEND places required in the borough was articulated in the Cabinet report of 21 January 2020 (Minute 94) entitled "Review of School Places and Capital Investment update". The Department for Education (DfE) have previously approved the opening of a new school and in doing so have set aside funding to purchase a site and then to build the new special school. The challenge has been to find a suitable site centrally located in the borough.
- 1.6 This report sets out the requirement for specialist school provision in the Borough, how the site at Pondfield House Depot can fulfil this need and the proposal to sell this surplus-to-requirement site (based on a subject-to-planning arrangement) to

LocatED for development of a new school for pupils with severe learning difficulties and autism.

- 1.7 Should the sale be approved, the building of a new free school would be designed, procured and constructed under LocatED management with no financial or construction related liabilities for the Council. The management of the school places are set out in Section 3 below.

## **2. Background - Pondfield House Depot**

- 2.1 Pondfield House Depot is located in Wantz Road, Dagenham and comprises a two-acre site which consists of a 2-storey industrial structure that provides both office accommodation and storage space along with a large car park area. A plan and photographs of the site is contained within Appendix 1.
- 2.2 The site is currently occupied by BDTP and accommodates staff, equipment and vehicles operated by BDTP, as well as the Council's Print Shop.
- 2.3 BDTP will be moving to their new location on the London East (UK) in Rainham Road South, Dagenham in April and the Print Shop will be closing at the end of March 2020 and as a consequence, the site has been declared surplus-to-requirements with the Assets & Capital Board considering options for its use or disposal.
- 2.4 As part of this exercise, ongoing discussion between the Schools Investment Team and the Department for Education (DfE) were raised and discussion commenced with the Acquisition Team at DfE (known as 'LocatED'), who expressed a strong interest in the site in order to build a specialist school on the site.

## **3. Background - Demand for specialist school provision**

- 3.1 The provision of school places is a national issue and in particular, London due to the rising population which has impacted on the demand for school places in general. For Barking and Dagenham, the provision of school places has been a major area of capital investment over the last 12 years and since 2007 there has been a continuous need to create additional high-quality provision to meet that demand
- 3.2 The forecasting of the pupil population is continually reviewed and twice yearly reported to the Council's Cabinet. This is to ensure that long term plans are developed to ensure that there are sufficient school places for every pupil who lives in the Borough and wants a school place. It should be noted that the provision of a school place is a statutory function of the Council, so it is vitally important to balance the demand for school places with the right number of additional school places being created.
- 3.3 With regards to Special Educational Needs and Disabilities (SEND), many local authorities particularly in London and this includes Barking and Dagenham have tracked information which indicates a significant and progressive rise in pupils and young people with SEND.

- 3.4 The current SEND provision and their respective capacities in the borough has been mapped against current pupil numbers on role and forecasts to understand the additional type of places to be required. A detailed analysis of the growth in SEND places was included in the Review of School Places and Capital Investment update which was presented to the Cabinet on the 21<sup>st</sup> January 2020. This reaffirmed the need for a new school for pupils and young people with Severe Learning Difficulties and Autism.
- 3.5 The DfE have previously approved the opening of such a new special school in the Borough whereby they would under the Free Schools programme identify a suitable site and build the SEND school for an Academy Trust to operate. The school would have 170 places for primary and secondary age pupils, and it would be split 40/130 respectively. The DfE have been searching for a suitable site for some time, the location of a new proposed site would ideally be centrally located in the borough so to consider the transport implications for parents and carers of those vulnerable pupils and young people. The Council would act as the Admissions Authority and place pupils in the new school.

#### **4. Proposal Disposal Terms**

- 4.1 The approach by LocatED to acquire and develop the site is therefore a result of the Council's pro-active approach to asset management, whereby proposals on the future of surplus to-requirement assets are matched with meeting the Council's priorities and/or generating a capital receipt. The proposal to sell the site for development as a specialist school (subject to planning approval) meets both these objectives.
- 4.2 Initial discussion with LocatED have taken place and the terms associated with a proposed disposal have been discussed.
- 4.3 A joint independent market valuation of the site has been obtained by an RICS Registered Valuer on the basis of the proposed use, the location, historic documentation and reports on the condition of the site (which have been provided to LocatED in order to carry out their own surveys) and a range of comparable evidence.
- 4.4 The valuation is therefore considered to be an accurate representation of the market value of the site, the details of which are contained within Appendix 2 - this document is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation - paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. LocatED have expressed a desire to exchange contracts on the acquisition of the site subject to planning, develop a design for the site as a school, prepare and submit the necessary planning application, which would be subject to a consultation process and be required to meet all the usual planning criteria. If the planning application was unsuccessful, the acquisition would not complete and the land re-marketed for sale. A 10% refundable deposit would be paid upon exchange of sale documentation, with the balance received upon conclusion of the planning approval and the sale completing.

