

## CABINET

8 April 2014

<b>Title:</b> Freehold Disposal of 1, 2, 3 and 7 The Triangle, Tanner Street, Barking, IG11 8QA	
<b>Report of the Cabinet Member for Finance</b>	
<b>Open report with an exempt appendix (Appendix D)</b>	<b>For Decision</b>
<b>Wards Affected:</b> Abbey	<b>Key Decision:</b> Yes
<b>Report Author:</b> Andrew Sivess, Group Manager Programmes and Funding	<b>Contact Details:</b> Tel: 020 8227 5732 E-mail: andrew.sivess@lbbd.gov.uk
<b>Accountable Divisional Director:</b> Jonathan Bunt, Chief Finance Officer	
<b>Accountable Director:</b> Graham Farrant, Chief Executive	
<b>Summary</b> <p>Numbers 1, 2, 3 and 7 The Triangle are retail units and are part of a small parade of shops. The shops have been in decline for a number of years as a viable retail centre and have been increasingly converted to non-retail uses. A previous attempt to redevelop the site as a mixed use residential and commercial scheme failed because of viability issues and difficult site conditions.</p> <p>The freeholds of two shops in the parade (Nos. 4 and 8) have already been sold and a small area of land to the rear of the shops is landlocked by the shops. Shop values on the parade are static and have the potential to fall further limiting the commercial value for the Council to continue to retain these units within its commercial portfolio.</p> <p>It is therefore proposed that the freeholds of the remaining shops are offered for sale to existing tenants or to the market, either as let investments or with vacant possession when existing leases expire. This will realise capital receipts for the Council which can be used to reduce the commitment to borrow to fund the capital programme. The revenue saving from this will offset any reduction in rental income.</p> <p>The existing tenants of 3 and 7 are the Barking Muslim Social and Cultural Society (BMSCS) who have expressed an interest to purchase the freehold of these units which they currently occupy under a lease. It is proposed to offer the freehold interest of these premises to the BMSCS in the first instance. If the negotiations with the BMSCS prove unsuccessful, these units would be offered for sale on the open market alongside Nos. 1 and 2 The Triangle.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to:</p> <p>(i) Agree that the Council's freehold interest in 3 and 7, The Triangle, Tanner Street,</p>	

Barking be offered for sale to the existing tenants in the first instance and, if those negotiations prove unsuccessful, to the units being offered for sale on the open market at the expiry of the current leases;

- (ii) Agree that the Council's freehold interest in 1 and 2 The Triangle be offered for sale on the open market;
- (iii) Delegate authority to the Chief Executive, in consultation with the Cabinet Member for Finance, the Chief Finance Officer and the Head of Legal and Democratic Services, to negotiate and agree terms in respect of the proposed sale of 3 and 7 The Triangle to the Barking Muslim Social and Cultural Society within the agreed parameters; and
- (iv) Authorise the Head of Legal and Democratic Services, or an authorised delegate on her behalf, to execute all of the legal agreements, contracts and other documents on behalf of the Council.

#### **Reason(s)**

To assist the Council in meeting the Council's strategic objective to 'encouraging growth and unlock the potential of Barking and Dagenham and its residents'.

## **1. Site Background**

- 1.1 The site consists of two retail parades. The first parade comprises of six shops whilst the second parade comprises of three shops. The parades are separated by a piece of land not in Council ownership comprising of a number of advertising hoardings.
- 1.2 The Council currently owns the shops known as Nos. 1, 2, 3 and 7 at the western end of the parade, which has been broken by the previous sale of Nos. 4 and 8 (there is no No. 5 or 6) and Nos. 11 to 14.
- 1.3 A plan of the site is shown at Appendix A and an aerial plan is shown at Appendix B. Photographs of Nos. 1, 2, 3, 7 and 8 are shown (either side of No. 4) at Appendix C. There is limited vehicular access to the rear via a narrow unmade road alongside No. 1, The Triangle.
- 1.4 Redevelopment of the land behind the shops on the plan is not considered an option because of the open culvert running westwards from Barking Park Lake and the adjacent houses on Victoria Road. The car park serving the recently-built flats at Sixpenny Court prevents the inclusion of any land to the west.
- 1.5 Nos. 1-7 originally comprised Edwardian shops with flats above in a location which has declined significantly in terms of passing trade in recent years. This decline has been made worse by the non-retail uses at Nos. 3, 4 and 7.

