

London Borough of Hammersmith & Fulham

Report to: Cabinet

Date: 04/01/2021

Subject: Disposal of Land – Watermeadow Court, Watermeadow Lane, London, SW6 2RW

Report of: Councillor Andrew Jones - Cabinet Member for the Economy

Report author: Matt Rumble - Strategic Head of Regeneration & Development

Responsible Director: Tony Clements - Strategic Director for the Economy

Summary

This report seeks Cabinet approval to dispose of the Watermeadow Court site (“the Site”) (Watermeadow Lane, London, SW6 2RW) (the Land) to Mount Anvil New Holdings Ltd (or other company controlled by Peabody Housing Association and Mount Anvil). The conditions of sale include delivery of 50% affordable homes (108) on the site and that, subject to necessary consents, the scheme starts on site in 2021. This represents a significant improvement on the consented scheme which delivered only 17% (36) affordable homes.

The expectation is that construction of the project will start in the summer of 2021 and complete by summer 2024. The council will have nomination rights to the affordable rent homes ensuring that all homes will be available to residents of the borough.

Sale of the site follows termination of the Land Sale Agreement between the council and Stanhope Plc. The agreement was terminated as Stanhope were unable to meet their contractual obligations to secure funding to deliver the project.

Recommendations

1. Appendices 2, 3, 4 & 5 are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 and/o information in respect of which a claim to legal professional privilege could be maintained in legal proceedings as set out in paragraph 5 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To approve the disposal of the Land, shown marked in red on the plan attached at Appendix 1, to Mount Anvil New Holdings Ltd or another company controlled

by Mount Anvil and Peabody under a land sale agreement on a 255-year lease at the consideration set out in exempt appendix 2.

3. To delegate authority to the Strategic Director for Economy in consultation with the Head of Law to agree the contracts of sale with Mount Anvil New Holdings Ltd or another company controlled by Mount Anvil and Peabody based on the terms set out in the report and exempt appendix 3 and approve any other necessary documents to complete the sale.

Wards Affected: Sands End

Our Values	Summary of how this report aligns to the H&F Values
Doing things with local residents, not to them	The redevelopment of the Land will provide economic stimulus within the Borough creating homes, training and employment opportunities and investment in local labour and supply chains.
Being ruthlessly financially efficient	The report authorises the Land to be sold for development ensuring 50% affordable homes with start on site (works) within 12 months of exchange of contracts.

Financial Impact

The sale proceeds will be a General Fund capital receipt.

The Cabinet report in May 2020 approved an increased capital budget of £1,983,904 for various demolition, site security and disposal costs incurred on the site. A separate Cabinet report in May 2020 approved a payment of £3,491,066 to the JV to terminate the Land Sale Agreement. In both reports, it was expected that these costs totalling £5,474,970, would be recovered from future capital receipts arising from the sale of the site.

Costs of disposal, such as marketing, can be funded by capital receipts to a maximum of 4% (£552,000). £144,000 costs of disposal were brought forward at 1 April 2020 and additional costs incurred during 2020/21 will be funded by the capital receipt up to £408,000.

Finally, the council's capital programme included an anticipated receipt for this site of £3,600,000 (less costs of disposal), based on the previous land sale agreement.

The council has opted to tax the site and therefore VAT will need be charged to the buyer of the site. The Heads of Terms include provisions to allow the council to reclaim any VAT incurred and protect the council's partial exemption position.

Further financial implications are contained within exempt appendix 2

Legal Implications

The council is authorised to contract in relation to its functions pursuant to the Local Government Contract Act 1997 and is able to dispose of land held for planning purposes pursuant to s233 of the Town and Country Planning Act 1990. The Council holds the Site for planning purposes and is therefore entitled to dispose in this manner pursuant to these powers.

Section 123 of the Local Government Act 1972 allows the Council to dispose land on such terms as it considers appropriate. It requires the Council to obtain the best consideration reasonably obtainable (or the Secretary of State's consent to disposal at less than best consideration). The Council is entitled to rely on professional valuation advice as to whether best consideration (which is money or money's worth) has been achieved. The Council is obtaining valuation advice to determine whether the consideration is the best consideration reasonably obtainable. If the Council is unable to satisfy itself, having taken such advice, it will seek Secretary of State's consent to dispose prior to disposal.