- 4.5 From a planning perspective, the land is currently designated as an industrial site and would require a change of use to D1 for planning approval to be successful. This process would form part of the planning application process and the DfE would be required to submit relevant information within their planning application. The timetable for completing the sale and receiving the balance of the capital receipt is therefore subject to the survey and planning process which is likely to take many months and will involve detailed discussions and consultation as part of the planning process.
- 4.6 In order to minimise the Council's cost and risk associated with holding the vacant site during the planning process, it is proposed to agree a short-term peppercorn lease on the site with LocatED (exact terms to be agreed) to cover the period between the site becoming vacant and contract completion on the sale of the site, which would place responsibility of the site with LocatED. The term of the lease would coincide with the planning application process with the land returning to the Council should the acquisition not proceed and include various safeguards to ensure the Council's freehold interest in the site was protected.

## 5. **Financial Implications**

Implications completed by Alison Gebbett, Capital Accountant

- 5.1 The objective of this report is to approve the disposal of Pondfield House Depot to LocatED on the basis of the sum set out in the valuation (report obtained on 6 February 2020) contained within Appendix 2, in order for the site to be developed as a Special School for pupils with Severe Learning Difficulties and Autism underpinning the Council's School Place Planning Strategy and approval to enter into a lease arrangement co-terminus between the site becoming vacant and the sale completing.
- 5.2 The proposed option allows the Council to provide necessary additional SEND school places without incurring the build costs. It will also allow the Council to benefit from the capital receipt and avoid any ongoing maintenance, running or security costs that may have been incurred once the building was vacated if we did not proceed with the option set out in this report.
- 5.3 The short-term peppercorn lease should have no financial implications, other than ensuring avoidance of unexpected design and development costs and also protection of the Council's ownership interest (and therefore any future capital receipt).
- 5.4 The anticipated capital receipt will be payable as a deposit on exchange (which is refundable if the sale does not complete) followed by the remainder on completion. Completion will only take place once the relevant planning consents have been obtained, which could be approximately 12-24 months.
- 5.5 The capital receipt will be a General Fund capital receipt and will be available to fund the General Fund capital programme, however this receipt will only be available to allocate to fund schemes once completion has taken place.

## 6. **Legal Implications**

Implications Completed by: Sayida Hafeez, Senior Property Solicitor

- 6.1 The Council owns the freehold of the Pondfield House Depot, located in Wantz Road, Dagenham and is required to obtain best consideration in the disposal of its assets. The Council has the power to enter into contracts for the disposal of property but must do so in compliance with statute and the Council's acquisition and land disposal rules.
- 6.2 The Council's Constitution, Part 4, Chapter 4 sets out the Land Acquisition and Disposal Rules. In accordance with paragraphs 2.1 to 2.2, all strategic decisions about the use, acquisition and disposal of land and property assets is within the remit of the Cabinet and must be approved by it.
- 6.3 The Council's disposal powers are contained in section 123 of the Local Government Act 1972 under which the Council may dispose of land in any manner it wishes (including the sale of freehold and leasehold land) for the best consideration reasonably obtainable unless ministerial consent is obtained or the sale is to further local wellbeing. An independent valuation has been carried out by BNP Paribas Real Estate which provides for a market valuation of the property. Therefore, the condition of best consideration is fulfilled, and the Council is at liberty to proceed with the proposed disposal

## 7. **Other Implications**

- 7.1 Risk Management - The terms negotiated regarding the sale of the site would include terms that safeguarded the Council's position.
- 7.2 Contractual Issues - The structure of the disposal terms would be reviewed by the Council's Legal Team.
- 7.3 Property / Asset Issues - contained throughout this report.

**Public Background Used in the Preparation of this Report:** None

### **List of Appendices -**

**Appendix 1** - Site Plan and Photograph

**Appendix 2** - Market Valuation (Restricted)