

CABINET

23 July 2024

Title: Sale of Front Garden Land at 25 Trefgarne Road, Dagenham RM10 7QT	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report with Exempt Appendix 2 (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	For Decision
Ward Affected: Heath	Key Decision: No
Report Author: Robert Wilson, Chartered Surveyor, My Place	Contact Details: robert.wilson@lbbd.gov.uk
Accountable Executive Team Director: Leona Menville, Strategic Director, My Place	
Summary <p>This report sets out a proposal for the sale of a piece of amenity land at the front of 25 Trefgarne Road, Dagenham RM10 7QT belonging to the Council. The land area in question is approximately 58 square metres (624 square feet). A site plan is attached at Appendix 1 to this report.</p> <p>The application for this sale dates back 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) meeting on 16 February 2023, the corporate position was agreed that Council assets should not be sold unless there were exceptional circumstances. That view related 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, this 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>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Approve the sale of the Council-owned land at the front of 25 Trefgarne Road, 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;(ii) Delegate authority to the Strategic Director, My Place, in consultation with the Cabinet Member for Finance, Growth and Core Services and the Head of Legal, to agree the final terms to fully implement the sale of the site; and	

- (iii) Authorise the Head of Legal, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other necessary 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 25 Trefgarne Road, Dagenham RM10 7QT is situated on the Heath Park 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 25 Trefgarne Road, in common with properties along the entire length of the road. The overall site area extends to approximately 58 sqm.
- 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 now within 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 front garden land primarily for parking.
- 1.5 The owners of 25 Trefgarne Road, 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 could result in additional costs because of individual maintenance problems/costs and the lack of structured amenity planting under the Council's direction. 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 should not be sold going forwards. However, given the specifics of this sale and its advancement, it was the view that this case should be treated as an exception.
- 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. 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 towards the surveyor's fee.
- 2.2 Draft Heads of Terms have been agreed between the Council and the purchasers, subject to contract and formal Council approval. 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 previously stated 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 receipt 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 plus VAT.

4. Consultation

- 4.1 The proposals in this report were presented to the Council's Assets and Capital Board on 13 May 2024 and referred to the Executive Group meeting on the 20 June 2024 where the report was endorsed for onward approval by Cabinet noting the exceptional circumstance of this case against the CSG decision.

5. Financial Implications

Implications completed by: Alison Gebbett, Capital Accountant

- 5.1 This report proposes to sell a patch of land which is the front garden of a privately owned property. The land currently has no alternative use and is likely to be of little value to anyone other than the property owner.
- 5.2 The sale of the land in line with the proposed agreement will generate a gross receipt. Going ahead with the proposed transfer will also ensure that there are no future maintenance cost burdens on the Council relating to the land.
- 5.3 Any receipt from the sale of land or property in excess of £10,000 is treated as a capital receipt under The Local Authorities (Capital Finance and Accounting) Regulations 2003. As this sale will result in a receipt of less than £10,000, this will

be treated as a revenue receipt and as such is not ringfenced to capital expenditure.

6. Legal Implications

Implications completed by: Sayida Hafeez, Principal Property Solicitor

- 6.1 The Council owns the freehold of the land in front of 25 Trefgarne Road, Dagenham under Title Number EX26658 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 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 are 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 valued in line with RICS guidelines and a sale price as set out in Appendix 2 has been agreed by negotiation. This reflects best consideration. Therefore, this condition is fulfilled, and the Council is at liberty to proceed with the proposed disposal. Legal Services should be consulted in connection with the preparation and completion of any further necessary legal documentation.

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

List of Appendices:

Appendix 1 - Site Plan

Appendix 2 - Valuation Information (exempt document)