Section 1(1) the Localism Act 2011 (The General Power of Competence) empowers the Council to do anything which individuals generally do even if (i) It is unlike anything else the authority may do (ii) It is unlike anything that other public bodies may do (iii) It is carried out in any whatever, including:

- *anywhere in the UK or elsewhere;*
- *for a commercial purpose or otherwise for a charge, or without charge;*
and
- *for, or otherwise that for, the benefit of the Authority, its area or persons resident or present in its area*

Section 111 of the Local Government Act 1972 allows the Council to do anything (whether or not involving the expenditure, borrowing or lending money or the acquisition or disposal of any property rights) which is calculated to facilitate or which is conducive or incidental to the discharge of any of its functions.

The proposed structure of the transaction is a conditional agreement for lease, where a long lease (255 years) is to be granted to the developer on satisfaction (or waiver by agreement of the parties) of specified conditions. These conditions are as follows:

- i. obtaining a variation (either by way of a s73 or s96 application of Town and Country Planning Act 1990, amended by Planning Act 2008) to the existing satisfactory planning consent for the agreed scheme (we discuss this below) with no onerous conditions (to be defined in the agreement for lease) ("the Purchaser's Condition");
- ii. the Vendor's confirming vacant possession of the Property ("the Vendor's Condition").

The Vendor's Condition is included for completeness and to protect the Council in case of unauthorised access; the site is current vacant.

There is a six-month conditional period for the above conditions to be satisfied, and the agreement may be terminated by the council if it does not become unconditional in this period. Both parties are to use all reasonable endeavours to satisfy their respective conditions.

The developer is to seek to secure a planning consent for the delivery of a residential scheme in accordance with the existing planning permission, with the s106 planning agreement as varied to reflect a revised tenure mix of 50% being affordable units, made up of:

- 64% at London Affordable Rent levels
- 36% at Intermediate Rent / Shared Ownership

For the intermediate housing provision, the intermediate housing options/products are to provide realistic opportunities to people with a range of incomes below the max income thresholds:

- For rent products: £60,000
- For purchase products: £90,000

Further legal advice is contained within exempt appendix 4

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Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Background

1. Watermeadow Court site is located on Watermeadow Lane, London, SW6 2RW. It is council owned freehold land located in South Fulham in close proximity to the River Thames. The site measures 0.48 hectares (1.20 Acres) and is currently vacant following demolition November 2019. Prior to demolition the site comprised of 3 and 4 storey buildings constructed in the 1980s that held little architectural value or interest.
2. Watermeadow Court (“WMC”) was one of two development sites under a joint venture agreement between London Borough of Hammersmith and Fulham (“the Council”) and Stanhope Plc (“Stanhope”) which was formed as a Limited Company in 2016.
3. The planning application brought forward by the joint venture company was considered in October 2017 and the Planning Committee gave resolution to grant consent subject to GLA approval. The original scheme was for intended to be 100% private homes (218) Watermeadow Court which was intended to cross subsidise the delivery of the 133 affordable homes at Edith Summerskill House. The GLA ultimately opposed the scheme at planning, considering the WMC scheme a regeneration scheme and requiring the delivery of affordable housing onsite. Following extensive negotiation with the GLA, planning permission was granted on 3rd October 2019 for 36 affordable homes and 182 market homes.
4. Immediately following the issue of the planning permission Stanhope Plc advised the council that they were unable to meet the contractual funding condition in the Land Sale Agreement required to deliver the WMC development scheme. It was therefore agreed to terminate the WMC Land Sale Agreement, enabling the council to pursue alternative development arrangements.
5. On the 11th May 2020, Cabinet approved the termination of the Land Sale Agreement and that officers should market the site for sale with planning permission. The Land Sale Agreement was officially terminated on the 10th July 2020.

The Sale and Marketing process

6. In August 2020 the WMC site was marketed for sale on behalf of the council by Avison Young supported by lawyers, Evershed Sutherland
7. The headlines of the Opportunity and Terms proposed to bidders included: -
 - Long leasehold interest of 255 years, subject to contract.
 - Delivery of the existing consented scheme with amendments to deliver 50% affordable housing on the site (in line with local plan policy)
 - 100% nomination rights to the affordable rent homes in perpetuity
 - The developer to commence works within 12 months of exchange of contracts.

