

## CABINET

17 October 2023

<b>Title:</b> Sale of Front Garden Land at 10 Calverley Crescent, Dagenham	
<b>Report of the Cabinet Member for Finance, Growth 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)	<b>For Decision</b>
<b>Ward Affected:</b> Valence	<b>Key Decision:</b> No
<b>Report Authors:</b> Victor Fariyike, Chartered Surveyor, My Place	<b>Contact Details:</b> <a href="mailto:victor.fariyike@lbbd.gov.uk">victor.fariyike@lbbd.gov.uk</a>
<b>Accountable Executive Team Director:</b> Leona Menville, Strategic Director, My Place	
<b>Summary</b> <p>This report sets out a proposal for the sale of Council-owned land adjoining the front of 10 Calverley Crescent, Dagenham RM10 7QU.</p> <p>The area is a piece of amenity land belonging to the Council but adjoins the front of the property known and addressed as 10, Calverley Crescent, Dagenham. The land area in question is approximately 44.53 sq.m (479.32 sq. ft.). Site plans and photographs are at Appendix 1 to this report.</p> <p>The application for this sale dates to 2021. Extensive internal consultations necessary for approval in principle caused a delay to the legal completion of the sale. At the Corporate Strategy Group (CSG) on 16 February 2023, the corporate position was agreed that Council assets should not be sold unless there were exceptional circumstances. This relates to the Council's commitment to the creation of a clean, green and sustainable borough and the priority to retrofit properties in the HRA stock for a net zero cleaner, greener borough.</p> <p>In light of the significant progress made on this proposed disposal in advance of the CSG decision of February 2023, the disposal is being progressed as a special case for approval.</p> <p>The land had been independently valued and the value exceeds the £5,000 threshold for land disposals that require Cabinet approval in accordance with the Council's Financial Rules and Regulations and Land Acquisition and Disposal Rules within the Constitution.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to:</p> <p>(i) Approve the sale of the Council-owned land at the front of 10 Calverley Crescent, as shown edged red in site plan 1 at Appendix 1 to the report, on the terms set out in Appendix 2 to the report;</p>	

- (ii) Delegate authority to the Strategic Director, My Place, in consultation with the Head of Legal Services and the Cabinet Member for Finance, Growth and Core Services, to agree the final terms and contract documentation to fully implement the sale of the site; and
- (iii) Authorise the Head of Legal Services, 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 accord with the Council's Financial Rules and Regulations and generate revenue for the Council from the sale of land, due to the negotiations commencing in advance of the CSG decision.

## **1. Introduction and Background**

- 1.1 The property at 10 Calverley Crescent, Dagenham is situated on the Becontree Estate, a large housing estate of approximately 4 square miles. The area is primarily residential in nature mainly characterised by terraced houses.
- 1.2 The subject garden land is laid out as amenity green space to the front of 10 Calverley Crescent, in common with properties along the entire length of the road. The overall site area extends to approximately 44.53 sq.m (479.32 sq. ft.).
- 1.3 Front Garden land serves as a buffer between the road/pavement and the dwelling, and it is usually used as a decorative feature for the display of plants, storage of bins or for parking.
- 1.4 The area is not with a Controlled Parking Zone (CPZ). However, the narrow roads often result in residents parking partially on the pavement to minimise damage to their vehicles from passing traffic. Many households in the area have acquired these parcels of land primarily for parking
- 1.5 The owners of 10 Calverley Crescent, like most other homeowners in the neighbourhood, approached the Council to acquire the land for use as a driveway, subject to the necessary consents.
- 1.6 Parks & Environment, in their recommendation dated 25 October 2021, took the position that where a majority of green spaces have already been sold, retaining the remaining ones because of individual maintenance problems/costs and the lack of structured amenity planting under the Council's direction could result in additional costs. Thus, the Council progressed the application in the normal way.
- 1.7 After the negotiations had progressed, the CSG considered the wider negative ramifications to the continued erosion of the Council's land holdings and took a decision on 16 February 2023 that Council assets are not to be sold going forwards. However, given the specifics of this sale and its advancement this case would be treated as an exception, along with a similar disposal in respect of 20 Calverley Crescent to be subject of a further report in due course which would be the last plot sold in contravention of the CSG decision.

