

## CABINET

12 JULY 2011

### REPORT OF THE CABINET MEMBER FOR REGENERATION

<b>Title:</b> Barking Riverside – Thames View Footpath/Cycleway; Sale of Unit 1, The Cromwell Centre, 32 Thames Road, Barking.	<b>For Decision</b>
<b>Summary:</b>  As part of the Barking Riverside development it was proposed to establish a direct footpath cycle link between Barking Riverside and the centre of Thames View. The footpath between the centre of Thames View and Thames Road already exists and needs some minor works to bring up to an acceptable standard. The part between Thames View and Barking Riverside required the acquisition of some land. Finance for this was given to the Council by the Homes and Communities Agency (HCA) in 2009. As a result the Council acquired in November 2009 a vacant industrial unit known as Unit 1 The Cromwell Centre, 32 Thames Road, Barking. (“the Property”) for £475,000 with an additional payment of £100,000 as compensation for disturbance of the business. The proposed link was then to run along the culvert (a covered channel carrying a stream), adjacent to the Cromwell Centre. Unit 1 was purchased in order to be demolished so that a new car park for the unit owners at the Cromwell Centre could be provided to free up the culvert land.  Further consultation with the unit owners and the Environment Agency, since the building was acquired, has brought to light issues that make this proposal undeliverable as detailed in the report, thereby causing the Property to become surplus to Council’s requirements. Leasing out the Property is unlikely to provide the revenue or capital required to improve existing cycle and pedestrian links within parts of the borough.  Therefore, the Cabinet is requested to approve the sale of the Property at open market value and for the funds, grant aided by HCA to be put back into improving pedestrian and cycle networks in the Thames Road/Barking Riverside and Thames View area. The HCA agree with this approach. The property has been valued by Lambert Smith Hampton at approximately £475,000 to £535,000  <b>Wards Affected:</b> Thames	
<b>Recommendations</b>  The Cabinet is recommended to agree to:  <ol style="list-style-type: none"><li>1 The sale of the Property for the maximum price that can reasonably negotiated and that the details of disposal to be negotiated and agreed by the Director of Finance and Resources in consultation with the Divisional Director of Legal and Democratic Services</li><li>2 Authorise the Divisional Director of Legal and Democratic Services to enter into the necessary legal agreements to achieve the disposal of the Property based on an agreed heads of terms.</li></ol>	

- 3 Invest the receipt from the sale of the Property in the improvement of pedestrian/cycle links along Thames Road/Crossness Road/ Marine Drive and in the Barking Riverside and Thames View developments.

### Reasons

The provision of good pedestrian and cycle links between Barking Riverside and established residential areas such as Thames View will assist the Council to achieve its Community Priorities of 'Safe' 'Healthy' 'Fair and Respectful' and 'Prosperous Borough.

As the proposed footpath cycle link between Barking Riverside and Thames View Estate will not be built, the Council has no further need or requirement for this property. The property is a significant drain on the Council's resources and the capital receipt that will be generated by the disposal will be re-used within the Council's spending programmes to improve other pedestrian and cycle networks in the local area.

### Comments of the Chief Financial Officer

During 2009 Unit 1 was purchased by the Council, using funding from the HCA, for a total cost of £575,000, including £100,000 in compensation, with a view to demolishing and redeveloping the site. However as this option has now been deemed unviable, Cabinet is asked to approve the sale of the Unit, which remains in a saleable and operational condition (with utilities disconnected), on the open market. There are no costs to the Authority in this process, apart from minor incidental / office expenses and staff time (which are funded within existing Regeneration & Economic Development budgets).

Approval from the HCA has not been received in respect of re-use of their funding, but is being sought; and therefore subject to this being received, Cabinet is asked to approve the reinvestment of the capital receipts on pedestrian and cycle links in the area, which is still within the same overall aims of the original funding. If such a position could not be reached with the HCA, then potentially the money will have to be returned to them.

### Legal Comments

The Council is able to exercise its powers pursuant to section 123 Local Government Act 1972 to dispose of the Property. The 1972 Act sets guidelines for disposal of land for best consideration that can reasonably be obtained. The Property has been identified to be surplus to the Council's requirements and capital realised will be put towards funding for the improvement of cycle and pedestrian networks in parts of the borough. The report recommends a disposal for an amount between £475,000 and £535,000 which represents market value. The above accords with requirements in the Council's constitution.