8. The marketing material was issued to a mix of housing associations and developers. In total 12 expression of interests were received.
9. Full bid information was issued to the market on 26th August for eight weeks and on 23rd October three offers were received. Each bid and bidding group was subject to due diligence, qualitative and a quantitative evaluation and clarification process. Peabody and Mount Anvil (with their joint submission) were selected as the preferred bidder
10. Peabody Housing Trust have a strong record in the delivery of high-quality affordable housing and will be responsible for delivery of Edith Summerskill House in Fulham Broadway. Together Peabody Housing Trust and Mount Anvil have a history of successful joint delivery projects and are currently working on at Gillender Street E3 and St John's Hill (Wandsworth).
11. The conditions of sale are set out in exempt appendix 2.
12. The accepted timescales:
 1. Legal Exchange - 6 weeks following receipt of full legal pack.
 2. Legal Completion - 4 months from exchange, subject to conditions.
 3. Timescale to achieve planning - June 21 (5 months after exchange)
 4. Timescale to construction start - July 21 (site remediation)
 5. Timescale to construction completion - June 24
13. The Avison & Young – Disposal Recommendation Report can be found in exempt appendix 5.

Options and Analysis of Options

14. **Option 1 - the recommended option** Approve the sale of the Watermeadow Court site to Mount Anvil New Holdings Ltd or another company controlled by Mount Anvil and Peabody on the terms set out in this report. This will deliver a capital receipt to the council (general fund) which will recover costs incurred on this site to date with part of the receipt used to fund capital works on North End Road, deliver 108 affordable homes and an anticipated start on site in 2021. This is in line with Cabinet approved sale strategy set out in May 2020.
15. **Option 2 – not recommended**, do not approve the sale of the site. this would keep the site in council ownership (within the General Fund), however this decision would delay the delivery of 216 new homes, prevent the council from achieving a significant capital receipt to the benefit of the general fund and extend the ongoing cost of site security.

Reasons for Decision

16. The council is committed to maximising the supply of genuinely affordable housing and the Council's Housing Strategy 'Delivering the Change we need in Housing' identifies working with housing providers as a key route to achieving

this. The disposal of Watermeadow Court (Watermeadow Lane, London, SW6 2RW) for this purpose fits clearly within these objectives.

Equality Implications

17. There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, by the approval of recommended option outlined in this report.

Implications completed by: Fawad Bhatti, tel. 07500 103617.

Risk Management Implications

18. The Council took control of the Watermeadow Court issue and has secured a good deal, securing 100% nomination rights to affordable homes on this site, that delivers on the supply of genuinely affordable housing and meets the Council's Housing Strategy 'Delivering the Change we need in Housing' by working with housing providers as a key route to achieving this. Opportunity or upside risk includes delivering affordable homes in the local area, providing job opportunities through construction and supply chains whilst ensuring the Council is Being Ruthlessly Financially Efficient through an agreement with a trusted organisation.

Implications verified/completed by Michael Sloniowski, Risk Manager, tel 020 8753 2587

Property Implications

19. The Council can sell assets below market value if it uses the statutory powers either s123 LGA Act 1972 or s233 Planning Act 1990.
20. However following discussions with the joint venture company, they were unable to meet the Council's revised proposal of a scheme to accommodate 50% affordable homes and 50% private residential homes on the site. The site has been marketed by way of a private treaty process via an external property consultant (Avison Young) who engaged with the wider market for a reasonable time period.
21. In total, 12 expressions of interest were received from a mixture of Housing Associations and developers. Following the Council's evaluation of the bids, three bidders were considered and the Council's decision to proceed with the highest bidder Mount Anvil (HA - Peabody) who would represent best consideration that can reasonably be obtained in the current economic climate for the site pursuant to s123 LGA Act 1972 .

Implications verified/completed by Henry Azariah, Team Leader – Commercial Property, 020 8753 5191

List of Appendices:

Appendix 1 – Indicative Boundary Drawing

Appendix 2 – Financial Implications and Conditions of Sale (exempt)

Appendix 3 – Draft Heads of Terms (exempt)

Appendix 4 – Legal & Procurement Risks (exempt)

Appendix 5 – Avison & Young – Disposal Recommendation Report (exempt)

Appendix 1 – Indicative Boundary Drawing