- 1.8 Notwithstanding the proposed use of the land, the Council is under a statutory obligation to obtain best consideration for disposal of assets in accordance with s.123 of the Local Government Act 1972. As such when disposing of an interest in land all potential alternative uses to which land can be put must be considered in arriving at its market value.
- 1.9 The land has been assessed at the current market value and the proposed sale is in line with other sales of front gardens in the area.
- 1.10 If the sale is approved, the approval will be in line with the other previous approvals in the neighbourhood prior to the CSG decision and responsibility for the maintenance of that part of the front garden will be transferred to the property owner.

## **2. Proposals**

- 2.1 The Council-owned land has been valued in line with the RICS (Royal Institution of Chartered Surveyors) guidelines and a purchase sum agreed. The purchasers have also agreed to pay the Council's legal fee and contribute to the surveyor's fee.
- 2.2 Draft Heads of Terms were agreed between the Council and the purchasers, subject to contract and formal Council approval.
- 2.3 The valuation details and terms of the proposed sale are set out at Appendix 2, which is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **3. Options appraisal**

- 3.1 **Reject the sale** – The Council would retain ownership and the responsibility for maintenance of the area of land.
- 3.2 The CSG, in support of the Council's commitment to create a clean, green and sustainable borough, had decided on the 16 February 2023 that Council assets should not be sold. However, as this matter had progressed, it is being treated as an exception. The sale will relieve the Council of its maintenance responsibilities and generate a small revenue to the Council. Should the sale be rejected, the Council may be required to refund the abortive cost already incurred by the prospective purchaser, which is £1,500.00 plus VAT, totalling £1,800.00.

## **4. Consultation**

- 4.1 The proposals in this report were presented to the Council's Assets and Capital Board on 14 September 2023. ACB requested that the heads of terms included a restriction on the erection of any boundary fences on the land to preserve the open street scene in the area. Subject to this being included in the Heads of Terms, ACB endorsed the report noting the exceptional circumstance of this case against the CSG decision.

## **5. Financial Implications**

Implications completed by: Binoy Pillai, Interim Capital Accountant

- 5.1 10 Calverley Crescent, Dagenham is a privately-owned property. The proposed area to be sold is a piece of amenity land belonging to the Council which adjoins the front garden of the property. The sale will generate a small receipt which is below the threshold for capital receipt, is not currently budgeted for and would be used to fund revenue expenditure.
- 5.2 The Council is under an obligation under s123 of the Local Government Act 1972 when disposing of an interest in land to obtain best consideration. It is for the authority to demonstrate that it has achieved best consideration or Secretary of State Approval is required for the disposal.

## **6. Legal Implications**

Implications completed by: Sayida Hafeez, Principal Property Solicitor

- 6.1 The Council owns the freehold of the property in question, that being the amenity green space to the front of 10 Calverley Crescent, Dagenham. The Council is required to obtain best consideration in the disposal of its assets and the Council has the power to enter into contracts for the disposal of property but must do so in compliance with law 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 (LGA 1972) and Section 1 of the Localism Act 2011 also provides local authorities with a general power of competence.
- 6.4 Under Section 123 LGA 1972, the Council has the power to dispose of land in any manner that it wishes to, which includes the sale of freehold land. One constraint is that the disposal must be for the best consideration reasonably obtainable unless there is ministerial consent, or the transfer is to further local well-being. The property has been independently valued in line with RICS guidelines and a sale price as set out in Appendix 2 has been agreed on negotiation. This reflects best consideration. Therefore, this condition is fulfilled, and the Council is at liberty to proceed with the proposed disposal. Legal Services have been instructed in connection with the disposal and will deal with the preparation and completion of the necessary legal documentation.

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

### **List of Appendices:**

**Appendix 1** - Site Plans and Photographs

**Appendix 2** - Valuation Information (exempt document)