The freehold land is owned by the Council. There are no known restrictions on the Council's title which would prevent the disposal. A Contract for Sale and Deed of Transfer will be prepared to deal with the transfer of the Property based on an agreed heads of terms.

<b>Cabinet Member:</b> Councillor M McCarthy	<b>Portfolio:</b> Regeneration	<b>Contact Details:</b> Tel: 020 8724 8013 E-mail: mick.mccarthy@lbbd.gov.uk
<b>Head of Service:</b> Jeremy Grint	<b>Title:</b> Divisional Director of Regeneration	<b>Contact Details:</b> Tel: 020 8227 2443 E-mail: jeremy.grint@lbbd.gov.uk

## 1. Background

- 1.1 As part of the Barking Riverside development, pedestrian and cycle links are key to enhancing the transport network, accessing key facilities, e.g. schools and health centres, providing healthy and interesting ways to get around and linking the areas of open space together. To link Barking Riverside with Thames View and facilitate a quick link between the new school at the Rivergate Centre and the health facilities and shopping centre at Farr Avenue, an extension to the existing pedestrian/cycle link from Bastable Avenue to Thames Road was proposed.
- 1.2 This extension was to run along the top of a culvert that is adjacent to the Cromwell Centre as shown in the map attached to this report (Appendix 1 – the red route is the proposed route and the blue and green routes are the alternative routes). To create this link, the area that the unit owners of the Cromwell Centre and visitors parked their vehicles was to be moved. The Council purchased the Property with the intention of demolishing it to provide a new car park.
- 1.3 The link would then run from Thames Road to the south into Barking Riverside. Providing a quick and safe link from Barking Riverside to Thames View. The existing footpath from Thames Road north to Bastable Avenue would be improved with new fencing, lights and paving.
- 1.4 Unit 1 was purchased with specific funding from the Homes and Communities Agency (HCA) that was required to be spent by March 2011. The Property cost £575,000 (£475,000 in sale price and an agreed £100,000 compensation for the disturbance of the business). The sale was completed in November 2009 and the Council took occupation of the Property in February 2010. The unit has been vacant since that time, it has been fully secured and all utilities to the site have been disconnected in anticipation of demolition.
- 1.5 The funding for this project formed part of a wider funding grant from the HCA (then English Partnerships) for the demolition of the Eastern End of Thames View and the masterplan process for the Thames View Estate. The decision for the funding for the pedestrian/cycle link was agreed on 20 January 2009 and added an extra £875,000 to the existing £1.5m funding for the Thames View project agreed in a funding agreement on 15 May 2008.
- 1.6 Since the acquisition of the Property detailed discussions have taken place with the other unit owners. While the culvert land is unregistered, through investigation and consultation with the other freehold unit owners at the Cromwell Centre, it became apparent that the culvert land is used for more than just parking. The unit owners use this space for storage and manoeuvring, their delivery vehicles which is integral to the way their businesses operate. There is no evidence that the culvert land has been upgraded or maintained by the Council since it was built. The Council does not own any land adjoining the culvert land. The unit owners would have riparian rights by virtue of their ownership of land adjoining the culvert land. The unit owners appear to have been using the culvert land for parking over a long period and are likely to claim adverse possession of the culvert land. In view of the above the legal advice to the Regeneration Department was that it may be very difficult for the Council to claim a superior interest/ownership of the culvert land. Therefore the Council will have to acquire by agreement or compulsory purchase the culvert land.

- 1.7 These risks were identified in the original Cabinet report that was presented on 25 August 2009. In that report the decision was taken that if the culvert could not be obtained through consultation and negotiation, the Council would exercise its CPO powers (Minute 52 refers).
- 1.8 Due to costs and length of time involved in making a CPO and risks of potential challenge by unit owners it is now considered to be financially unviable. In addition to this, from the experience of recent CPOs made by the Council, it is now felt that sufficient grounds could not be proved. Therefore, it is now recommended that this action is not taken.
- 1.9 Further to this decision, the pathways on Barking Riverside have been modified since the original planning permission and the only path that this link would have joined to is an unlit, low-level path alongside Buzzard Mouth Creek. The path is unlit because of an Environment Agency requirement to protect valuable habitats within the stream and riparian areas. With this path un-lit, a key part of the route would be unsuitable in terms of personal safety for parents and children, especially in the winter months.
- 1.10 For these reasons, the recommendation is to sell the Property at open market value and recoup the funding to use towards improving other pedestrian and cycle links in the area. The use of this funding will be subject to the written approval with the HCA, who have approved the sale of Unit 1. These could include:
- Improving Crossness Road as this is one of the main entrances into the new development;
  - Keep the improvements going along Thames Road, including new paving, lighting and wayfinding signage;
  - At least one new pedestrian crossing on Thames Road;

The HCA, as the funder, is informally content with this approach.