## 2. Site Information – 3 and 7 The Triangle

- 2.1 The properties at 3 and 7 The Triangle, Tanner Street are let on commercial leases to the Barking Muslim Social and Cultural Society (BMSCS) on the terms outlined below:

Property	Lease Start Date	Lease End Date	Current Rent Payable	Current Lease Status
3 The Triangle	17 January 2003	16 January 2013	£8,800 (market rent)	Tenant is 'holding over' under the terms of the lease.
7 The Triangle	02 November 1999	01 November 2014	£5,750 (less than market rent)	Expires later this year

- 2.2 Both sites currently produce an annual income of £14,550 with the possibility that this may rise to £16,000 if both properties were leased at full market rent.
- 2.3 The Barking Muslim Social and Cultural Society (BMSCS) were registered as a charity in 1996 to promote the benefits of the Muslim residents of the Borough.
- 2.4 With the lease on No. 3 having already expired and the lease on No. 7 due to expire in November 2014, the BMSCS have expressed an interest in obtaining the freehold of both sites in order to establish the long term security of these properties which will help them to attract funding. Any disposal would need to achieve "best value" and sign-off to this effect will be obtained from an independent Chartered Surveyor.
- 2.5 Disposal of the site provides the opportunity to simultaneously raise a capital receipt, support investment by existing occupiers and help deliver the Council's corporate objectives.

## 3. Property Values

- 3.1 The value of the properties would be higher if they were sold with vacant possession.
- 3.2 However, as the existing tenants of 3 and 7 The Triangle occupy one property under a lease that includes automatic right of renewal, and if they were to remain in possession of the other property in the expectation that the lease will be renewed, there is limited probability of the Council being able to achieve the highest value.
- 3.3 The expected receipt that can be achieved on these two properties therefore needs to reflect the existing lease terms and any final negotiated sale price would take this into account.

## 4. Options appraisal

4.1 The following options have been considered:

Option 1	Do nothing	<ul style="list-style-type: none"> <li>The parade of shops is likely to decline further in terms of condition and value</li> <li>This option is not recommended.</li> </ul>
Option 2	Continue with the current lease arrangements at 3 & 7 The Triangle	<ul style="list-style-type: none"> <li>Both units currently produce an annual income of £14,550, which may increase to £16,000 if both units were leased at full market rent. Future rental growth is unlikely and therefore not the preferred option.</li> <li>This option remains acceptable to the Council in financial terms but does not enable or encourage the tenant to invest in the property and is therefore not recommended</li> </ul>
Option 3	Dispose of the site on a long leasehold (99 years)	<ul style="list-style-type: none"> <li>The disposal of these sites on a long leasehold interest would potentially realise the values contained in Appendix D (which is in the exempt section of the agenda due to the commercially sensitive nature of the information).</li> <li>This option is not recommended because the freeholds of two of the six shops have already been sold and therefore there is no reason for offering the remaining ones on a long leasehold basis at a “peppercorn” (nil) rent. The sale proceeds of a long leasehold would be probably be at least 10% less than a freehold disposal and continue to require management by the Council.</li> </ul>
Option 4	Disposal of the freeholds of No. 3 and No. 7 the Triangle to the BMSCS	<ul style="list-style-type: none"> <li>The freehold disposal of these sites could realise values contained in Appendix D.</li> <li>This is the recommended option because there are very limited prospects for this part of the declining parade whilst it remains in the Council’s part-broken, intermittent ownership and comprehensive redevelopment is not an option.</li> </ul>

## 5. Financial Implications

Implications completed by: Carl Tomlinson, Deputy Chief Financial Officer

5.1 Disposal of properties realises a capital receipt for the Council. This can be used to reduce the Council’s commitment to borrow to fund the capital programme. The revenue saving from this will offset any loss of rental income.

## 6. Legal Implications

Implications completed by: Erol Islek, Property Solicitor

- 6.1 The report is seeking approval for the disposal of property. The Council is required to obtain best consideration in the disposal of its assets. The Council has the power to enter into the proposed sale of the property but must do so in compliance with law and the Council's acquisition and land disposal rules.
- 6.2 The Council's disposal powers are contained in section 123 of the Local Government Act 1972, and Section 1 of the Localism Act 2011 also provides local authorities with a general power of competence. Under section 123 of the Local Government Act 1972 the Council has the power to dispose of land in any manner that they wish 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. An independent valuation should be carried out to ensure the disposal is at market value.
- 6.3 The Council can choose option 4 which is the recommended option in the report.
- 6.4 The Legal Practice should also be consulted for the preparation and completion of the necessary legal documentation.

## 7. Other Implications

- 7.1 **Risk Management** - Disposing of the shop units at The Triangle, Tanner Street as set out in this report will help to ensure that the properties attract investment that would otherwise not be possible if the units remain in the ownership of the Council. This would help to arrest the decline of the Parade and help minimise anti-social behaviour associated with rundown parades of shops.
- 7.2 **Contractual Issues** - The transaction is a sale of the Council's freehold interest in a property. Legal Services will be instructed to prepare the contract for sale.
- 7.3 **Property / Asset Issues** - The proposals in the report would produce a capital receipt for the Council and provide the new owners with an opportunity to invest in their freehold units.

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

### List of appendices:

**Appendix A** - Site Plan

**Appendix B** - Aerial photograph

**Appendix C** - Site photographs

**Appendix D** - Financial Information (exempt information)