- 1.11 The sale price of the property was estimated recently by the Council's agents, Lambert Smith Hampton (LSH), at approximately £475,000 - £535,000. LSH recommended that Unit 1 be sold by way of a private treaty transaction following a marketing campaign.
- 1.12 It is worth noting that Barking Riverside Limited are still committed to investing in pedestrian/cycle links in the area. BRL will be improving the existing link from Thames Road to Bastable Avenue as well as working with the Council to investigate other options for funding and improvement.

## **2. Proposal**

- 2.1 Cabinet is recommended to agree to the sale of Property with the final details of disposal to be negotiated and agreed by the Director of Finance and Resources in consultation with the Divisional Director of Legal and Democratic Services.
- 2.2 To ensure that improved links are provided, the funds that are recouped from the sale of this unit will be fed directly back into pedestrian and cycle links in the area. As the HCA are one half of the Barking Riverside Limited joint venture, the Council should commit to working with them to redistribute this funding as future pedestrian

and cycle provisions will have a positive impact on the new Barking Riverside development. An agreement between the Council and the HCA on the scope of works that the recouped funds will be spent on will be reached once Unit 1 has been sold.

- 2.3 Improved routes are absolutely essential. As discussed in this report, the Council will investigate and identify a package of works that will ensure adequate routes are provided.
- 2.4 While the proposed alternative routes are slightly longer than the original route planned, it should be noted that at no point will these routes be un-lit or lacking in passive or active surveillance.

### **3. Financial Issues**

- 3.1 During 2009 Unit 1 was purchased by the Council, using funding from the HCA, for a total cost of £575,000, including £100,000 in compensation, with a view to demolishing and redeveloping the site. However as this option has now been deemed unviable, Cabinet is asked to approve the sale of the Unit, which remains in a saleable and operational condition (with utilities disconnected), on the open market. There are no costs to the Authority in this process, apart from minor incidental / office expenses and staff time (which are funded within existing Regeneration & Economic Development budgets).
- 3.2 Approval from the HCA has not been received in respect of re-use of their funding, but is being sought; and therefore subject to this being received, Cabinet is asked to approve the reinvestment of the capital receipts on pedestrian and cycle links in the area, which is still within the same overall aims of the original funding. If such a position could not be reached with the HCA, then potentially the money will have to be returned to them.

### **4. Legal Issues**

- 4.1 The freehold land is owned by the Council. There are no known restrictions on the Council's title which would prevent such disposal.
- 4.2 The proposal to dispose of the Property at market value is in accordance with section 123 Local Government Act 1972 and in compliance with the Council constitution.
- 4.3 A Contract for Sale and Deed of Transfer will be prepared to deal with the transfer of the Property based on an agreed heads of terms.
- 4.4 Each party will be responsible for their legal and professional fees incurred in connection with the transaction.

### **5. Other Implications**

#### **5.1 Risk Management**

- 5.1.1 The main risk originally identified around this project was that failure to implement it would not maximise the improvement of links between Barking Riverside and

Thames View, which would be a missed opportunity to promote a cohesive, united and functional community.

- 5.1.2 These community benefits are of as much importance at this stage of the project, however, that risk has been outweighed by the risk of continuing with the project as originally envisaged. The time, cost and likely success of a CPO to obtain the use of this culvert is not feasible for the Council at this time. The partners in this project, Barking Riverside Limited and the HCA are also not able to carry out or contribute towards a CPO.
- 5.1.3 It is worth noting that even if a CPO was used to forward this project, the link onto Barking Riverside would not be a path that could be used year round, and this would create significant safety risks for those using the path, especially children, the elderly and women.
- 5.1.4 By selling Unit 1 and re-using the funds from the sale for improved pedestrian and cycle links in the immediate area, the original opportunities to promote a cohesive, united and functional community still exist. The physical distance for people to walk may be a little longer, but as the map included with this report shows, there will be two options for pedestrians and cyclists, opening up a quick and healthy route between the two communities for potentially more people.

## **5.2 Customer Impact**

- 5.2.1 Selling this unit and investing the funds back into improving pedestrian and cycle links in the area will enhance community cohesion and facilitate safe and healthy ways of transport that encourage people out of their cars.
- 5.2.2 Improving a range of pedestrian and cycle links in the area will also promote alternative means of travel for local people working in the area.
- 5.2.3 By selling the unit and using the funds for similar projects in the area, the benefit to the customer is similar, if not as direct as the original proposed pathway. However, the benefits will be wider felt through two different routes which will benefit the surrounding industrial area and existing residents at Barking Reach.
- 5.2.4 As well as improving links from Thames View into Barking Riverside, this project will upgrade and widen the existing footpath between Thames Road and the Thames View Infants and Junior Schools. It will also improve safety for those crossing Thames Road in the vicinity of the link. This should help to increase resident satisfaction with road and pavement conditions.

## **5.3 Safeguarding Children**

- 5.3.1 One of the reasons that Unit 1 is recommended to be sold is that the link once the footpath meets Barking Riverside will not be a safe and secure environment year round, as it is un-lit. This path is un-lit for environmental reasons, as the path runs directly past some sensitive ecosystems in the creek and it would not be possible to provide lighting. To ensure that the safety of the children walking to and from the George Carey Primary School is ensured, an alternative route is proposed. Selling Unit 1 will free up the funds to provide these alternative routes.

## **5.4 Health Issues**

- 5.4.1 Promoting alternative methods of transport such as walking and cycling is a priority for the Council and there are pedestrian and cycle links throughout Barking Riverside which favour these methods of transport over car use. For this reason, the funds from the sale of Unit 1 will be put back into promoting and creating these links between Barking Riverside and Thames View.
- 5.4.2 Provision of improved links will encourage children living on Thames View and attending primary school in Barking Riverside to walk or cycle to school. This will help to increase the proportion of pupils participating in at least two hours of physical education and out of school sports.

## **5.5 Crime and Disorder Issues**

- 5.5.1 The path as originally envisaged by the Barking Riverside design would have run adjacent to the new housing and would have been overlooked and frequented by local residents. However, with the path layout changing, the path in Barking Riverside and up to Thames Road would not have been well overlooked by residents. The path as it runs past the Cromwell Centre would have run past industrial warehouse units that are not occupied in the evening, and this may have created a path that had some safety concerns. The revised plans will be for paths mostly along existing roads, with improved lighting and signage for wayfinding.

## **5.6 Property / Asset Issues**

- 5.6.1 If Members approve this proposal, the property will be sold at open market value following a full marketing campaign by the Council's external agents (Lambert Smith Hampton.) This will ensure that the Council obtains the best price that can reasonably be achieved in today's economic climate. This will help defray the original purchase costs and allow the capital to be re-used elsewhere in the Council's capital spending programmes as detail in the body of this report.
- 5.6.2 This property is a significant drain on the Council's resources as it is a large industrial unit with considerable ongoing costs and outgoings in terms of non domestic rates, security, repairs and maintenance etc. The Council has no use for the property and in line with existing Asset Management policies it should be sold as soon as possible.
- 5.6.3 As the property is not in use, it also represents a significant opportunity cost in that the capital tied up in the building can be put to better use elsewhere in the Council's capital spending programmes, or if the Council is minded to retain the property, it could be leased out to earn commercial income instead.

## **6. Options appraisal**

- 6.1 As discussed in this report, the cost, time and likely success of a CPO to continue with this project is prohibitive. It is not possible for the Council to fund a CPO at this time and there are other factors, such as the unsuitability of the link once on Barking Riverside and the effect on the unit owners at the Cromwell Centre if this

area is taken away from them. It is not recommended that the project continue in this manner.

- 6.2 It is not recommended that the unit is retained within the Council assets, as the funding to buy Unit 1 was from the HCA. The HCA are a part of the joint venture that makes up Barking Riverside Limited and there is an expectation from them that these funds are to be used in the manner they were intended, to improve pedestrian and cycle links between Barking Riverside and Thames View.
- 6.3 The recommended option is for Cabinet to agree to the sale of Unit 1 with the final details of disposal to be agreed by the Director of Finance and Resources. The funds will then be used to improve other pedestrian and cycle links in the Barking Riverside and Thames View area.

**7. Background Papers Used in the Preparation of the Report:**

Barking Riverside Thames View Pedestrian and Cycle Link – Executive Report and Minutes. 25 August 2009

**8. List of appendices:**

1. Map showing original route and planned routes